

INTRODUCTION

Steven L. Winter: Political Freedom, the Free Market, and Consumerism

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According to Bertrand Russell, freedom in general may be defined as the absence of obstacles to the realization of desires.¹ The stoics, by contrast, hold that freedom is secured not by the fulfilling of desires, but by their removal.² For them, freedom is a peaceful state of mind (*apatheia*) and opposed to a life dominated by passions. A different conception of freedom appeared when President Roosevelt delivered his State of the Union address in 1941, and proposed a world order founded upon the Four Freedoms: freedom of speech, freedom of worship, freedom from want, and freedom from fear. That kind of world, he asserted, 'is the very antithesis of the so-called "new order" of tyranny which the dictators seek to create with the crash of a bomb.'³ George Orwell, in the intended preface to the UK edition of *Animal Farm*, contrasts freedom with censorship: 'If liberty means anything at all, it means telling people what they do not want to hear.'⁴ The concept of freedom, it seems, needs the language of negation in order to be defined, and appears in connection, albeit inversely, to what is abhorred or rejected: the tyranny of lust and passions, dictatorship, or moral or physical constraint. Such a variety of objectionable conditions or states of affairs placed over against freedom indicates that freedom, although one single word, does not have one essence, but covers different concepts. Yet, the inclination to treat freedom as a concept with an unequivocal essence is tenacious. The result is confusion between the different usages of the term freedom, each legitimate in its own sphere, but confusing in others.

This special issue of *NJLP* is devoted to different concepts of freedom, associated with democracy. The challenging claim that a false and fetishistic concept of individual freedom underlies the recent spread of democracy and free market, is put forward by our distinguished guest author Steven L. Winter, Walter S. Gibbs Professor of Constitutional Law at Wayne State University Law School in Detroit, Michigan. Four Dutch/Flemish philosophers have been invited to respond to his discussion: Tinneke Beekman, Ronald Tinnevelt, Judith Vega, and Evert van de

- 1 Bertrand Russell, *Sceptical Essays* (London: George Allen & Unwin, 1963), 118.
- 2 Epictetus, *The Discourses and Manual*, transl. by P.E. Matheson (Oxford: Clarendon Press, 1916), book IV, ch. 1, p. 140.
- 3 John Grafton, ed., *Franklin Delano Roosevelt. Great Speeches* (Minneola, NY: Dover Publications, 1999) 99.
- 4 George Orwell, 'The Freedom of the Press', 1945. First published in *The Times Literary Supplement*, September 15, 1972. Available at: <http://orwell.ru/library/novels/Animal_Farm/english/efp_go>.

Zweerde. Winter and his critics wrote their contributions on request of the Board of the Dutch Association of Legal Philosophy (VWR) and presented them at VU University Amsterdam on June 22nd, 2012.

In his article, Winter argues that in the post-Cold War era the belief settled that the emergence of either markets or democracy necessarily leads to the other, on the footing that both are forms of social ordering that facilitate individual choice. In line with the economist's maxim that individuals are preference-maximizing agents, markets can function well with atomized, self-interested individuals. But when it comes to democracy, Winter argues, the similarity with markets is merely a surface phenomenon, based upon a misconception of individual autonomy.

In Winter's view, the worrying state of contemporary democratic politics in the West, marked by polarization, incivility and an uncompromising refusal to negotiate, is intimately connected to the dominant concept of autonomous subjectivity – the idea of the individual human consciousness as a self-directing agent and the source of values. This Enlightenment vocabulary, he claims, has necessarily deteriorated into a false, narcissistic, and consumerist image of individual freedom. In that picture, democracy is not a matter of collective self-government, but the competition between policy elites for the individual voter's favour. In reality, however, democracy requires a different set of values, such as tolerance, pragmatism and cooperation. This would explain that the more democracies operate like markets, the more dysfunctional they become.

In opposing the liberalist egoist struggle for life to the cooperative effort to achieve common goals, Winter's sympathy for the latter picture is fuelled by the trend in cognitive science to regard cognition as 'embedded, embodied, enacted, and extended'.⁵ In this perspective, we are not monads locked in our private mind-theatre, but our way of thinking is formed by the interaction of the brain with its environment.⁶ Like some cognitive scientists, Winter is also inspired by postmodern critiques of the atomistic self, especially Jean Baudrillard and Maurice Merleau-Ponty. Together, this yields a view of the citizen, his beliefs and actions, as well as his concept of freedom, as essentially socially embedded.

Winter and his critics agree that the liberalist competitive and the more community oriented cooperative views on freedom and democracy are interrelated. Where Winter and his commentators differ, is on the question of what the relation between competitive individualism and cooperative sociality means for the concepts and reality of freedom and democracy: how socially embedded is personal freedom and which concept of democracy does this entail? Winter himself warns against one-sidedness and emphasizes that even the liberal individualist perspective itself is socially determined. Van de Zweerde then asks where we stand when we analyze these positions: inside or outside of our social context?

5 Mark Rowlands, *The New Science of the Mind. From Extended Mind to Embodied Phenomenology* (Cambridge, MA: MIT Press, 2010), ch. 3.

6 Steven L. Winter, *A Clearing in the Forest. Law, Life, and Mind* (Chicago: University of Chicago Press, 2001), esp. ch. 2.

One of Winter's cases in point, the Tahrir Square demonstrations, is taken up by Vega and Beeckman to discuss the question whether these were a collective effort or a conflation of monadic actions. And even if there is a social unity, Vega, Beeckman, and Van de Zwerde point out, the constitution of a 'we' (how and by whom?) unavoidably entails a 'they'. Moreover, Van de Zwerde warns, even if we know which shared lifeworld animates the 'we', it still remains unclear *who* exactly belongs to it. These criticisms might pose a problem for the idea of the social embeddedness of human freedom.

This also brings up the question of normativity. According to Winter, we must recognize the social situatedness of politics and political theory and reconceptualize the relation between the individual and the social in order to improve politics and prevent democracy from disintegrating. Vega problematizes this point in asking how exactly the descriptive and the prescriptive aspects of Winter's concept of liberalism relate to each other. Is more social embeddedness necessarily better? Tinnevelt goes so far as to question the very possibility of independent moral judgment when, as Winter seems to argue, every opinion is already preformed by the social context. Taking embeddedness seriously, Tinnevelt shows how Winter's position is embedded in a whole range of positions in contemporary literature on freedom and democracy, and tries to situate it somewhere between theories of utopian communitarianism, discursive legitimacy, and deliberative and participatory democracy.

More pessimistic than Winter, Beeckman doubts whether national politics is equal to the challenge posed by globalized consumerism and universal commodification. Vega, however, argues the contrary: Winter's picture of liberalism is too gloomy in not taking due account of Kantian liberalism that treats every individual as a goal in itself.

In his reply to his critics, Winter once more defends the need to think beyond dualisms and abstractions and see culture and community not as external constraints on individual liberty, but as the context for democratic initiatives to promote freedom.