

Chapter 3

Exploring Liberty and the Public-Private domain

3.1 Exploring the idea of Liberty

An attempt to underline the importance of liberty¹ seems to be stating the cliché. However, this is an important exercise as our understanding sets the course of democratic unfolding of the society. Mill have championed the case of liberty and individuality and established the individual as the center of the social discourse.² It is not possible to imagine the evolution of a philosophical discipline without having a fair degree of freedom in the society. That is why, liberty, along with equality, constitutes a foundational aspect of our democratic framework. The relationship between these two foundational values is not of contradistinction, but of co-existence. Tocqueville, for instance, envisioned the creation of a democratic society on the premise of *equality of conditions* where the individuals are equally free.³ Conditions which are conducive to a democratic framework cannot exist without the presence of either of the founding values.

The rationality behind the view of liberty as a foundational value is based on a causal understanding which is to be found at several places within the liberal discourse. The liberal discourse is essentially premised upon a belief in moral equality of each individual. The pioneering works of social contractarian thinkers like- Hobbes, Locke and Rousseau- contributed to the idea of equal moral worth of each individual.⁴ This perspective consequentially led to the idea that each individual is equally free to pursue one's ends and interests. At a much later stage, Mill championed the cause of individual liberty to the extent of supporting the rightful claims of an individual against the whole of 'mankind'.⁵

The understanding of the term liberty has witnessed some changes over the period of time. From the perception of liberty as an absence of restraints, to liberty as an enabling condition,⁶ the contemplation on the meaning of the term has been done through different perspectives and purposes. The discourse on liberty also supports the rights and claims of the various sections who have been subjugated and excluded by the dominant groups. Thus, the concerns of justice necessarily incorporate the concerns of liberty. The discussion on the topic of liberty often invites the debates- on public and private aspects of life (public-private dichotomy) and on the limits of liberty of the individual.

The relevance of discussing the metaphysical as well as practical aspects of liberty to my study lies in establishing the case of the alternate sexualities as a group whose rightful claims to liberty have been deprived since beginning. While the reasoning of such deprivation could be explored through the logic of 'out of bound' and coerced invisibility,⁷ I also seek to argue that the claims of the alternate sexualities does not call for a deconstructive change. Rather, the concerns of the alternate sexualities could be mitigated simply by reading these concerns through the lens of liberty and equality itself. However, an important task, in this respect, is to excavate the principle of liberty from the heteronormative imagining so as to be able to understand the fundamental aspects of the issue at hand. In what follows, I shall attempt, first, to draw a framework of understanding the meaning and various aspects of liberty and then move towards establishing a causal linkage between liberty and the spatiality of the alternate sexualities. Through my discussion, I am hoping to create an understanding of the idea of liberty as an absence of coercion. The genesis of such understanding could be tracked to the works of Berlin, who has explored the 'negative' and 'positive' dimensions of liberty.⁸ This understanding, I hope, would help me to create a foundational base for understanding the domain of personal freedom for

the individual which is to be figured out through the examination of the public-private dichotomy.

Also, my attempt while discussing the aspects of liberty would be to focus on the aspects that establish a linkage between the individual and the society. In doing so, I admit having deliberately avoided the discussion on the vast array of social, economic, political and cultural aspects related to the issue of liberty. The main purpose of my discussion, here, is to identify the elements that qualifies or disqualifies something as free. My primary references, for exploring these aspects of liberty, are the works of Mill and Berlin, who I believe, have contributed tremendously towards a broader understanding of the idea of liberty.

The evolution and expansion of the idea of liberty took place primarily under the liberal school and subsequently placed the individual at the center of the world. However, a conception of a purely atomistic and isolated individual would bear no good, given the socially-embedded existence of individuals. This line of argument has been well captured and forwarded by Sandel in his critique of the 'unencumbered self'.⁹ Thus, it is all the more important that the deliberations over the ideal of liberty take place with due cognizance of individuals' social conditions and interpersonal relations. While different scholars have expressed varying opinions on the nature and scope of liberty, a common line of thought among different thinkers is the right to pursue one's self-defined goals.¹⁰ Mill emerges as one of the stalwarts of this line of thinking and advocates an almost-absolute liberty to express one's individuality and pursue one's self-defined goals.¹¹ Such pursuit of the self-defined goals is charted amidst a plurality of human conditions which places different individuals at different pedestals. This difference in the social standing puts different amount of social pressure upon the individuals which often problematizes the issue of liberty itself.

The recent debates on issues of liberty pertain to the relation between claims of individual liberty with that of the social order. The overarching concerns towards social order and development often put the individuality and liberty of the individual at stake. Such collisions between the society and individual are now occurring more frequently, and this has created an alarming situation for the advocates of individuality. Such coercion by the society was seen as a tyrannical exercise which shuns the inalienable rights of the individual in the name of the 'greater good'. Thinkers like Mill and Berlin had raised serious concerns about such practices of unjustified coercion and linked the issue of liberty with that of human dignity.¹² Such understanding of the idea of liberty broadens its horizons beyond the aspects of freedom alone and introduces a new aspect of dignity. Thus, the 21st century understanding of the idea of liberty becomes closely intertwined with individuality and dignity.

Coercion- both manifest and latent- becomes an important issue in the modern deliberations on liberty. While it is an acceptable fact that an absolute freedom cannot be achieved in a social environment,¹³ the application of coercion transform freedom into slavery which, then, becomes unjustifiable. Mill has developed his understanding on similar lines when he expands the *harm principle*¹⁴ to argue that social coercion is not justified in areas that does not affect the others. The discussion on the implications of the societal coercion on the individual becomes an important aspect of the contemporary understanding of liberty.

The understanding of liberty also needs to be done in the context of an increasing tendency towards majoritarianism, against which Mill cautioned. Given the plural constitution of the contemporary society, a Hobbesian logic of 'private reason must submit to the public'¹⁵ loses its ground. Rather, the contemporary discourse is set to find multicultural

ways to incorporate the sphere of individual liberty amidst the goals of social development.

In what follows, I shall try to discuss the conception of the idea of liberty through two celebrated frameworks, which I believe, holds significance and implications for several contemporary concerns. The first framework of understanding is derived from the works of Isaiah Berlin and his description of ‘negative’ and ‘positive’ liberty.¹⁶ This framework introduces an important criterion of coercion as a determining factor of liberty, and thus breaks several misconceptions relating to the understanding of liberty. The second framework is derived from the works of Mill, and popularly understood as the harm principle. Mill has understood liberty in terms of ‘self-regarding’ and ‘other-regarding’ actions.¹⁷ This understanding helps us to search for a room of liberty for the individual amidst one’s socially embedded position.

Positive and Negative annotations of liberty

The framework of understanding of the idea of liberty in terms of ‘negative’ and ‘positive’ is proposed by Isaiah Berlin. This framework holds coercion as a central theme which defines liberty. Berlin’s understanding suggests that liberty does not imply an absolute license but an ability to practice one’s own volition without any coercion. The limitations on liberty are necessitated by the indispensable need of reciprocity among individuals. However, such reciprocity does not mean the prosperity of a particular group at the cost of others.¹⁸ The understanding of the idea of liberty cannot be done for an ‘unencumbered self.’¹⁹ Thus, Berlin tries to discuss the nature of liberty in the context of individual’s social spatiality.

The idea of ‘negative’ liberty is based on the absence of restraints/coercion. It suggests that sphere of individuality where the

intervention by the others is not welcome. Berlin describes this space of ‘negative’ liberty as ‘the area within which a man can act unobstructed by others.’²⁰ While it is admitted that an absolute liberty (license) might not be a plausible idea, Berlin also suggests that contraction of the private sphere due to interference by others beyond a certain minimum could account as coercion which is an infringement of the individual liberty. Berlin’s account of coercion describes it as ‘the deliberate interference of other human beings within the area in which I could otherwise act.’²¹ He understands coercion as enslavement of the individual self.

This interpretation of liberty reminds us of the Hobbesian understanding the idea of liberty. For Hobbes, natural freedom consisted in facing no obstacles to do whatever a person desire.²² However, the space of ‘negative liberty’ is contracted to the bare minimal level in Hobbesian account. Such supervision and control, in Berlin’s account, would translate to enslavement of the individual. The notion of negative liberty implies a space of non-interference, whether direct or indirect.

Berlin’s framework of understanding makes sense in the changing socio-political scenario because it is not premised upon a particular end. By linking the conception of liberty with absence of coercion and interference, the idea of negative liberty liberates itself from the possible parochiality of material ends.²³ The legitimizing principle of the idea of negative liberty could be found in the domain of individuality which remains a sacred value of liberalism and modern democratic society. Berlin argues that any arrangement which disregards the individuality of an individual or a group stands to be atrocious, no matter what gains or benefits it might cause to the others.²⁴ A similar line of thinking could also be traced to thinkers like Mill and Gandhi who put utmost faith in the relativist understanding of truth, and the right of every person to hold one’s unique perspective as true, unless proven rationally otherwise.²⁵

The notion of ‘positive’ liberty, on the other hand, carries with it an emancipatory purpose, and views liberty as a condition of enabling an individual to pursue one’s self-defined goals. If the conception of liberty was to be understood in terms of a teleology, the positive notion of liberty would arrive soon after the negative liberty, to enable the individual to pursue one’s own goals. Berlin’s description of the idea of ‘positive’ liberty is worth mentioning:

“The ‘positive’ sense of the word ‘liberty’ derives from the wish on the part of the individual to be his own master. I wish my life and decisions to depend on myself, not on external forces of whatever kind. I wish to be the instrument of my own, not of other men’s, acts of will. I wish to be a subject, not an object; to be moved by reasons, by conscious purposes, which are my own, not by causes which affect me, as it were, from outside... I wish, above all, to be conscious of myself as a thinking, willing, active being, bearing responsibility for my choices and able to explain them by reference to my own ideas and purposes.”²⁶

The notion of positive liberty holds an important aspect of the democratic society. Since an individual is a self-master, capable of pursuing one’s self-defined goals, without being obstructed or coerced by others, the ordering of the society cannot be done on lines of a particular normative arrangement. Human effort cannot be directed towards a pre-defined set of goals, as such activity would lead to coercion. An individual is truly free when one is allowed the freedom to define and pursue one’s goals.

What comes to fore from the above discussion about the understanding of liberty in terms of ‘negative and positive’ is the centrality of ‘coercion.’ Berlin admits that coercion need not be direct or intended. Rather,

coercion might refer to even those indirect and unintended consequences which, in some way, restricts the choices and capability of the individuals. This recognition of the restraining impact of coercion could also be found in the works of Mill where he described the possibility of society turning into a tyrant.²⁷ When the society imposes its normative order on the individuals, it begins to coerce the individuals into submission. This coercion sometimes leads to a ‘coerced invisibility’ which leads to more severe injustice. This coerced invisibility affects certain groups, like the alternate sexualities, more severely than others.

Self-regarding and other-regarding actions

While Berlin’s framework of understanding of liberty was premised upon coercion, Mill’s writings offer an alternate framework which discusses the idea of liberty in terms of the implications of the actions of the individuals. This framework of understanding is also referred to as the *Harm principle*²⁸ as it tries to define liberty in terms of the impact of one’s decisions. Mill’s ideas represent a spectacular case of individuality and puts the individual at the center of social deliberation. The broad framework of Mill’s ideas suggests that an individual should be absolutely free to choose one’s own good in one’s own way. However, when the actions and decisions of the individual have implications for the others, the society has a right to restrain such actions of the individuals. A similar line of thought could be observed in Locke’s understanding of the natural laws in the state of nature. Locke believed that the natural law requires us to ‘refrain from doing hurt to one another.’²⁹ Thus, the society might be justified in restricting those actions of the individuals which might create hurdles or discomfort for the others.

Mill’s understanding of the idea of liberty is intermixed with his defense of individuality. He believed that the society holds no moral right to intervene into the private matter of the individuals. The pretext of one’s

welfare holds no legitimate ground for trespassing into the sphere of private liberty of the individuals. Mill, thus, declared- ‘In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.’³⁰ Through his ideas on individuality, Mill became a champion of liberty and recognized true freedom as pursuing one’s own good in one’s own way.³¹

An analysis of the discussion on individuality, in Mill’s ideas, raises a number of issues. Mill believed that since mankind is not infallible, the social norms and opinions are only ‘half-truths’. No individual or society could claim to have certitude of knowing the absolute truth. This puts every individual in a position of being able to see some aspect of what is real/true. Thus, by imposing its norms and perspectives upon the individual, society corrodes the uniqueness of perspective held by such individual.³² This relativist position about the idea of reality/truth could also be found in Lincoln and Gandhi³³ and holds a key for upholding the tenets of individuality.

From the understanding of the nature of individuality emerges the framework of understanding of liberty. The ‘self-regarding’ aspects of liberty constitute a sacred aspect of the idea of liberty, which cannot be violated in the name of social good. As the name suggests, this aspect of liberty concerns the individual alone. Mill draws the domain of the ‘self-regarding’ aspects of liberty as:

“First, the inward domain of consciousness; demanding liberty of conscience, in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological... Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit our own

character; of doing as we like, subject to such consequences as may follow: without impediment from our fellow-creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong. Thirdly, from this liberty of each individual, follows the liberty, within the same limits, of combination among individuals; freedom to unite, for any purpose not involving harm to others: the persons combining being supposed to be of full age, and not forced or deceived.”³⁴

This position is shared by Dworkin who argue that the progression of a society from a simpler to more complex form results in narrowing down of concerns of equality (and liberty) from a wider to a more personal and narrower domain. This domain of personal preferences, as Dworkin refers to it, relates to the personal experiences and situations.³⁵ The emphasis on the personal experiences shows an increasing confidence in the value of individuality which seems to be subjugated by the social norms and conventions.

A bird’s eye view of the self-regarding sphere of liberty would suggest that it is based in the ‘private’ sphere of the individual life. However, as I would argue in the forthcoming sections, there is an unexplored potential to the understanding of self-regarding sphere of liberty which holds the key to address the concerns of alternate sexualities. Mill’s understanding of liberty as self-regarding actions combine both the aspects of ‘negative’ and ‘positive’ liberty and makes the individual the focal point of all enquiry.

The second aspect of the understanding of liberty under Mill’s framework, relates to the ‘other-regarding’ actions of the individuals. These actions represent the decisions made in the public domain which have

implications for the society at large. Within this sphere, Mill accepts certain degree of restriction as legitimate and necessary.³⁶ The inherent individuality of the person does not empower one to infringe upon the rights of the others. Similarly, Mill also despise the attempt to avoid one's social responsibility in the name of individual choice, and consider such cases as 'fit objects of moral reprobation and punishment.'³⁷

An interesting contrast emerges when the ideas of Mill and Hobbes are compared with regard to the imposition of restrictions. While Hobbes placed the restriction over the sovereign (read society) from endangering the life of the individual in the name of preservation of life;³⁸ Mill places restrictions upon the individual, if one's actions impede upon the interest of the others. The common grounds of these contrasting positions is the individuality of a being which is defined in terms of preservation of life by Hobbes and individuality by Mill.³⁹

In some sense, the other-regarding actions become the limitation clause of the framework of liberty charted out by Mill. While the self-regarding sphere of individual action is characterized by liberty, the same begins to fade away when the actions are seen as having implications for others. Under such circumstances, society might justify the suppression of the liberty of the individual in the name of preventing harm onto others. Such harm, again, is a socially defined parameter, which problematizes the understanding of liberty under Mill's framework. The nature and scope of the value of liberty needs to be understood through a dynamic approach which considers the various aspects of the society as well as the individuals.

[In search of spatiality of liberty](#)

The search for an understanding of liberty has brought me to two important aspects that impress my curiosity. The first aspect that plays an

important role in an understanding of liberty, especially in the 21st century, is coercion. The emphasis on coercion as a crucial factor for liberty helps to free the idea of liberty from the vested positions, thus allowing for a broader and meaningful understanding of liberty. The second aspect is observed through the understanding of liberty as a sphere of self-regarding actions, as discussed in Mill's works. The connection between the moral worth of an individual and the right to one's self-defined goals have major repercussions for the society as well as the discourse. When these two aspects of liberty are studied together, we find a plausible version of liberty which could be utilized to understand the concerns of the subjugated groups. As Mill has argued, the major challenge in addressing the concerns of liberty does not emanate from law, but from the imposition of societal customs and norms upon those who fall outside such frameworks.⁴⁰

Liberty might not be an end in itself. However, it is certainly a condition which is indispensable for the pursuit of one's self-defined ends. While it is necessary to ward off any unjustified intervention in the sphere of individual liberty, it is also equally important to promote an environment which is conducive of freedom. In this sense, liberty becomes an emancipatory ideal for the individual. While it is possible that a democratic society might witness a change in its stated goals and ambitions, the foundational framework of such democratic society would always remain premised upon the values of equality and liberty. Berlin visualized these foundational values as frontiers 'which nobody should be permitted to cross.'⁴¹ Any change in these foundations would inexorably lead to a change in the meaning of a democratic framework itself.

Berlin's conception of a democracy draws the framework of democratic rights as a way of demarcating the territory of liberty for the individuals. He suggests that such territory should not be a subject for any law and

sovereign. Rather, such framework should be recognized and protected by the democratic structures so as to imbibe within the masses, a respect for such liberty.⁴² One's the respect for a 'negative' conception of liberty (as 'freedom from') is safely grounded in the mindset of the masses, the space is created for an emancipatory understanding of liberty, in its 'positive' sense. Such positive understanding of liberty, then, becomes the driving force behind the social movements for addressing the concerns of subjugated groups.⁴³

Such a framework of understanding could be established in our democratic framework by revisiting the nature of public and private aspects of life. The meaning of liberty needs to be understood as an appendage to the human dignity. The defense of individuality creates a case for carving out a sphere of personal liberty for the individuals which should remain isolated from the vagaries of the societal customs.⁴⁴

The need to work upon the understanding of the public and private sphere is also emphasized by the increasing intervention of the public sphere (customs/norms) into the private life of the individuals. As the individual continues to be manipulated by the 'performative rituals'⁴⁵ of the normative structures of society, the nature of the private sphere continues to transform into a minion of the dominant normative framework. Mill viewed this domination in terms of the 'despotism of custom' and highlighted the fact that such despotism needs to be addressed for the sake of justice and ethics.⁴⁶

The conception of a 'borderless' democracy, premised upon the fundamental ideals of liberty and equality, welcomes all possibilities of diversity, difference and pluralism. However, for this to happen, it is necessary that the seeds of toleration and reciprocity are sown into the very framework of our democratic culture. Such framework of

understanding would not only allow for a thriving democracy but also facilitate a just society. Rawls has highlighted this ‘freestanding’ conception of justice which is different from the moral doctrines.⁴⁷ Such scope of a freestanding view of justice and democratic values is possible only when the individuals are given the greatest freedom to explore their beliefs. However, the search for such sphere of absolute freedom is itself a challenge for the discourse, given the overlapping relation of the public and private sphere. This intertwined relation of the public and private aspects of life necessitates a discussion in order to have a better understanding.

3.2 Imperative of the Public and the Private

The understanding of the idea of liberty, discussed in the previous section, emphasized upon coercion as an instrumental factor for identifying liberty. Also, the meaning and scope of liberty turns out to be different for different individuals, depending upon the spatiality of such individual in a social context. Thus, it becomes problematic to imagine a concrete universal conception of liberty. The territory of individual freedom is to be marked with reference to one's social context. This reference to the social context, generally, takes place with a janus-faced approach wherein the scope of liberty is defined differently in the public and the private space. In fact, this reference to the public and private sphere has been so instrumental in the social discourse that it holds an important role in our understanding of the concepts like democracy and rights.

The liberal discourse is premised around the idea of a free and equal individual who is autonomous and capable of making decisions for oneself.⁴⁸ Such conception of the individual developed against the backdrop of the dark ages and a multifarious subjugation of the individual self. The increasing intervention in the private aspects of the individual by religious and authoritarian regimes inspired thinkers like Hobbes and Locke to devise a framework where the jurisdiction of the state was clearly outlined as distinct from the private affairs of individuals.⁴⁹ Thus, the post-dark age era in the political discourse became largely preoccupied with the idea of protecting the autonomous self, and politics became primarily interested in the public sphere. However, this segregation between the public and private sphere could also be found in the writings of Aristotle and his discussions on *oikos* and *polis*.⁵⁰ The

evolution of the understanding of the public-private dichotomy has, since then, become an interesting aspect of our political discourse and has seen several interpretations.

The contradistinction between the public and the private sphere was necessitated by the urgent need to harmonize the nature of individual as a social being- having an array of social responsibilities- and as an autonomous [private] being- having an independent and self-defined life.⁵¹ While there have been differences in understanding of the public and private sphere of life, it is undoubtedly one of the prominent frameworks that define our political understanding.

Splichal views the conception of the public-private dichotomy in terms of an exhaustive and exclusive segregation.⁵² Similarly, Lefort describes the modern democratic societies in terms of a delimitation between the political and the other aspects (economic, cultural and juridical). He also argues that such distinction is necessary for the growth of social discourse and determines the focus of our discipline.⁵³ However, such compartmentalized view of the public and private sphere is now contested.

While framing the territory of the private sphere, the advocates of individualism had it clear that an individual should be unhindered while making choices for oneself. The right to make choice constitutes an unalienable part of the modern individual as it is important for the realization of the individual's moral worth. Any attack upon this freedom is seen as an imposition of an alien will, which leads to the infringement of the individual's freedom and dignity.⁵⁴ Mahajan identifies this demarcation of the interest of individual as the territory of the private sphere.⁵⁵

However, the territory of the public and private remains in a state of flux as the over-encompassing influence of the state and normative framework of society makes it practically impossible to maintain the isolation of the private sphere. Thus, there is always some degree of overlap between the frontiers of the public and the private. An enquiry into the nature of the public private dichotomy raises some interesting questions: if the nature of the public institutions is defined by the normative framework of the society, how far does such public institutions succeed in safeguarding the interest of the groups who fall outside such normative framework? Does the public private distinction work only in terms of direct formal interaction between state and individual, or does it also consider the underlying cultural frameworks which affect the options of acceptable behavior? And lastly, what justifies a state's action in interfering with the social and cultural practices and beliefs of the individuals? These questions hold special relevance in the contemporary situation, given the active role of the state in addressing the concerns of subaltern groups such as the alternate sexualities.

While the distinction between the public and private aspects of life exists to protect the private aspects of the individual life, this segregation somehow fails to ensure that the individual is able to make the choices in an unhindered environment. It is practically impossible to wrap the normative forces through statutory boundaries. Thus, the influence of the normative values flows through the system undeterred and unconstrained. These normative codes set strict codes of conduct before the individuals which often becomes coercive in nature. When understood in terms of Berlin's framework, such exercise of coercion in the private affairs of individual amounts to enslavement and infringement of freedom.⁵⁶ This indirect coercion, which manifests itself through the performativity of the normative framework of society pushes out several groups outside the plain of acceptability.⁵⁷ In this sense, the private sphere remains a domain

of suppression and subjugation. These transgression of the private sphere leads to a transformation of the private into political.⁵⁸ Several feminist groups have decried this through their slogan of ‘personal is political’.

This alleged disillusionment with the effectiveness of the public private dichotomy has made it necessary to revisit it with a fresh perspective and purpose. Thus, I attempt to revisit the celebrated dichotomy of public and private with an aim of understanding the causes which result in the suppression of some groups. This perspective is different from the critical reading of the public-private dichotomy by feminist scholars and other groups as it tries to highlight the concerns of individuality within the paradigm of public private dichotomy and identifies the lapses of the dichotomy through the exercise of coercion. My argument in this section would be that the conventional understanding of the public private dichotomy fails to address the concerns of individuality, especially for the alternate sexualities, due to the prevailing heteronormative constructs. Such failure makes it necessary to rechristen the understanding of the public private dichotomy in a way that accommodates a room for the aspects of individuality and self-expression.

[Cartography of the public and private dichotomy](#)

The social existence of the individual results in an interdependent relation between the individual and the social context. This relation often changes its nature and results in subjugation of the individual will. As a result of this dynamism, the socio-political existence of the individual becomes a matter of discussion. While the democratic tradition is largely premised around an idea of an autonomous individual, such individual often finds oneself enveloped by a normative framework which might coerce the individual to move in directions contrary to one’s self-defined ends. Sandel describes the existence of the individual in terms of one’s social endowments.⁵⁹ Such context forms the background of the public-

private dichotomy. However, the modern understanding of the public-private dichotomy seems to have done away with the rigid compartmentalization between the two aspects. The modern discourse now recognizes a fair degree of overlap between the two.

The rise of the public-private dichotomy could be traced to the liberal tradition, and more particularly in the writings of Locke and Mill. While Locke firmly believed in the sanctity of the ‘Right of freedom to his person, which no other man has a power over...’,⁶⁰ Mill stood for the separation of the ‘self-regarding actions’ from the ‘other-regarding actions’.⁶¹ However, none of the thinkers deemed it fit to isolate either the public or private aspects of life. In fact, the rigid separation of the public and private sphere led to a fierce criticism by the feminists and other subaltern schools over the issues of subjugation and neglect of the subordinated groups.⁶² These critiques exposed those aspects of the public and private spheres which worked to hide the subjugation and exploitation of certain groups. This realization of the possibility of injustice under the guise of public private dichotomy further led to a more intensive study of the two spheres.

The contemporary reading of the public private dichotomy places it in mutually compatible spaces, rather than placing them in counter-distinction. Mahajan, for instance, views the public and the private as complimentary aspects which work together to enhance democratic citizenship.⁶³ Also interesting to note is the fact that the relationship and mutual exchange between the two spheres cannot be fixated at any time of history. There exists a dynamic give-and-take relation between the public and the private wherein each sphere tends to define and shape the other. The end result of such dialectic relationship between the two is the evolution of individuality in the private sphere and unfolding of the process of democratization in the public sphere respectively. Mahajan

understands the relationship between the public and private as ‘continuously re-articulated in a manner that the two reinforce each other.’⁶⁴ This implies that the conception of one sphere is not possible without contemplation of the another.

The public and the private also work to reinforce the structural stability of each other. This is done through a recourse to the dominant normative frameworks of the society which lend substance and stability to the social order. Mahajan recognizes this dynamic relationship and observes that these normative elements of the respective sphere hold some degree of potential to address the concerns of justice in the other sphere. For instance, when private familial relationships are seen through the prism of principles defining our public life, the norms of the private life are made to concur to the social customs and democratic ideals.⁶⁵ The public sphere, through formal laws, also ensures a harmonization of the private spheres of numerous individuals who act to pursue their best interest. Thus, it becomes indispensable for the public sphere to set restraint upon the private sphere in order to facilitate a peaceful social well-being. Thus, Mahajan believes that, ‘the private is prefigured by the public in democratic polities and the two operate in conjunction rather than irreconcilable opposition.’⁶⁶

The relation between the public and the private is such that they restrain as well as reify the presence of each other. Mahajan claims that the public sphere comes into existence only when the individual is protected in the private sphere.⁶⁷ A healthy democratic polity could sustain and prosper only on the pillars of free and equal individuals. Gupta recognizes this and refers to universal citizenship as an outcome of the culture of equality, which again emerges from the culture of liberty and equality at the private sphere.⁶⁸ Beteille has also offered an interesting description of this dynamic by referring to the role of citizenship as ‘both an

individualizing and a universalizing concept’, to which the progress of democracy is intimately linked.⁶⁹

Mnookin has drawn a comparison of the evolution of the public private dichotomy with that of individual-state relations and claims that the dichotomy might not deal much with the aspects of social-cultural life.⁷⁰ However, I differ from such position as the public sphere necessarily includes the socio-cultural aspects of life as well. The understanding of the public sphere needs to be done in the backdrop of the underlying normative framework. Since the perspective and behavior patterns of the state as well as individual is molded by this normative framework, it might be prudent to believe that the public sphere is an organic framework, of which the state is, but a part. However, this confusion with the meaning and scope of the public and the private sphere is immanent when working with the dichotomous nature of these terms. Thus, it becomes necessary to undertake an exploration of the public and private sphere, before commencing any further contemplative endeavors.

Marking the Public Sphere

When we talk of the public sphere, it does not necessarily mean the congregation of individuals living together in a society. Rather, a public sphere emerges as a *sui generis* collectivity which acquires a meaning greater than the aggregate of the persons constituting it. A better description of a public sphere would be a community of individuals, having shared interests and frames of references, but not necessarily having ‘sameness’ of goals.

A public sphere is not preceded by a formal state structure. Rather, it is the background of an existing public sphere which gives birth to a formal political structure. The public sphere is necessarily greater than the institutional framework of state. The dynamics of the public sphere often

get reflected through the activism of the civil society and open markets. Habermas has admired the role of civil society in articulation of the common interest. It is due to the importance of these associations that Habermas compared civil society to the sphere of freedom as well as restraint, which ensures the continuation of the conditions of civility.⁷¹ Thus, the public sphere becomes more than a mere congregation of individuals. It develops a consciousness of its own which becomes manifested through the social customs and normative frameworks.

The opinion with regard to the scope of the public sphere has differed among scholars. While some restrict the extent of the public sphere to the concerns of the state and political aspects alone,⁷² others view the public sphere as a platform embracing multifarious aspects like- state, culture and economy.⁷³ Splichal views the public sphere in terms of ‘relationships among people based on visibility and access, which is essential for the process of collective self-understanding and constitutive to democratic societies.’⁷⁴ Based on this definition, Splichal identifies the public sphere with ‘publicness’ or ‘publicity’. This broad interpretation of the public sphere holds special significance in the contemporary period, where the dispersal of the shared good is no longer the prerogative of the state but shared by the interacting groups.

Another line of thought that has significantly affected our understanding of the public sphere relates to the relativity of the public sphere. Beteille has viewed ‘public’ as a historical rather than a universal category.⁷⁵ It is historical because it comes into existence as a result of an unequal deliberation between different perspectives by different groups. Thus, the public sphere begins to appear as a crystallized manifestation of a certain normative understanding. This changing nature of the public sphere has been well elaborated by Anderson who discusses ‘imagined communities’ to describe the evolution of nations and nationalism through the unfolding

of local public spheres.⁷⁶ This historical imagery of the public sphere also gives substance and meaning to the polity and often changes with time and need. It is a different question altogether whether, or not, such framework would share the best interest of the maximum number. It is also possible that a public sphere might incorporate the seeds of subjugation of the groups maintaining a contrary set of beliefs. Such an imagination of the public sphere gives rise to a tradition of plurality of public spheres, the possibility of which has been explored to some extent by Fraser.⁷⁷

Fraser's discussion on the nature of contemporary public sphere and the possibility of plural public sphere gives an insightful reference to the unfolding of the democratic structures. Her reference to the 'plural counterpublics' explains the public sphere as a site of multifarious contestations and deliberations.⁷⁸ This plural arrangement of the public sphere helps to ensure that the minorities and subjugated groups are not forced to submit to the dominant normative frameworks. Such plurality within public sphere becomes more meaningful in the context of contemporary polities which are identified as globalizing communities. Thus, the understanding of the public sphere has again taken an adaptive role to facilitate a more deliberative democratic process.

Marking the Private Sphere

The reference to the private sphere commences with the description of *oikos* in Aristotle's writings.⁷⁹ Conventionally, the domain of the private has been understood as the household and the interpersonal affairs of individuals where the state does not interfere. The Private has been seen and contemplated as an area where the individual could pursue one's self-defined goals without being hindered by others. Mahajan identifies this image of the individual, in the private sphere, as a self-determining being having the capacity to reason and question the received knowledge and

beliefs.⁸⁰ This autonomy of the individual in being able to question and test the rationality of the existing norms gives the private sphere a degree of influence over the public imagery of the society.

The private sphere is also the site where the uniqueness of the individuals is reflected in the most prominent manner. Mill championed the cause of individuality and emphasized upon an intelligent following of custom. He even suggested that ‘an intelligent deviation from custom, is better than a blind and mechanical adhesion to it.’⁸¹ A similar protective stance can be observed in writings of Locke who viewed the private life and interests as an inalienable aspect of a person’s life, and over which no government could legitimately trespass.⁸²

However, it would be inappropriate to believe that the private sphere enjoys no constraints at all. Every individual makes choices within a social context which is generally a reflection of the dominant normative value-set.⁸³ As a result, the private efforts of the individuals and groups become constrained by the normative values and expectations. Gupta offers an interesting insight into the nature of the private and argues that what constitutes the private is culturally and historically determined. ‘What is now considered as a private affair could have been a public affair in the past and vice versa.’⁸⁴ The frontiers of the public and private often cross boundaries and influence each other. The normative framework of the society often sets the boundaries of autonomy to the individual. As a result, Gupta argues, the social nature of the individual is nothing but an internalization of the standards set by the normative framework of the society.⁸⁵ Thus, individual lives under the coercive framework of social norms and customs. The resultant picture of the private sphere appears to be restrictive when viewed through the prism of coercion.

The concerns for protecting the individuality and personal space of the individual maintain the interest in the public-private dichotomy. The nature of the private has further changed in the 21st century. With this growing concern, interest has risen in protecting the personal space for the individual. Thus, the deliberations over the public-private dichotomy has given rise to discussion over issues of privacy, which Splichal describes as a sphere that is ‘hidden, confidential, only restrictively visible or accessible.’⁸⁶ He also highlights the importance of privacy in contemporary times and argues that ‘without privacy, our lives would resemble the life of slaves and serfs.’⁸⁷

The discussion of the public and the private sphere exposes the fact that the so-called ‘private’ sphere is not actually free from coercion. Berlin has argued that coercion need not be manifested in a visible or direct manner. Freedom of a person is effectively infringed, if such person is unable to exercise autonomy due to visible or invisible coercion.⁸⁸ While a direct coercion gets exposed easily, the impact of ‘coerced invisibility’ effectively debilitates the victim in such a manner that autonomy and freedom are lost not only in public spaces but also in private and personal pursuits. This translates into a crisis of individuality.

The civil society and the market have become the conventional domain of the private sphere. The interaction between the public and private sphere is increasingly seen in terms of the interaction and collaboration between the state and the civil society. Amidst this practice, the public-private dichotomy remains engulfed with the macro issues, without reaching the aspects of individuality. These delicate, but fundamental, aspects of individuality need urgent protection against the vagaries of social intervention and norms. Due to this paucity of attention over the aspects of individuality, the public-private dichotomy remains short of its purpose of understanding the aspects of individual life. A revisit to the concept of

public and private is necessary for the excavation of the ‘*personal sphere*’ of individual life. The examination of such personal sphere becomes the critical test of coercion and holds potential for rescuing those suffering from coerced invisibility.

3.3 Trichotomizing the Divide

The theme of my study pertains to the idea of a borderless democracy and addressing the concerns of the alternate sexualities within the democratic framework. An important inference developed during the course of my study is that the understanding of concepts like democracy and justice cannot be tied to specific positions. The idea of democracy as an ‘empty place’⁸⁹ floats upon plural normative frameworks which Fraser identifies through ‘plural counterpublics’⁹⁰ which, in turn, is premised upon the understanding of ‘people’ as an organic congregation which changes with time and context. This idea of people is premised upon the ability of the individuals and the groups to express themselves. Such expression is realized only through an exploration of the individuality of a person. This pyramid of human society, emanating from the self-actualization of the individuals, forms the basis of the modern democracy and forms a causally coherent framework. However, the nuances of individuality still need to be found through an introspection of the personal space available amidst the public domain.

In this section, I try to mend the framework of public-private dichotomy with a purpose of carving out the space of individuality. My understanding attempts to read the conventional dichotomy in terms of a trichotomous arrange of the public-private-personal spheres of life. This restructuring of the dichotomous understanding is necessary because of the limitations of the existing discourse on private sphere in addressing the concerns of individuality. These concerns are, not only important for the alternate sexualities but also crucial for the safeguard of individuality in society. A revisit to the understanding of public private is necessary, lest individuality shall suffer under the domination of social norms.

An important focal point while discussing the domain of public and private is the recognition of coercion. Such understanding allows for the expansion of the frontiers of our political discourse and achieve more inclusive meaning of values such as liberty and equality. However, the deliberative character of such understanding implies that the conception of democratic ideals is done more as a means (*telos*) than an end in itself. However, this understanding gets translated at the political front through the language of rights. Given the changing nature of the public spaces, the applicable of these rights becomes subject to change over a period of time. In this manner, the understanding of our political ideals and concepts becomes instrumental in guiding the outlook towards our political spaces.

Trichotomizing the Public Private divide

There is no doubt that the public-private dichotomy has played an important role in the evolution of the social discourse and in developing the discourse on civil society. It is also arguably fair to believe that the public and private sphere exercises certain degree of overlap while remaining in a state of flux. However, a deeper enquiry into the nature of the private sphere reveals that the alleged autonomy of the individual is often compromised in the name of social norms. Butler has discussed this trespass of the social norms into the private affairs of the individuals through her observation of the phallocentric inclinations within the public sphere of political and socio-cultural life. Her arguments suggests that linguistic and cultural forces work to reproduce the elements that legitimize the existing structures of heteronormativity which pushes the contrary ideas and positions beyond the boundaries of acceptability.⁹¹ Thus, the space for individuality is lost when such expression of individuality goes contrary to the prevailing norms. The need to examine the need of a personal sphere arises in such context.

Fraser has recognized the role of the ‘public’ and ‘private’ in delegitimizing certain interests. She also suggests that the covert agenda of the public-private distinction could be the subordination of women and other minority groups. Thus, there is an urgent need to have a harder and more critical look at such tools of political discourse.⁹² Having failed to protect the expression and realization of individuality, the private sphere becomes a handmaiden of the dominant normative framework. However, it is also true that the conduct and choices of the individual are often a reflection of the social milieu. This intermeshed character of the private and personal aspects of life sets a challenge to the researcher.

The reading of the private sphere, I believe, is based on a subdivision of the private sphere into- the *private sphere* and the *personal sphere*. The resultant framework of viewing the society, thus, becomes a *trichotomous* understanding of the ‘*public-private-personal*’ spheres of individual life. The division, again following the conventional dichotomy of public private, is more analytical in nature and carries a degree of overlap. However, such trichotomization helps in carving out a sphere of individuality for the individual which otherwise is lost amidst the normative pressures.

While the public sphere has been safely identified with the aspects of the state and political deliberation; the place of the private sphere becomes problematic due to its dwindling spatiality. The autonomous aspects of the private sphere are often identified as relating to the private pursuits of the individuals and groups. However, such private pursuits, as Sandel suggests, are to be invariably identified with one’s social context.⁹³ These socially molded goals are, more often than not, a product of the prevailing normative framework. An outcome of such setting is that an interest that is contradistinctive to the prevailing normative framework is considered as an illegitimate pursuit. Such framework is necessarily

restrictive of the individual autonomy and free will, as it proscribes anything that goes contrary to the logic of the prevailing norms. In such circumstances, expression of individuality suffers a blow at the hands of tradition and customs.

Chandoke views the private sphere as a 'microcosm of the public' and observes the depoliticization of gender discrimination and disempowerment of women as a trait of the private sphere.⁹⁴ Her observations reveal the effective use of the private sphere to silence the subordinated groups. However, she also argues that the meaning of the private sphere is lost so long the individual is denied the opportunity to express oneself- in mind and body. If such self-expression and self-autonomy is denied to the individual, the experience of the private life becomes a 'potentially terrifying public space.'⁹⁵

The personal sphere, as a distinct area, exists as the sphere of absolute autonomy. It is closer to being a psychological space of one's individuality. While such space might not hold a direct political relevance for the macro processes, the personal sphere does carry a foundational significance for the political actors, that is, the individual. A true democratic society can be realized only when the individuals are able to express themselves in an unhindered environment. The realization of the self enables the individuals to express and pursue their common ends in a better way. Also, the personal sphere becomes the true embodiment of freedom as it is ideally free from external coercion. This aspect of self-actualization and self-realization accords the personal sphere an emancipatory angle which is urgently needed by the subordinated groups such as the alternate sexualities.

Another distinction between the private and the personal sphere can be drawn in the manner it is affected by the normative structures of the

society. While the private conduct of the individual might need to adhere to the social norms and codes of public morality, the aspects of one's personality and self-perceived identity (personal sphere) are not restrained by any social or moral code. Oberoi has understood this distinction between the private and the personal through her argument- "there is private in the sense of personal- referring to the sphere of the autonomous individual; there is private in the sense of sexual- relating to one's own and nobody's business..."⁹⁶

The distinction between the private and the personal sphere could be further understood with a few illustrative examples. Let's consider the case of food habits. Different societies have different rules pertaining to dining. These rules could stretch from the mannerism of dining and extend to the choices of food itself. As a subject of private sphere, the decision of what to eat and how to eat is often subject to the social norms and practices.⁹⁷ For instance, students and workers in Indian schools and offices are discouraged to carry non-vegetarian food for lunch. Even if they are allowed to do so, people generally avoid carrying non-vegetarian food in public places in India.⁹⁸ While there is no stated law or regulation regarding such conduct, it is largely due to the existing customs and practices that there is a refrain from consumption of nonvegetarian items at schools and workplaces. Madan refers to George Simmel's essay on *sociology of the meal*, and quotes 'eating and drinking are most self-centered, since what is eaten by a single person can under no circumstances be eaten by anyone else. People however normally eat together- it turns the exclusive self-seeking of eating into the frequent experience of being together and into the habit of joining in a common purpose.'⁹⁹ Adhering to such practice is in lines with the requirements of social conduct of the society. However, does this change the actual desire or inclination of the individual? Could society legitimately alter the choice and preferences of an individual towards any particular

consumable item, simply by proscribing its use in public places? An aspect of the personal sphere comes to play at this juncture. While an individual might be curtailed from doing or expressing something that the society finds to be undesirable, such individual shall have the absolute freedom to do or express such thing in one's personal capacity.

Mill referred to such imposition of the social norms as an act of social tyranny and finds it as 'more formidable than many kinds of political oppressions... and enslaving the soul itself.'¹⁰⁰ He also made a case for the protection of individual against the tyranny of prevailing opinion and feeling. According to Mill's understanding, in areas where the choice of the individual does not cause any harm or obstruction to the others, the individual is supposed to be a sovereign master of oneself. The society does not hold the right to decide the good of the individual, until such good is necessary to prevent any harm to others. Mill recognized this aspect of self-mastery (self-realization) when he claimed that 'over himself, over his own body and mind, the individual is sovereign.'¹⁰¹

The conception of a personal sphere could be best summarized through a reference to Mill, who astutely sums up the territory of the personal space of the individual as:

"First, the inward domain of consciousness; demanding liberty of conscience, in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological... Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit our own character; of doing as we like, subject to such consequences as may follow: without impediment from our fellow-creatures, so long as what we

do does not harm them, even though they should think our conduct foolish, perverse, or wrong. Thirdly, from this liberty of each individual, follows the liberty, within the same limits, of combination among individuals; freedom to unite, for any purpose not involving harm to others: the persons combining being supposed to be of full age, and not forced or deceived”¹⁰²

An inference drawn from the above suggests that the norms of social conduct are conditionally applicable to the private sphere alone. When it comes to the personal sphere¹⁰³ the society loses its jurisdiction over the individual as per the personal affairs of the individual have nothing to do with the social-political life. Splichal makes an interesting observation in this regard and suggests that the contemporary society has witnessed an erosion of the personal aspects of life. As a result, the contemporary life considers ‘publicity’ as the new default.¹⁰⁴ The personal aspects of the life are to be excavated and preserved carefully, so as to save them from the social gaze. When the personal aspects of the individual life are allowed to be meddled by the social norms and expectations, privacy might face dehumanizing effects. Splichal informs that ‘the veil of [manipulated] privacy could lead to domination, exploitation, violence, tyranny, secrecy, censorship and other abuses of power.’¹⁰⁵ This, indeed, becomes the case for the alternate sexualities who suffer from severe neglect and subordination due to their suppressed spatiality.

A conventional reading of the public-private dichotomy appears to be reinforcing, intentionally or unintentionally, the heteronormative ideals. By wrapping the private sphere in heteronormative ideals, and through enforcing of the logic of coerced invisibility in the public sphere, the conventional public private dichotomy ensures that no space is left for the expression and survival of the alternate sexualities. While there have been

deliberations over the malleability in the public and private sphere, the case of alternate sexualities presents a peculiar challenge for the discourse. This challenge emerges from the unique spatiality of the concerns of alternate sexualities which cannot be accurately understood through the reference to the private sphere alone. The concerns of the alternate sexualities need to be understood through the conception of a ‘personal’ sphere, the spatiality of which lies beyond that of the public private dichotomy.

Since the concerns of the alternate sexualities are premised within the personal aspects of one’s individuality and sexuality, it cannot (or rather should not) be manipulated by the normative constructs of the society. However, the heteronormative framework is in a constant effort to mold the public as well as the private sphere on its terms. As a result, the presence of the alternate sexualities is attempted to be ‘cured’ through the purported ‘conversion therapies’ and other coercive techniques.¹⁰⁶ Mill viewed such enforcement of the social norms and ideals as ‘despotism of custom.’¹⁰⁷ It is important to note that since the conventional understanding of the private sphere is unable to address the concerns of individuality and sexuality, it becomes pertinent to find the right platform which promotes a healthy expression of individuality and aids in self-realization.

The personal sphere of individuality ensures that such aspects remain protected and preserved. It also ensures that the contemplation over the issues of sexuality and individuality is done with an aim of preserving these fundamental concerns and without making them a site for negotiation. The role of the personal sphere, in the political discourse, appears as a fundamental vantage point which ensures an equal start for all. By obscuring the distinction originating from personal choices and

preferences, the personal sphere nurtures a deliberative culture where self-expression is not restricted by the social norms and expectations.

The political aspects of the queer activism require it to be loosely defined while also requiring a common base of affirmation. Such yardstick of identity could only be found when the premise of queer identity is linked to the aspects of self-expression and self-realization. Thus, the alternate sexualities become a dynamic mix of LGBTQIA+ groups who come together at times and circumstances and then dissipate into the plurality of democratic cultures.

The challenges posed by such framework of politics come before the policy-makers and formal structures. The legal-administrative framework requires clearly demarcated lines of identity, in order to formulate and implement public policies. However, given the liquid state of gender identity, it becomes difficult for the state machinery to formulate and implement the policies for specific groups of the alternate sexualities. I shall discuss these challenges and the loopholes in the next chapter.

¹ At the outset, I admit being the victim of using the terms ‘liberty’ and ‘freedom’ in an interchangeable manner. While there might be differences in the meaning of the two terms, I have deliberately chosen to ignore such distinctions and refer to the two terms as if they were the same.

² Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*.

³ Alex De Tocqueville, *Democracy in America*, Wordsworth Edition, 1998, 201–2.

⁴ See Jeffery Abramson, *Minerva’s Owl: The Tradition of Western Political Thought* (Harvard: Harvard University Press, 2009).

⁵ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 87.

⁶ See Isaiah Berlin, *Liberty: Incorporating Four Essays on Liberty*, ed. Henry Hardy (New York: Oxford University Press, 1969).

⁷ Nikhil Kumar Gupta, “Out of Bounds: The Idea of Coerced Invisibility and Alternate Sexualities,” *Sexuality, Gender and Policy*, 5, no. 1 (2022): 58–68, <https://doi.org/10.1002/sgp2.12039>.

⁸ Berlin, *Liberty: Incorporating Four Essays on Liberty*.

⁹ Michael Sandel, “The Procedural Republic and the Unencumbered Self,” *Political Theory* 12, no. 1 (1984): 81–96.

¹⁰ See Abramson, *Minerva’s Owl: The Tradition of Western Political Thought*.

¹¹ See Owen Fiss in Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 179.

¹² Abramson, *Minerva’s Owl: The Tradition of Western Political Thought*, 281.

¹³ Berlin, *Liberty: Incorporating Four Essays on Liberty*, 173.

¹⁴ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 179; Abramson, *Minerva’s Owl: The Tradition of Western Political Thought*.

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- ¹⁵ Routledge, *Routledge Philosophy Guidebook to Hobbes and Leviathan*, ed. Glen Newey, Routledge Philosophy Guidebook (New York: Routledge, 2008), 4.
- ¹⁶ Berlin, *Liberty: Incorporating Four Essays on Liberty*.
- ¹⁷ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*.
- ¹⁸ Berlin, *Liberty: Incorporating Four Essays on Liberty*, 172.
- ¹⁹ See Sandel, "The Procedural Republic and the Unencumbered Self."
- ²⁰ Berlin, *Liberty: Incorporating Four Essays on Liberty*, 169.
- ²¹ Ibid
- ²² Routledge, *Routledge Philosophy Guidebook to Hobbes and Leviathan*, 93.
- ²³ Berlin says: "whatever the principle in terms of which the area of non-interference is to be drawn, whether it is that of natural law or natural rights, or of utility, or the pronouncements of a categorical imperative, or the sanctity of the social contract, or any other concept with which men have sought to clarify and justify their convictions, liberty in this sense means liberty from; absence of interference beyond the shifting, but always recognizable, frontier." Berlin, *Liberty: Incorporating Four Essays on Liberty*, 173–74.
- ²⁴ Berlin, 174–75.
- ²⁵ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*; M K Gandhi, *Hind Swaraj or Indian Home Rule* (Ahmedabad: Navjivan Publishing House, 1909), https://www.mkgandhi.org/ebks/hind_swaraj.pdf.
- ²⁶ Berlin, *Liberty: Incorporating Four Essays on Liberty*, 178.
- ²⁷ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 76.
- ²⁸ Abramson, *Minerva's Owl: The Tradition of Western Political Thought*, 282; Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*.
- ²⁹ Richard Ashcraft, "Locke's Political Philosophy," in *The Cambridge Companion to Locke*, ed. Vere Chappell (Cambridge: Cambridge University Press, 1994), 239–40.
- ³⁰ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 80–81.
- ³¹ Mill, 83.
- ³² Mill, 121–22.
- ³³ Philip Van Doren Stern, ed., *The Life and Writings of Abraham Lincoln* (New York: The Modern Library, 2000); Gandhi, *Hind Swaraj or Indian Home Rule*.
- ³⁴ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 82–83.
- ³⁵ Dworkin explain the types of preferences as: Political preferences which means preferences about how the goods, resources and opportunities of the community should be distributed to the others; Impersonal preferences which are preferences about things other than their own or other's people's lives or situation; and, Personal preferences which are about one's own experiences or situation. Ronald Dworkin, "What Is Equality? Part 1: Equality of Welfare," *Philosophy & Public Affairs* 10, no. 3 (1981): 191–92.
- ³⁶ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 139.
- ³⁷ Mill, 142.
- ³⁸ Routledge, *Routledge Philosophy Guidebook to Hobbes and Leviathan*.
- ³⁹ Hobbes' emphasis on preservation of life could be linked to the value of individuality as it is the uniqueness of individual life which is cherished by Hobbes. Instead of valuing the aggregated life of a society, Hobbes values each life as precious and worth protecting.
- ⁴⁰ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 123–24.
- ⁴¹ Berlin, *Liberty: Incorporating Four Essays on Liberty*, 210.
- ⁴² Berlin, 211.
- ⁴³ Berlin, 214.
- ⁴⁴ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 122–24.
- ⁴⁵ Judith Butler, *Gender Trouble- Feminism and the Subversion of Identity* (New York: Routledge, 1999).
- ⁴⁶ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 135.
- ⁴⁷ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 11–14.
- ⁴⁸ Gurpreet Mahajan and Helmut Reifeld, eds., *The Public and Private: Issues of Democratic Citizenship* (New Delhi: Sage, 2003), 13; Abramson, *Minerva's Owl: The Tradition of Western Political Thought*.
- ⁴⁹ Mahajan and Reifeld, *The Public and Private: Issues of Democratic Citizenship*, 106–7; Abramson, *Minerva's Owl: The Tradition of Western Political Thought*.
- ⁵⁰ 'Oikos' referred to the private realm of the household and comprised of three main relationships- husband and wife, parent and child and master and slave. This sphere was ruled by the master in accordance with his judgement.

In contrast, the *polis* represented the public sphere where decisions were made collectively by the citizens.’ Mahajan and Reifeld, *The Public and Private: Issues of Democratic Citizenship*, 9–10.

⁵¹ Mahajan and Reifeld, *The Public and Private: Issues of Democratic Citizenship*; Robert H. Mnookin, “The Public/Private Dichotomy: Political Disagreement and Academic Repudiation.,” *University of Pennsylvania Law Review* 130, no. 6 (1982): 1429–40.

⁵² Slavko Splichal, “Publicness–Privateness: The Liquefaction of ‘The Great Dichotomy,’” *Javnost-The Public*, February 2, 2018, 1, <https://doi.org/10.1080/13183222.2018.1424004>.

⁵³ Claude Lefort, *Democracy and Political Theory*, trans. David Macey (London: Polity Press, 1988), 11.

⁵⁴ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*.

⁵⁵ Mahajan and Reifeld, *The Public and Private: Issues of Democratic Citizenship*, 13.

⁵⁶ Berlin, *Liberty: Incorporating Four Essays on Liberty*.

⁵⁷ Nancy Fraser, *Justice Interruptus- Critical Reflections on the PostSocialist Conditions* (New York: Routledge, 1997); Michel Foucault, *The History of Sexuality Volume 1: An Introduction*, trans. Robert Hurley (New York: Pantheon Books, 1978).

⁵⁸ Such line of argument could be found in several feminist writings such as: Carole Pateman, *The Sexual Contract* (California: Standard University Press, 1988); Butler, *Gender Trouble- Feminism and the Subversion of Identity*; Wendy Brown, *The Manhood and Politics: A Feminist Reading in Political Theory* (Rowman & Littlefield, 1988); Alison Jaggar, *Just Methods: An Interdisciplinary Feminist Reader* (London: Paradigm Publishers, 2008).

⁵⁹ Sandel, “The Procedural Republic and the Unencumbered Self.”

⁶⁰ Ashcraft, “Locke’s Political Philosophy,” 241.

⁶¹ Mahajan and Reifeld, *The Public and Private: Issues of Democratic Citizenship*, 11–12; Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*.

⁶² Mahajan and Reifeld, *The Public and Private: Issues of Democratic Citizenship*, 12; Jaggar, *Just Methods: An Interdisciplinary Feminist Reader*.

⁶³ Mahajan and Reifeld, *The Public and Private: Issues of Democratic Citizenship*, 11.

⁶⁴ Ibid

⁶⁵ Ibid, 14–15.

⁶⁶ Ibid, 15.

⁶⁷ Ibid, 17.

⁶⁸ Dipankar Gupta, “The Domesticated Public: Tradition, Modernity and the Public/Private Divide,” in *The Public and the Private: Issues of Democratic Citizenship*, ed. Gurpreet Mahajan and Helmut Reifeld (New Delhi: Sage, 2003), 60.

⁶⁹ Andre Beteille, “The Public as a Social Category,” in *The Public and the Private: Issues of Democratic Citizenship*, ed. Gurpreet Mahajan and Helmut Reifeld (New Delhi: Sage, 2003), 49.

⁷⁰ Mnookin, “The Public/Private Dichotomy: Political Disagreement and Academic Repudiation.,” 1429.

⁷¹ David Held, “Part 2: Critical Theory Habermas,” in *Introduction to Critical Theory: Horkheimer to Habermas* (Cambridge: Polity Press, 1980), 26.

⁷² Mnookin, “The Public/Private Dichotomy: Political Disagreement and Academic Repudiation.”

⁷³ Mahajan and Reifeld, *The Public and Private: Issues of Democratic Citizenship*, 31.

⁷⁴ Splichal, “Publicness–Privateness: The Liquefaction of ‘The Great Dichotomy,’” 2.

⁷⁵ Beteille, “The Public as a Social Category,” 38.

⁷⁶ Benedict Anderson, *Imagined Communities: Reflections on the Origins and Spread of Nationalism* (New York: Verso, 2006).

⁷⁷ Fraser, *Justice Interruptus- Critical Reflections on the PostSocialist Conditions*.

⁷⁸ Ibid, 81–85.

⁷⁹ However, the conception of the term *oikos* in Aristotle’s understanding is different from the modern understanding of the term private sphere. See Lord Carnes, *ARISTOTLE’S Politics*, 2nd WITH AN INTRODUCTION, NOTES, AND GLOSSARY (Chicago: The University of Chicago Press, 2013).

⁸⁰ Mahajan and Reifeld, *The Public and Private: Issues of Democratic Citizenship*, 13.

⁸¹ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 124.

⁸² Abramson, *Minerva’s Owl: The Tradition of Western Political Thought*, 200.

⁸³ Beteille, “The Public as a Social Category,” 42; Sandel, “The Procedural Republic and the Unencumbered Self.”

⁸⁴ Gupta, “The Domesticated Public: Tradition, Modernity and the Public/Private Divide,” 56–57.

⁸⁵ Gupta, 66–67.

⁸⁶ Splichal, “Publicness–Privateness: The Liquefaction of ‘The Great Dichotomy,’” 2.

⁸⁷ Ibid

⁸⁸ Berlin, *Liberty: Incorporating Four Essays on Liberty*.

⁸⁹ Lefort, *Democracy and Political Theory*.

⁹⁰ Fraser, *Justice Interruptus- Critical Reflections on the PostSocialist Conditions*.

⁹¹ Butler, *Gender Trouble- Feminism and the Subversion of Identity*.

⁹² Fraser, *Justice Interruptus- Critical Reflections on the PostSocialist Conditions*, 88–89.

⁹³ Sandel, “The Procedural Republic and the Unencumbered Self.”

⁹⁴ Neera Chandhoke, “Transcending Categories: The Private, the Public and the Search for Home,” in *The Public and the Private: Issues of Democratic Citizenship*, ed. Gurpreet Mahajan and Helmut Reifeld (New Delhi: Sage, 2003), 183.

⁹⁵ Ibid, 185.

⁹⁶ Patricia Uberoi, “Feminism and the Public-Private Distinction,” in *The Public and The Private: Issues of Democratic Citizenship*, ed. Gurpreet Mahajan and Helmut Reifeld (New Delhi: Sage, 2003), 206–7.

⁹⁷ Mill makes a reference to the practice of not eating pork by Muslims. He draws the conclusion that the avoidance of pork in food choices has become a part of individual preference in the Islamic states, and thus carries social and moral sanction. If it was to continue on religious lines, it would have remained an illegitimate practice. See Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 148–49.

⁹⁸ See Deccan Chronicle, “No Rice, Maggie, Non-Veg for Lunch: School to Students,” *Deccan Chronicle*, July 13, 2018, sec. Current Affairs, <https://www.deccanchronicle.com/nation/current-affairs/130718/no-rice-maggie-non-veg-for-lunch-school-to-students.html>; The Hindu, “An Unwritten Rule for Non-Vegetarian Students,” *The Hindu*, October 18, 2016, sec. States, <https://www.thehindu.com/news/national/karnataka/An-unwritten-rule-for-non-vegetarian-students/article14335233.ece>; The Telegraph, “Imposing a Veg Diet in Schools Will Hamper Nutrition,” *The Telegraph*, October 14, 2019, sec. Education, <https://www.telegraphindia.com/education/imposing-a-veg-diet-in-schools-will-hamper-nutrition/cid/1711701>.

⁹⁹ T. N. Madan, “Of the Social Categories ‘Private’ and ‘Public’: Considerations of Cultural Context,” in *The Public and the Private: Issues of Democratic Citizenship*, ed. Gurpreet Mahajan and Helmut Reifeld (New Delhi: Sage, 2003), 96.

¹⁰⁰ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 76.

¹⁰¹ Ibid, 80–81.

¹⁰² Ibid, 82–83.

¹⁰³ Of which Sexuality is a constitutive aspect.

¹⁰⁴ Splichal, “Publicness–Privateness: The Liquefaction of ‘The Great Dichotomy,’” 6.

¹⁰⁵ Ibid, 2.

¹⁰⁶ See ILGA, “Curbing Deception: A World Survey on Legal Regulation of so-Called ‘Conversion Therapies’” (Geneva: ILGA, 2020).

¹⁰⁷ Mill, *Rethinking the Western Tradition: On Liberty: John Stuart Mill*, 135.