

Lockdowns and Liberty

The COVID-19 pandemic has, understandably, produced a great deal of anxiety throughout the world. People fear for their families, their jobs, and also their freedom. The state is back, [if it ever left](#), and its tendrils of control are seeping deeper into our everyday lives. People have been instructed to stay at home, not to see their families and loved ones, not to go to work, businesses have been shuttered, and those who violate these instructions have incurred fines or worse - depending on the jurisdiction. This has produced a backlash in the United States and to a lesser extent the United Kingdom. [Armed protestors](#) have occupied the Michigan state legislature, [anti-lockdown protests](#) have occurred in major British cities, and the issue of [wearing a facemask](#) during a global pandemic has become grist in the ever churning meatgrinder of the 'culture war'. These protestors claim that the COVID-19 lockdown represents an intolerable violation of their freedom and is 'tyrannical'. The problem is that this argument relies on a facile conception of liberty, but, while these protestors might be mistaken, the pandemic has shown how liberty can be undermined. In order to understand why this is the case we need to ask what it means to be free.

The core message of the critics of lockdown policies is that any restriction of liberty is a violation of liberty. This aligns with what the philosopher Isaiah Berlin called the '[negative conception](#)' of liberty; we are free when we are not subjected to interference. If the state forbids you from doing something, your freedom is diminished. This is contrasted with the 'positive conception' of liberty which is understood to be the realisation of self-mastery. This is, according to Berlin, 'a monstrous impersonation' of freedom. It provides license for the state to impose its conception of the 'the good life' on all people in the name of liberty. We see in Berlin the fears of the twentieth century where totalitarian projects appealed to the freedom of the nation, race, or class while demolishing the liberty of the individual. It is the freedom offered by the cult leader who promises transcendence if you surrender everything to them.

The negative conception of liberty predates Berlin and is most prominently associated with the seventeenth century philosopher of sovereignty Thomas Hobbes. In [Leviathan](#), he writes that 'A FREE-MAN, is he that in those things, which by his strength and wit he is able to do, is not hindered to doe what he has a will to do.' If the state prevents you from doing something your freedom is diminished, but for Hobbes this is a price worth paying as the alternative is the anarchy of nature in which life is 'solitary, poor, nasty, brutish, and short.'

This dualism between 'negative' and 'positive' liberty obscures an alternative way of thinking about liberty. Hobbes was not engaged in a polemic with Marxist-Leninists or fascists, he was concerned with political debates surrounding the English Civil Wars. Historian [Quentin Skinner](#) has convincingly shown that Hobbes' negative conception of liberty was pitted against an alternative negative conception of liberty inspired by Roman political thought, where freedom is not the absence of interference, but the absence of *arbitrary* interference. On one side of the Civil Wars, the partisans of parliament believed that freedom was violated when Charles I attempted to substitute his private will for the law and that this was a tyranny that had to be opposed.

More recently, the philosopher [Philip Pettit](#) has termed this freedom as ‘non-domination’: you are free when no one has the power to arbitrarily interfere with your choices. The [paradigmatic example](#) of this is the slave whose choices are entirely conditional on the permission of their owner. This is true even in circumstances where a slave has a master who never acts on their power. The slave of an idle owner can never be certain if today will be the day their master decides to interfere and lacks any power to lift the sword of Damocles. The opposite of a slave is a free citizen who lives in a state in which the laws are publicly known, impartially enforced, and usually where the authors of the law are [subject to democratic constraint](#); those with power cannot arbitrarily interfere without consequences as they are not above the law.

This is not a ‘positive’ conception of freedom; it is determined by the absence of something, namely *arbitrary* interference. This seems very similar to the idea of freedom found in Berlin and Hobbes, but it is more nuanced. Take the rules of the road, for example: the state mandates that drivers behave in a certain manner – you have to drive on a particular side of the road, you have to stop at red lights, you must not exceed the speed limit, you must be sober, and so on. For Hobbes and Berlin, these regulations violate your freedom because they limit what you can do; the option of driving drunk without legal consequences is removed. This might be a price worth paying to avoid traffic collisions and unnecessary death, but the price is freedom. This seems hyperbolic; if the idea of driving sober is comparable to being enslaved, our conception of liberty seems to be a bit off.

Let’s consider freedom from domination. Your freedom is not violated if the laws of the road are set by representative legislatures, are publicly known, and impartially enforced. You are not being subjected to the arbitrary impositions of a tyrant. This conception of liberty allows us to recognise that not every restriction of freedom is a violation of freedom.

This leads us back to the pandemic. The protestors in the United States and Great Britain who have called lockdown policies ‘tyranny’ are operating under a reductive understanding of liberty as non-interference. The state is preventing them from doing something and therefore their liberty is being violated. This simply does not add up from the perspective of non-domination. If lockdown policies are publicly known, impartially enforced, and democratically constrained, then these restrictions of liberty are not violations thereof. The lockdown protestors might as well be protesting laws against driving under the influence. It seems a trivialisation of the value of liberty.

This does not mean that the COVID-19 pandemic has not revealed the tenuous state of liberty on both sides of the Atlantic (and beyond).

President Trump’s [threat](#) to deprive the states of Nevada and Michigan of COVID-19 relief funds if they expand absentee voting during the presidential election smacks of the use of arbitrary power. Indeed, the leitmotif of the Trump administration is his belief that the law is synonymous with the private will of the President.

In the UK, it was [alleged](#) that Prime Minister Boris Johnson’s closest advisor Dominic Cummings had violated lockdown regulations and travelled across the country while infected with COVID-19 and later had not properly self-isolated when he took a turn around Barnard

Castle. Public incredulity turned into palpable anger when Johnson appeared on television and defended Cummings for following his 'instincts'. At a time when many Britons would have loved to follow their instincts but followed the governments instructions, this message from the Prime Minister was that the rules apply only when he says so and he is free to make exceptions for those close to him.

The COVID-19 pandemic has revealed that many of those in power believe themselves to be above the law and that jeopardises liberty far more than being instructed to wear a face mask.