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Liberty and Power:  
*A Tête-à-Tête* Between Burke and The Federalists

*Is there an inherent tension between Liberty and Power? Choose two authors and compare and assess their understanding of the proper relationship between liberty and power.*

7/12/24 (24hr extension taken)

The inherent tension between liberty and power lies in the mechanisms required to balance individual freedom with the authority necessary to regulate it. For Edmund Burke, this tension is defined by the mutual constraints placed on individual liberty and the power that governs it, emphasizing adherence to tradition, the *rule of law*, and a moral intergenerational contract as checks on personal expression and governmental authority. In contrast, for the Federalists, the tension emerges from an attempt to reconcile a post-colonial desire for liberty from monarchical rule alongside addressing the dangers of factionalism. In the interest of brevity, this essay seeks to illuminate, and not conclude upon, the dual tension between liberty and power: Firstly, the perception by state actors of the revolutionary and factional exercise of liberty as unrestrained power, and secondly, the role of virtue and justice as a regulatory check on governmental power.

### Defining Liberty and Power: Abstraction vs Precedent

In *Revolutionary Writings* (Burke, 1790), Burke asserts that “the science of constructing a commonwealth... is not to be taught *a priori*.”<sup>1</sup> For Burke, liberty is not realized through abstraction or a radical rationalism that constructs society “*a priori*” but through incremental change rooted in the prudence of historical precedent. He argues that “abstract liberty, like other mere abstractions, is not to be found,”<sup>2</sup> thus reflecting his skepticism toward the revolutionary upheaval in France. The revolutionaries, in advocating for the complete dismantling rather than revision of the government, sought to “pull down the edifice” that had long served “the common purposes of society,”<sup>3</sup> reflecting an ideological zealotry antithetical to Burke’s conservative epistemology of piecemeal social engineering. Instead, Burke champions the *intergenerational contract*, a “partnership” between the living and “those who are dead,”<sup>4</sup> as the foundation of state stability, as opposed to the unchecked liberty of the revolutionaries, whose excessive liberty devolves into a Hobbesian state that is “savage and brutal.”<sup>5</sup> Thus, For Burke, there’s an inherent tension between the revolutionary desire for liberty and the destructive power that accompanies it.

Burke’s veneration for precedent is criticized in *On Liberty, Utilitarianism* (Mill, 1861) as static and limiting, with Mill contending that the “despotism of custom” is a “hindrance to human advancement,”<sup>6</sup> granting asymmetrical power to the past at the expense of future liberty. Unlike Mill, whose definition of liberty is premised on empirical rationalism and progress, Burke’s Enlightenment idiosyncrasy lies in his

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<sup>1</sup> Burke, Edmund, and Iain Hampsher-Monk. *Revolutionary Writings: Reflections on the Revolution in France and the First Letter on a Regicide Peace*. New York, Cambridge University Press, 2014., 62

<sup>2</sup> Burke 33

<sup>3</sup> Burke 62

<sup>4</sup> Burke 101

<sup>5</sup> Burke 82

<sup>6</sup> John Stuart Mill. *On Liberty, Utilitarianism and Other Essays*. OUP Oxford, 9 July 2015., 69

preference for continuity over abstraction. This tension reveals that the implications of power on liberty are contingent on how liberty is defined and who defines it.

However, this essay rejects this view, instead positing that Burke acknowledges “metaphysic rights”<sup>7</sup> within the “complicated mass of human passions and concerns,”<sup>8</sup> suggesting that he aims to moderate the exercise of these rights, not to deny them. This is further affirmed by his critique of Hastings, where he asserts that “the people of India have the same rights as the people of England,”<sup>9</sup> emphasizing adherence to the “eternal laws of justice.”<sup>10</sup> Thus, Burke’s reliance on precedent should not be misconstrued as an attempt to manufacture a static society devoid of moral progress; rather, it reflects his desire to ground change in principles that ensure prudent and stable outcomes. Thus, the tension between liberty and power here lies in regulating the excesses of power while preserving stability and order.

Conversely, *The Federalist Papers* (AH, JM, JJ, 1788) emphasize a more individualistic view of liberty, one less bound to precedent than Burke’s. Madison asserts that the “fabric” of government ought to rest on the “consent” of the people, explicitly rejecting a “blind veneration for antiquity, for custom” that would overrule “good sense.”<sup>11</sup> This suggests there is a sobriety that accompanies defining liberty through abstraction and open interpretation rather than one constrained by precedent or “antiquity” that prescribes a fixed definition of freedom. In contrast, Burke places power neither solely in the polis nor the government but in their shared adherence to the *rule of law* and the preservation of custom.

However, it’s unclear whether the Federalists’ framing of liberty genuinely intended to promote individual freedom or strategically sought to appease a populace wary of a return to monarchical authority. This tension is reflected in the contrasting views of Hamilton and Madison on a strong central governmental power. Hamilton asserts that the government “ought to contain in itself every power”<sup>12</sup> necessary for governance, thus emphasizing centralization, while Madison assures that it would “not be charged with the whole power of making and administering laws,” its jurisdiction is limited to “enumerated objects only,”<sup>13</sup> thus emphasizing dispersion. This duality highlights a complex relationship between liberty and power, as the scope of liberty afforded to local governments remains ambiguous and unresolved.

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<sup>7</sup> Burke 62

<sup>8</sup> Ibid 62

<sup>9</sup> Volume 6, Clarendon . “Speech Opening the Impeachment of Warren Hastings” from the Writings and Speeches of Edmund Burke .” *Notes and Queries*, vol. 6, 31 Dec. 1788, pp. 269–459.

<sup>10</sup> Ibid 275

<sup>11</sup> Hamilton, Alexander, et al. *The Federalist Papers*. OUP Oxford, 9 Oct. 2008., 71

<sup>12</sup> Hamilton, The Federalist No.59

<sup>13</sup> Madison, The Federalist No.39, 192

### Excess Liberty: Factions and Revolutionaries

Both theorists view factions and revolutionaries as the product and expression of unrestrained and unchecked liberty. Burke cautions against governance driven by the “passions of the multitude,”<sup>14</sup> a sentiment echoed by the Federalists, who describe factions as a “zeal for different opinions” rather than cooperation for the “common good.”<sup>15</sup> This parallel is unsurprising, as the collapse of the Roman Empire, caused in part by democratic and oligarchic factionalism, and the instability of the “petty republics of Greece,”<sup>16</sup> which Madison critiques, were prominent lessons in the Enlightenment epoch.

Where the two diverge is in their solutions to the predicament. The Federalists propose “removing its causes [and] controlling its effects”<sup>17</sup> through institutional mechanisms. They advocate for counteracting “ambition [with] ambition”<sup>18</sup> and balancing factional power against the power of a geographically “extended sphere,” contending that a larger state reduces the probability of a “common motive to invade the rights of other citizens.”<sup>19</sup> This approach was criticized by the Anti-Federalists, who postulated it would concentrate the power of the central government and undermine the autonomy of local governments. Thus, the tension created between liberty and power is reversed as it is between individual liberty and governmental power.

This critique may partially align with Burke, who emphasizes the importance of “little platoons,” which foster “a love to our country and to mankind,”<sup>20</sup> suggesting a positive nexus between local attachment and a contribution towards national loyalty and patriotism, which could be inferred as a counterpoint to centralization. Nonetheless, Burke would disagree with the Anti-Federalists’ emphasis on granting local governments extensive autonomy. Instead, he would argue for recognizing the significance of local attachments in cultivating patriotism and social cohesion, but strictly within the confines of a hereditary monarchy, not faction.

Moreover, from Burke’s advancement of historical continuity, it can be inferred that he would critique the extended republic as exemplifying the dangers of neglecting incremental change and the absence of *phronesis*—Aristotelian practical wisdom. Inefficiencies such as legislative stalemates would be unsurprising to him, as “good order is the foundation of all good things.”<sup>21</sup> For Burke, political stability relies on moral and cultural foundations rather than structural designs alone.

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<sup>14</sup> Burke, Edmund, and Iain Hampsher-Monk. *Revolutionary Writings: Reflections on the Revolution in France and the First Letter on a Regicide Peace*. New York, Cambridge University Press, 2014., 62

<sup>15</sup> Madison, The Federalist No.10, 50

<sup>16</sup> Hamilton, The Federalist No.9,44

<sup>17</sup> Madison, The Federalist No.10, 49

<sup>18</sup> Madison, The Federalist No.51, 257

<sup>19</sup> Madison, The Federalist No.10, 54

<sup>20</sup> Burke, Edmund, and Iain Hampsher-Monk. *Revolutionary Writings: Reflections on the Revolution in France and the First Letter on a Regicide Peace*. New York, Cambridge University Press, 2014., 62, 47

<sup>21</sup> Ibid 69,99

### Liberty from Tyranny: The Contribution of Virtue & Justice

In his *Opening of Impeachment* (1788), Burke extends the concept of virtue to include the obligation of those in power to govern ethically. He condemns Warren Hastings and the British East India Company, describing it as a “discipline of robbers in the disguise of merchants”<sup>22</sup> for exploiting India without adhering to the “solid principles of state morality”<sup>23</sup> required for legitimate governance. Burke argues that British rule in India should operate “upon its own principles”<sup>24</sup> and not impose English customs arbitrarily, emphasizing the importance of preserving local traditions while adhering to universal moral standards. Here, Burke introduces two dimensions to liberty: freeing India from exploitation and restoring Britain to the adherence to constitutional principles, where no individual “escap[es] responsibility to the laws of his country.”<sup>25</sup> Thus, For Burke, justice transcends jurisdiction, as “the laws of morality are the same everywhere.”<sup>26</sup> Virtue, therefore, acts as a check on the exercise of power, while the *rule of law* safeguards against its excesses, thus presenting the *rule of law* as both a restrictive tool on unrestrained power and the foundation of legitimate governance.

Like Burke, The Federalists emphasize the need for institutional mechanisms like the *separation of powers* to prevent tyranny by ensuring that no branch “directly or indirectly [possesses an] overruling influence”<sup>27</sup> over another, implying freedom to exercise one’s jurisdiction independently. This concept of virtue as preserving liberty through the promotion of institutional independence mitigates the fears of unchecked power and assures the polis of justice. However, unlike Burke, who maintains skepticism over the character of those in power, Hamilton asserts that elections provide a “moral certainty” that the presidency will “never” be held by someone lacking the “requisite qualifications.”<sup>28</sup> Thus, the tension between the liberty endowed to those in office and the danger of ethical governance is less emphasized for the federalists, who, in their abstraction, as Burke would contend, fail to account for actors like Hastings.

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<sup>22</sup> Volume 6, Clarendon. “Speech Opening the Impeachment of Warren Hastings” from the Writings and Speeches of Edmund Burke.” *Notes and Queries*, vol. 6, 31 Dec. 1788, pp. 269–459., 283

<sup>23</sup> Ibid 272

<sup>24</sup> Ibid 317

<sup>25</sup> Ibid 272

<sup>26</sup> Ibid 346

<sup>27</sup> Madison, The Federalist No.48, 245

<sup>28</sup> Hamilton, The Federalist No.68, 336

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