

Theory of Politics

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1. Does taxation reduce citizens' freedom?

Introduction

Whether taxation reduces citizens' freedoms depends on one's concept of freedom and whether or not we have a duty to redistribute.

If you subscribe to a notion of "positive freedom", then taxation can increase citizens' freedom overall. But what if you believe only negative freedoms exist? It would seem that taxation can only reduce, but not increase, citizens' freedoms, and I lay out the libertarian argument for this. Then I consider an ingenious argument by Cohen (2001) in *Freedom and Money*, where he argues that a lack of money induces lack of freedom, "*even if we accept the identification of freedom with absence of interference*".

While ingenious, however, I argue that it proves too much. Borrowing the language of Hohfeld, I set out the argument that one is only free to do what one has no duty not to do. As such, whether or not taxation reduces citizens' freedoms hinges upon whether or not citizens **had a duty to redistribute in the first place!** As a corollary, taxation may not reduce citizens' freedoms even under the most libertarian conception if it is demanded as a matter of just acquisition (and redistribution).

What is freedom? What does it mean to reduce it?

I first start by defining freedom, and explaining what it means for taxation to "reduce" freedom.

In *Two Concepts of Liberty* (1958), Isaiah Berlin distinguishes between "negative" freedom, which is "the area within which a man can act unobstructed by others" (p. 16), and "positive" freedom, which is the ability to self-actualise, to act in accordance with one's "higher", "real", "ideal" or "autonomous" self (p. 23). Under the negative conception, the lack of freedom is not just the inability to do something, but rather being coerced or interfered by human beings to not do something. "If I say that I am unable to jump more than ten feet in the air... it would be eccentric to say that I am to that degree enslaved or coerced... mere incapacity to attain a goal is not lack of political freedom." (p. 16).

Berlin also introduced the more substantive concept of "positive freedom", which is the degree that a person can act in accordance with one's "ideal" self. A man stranded alone in a desert has very much negative freedom, but very little positive freedom: there is no authority to coerce any of his actions, but there is very little he can do to fulfill his lifelong dream of being an Oxford tutor—or not to starve to death for that matter.

These two concepts can be subsumed into MacCallum's triadic conception. Under MacCallum's triadic conception, freedom can be conceived as "an agent A is free from X to do Y." The distinction between positive and negative freedom is made depending on what counts as a constraint or limitation of freedom. If you

believe only in negative freedom, then only that which tries to coerce or interfere with you can count as an agent X. But if you believe in positive freedom, then things like “a lack of means” can also count as an agent.

Even under the most minimal interpretation of what counts as an agent, however, taxation does reduce citizens’ freedoms: at least one agent A is *not* free from (some governmental agent) to (spend all of his money as his pleases). This is undeniable.

But the question would be trivial if we stopped here. The more interesting question is “does taxation reduce citizens’ freedoms *overall*”? That is to say, is the reduction in freedom incurred by taxing citizens made up by a gain in freedom elsewhere?

Freedom may be increased if we have a notion of positive freedom

It’s clear that taxation may increase freedom in the positive sense. If we allow “a lack of education” to be an agent *X* and “to be an Oxford tutor” of being some goal *Y*, then it behooves the state to tax the rich and provide free education to the poor, such that this positive freedom (and many others like it) may be obtained. A small incursion on the negative freedom of the rich is well made-up by a large increase in the positive freedoms of the poor, and thus taxation may in fact *increase* citizens’ freedoms.

Can freedom be increased if we only accept negative freedoms?

But some reject the positive notion of freedom. Berlin mentions that just because a person is too poor to buy bread, he is not eo ipso “economically unfree”: to claim so would conflate the mere inability to do something (jump ten feet high) with coercive interference. And others like Nozick would agree.

Rather than agree to disagree, for sake of argument let’s hold that the only sort of freedom is freedom of non-interference. The question here then becomes: **Can taxation increase citizens’ freedom even if we only subscribe to a negative conception of freedom?**

Examining Cohen’s argument that a lack of money induces lack of freedom

G.A. Cohen does exactly that. In *Freedom and Money* (2001), he ingeniously argues that a lack of money induces lack of freedom, “*even if we accept the identification of freedom with absence of interference*”. The key claim is that many goods and services are inaccessible save through money: if you attempt access to them in the absence of money, you will be prey to interference.

He gives us this example:

Suppose that an able-bodied woman is too poor to visit her sister in Glasgow. She cannot save enough, from week to week, to buy her way there. If she attempts to board the train, she is consequently without the means to overcome the conductor's prospective interference. Whether or not this woman should be said to have the ability to go to Glasgow, there is no deficiency in her ability to do so which restricts her independently of the interference that she faces. She is entirely capable of boarding the underground and of traversing the space that she must cross to reach the train. But she will be physically prevented from crossing that space, or physically ejected from the train.

The force of this example is that money is an *inus* condition for noninterference. Despite the fact that the woman is physically able to take the train to Glasgow, she would be *interfered with* if she tried, which shows how money can purchase the negative freedoms of noninterference.

To really drive the point home, Cohen gives us this ingenious thought experiment, which shows how money is a "freedom ticket". He asks us to imagine a society without money where the state owns everything and in which courses of action available to people. The law says what each person may or may not do without interference, and each person is endowed with a set of (tradeable) tickets detailing what she is allowed to do. So I may have a ticket which says that I am free to plough and sow this land, and to reap what comes as a result; another one that says I am free to go to that opera, or to take the train to Glasgow, and so on. Cohen claims that a sum of money is *in effect* a generalised form of such a ticket.

Given that money is in effect a generalised form of negative freedom, then it would seem that taxation can increase negative freedoms overall. I really like Cohen's argument and thought experiment. However, I wonder if it proves too much. Just because I am physically able to do something does not mean that I have the *freedom* to do so. After all, I am physically capable of plunging my knife in your chest. But it doesn't then follow that if someone restricted me from doing so that my freedom to stab you was curtailed. Why? Because I never had a right to stab you in the first place.

Revisiting the triadic conception: A is free from X to do Y. If A is prevented by X from doing Y, A is thus made unfree. But there is a strong intuition that Y must have been an action that A was free to do in the first place! As Nozick points out, my freedom to put my knife where I please doesn't extend to placing it in your chest, and so it would *not* be a diminishment in my freedoms if I were prevented from doing so. In the same way, it is irrelevant whether or not the able-bodied woman can physically board the underground and make it up the platform. What matters is whether or not she possesses the *freedom* to do so. To borrow the language of Hohfeld, A has a liberty to do Y if and only if A has *no duty not to do Y*. In the same way, A is free to do Y if and only if A has no duty not to do Y.

So does the woman have the freedom to board the train? Here Nozick would argue that you never had the right to board the train in the first place because you had a duty to the owner of the train to respect his self-ownership (which extends to his private property). You did not have a liberty to board the train, ergo you were not free to board the train, ergo it is no diminishment in your freedoms to prevent you from boarding the train.

But Nozick's rejoinder assumes that all private property in our current state of affairs has been reached justly. But if this is not the case (if private property has been reached through "bloody injustice", for instance), then the principle of rectification of injustice will give a duty to redistribute the ill-appropriated gains. In which case, taxation will be justified, and does not decrease citizens' freedoms. It is to this final argument that I now turn.

Even if we accept the negative notion of freedom, taxation may not decrease freedom if there was no justice in acquisition

In the same sense that my property rights to put my knife where I please do not extend to placing it in your chest, my property rights to spend the money I've earned from my labour do not extend to the money I've earned through unjust appropriation. I therefore do not have the freedom to spend my money as I please (Y), and the state may justifiably tax me without decreasing any of my freedoms. This line of thought is echoed by left-libertarians like Vallentyne and Otsuka.

Conclusion

Overall, taxation may not decrease (it may even increase) citizens' freedoms, regardless of the conception of freedom one holds. My key argument is that you only have a freedom to do X if you have no duty not to do X. So even if one subscribes only to negative freedom, taxation may only diminish your freedom if you have no duty not to redistribute your private property, which is unlikely if your initial holdings did not comply with the principle of justice in acquisition.

6. What is the value of rights that are not legally enforced?

Introduction

Why doesn't a right have value if it is not legally enforced? The intuition seems to run along these lines: If we claim that we all have a right to life, yet there is no enforcement to stop murderers, it seems like these are just empty words.

This is a benefit theory account: rights are valuable insofar as they benefit the people who possess those rights. But I don't think that's true, and I'll give three reasons why:

First, some (human) rights have intrinsic value even if they are not legally enforced, because they profess a respect for others' status as persons.

Second, rights don't have to track the law. Even if there are, or can be, no legal sanctions, that doesn't mean that our duties are discharged.

Thirdly, there are rights that seem to be valuable *because* they are not legally enforceable; for instance, rights that arise out of promise-keeping or reciprocity.

Why benefits and rights can come apart

Benefit theory states that rights are important insofar as the person who possesses the right would benefit from the exercise/adherence to that right. Under this account, only rights which are enforced can hold any value to the person. This is the view which gives the claim in the question much of its force.

But as Steiner argues, this is wrongheaded, because benefit and rights can come apart. He gives the example of a florist contracted to deliver flowers by a third party to a couple's wedding. If the order is canceled it is obvious that the florist no longer has a duty-right to deliver the flowers to the couple. The claim is held by the third party, who has canceled the right; not the couple, who is the beneficiary. And Hart (1955) argues similarly with his counterexample of taking care of my aging mother. The benefit accrues to my mother, not me — but nonetheless it is me who has a claim against you, not my mother.

But note that what I've shown here is that rights are not important because they benefit the rightholder. This is a negative claim. We still need a *positive* claim to show that rights, even if they are not legally enforced, are still important and valuable, which is what I turn to next.

As a symbolic representation of what we hold to be important

If benefits don't ground rights, what does? In Jefferson's Declaration of Independence (1776) he writes: "all men... are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of

Happiness.” While it’s possible to legally enforce life and liberty, it’s impossible to legally enforce “the pursuit of Happiness”. Nonetheless, it’s a symbolic representation of what we hold to be important, and that can have an intrinsic value apart from whether the right has been, or can be, enforced. Why is this so? This is because by granting rights to others, we give them respect. We recognise their free will, rationality, and their status as humans, and this is independent of whether or not the right is enforced.

Quinn (1993) writes:

A person is constituted by his body and his mind. They are parts or aspects of him. . . morality recognizes his existence as an individual with ends of his own—an independent being. Since that is what he is, he deserves this recognition.

Even if someone’s right is violated, that doesn’t diminish its strength. It is just as impermissible to have violated the right, and there are duties still owed, regardless of legal enforcement.

A right that is not legally enforced can still give us duties

A right that is not legally enforced can still give us duties. Consider the case of a criminal who is guilty of assault, but gets off on a legal technicality or some amnesty deal. Even though there is a right to bodily autonomy that is not legally enforced, we recognise that that criminal has violated someone’s rights and owes restitution/apology to that person. This recognition respects the person. It recognises that the person has an autonomy that shouldn’t be violated, and that recognition is valuable in and of itself.

There are some rights that are valuable because they are not legally enforced

Thirdly, there are rights that seem to be valuable *because* they are not legally enforceable; rights that arise out of promise-keeping or reciprocity, for instance. Suppose I promise to get something nice for you for your birthday (thus creating a claim-right), and I indeed do so. You are very pleased. But would you be as pleased if you knew that when I promised, I would have been bound by law to fulfill that promise? It seems like part of why the institution of promise-keeping is valuable is *because* it is voluntary. In the same way, suppose my parents have taken care of me for the past twenty-five years, and I now wish to reciprocate. Would something valuable not be lost if the state had mandated that a portion of my income go to my parents because they have a right to be reciprocated?

10. Should egalitarians pay more attention to individuals' suffering and disadvantage that are the effects of bad luck, or to suffering and disadvantage that are the effects of power?

Introduction

I think that egalitarians should pay attention to both, but on balance should pay more attention to individuals' suffering and disadvantage that are the effects of bad luck. I first compare luck and relational egalitarianism and see what these different types of suffering are.

The big debate is whether we should *conceive* of some disadvantage as due to bad luck or power. I present one key claim of the relational egalitarian: a large part of suffering that seems to be due to bad luck (being born ugly, stupid, untalented, or disabled) actually arises to the oppressive social order.

While I agree with this claim, there are many types of suffering and disadvantage that can't be blamed on power. For instance, while it's true that some disadvantage due to disability is due to societal stigma, the physical pain that may result from that disability can't be blamed on oppressive power structures. Relational egalitarianism isn't sensitive to this sort of suffering.

Furthermore, RE seems to express a contempt and disrespect towards the rich and privileged.

What sort of suffering and disadvantage are the effects of bad luck?

First, it is important to split "bad luck" into "bad option luck" and bad "brute luck". Option luck refers to voluntary decisions made by adults who are fully aware (and can reasonably foresee) the facts, odds and consequences. On the other hand, brute luck is luck that falls on you in ways beyond your power to control.

Luck egalitarians hold that we should only care about suffering and disadvantage that is the result of brute luck. Of course, it would be very difficult to find cases that are pure option luck, since whether a person is well-informed of the risks and consequences depends in part on their comprehension, risk aversion, and self-control; all matters of brute luck. Nonetheless, if we could be apprised of all the facts, it would be only just to compensate someone to the degree that he was not responsible for the outcome. In the uncertain real world we can do the best we can with the information we do have, which includes accepting that cases of option luck indeed have elements of brute luck in them.

With this in mind, what sort of suffering and disadvantage are the effects of bad luck? The most obvious cases are those one was born with: it would be bad brute

luck to be born in a certain way that caused you to suffer or be disadvantaged. For instance, someone who was born intellectually disabled may not have any marketable talents, and will thus not be able to earn a living as a result. There are of course other instances of brute luck that don't involve accidents of birth: losing one's job, getting into a car accident, breaking one's leg on a ski trip, and so on.

What sort of suffering and disadvantage are the effects of power?

What I just wrote sounds eminently reasonable, but the relational egalitarian claims that we are too hasty. *Why* is it that certain accidents of birth (e.g. being born stupid or paraplegic) are considered "bad" luck, while others (e.g. having red hair) are not?

Dworkin (2000) writes of a hypothetical initial auction in which "all have equal bidding power to purchase materials resources, supplemented by hypothetical insurance markets against the possibility of suffering the bad brute luck of handicap or low marketable talent." In other words, the hypothetical free insurance market decides which events are bad enough to be insured upon. The event of being born with red hair will probably not fetch much compensation, but the event of being born without legs will.

Anderson (1999) writes that this is a completely wrongheaded view. She argues that "people, not nature, are responsible for turning the natural diversity of human beings into oppressive hierarchies. It locates unjust deficiencies in the social order rather than in people's innate endowments." In other words, that the suffering and disadvantage wrought by being born a certain way is *not* innate: it is because of our society's unequal power relations that make certain traits bad brute luck.

To reiterate, being born with red hair is obviously not bad luck. But if we were in a society where people with red hair were discriminated against, then it would become bad brute luck, and it would deserve compensation. But that's not due to luck: it's due to power. This is the key thrust of the question. Anderson gives many examples to show that disadvantage we previously thought of as due to "bad luck" are in fact due to power:

On disability, Anderson writes that many disabled "do not ask that they be compensated for the disability itself. Rather, they ask that the social disadvantages others impose on them for having the disability be removed". And on being born ugly she writes that "the injustice lies not in the natural misfortune of the ugly but in the social fact that people shun others on account of their appearance... the defect lies [not] in the person [but] rather in society". And finally, the exploitative system of labour relations we have constructed means that "talentless" workers are being paid less than they should be.

Not all suffering and disadvantage is the effect of power!

Anderson makes a very salient point in that a lot of suffering and disadvantage are mediated through our unequal society, and I agree with a lot of it. This would seem to suggest that we should focus more on power, and in particular to tweak the state of affairs such that we are relating to one another as democratic equals and enjoying the same fundamental status.

However, not all suffering and disadvantage is due to power. For instance, while a large part of the disadvantage due to disability is societal, people who are disabled may suffer from physical pain (e.g. phantom limb syndrome). And there may be of course some loss from being unable to run or sing or see independent of society. Relational egalitarianism (RE) would not be sensitive to this sort of suffering as long as it did not jeopardise their standing as free and equal democratic citizens. LE *is* sensitive to this suffering.

Even the rich and privileged can sometimes suffer

Furthermore, RE seems to be rather contemptuous towards the rich and privileged. Suppose a rich capitalist gets into a car accident through no fault of his own. He is hospitalised but for all intents and purposes still can participate as an equal in a democratic society. Even though he is rich and can pay for his own treatment, it seems to be the case that we should still compensate him as he did not deserve what has happened to him.

Anderson's criticisms of LE fall somewhat off the mark

Finally, at least part of the reason relational egalitarians claim that we should focus more on power is that focusing on luck can be paternalistic and demeaning. I show that this isn't necessarily true by rebutting two of her criticisms. Anderson takes issue with two related cases: that luck egalitarianism limits disaster relief to only those citizens who reside in certain "safe" portions of the country, as well as workers in dangerous occupations having no claims to publicly subsidised medical care if an accident occurs. Both cases, as "exemplary instances of option luck", give luck egalitarians no reason to help. She claims "justice does not permit the exploitation or abandonment of anyone, even the imprudent."

With respect to the "workers in dangerous occupations" objection, I do not think luck egalitarianism is as harsh as it seems. Firstly, these workers will be handsomely compensated by society for taking up these dangerous jobs, which would be enough to pay for the increased accident risk. Anderson might argue that these jobs are often underpaid in society, but this is because people who tend to take up these jobs in the world today have less outside options due to brute luck. In the society envisaged by luck egalitarians, these jobs would not be underpaid.

Furthermore, Anderson's proposed solution does not solve the problem, and in fact makes it worse. Anderson suggests that the state can forbid people from

living in an area, and this is preferable to letting them do what they want: “If even this relief seems too expensive, an egalitarian state can forbid people from inhabiting disaster prone areas. . . what it may not do is let them live there at their own risk and then abandon them in their hour of need. Such action treats even the imprudent with impermissible contempt”.

Suppose there exists a group of residents living in an area which the state now deems too expensive to relief. As justice demands, the state offers generous relocation relief to the residents. The residents refuse, citing their deep attachment and long history to the area as reasons for their reluctance. Living in this area brings them great joy, despite the risks of losing their homes. Now what? Will the state give in and relief them anyway when disaster strikes? That would be an unjust burden on the prudent. Is the state supposed to manhandle these inhabitants and transport them forcibly to a safer location? How is this somehow less “impermissibly contemptuous” than allowing them to live the lives that they want? Anderson claims that luck egalitarianism is impermissibly harsh and paternalistic, but replaces it with a coercive state that is even more paternalistic instead.

Conclusion

Overall, we should be sensitive to both types of suffering, and it is true that a lot of the suffering we associate with “bad luck” is caused by unequal power relations. But it is too far of a stretch to reject luck egalitarianism entirely, and the scope of relational equality is too limited.