CHAPTER II:
LIBERALISM-A BRIEF
HISTORICAL OVERVIEW
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After discussing the provisions of fundamental rights and directive principles in the previous Chapter the task is now to provide a short historical account of liberalism. While doing this the focus will be on classical liberalism as it forms the scope of the current work. Thus the chapter starts with a brief account of history of the emergence of liberalism.

Classical liberalism denotes liberalism in its early phase. But it would be odd to ascribe too precise a date for the beginning of liberalism. Further, the definition of the term liberalism invites other questions. The difficulty that accompanies the definition of liberalism has been presented by Alan Ryan who sums up the problems in the forms of questions. “For instance”, as he says “if we identify liberalism with the belief that freedom of individual is the highest political value, and that institutions and practices are to be judged by their success in promoting it – perhaps the most plausible brief definition – this only invites further arguments. What is liberty? Is it positive or negative? How does the liberty of a whole nation relate to liberty of its members? Nor is liberty the only concept to invite such scrutiny. Who are the individuals in question? Do they include children? Do they include the senile and the mentally ill? Do they include resident aliens or inhabitants of colonial dependencies?”1 Thus the term ‘liberalism’ eludes a precise definition. Again the difficulty involved in defining a political term stems from the fact that most of them are

essentially contested terms, opening up further discussions of the terms in which they are constructed.

But the undefinability of a term like liberalism would not deter us from providing a workable definition, which, if not valid permanently, will suffice for the current purpose. Thus we can sum up with D.G. Smith that “liberalism is the belief in and commitment to a set of methods and policies that have as their common aim greater freedom for individual men”2. Apart from the definition, it will suffice to say that liberalism could also be seen as a political movement and a coherent intellectual tradition, having a definite political, social, and economic implication.

In course of its journey, liberalism has gradually taken different forms. But the scope of this chapter precludes the possibility of providing the history of each of these variants in detail because this vast history cannot be confined to a mere chapter. But this is not to suggest that I am not going to mention them as and when the need arises. As of now the chapter starts with a brief account of the early history of liberalism. This chapter, apart from providing a very brief account of history of liberalism starting from Renaissance to its climax in the aftermath of French revolution, will analyse its basic tenets and values. While doing this, I will focus only on what the liberals had in common, instead of dwelling upon particular points raised by individual liberal thinkers. For instance, I will avoid how Mills’ conditional liberalism could be seen as logically leading to a paternalistic interference or how Berlin’s concept of negative liberty as absence of the deliberate

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impediments in one's way of doing as one pleases seems incomplete or lacks any answer when the impediments are internal. Instead, I will focus on what Mill and other liberals had in common. And this will be done in order to show what liberal values the Fundamental Rights of the Indian constitution have within them. Thus to do all this, we have to start from the brief history of liberalism.

Even though it would be too odd to suggest a precise date as the beginning of liberalism in its maturity we can make Hobbes's point, who provided many of the ingredients of a liberal theory in his famous 'Levianthan'. It contains the first systematic exposition of modern individualism because the state of nature which Hobbes makes his starting point, contains self-seeking and self-directed individuals, engaged in the fulfillment of their desires in a way limited only by the condition of self-preservation. Here Hobbesian individualism is pushed to the extreme where an undivided sovereign is the only possible solution.

But if Hobbes could be said as the starting point of the liberal tradition, it could be done only at the risk of ignoring the pre-modern manifestations of liberal outlooks. Because, there was a concept of liberty in the ancient Greece, going back to the Sophist period. As Benjamin Constant says "the ancient world had a conception of liberty radically different from that held in modern times. Whereas, for modern man, liberty signifies a protected sphere of non-interference or independence under the rule of law, for the ancients it meant an entitlement to a voice in collective decision-
making". Another statement of the liberal outlook was provided by Pericles, in his 'Funeral Oration'. Though the domain of application was limited, his statement contained a statement of liberal egalitarian and individualistic principles and created a ground for the further development of liberal tradition. He says:

"The laws afford equal justice to all alike in their private disputes, but we do not ignore the claims of excellence; the freedom we enjoy extends also to ordinary life: we are, not suspicious of one another, and we do not nag our neighbor if he choose to go his own way... But this freedom does not make us lawless, we are taught to respect the magistrates and the laws and never to forget that we must protect the injured... We are free to live exactly as we please, and yet, we are always ready to face any danger".4

But there is no further development of liberalism in Greek history and it is with Plato and Aristotle that Greek liberalism comes to an end. However according to Gray the liberal outlooks associated with Greek life or found in the statements of Pericles can be said as the part of the pre-history of liberalism than as the constituents of liberal tradition in its modern form. The modern liberal tradition can be seen as more than the collection of unchanging moral and political values having a coherent theory of man and society. And if liberalism is to be viewed in this way as, having a potent political and ideological force, the task is to place the liberal values, together with their political and social implications, within the context of a theory of man and society, and this theory in turn is to be situated within its

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proper historical and social context. Viewed as this, the history of liberalism can be started from the seventeenth century with the writings of Hobbes, but it would not also be incorrect if we start from the period of the Renaissance and Reformation, when the individualist outlook began to surface in various forms.

The Renaissance created a distinctive view of human beings in which man was considered to be the measure of all things. This individualistic fervour also finds expression in writings such as Pico's "Oration on the dignity of man" and it is this concept which challenged the dominant Christian–Aristotelian view of man as having fixed ends within a cosmic order of things. Art and architecture of the period also reflected the Renaissance individualism in their own ways. For instance, in the field of architecture the buildings of the age corresponded to the portion of human bodies. "Renaissance individualism," says Arblaster "found its classic expression in arts and literature as well. That Renaissance art developed a kind of individualism is well evident from the paintings of Giotto, who unlike his contemporary, Duccio, does not paint the crowd as a group of anonymous figures, but as individuals individually reacting to one another. The Renaissance arts depicted men in both ways – as a single individual, and as a social being immersed in his social activities."\(^5\)

But the development of individualism could not remain confined to arts only; it extended to the sphere of literature too. The literature and other writings of the age contributed their share by developing the consciousness

of the individual is well illustrated in the works of humanist writers like Montagine, whose belief in one's own idea or kind of sense experience is regarded as the source of liberal empiricism. The Renaissance humanism and individualism also found expression in the plays of Shakespeare and Marlowe and it is Marlow's self-directed and self-interested individuals that correspond closely to the ones found in the Hobbesian state of nature.

But despite all these developments, the Renaissance did not share the notion of progress; neither it had the concept of religious tolerance that played a crucial role in the liberal tradition. According to Arblaster "it is in order to locate the beginning of the development of these notions, which formed the part of the liberal view of the man and society, we have to consider Renaissance in relation to other developments - Reformation, and Protestantism, the rise of modern science and the growth of capitalism - and their contribution, to the emergence of the liberal view of man and society, in totality." 6

But Arblaster adds a note of caution in the following words: "But the road from Reformation to liberalism is not direct; instead it could be traveled through the developments initiated by the Renaissance reformers". 7 And one of such developments was Protestantism and toleration. But it would still be a great mistake to suppose toleration as the direct product of Protestantism, because it was during this period that the persecution and burning of witches was in its most virulent form. On the contrary, it was with the developments by two Protestants - Luther and Calvin - of the

6 Ibid., p.107.
7 Ibid., p.108.
notion of two kingdoms, one belonging to the domain of God and the other
to the kingdom of this world, that a climate favorable to the development of
liberal idea of religious toleration was created. But again it was not that the
developments of the notion of two kingdoms, one belonging to the spiritual
world, and another to the secular world, contributed to the development of
the liberal ideas of freedom and tolerance. Instead, their advocates, Luther
and Calvin, advocated persecution of 'witches' and heretics, and it was the
Calvanists who introduced the persecution of 'witches' in Scotland. It was
rather a small group of Protestants, who, at the risk of being termed as
Anabaptists, adopted a more tolerant attitude in principle and practice with
regard to religion. Along with that there was a tradition of tolerance,
associated with Desiderius Erasmus, which allowed for doctrinal differences
in the matter of religious convictions. This toleration had its root in the
separation between 'secular' and 'spiritual', and was reinforced by the belief
that religion belongs to the sphere of spiritual, which is based on faith. It is
the area of faith that was thought to be susceptible to mistakes. The logical
development of all this culminated in the belief that there is a great deal of
uncertainty accompanying the most fundamental religious convictions and it
allowed for scepticism and tolerance. According to Arblaster "these
tendencies – skepticism, doubt, agnosticism – remained fundamental to the
liberal case for tolerance and freedom of opinion, long after the terrain of
dispute had shifted from the religious to the secular sphere."\(^8\)

But it should be noted in this context that while the struggle for
religious tolerance, which continued into the seventeenth and eighteenth

century was at its infancy, it was the religious freedom within the context of Roman Catholic Church, and not the religious diversity within a state. On the contrary the religious unity was seen as a prerequisite of peace and social order, and it required every state to maintain its official religion.

It was, however, in Poland where due to certain historical circumstances, the idea that force in the matter of belief and conscience is futile made its gradual appearance. And it was further felt that tolerance in the matter of religion and belief could only check the bloodshed which often accompanies religious intolerance. As a result, in 1570, three protestant groups showed their willingness to tolerate each other and to act in unity to ensure toleration in the matter of religious diversity. “Poland became to Protestants of the West a symbol of moderation and tolerance”, wrote J.H. Elliot, “even though,” he adds quickly, “an appeal from Polish Protestants to their co-religionists elsewhere to follow the example of Sandomir agreement fell on deaf ears.”

After Poland, it was in France where the belief that tolerance in the matter of faith and conscience is the prerequisite of order and stability, also surfaced. Along with it there developed an idea of legitimate resistance to unjust tyrants as a result of primacy accorded to political considerations over religious considerations. Much of the arguments about the resistance to unjust tyrant and about the king’s accountability to people (though the word ‘people’ has been used in a narrow sense) can be found in the “Vindiciae”.

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9 Elliot as quoted in Arblaster *Ibid*, p.117.
In this way the idea of religious toleration started to make headway and later led to the separation of church and the state.

Apart from seeing the futility of using force in the matter of faith and conscience and seeing religious tolerance as the prerequisite of peace and order, the people of Europe were able to see the commercial advantages associated with religious toleration. This link between religious toleration and commercial prosperity could not elude the attention of the opponents of absolutism and intolerance in the eighteenth century France. The Dutch republic of Netherlands served as a good example of the interlink between religious toleration and economic prosperity.

The liberal ideals of religious toleration and limited government received further impetus from the works of notable liberals like Locke, Motesque, Pain, Mill, Adam Smith and others who provided the intellectual foundation to the liberal theory. All of them, both by providing metaphysical foundations as well as by offering statements of liberal outlooks, contributed to, and enriched, the liberal intellectual tradition in their own ways. And to access their contribution, we must turn now to briefly examine the ideas of some of them.

The metaphysical foundation of liberalism could be found in Bacon who belongs to the empiricist camp of the eighteenth century. Bacon was skeptical of any intellectual activity that is not closely tied to the study and observation of brute facts. He further says “God has framed the mind like a glass, capable of the image of the universe, and desirous to receive it as the
eye to receive the light."\textsuperscript{10} Thus Bacon believed in the sense experience as the true source of knowledge, and he separated faith from knowledge. It is this separation, which emancipated knowledge from the dominance of theology, and created a new climate conducive to intellectual progress.

The belief in empiricism as the true source of knowledge puts Bacon on the same footing as Hobbes. Hobbes starts from empirical premises - factual truths about human nature. But it is his concept of individualism which ranks Hobbes with the other liberals of the period. Hobbes' empiricism starts with his concept of human nature in which individuals are seen as having desire, or aversion for certain objects; it is this desire or aversion that regulates human behaviour. As he says, "motions are generated by 'Desire' or Appetite or Aversion, and from there generates all kinds of behaviour. He further says that having no desire is to be dead; restlessness animates the gratification of desire, and it is restless inclination for desire for power after power that ceases only in death."\textsuperscript{11} It then appears that Hobbesian men are self-contained self-moving and self-oriented beings, engaged in fulfillment of desires. This restless pursuit for fulfillment of desires creates a condition of unrestrained competition in which every man is at war against every man. But the war of every man against every man is not the open conflict which is often supposed, but it is a condition of insecurity which is always apt to breakout in war. It is to avoid this war of all against all which endangers self-preservation that Hobbes prescribes for an absolute sovereign. Thus Hobbes offers an idea of uncompromising

\textsuperscript{10} Bacon quoted in Arblaster, \textit{Ibid.}, p.171.
\textsuperscript{11} Hobbes quoted in Arblaster, \textit{Ibid.}, p.133.
individualism limited only by itself. Apart from pushing individualism to the extreme point where the remedy lies only with absolutism, Hobbes makes another contribution to the liberal intellectual tradition by offering a conception of freedoms that defines freedom as the absence of external impediments. In this way Hobbes clears the ground for further development of liberal tradition.

We can find another precursor of liberalism in Spinoza, who shared many of the individualistic assumptions in his rationalistic approach. Spinoza did not share the liberal empiricist faith in sense experience as the source of knowledge. Instead, he believed that experience is unreliable unless it is corrected and guided by applying the logical power of the mind. So the use of reason plays an important role in Spinoza and it is also this idea of reason that equally plays its part in the liberal tradition, because Spinoza connects freedom and rationality. As he says “No one can be truly free in whom reason does not hold sway over emotion and desire, for they are among the forces which obstruct self-direction. Self-direction is the essence of freedom.”\(^\text{12}\) Thus Spinoza puts the concept of self-direction at the heart of the idea of freedom. The other liberal elements can be found in his argument that freedom is the necessary condition enabling human beings to “persist in being”, a desire which they have in common with other natural being. But the concept of freedom Spinoza uses is a broad one; it consists in autonomy of rational will rather than mere absence of external impediments. Again, statements of liberal outlook can be found in his endorsement of the democratic order because according to him it is only in this order that liberal

\(^{12}\) Spinoza quoted in Arblaster, ibid., p.142.
freedoms of thought, expression and association, so vital to achieve the goal of rational self-autonomy, are guaranteed.

These contributions are, however, inadequate to provide a cohesion to the liberal intellectual tradition. And it is to fill this gap, we have to turn to the contribution made by notable liberals like John Locke. "The inadequacy on the part of the accounts given by Hobbes, or Spinoza, is rooted in the fact that neither of them shared the melioristic outlook of liberalism – the belief that human affairs are subject to indefinite improvement into an open future. Because whereas for Hobbes, civil society was always likely to fall back into a barbarous natural condition of warfare, for Spinoza the freeman would always be a rarity; most human individuals and most societies would always be ruled by passion and illusion rather than reason."¹³ Thus it is John Locke to whom we must turn now in order to find systematic exposition of central elements of liberal outlook.

Locke was the part of the empiricist tradition which is often associated with liberalism. Locke believed that mind is an empty room and it can be filled with the knowledge obtained through sense-experience. As he answers to the question which he himself poses: "How does this empty room (the mind) come to be furnished? To this I answer, in one word, from Experience: In that all our knowledge is founded; and from that it ultimately derives itself. "Our observation, employ’d either about external sensible objects or about the internal operations of our minds, perceived and reflected by ourselves, is that which supplies out understanding with all the

¹³ This criticism is attributed to John Gray who finds the melioristic outlooks missing in their liberal statements. For detail see John Gray, op.cit., p15.
authority and functions of the state Locke devotes his “Two Treatise of Government”.\footnote{Ibid}

Locke starts from a hypothetical state of nature in which men are equal in their natural rights – Lives, Liberties, and Estates. Locke claims that men enjoy an equal degree of equality and liberty, and are peaceful in this state of nature. Nevertheless, the state of nature is full of fear and uncertainty because first, it lacks a common established and settled law as a measure to decide every controversy between men. Second, the state of nature lacks an independent authority to determine the differences according to the established law. He supports such an authority because men, as they are bound by position and an attitude of revenge, and are apt to carry them to the extreme, should not be judges in their own cases. And the third argument for formation of a political society is that by formation of such a society, people would be able avail the collective strength of the community to punish the offenders against the law of nature. Thus the purpose of the political society is to secure peace and enable people to enjoy their natural rights in a better way and without any fear.

Once political society is formed, a majority can act for the whole government. But it is possible to contend that Locke is implying that although legal sovereignty lies in the legislature, political sovereignty remains in the community itself. And it is by grounding the sovereignty upon the people living in community that Locke grants them also the power to alter or abolish the government whenever it failed to perform or fulfill the

\footnote{Ibid.}
purpose for which it has been constituted. Further, Locke has opposed the authority of the state where it overstepped its proper bound. This anti-absolutist statement is found in his ‘Second Treatise’, in which he claims that absolute and arbitrary authority are inconsistent with civil society. He then assigns the state the limited function of preserving man’s natural rights. “Authority exists,” he claims empathetically “only to enable a society to achieve those limited goals which a political order enables us to achieve – the security of life, property and the pursuit of happiness”.\textsuperscript{17} Hence Locke developed a concept of limited government grounded in the idea of popular sovereignty.

But one might argue at this point that despite all his contributions to the liberal intellectual tradition, Locke can not be placed among the liberals for he did not share the notion of progress often associated with the Enlightenment project. But we can sum up in the words of Gray who defends Locke in the following words: “Even if he did not subscribe to any doctrine of progress such as that propagated in the French Enlightenment, Locke nevertheless belongs with the liberals in seeing no inherent obstacle to the permanent establishment of a free society.”\textsuperscript{18}

Before we leave Locke and proceed to explain what course did liberalism take in the European continent, particularly in England, it would be expedient to offer a few words on the contributions made to the liberal intellectual tradition by other liberals. And in this line we can see Thomas Paine as a major contributor belonging to the eighteenth century. Paine took

\textsuperscript{17} ibid., p.298.
\textsuperscript{18} Grey, op.cit., p15.
the crisis in the relation between Great Britain and America during 1770s as a background to form his ideas about society and government, and developed the notion of civil and natural rights and the concept of limited government.

Paine, while envisaging a simple and happy society where a little government is needed because society itself is capable to ensure the exercise of natural rights enumerated a set of natural rights. “Of this kind are” he says, “all the intellectual rights, or rights of the mind, and also all those rights of acting as an individual for his own comfort and happiness, which are not injurious to the natural rights of others.”19 According to Paine, “Government’s function includes no more than to ensure equality of civil rights, and the security and protection of the individual. Further, Paine regarded a written constitution as the first and essential means of limiting the power and function of the government.”20 “But” as is generally supposed, “he could not draw as much attention as a political thinker, as he could, throughout his political and literary career, as a propagandist of ideas”.21

But while Paine, Locke and others developed the concepts of individual rights and limited government there were others who developed the concept of freedom with an economic content because the link between toleration and commercial prosperity could not evade the attention of the liberals. But were they able to offer arguments supporting economic

20 Ibid., p.125.
21 Ibid., p.125.
freedom for the sake of economic prosperity? In other words, did eighteenth century liberals see a link between economic freedom and commercial prosperity? The answer is they indeed saw the link, and it was emphathetically stressed in the works of liberals like Turgot and Adam Smith. Turgot saw a harmony of economic interest of individuals and that of society and Adam Smith also converged on the point. They saw the restraints upon the individual imposed by state and guild system as inimical to the mutual benefit of both the individual and the society. Hence the phrase laissez faire was coined “as a cry for the removal of government and feudal restrains on the right of each individual to produce to buy and sell and to trade freely within the whole community.”

The case for economic freedom was grounded upon the argument that “in the same way as a political society which was guided by natural law would need little positive law, so an economy operating under conditions of perfect freedom would be self-regulating and little or no government interference or regulation would be necessary.” And it was Adam Smith, who in his “Wealth of Nations” developed the arguments for economic freedom more forcefully. In it Smith regards the self-interest of the individual as the best guide to the proper utilization of resources. Again, the self-interest is regulated by what Smith call an ‘invisible hand’ which brings the interest of the individual in consonance with the interest of society as a whole. Apart from developing a strong case for economic freedom, Smith has also defined the extent of the functions of government, which

22 Bransted and Melhuish, op.cit., p.136.
23 Ibid., p.136.
corresponds closely to the ideal of minimal government advocated by the recent libertarians such as Hayek. Smith confines the function of the government, first, "to providing for the security of the individual and the state; secondly, to protecting the individual from injustice and oppression through the administration of justice; and, thirdly, to the provision of public works and institutions which it would be unprofitable or undesirable for individuals to undertake." Thus the work of Smith contains a forceful statement of economic individualism and the concept of a state entrusted with minimum function which form the core of the thoughts of the nineteenth century liberals. But before we explain liberal individualistic outlooks of nineteenth century liberals, it would be worth if we offer a few words on the liberal ideas of the Enlightenment liberals.

I will include three leading philosophers who belong to the Enlightenment of the eighteenth century. While doing this I will briefly touch the liberal ideas of Voltaire, Montesque and Condorcet. At the same time their contribution to the liberal intellectual tradition will be accounted for in brief.

Voltaire, and after a short interval, Montesque, visited the Whig England, and found much to admire in the English way of life and political system. Voltaire was much impressed by the liberal atmosphere prevalent in England during his visit, and he could see tolerance in the matter of religion giving rise to commercial prosperity. As he observed; "Where there is not liberty of conscience, there is seldom liberty of trade; the same tyranny

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Ibid., p.145.
encroaching upon the commerce as upon the religion."

The English political system appeared to Voltaire a happy blend of Monarchy, Aristocracy, and Democracy in a way as to counterbalance and restrain each other from encroaching upon each other. Montesque saw it as a separation of power between the three organs of government: the legislature, the executive and the judiciary.

The enlightenment liberals then saw the English political system as more tolerant and protective of individual's rights and liberties. They used this idea as a weapon to fight against the arbitrary power, which then existed in France.

The enlightenment liberal also borrowed the ideas of empiricism and scientific outlook from England and employed these ideas in their battle against superstition and religious bigotry. Besides this the Enlightenment liberals shared the faith in the progress of mind and it is evident from Voltaire's observation. He said: "I know very well and I feel even more clearly that the mind of man is very limited, but it is for this reason that we must try to expand the frontiers of this little empire by fighting against the laziness and the natural ignorance with which we are born."

This belief in the progress of mankind, which constituted a major plank of eighteenth century liberalism, found a forceful assertion in the writings of Condorcet too. "This progress," he says confidently in the introduction, (on the unlimited perfectibility of mankind) "will doubtless

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25 Arblaster, op.cit., p.178
26 Voltaire, as quoted in Arblaster, Ibid., p.181.
vary in speed, but it will never be reversed as long as the earth occupies the present place in the system of universe." The concept of progress found in Condorcet is a broader one in the sense that apart from believing in progress in many fields – political, social and intellectual, he believed in the progress of the human race as a whole.

The belief in the progress of mankind led the Enlightenment liberals to put their faith on the spread of education. They saw in education a liberating force, which could lead to emancipation of mind from old prejudices and superstitions. The idea of education also received favour from the reformers of the period. For example Jovellanos, a Spanish reformer of the period, wrote, "Numerous are the streams that lead to social prosperity, but all spring from the same source and that source is public education".

Apart from Voltaire, who had a faith in the progress of mankind and who used the idea of empiricism and scientific outlook to oppose fanaticism and religious bigotry, and Condorcet, who converged with Voltaire on many points, it is in the works of the Baron de Montesque that we can find a further contribution to the liberal tradition.

Montesque interpreted the English political system as a complex system of checks and balances. This in turn led him to believe that it is in such a system that the political liberty of the individual can be guaranteed, as it is based on the rule of law.

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27 Condorcet quoted in Brasted and Malhuish, op.cit., p.163.
28 Arblaster, op.cit., p.189.
Montesque had faith in the rule of law and in his ‘The Spirit of the Laws’ he identified the spirit behind the formulation of law as the necessary relations arising from the nature of things. He defines law in the following terms: “Laws are the relations subsisting between (prime reason) and different beings, and the relations of these to one another”. 29

Montesque had an abhorrence for despotism which he saw in the French monarchy, and it led him to commend the English form of government as the latter was based on constitutionalism and rule of law. But it would be worthwhile here to say that despite his critical attitude towards the French monarchy, and despite his identifying French monarchy with despoticism, Montesque did not believe that political liberty was impossible in France. For him, “as long as a government, whether republican or monarchial was moderate, political liberty could exist.” 30

Though his definition of liberty is not unambiguous it is nonetheless in line with Locke’s, and he also shares with Locke the view that the legitimate exercise of law can be compatible with the liberty of the individual. But whereas Locke based respect for the law on consent, Montesque held that “any necessary limitations on freedom were legitimate provided that exercise of power by the government was not arbitrary, or in other words, provided constitutional checks to the abuse of power operated.” 31 Thus he did not see any conflict between law and freedom. He

29 Brasted and Melhuish, op. cit., p.118.
30 Ibid., p.119.
31 Ibid., p.120.
defines political liberty as “the power of doing what we ought to will and consists in not being constrained to do what we ought not to will.”

Montesque, like Locke, also believed that the preservation of individual liberty is the prime concern of the civil and criminal law. And at several points he endorsed the idea of check upon the abuse of power to secure political liberty, for instance in his definition of the English political system, which he saw was likely to protect the liberty of the individual because of the distribution of power, and existence of check and balances.

It now becomes clear that through their contributions, the eighteenth century Enlightenment liberals became successful in keeping the liberal tradition alive. Apart from sustaining the idea of individualism, which is central to the liberal tradition, the Enlightenment liberals also contributed to the idea of progress. And it is this idea of progress together with liberal individualism, which continued to pervade the writings of the nineteenth century liberals such as John Stuart Mill and Wilhelm Von Humboldt.

John Stuart Mill’s ‘On Liberty’ contains a forceful assertion of individual liberty. Mill has provided many strong arguments in favour of freedom of opinion as well. He says it is only through the free play of opinions that we can reach the truth, and the suppression of free play of opinions could lead to suppression of the truth. He grounds his defence of freedom of thought and expression on the idea that since human beings are fallible nobody can claim his opinion to be infallible, and even if someone’s opinion deserves some consideration, it has become so only through the

32 Ibid., p120
process of free discussion. His defence of freedom of opinion appears to be uncompromising in that he regards it as an evil even to suppress a false opinion because not only it deprives the true opinion of a chance to perpetuate its truthfulness but it equally denies a fair chance to the opinion which is regarded false.

From the defence of opinions, Mill shifts to the defence of actions and he does so with the assertion of what he calls the very simple principle, he says: “The sole end for which mankind are warranted individually or collectively, in interfering with the liberty of action of any of their member is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others”.33 From this he leads to the conclusion that “over himself, over his body and mind, the individual is sovereign.”34

So Mill’s statement contains individualism in its strongest form and allows liberty to be limited only by the purpose of preventing harm to others.

In Mill, as in Humboldt, the defence of liberty is grounded on the melioristic arguments or in other words both of them based their case for liberty upon the notion of progress and believed that human beings are capable of improvement. Thus Humboldt wrote: “That the end of man, or that which is prescribed by the eternal or immutable dictates of reason, and

34 Ibid., p 73
not suggested by vague and transient desires, is the highest and most harmonious development of his powers to a complete and consistent whole: That, therefore, the object 'towards which every human being must ceaselessly direct his efforts, and on which especially those who design to influence their fellow-men must ever keep their eyes, is the individuality of power and development;' that for this there are two requisites, 'freedom, and variety of situation;' and that from the union of these arise 'individual vigour and manifold diversity', which combine themselves in 'originality'."35

This link between freedom and the development of individuality in its manifold diversity has been a recurrent theme in one of the chapters of 'On Liberty', in which Mill has made serious efforts to establish the link. He says: "Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing."36 He further equates individuality with development and regrets any condition, which prevents the achievement of this state of affairs. As he says "having said that the individuality is the same thing with development, and that it is only the cultivation of individuality which produces or can produce well developed human beings, I might here close the argument: for what more or better can be said of any condition of human affairs than that it brings human beings themselves nearer to the best thing they can be? Or what worse can be said of any

35 /bid p124 (The passage is originally found in Humboldt's The Sphere and Duties of Government.)
obstruction to good than that it prevents this?" After this Mill develops further arguments to show the social use of individuality. But as the concern of the current work is to locate the liberal elements in Mill’s work, those arguments can be omitted, and it can be said that the development of human faculties requires freedom, as well as diversity of conditions.

Mill sees the pressure of custom and the yoke of public opinion as the greatest enemies to the development of individuality. Thus he strengthens his arguments for freedom from these obstacles. Mill argues that custom and public opinion do not allow room for individual freedom and diverse living style, and hence make uniform and timid characters, thereby by creating an atmosphere of mental slavery. It is freedom only that can protect individual from this kind of atmosphere and provide him with opportunities for self-development, which is otherwise impossible where custom and conformism hold sway.

We have already come across the ideas of a few liberals who have advanced the case for individual liberty. The case for individual liberty and its worth in the life of a human being has been a dominant theme in the writings of later liberals like Rawls, Nozick and many others. But as the purpose of the work here is to examine the works of some leading liberals and to sum up what value and principles constituted a continuity in their works, or in other words what values and principles remain dominant in the liberal tradition, and at the same time to locate them within the Fundamental Rights, it is beyond the scope of this work to go through every works of all

37 Ibid., p.125
the liberals in detail. Instead I will, in this chapter, sum up the liberal values and principles before giving a very brief account of what course liberalism did take in the eighteenth century till it reached its climax in the aftermath of the French revolution.

In the eighteenth century, liberalism took two forms. In England it took the form of Whig ascendancy, and elsewhere in Europe it took the shape of a reformist – but often militant – liberalism.

The Whig England is generally regarded as the liberal era by the liberal historians. The Whig England had much in it that impressed the outsiders. Massimo Salvadori describes the Whig period in following terms: “The foreigners were impressed by the wide range of diversity and considerable tolerance for what was diverse, even when clearly obnoxious; greater security for persons, and for what they owned, than anywhere else; dynamism in the economy as in the arts, in politics as in science and letters; and national strength, stemming as much from the character of the people as from abundant financial means and (as then) a pre-dominant navy.” And the political life of the Whig period was far more liberal than found elsewhere. “It was because,” continues Salvadori “Whig agreed on commitment to parliament, the rule of law, limitation of power for everyone and enlargement of the sphere of action within which individuals operate.”

But some scholars like Anthony Arblaster see this version of Whig history as an exaggeration, and levels the Whig era as a golden age of

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39 Ibid.
property rights. For Arblaster the triumph of Whiggery can be equated with that of property rights and a policy of harshness towards the poor. As he sums up: “Just because Whiggery still enjoys a reputation for benevolence, enlightenment and progress, I have, at the risk of being unfair, stressed in this chapter (in which he shows Whiggery brought with it property rights and policies of extreme harshness towards the poor) the extent to which it ought also to be associated with political stagnation and reaction: and with an ideology and policies of extreme harshness towards the poor and unfortunates and towards the non-European”.

The rights of property made its appearance even in America where liberalism brought with it other values and practices. The success of the revolution of 1776 paved the way for liberalism to make its way to America. In America “The Declaration of Independence” symbolized the triumph of the liberal principles, and the process of making of government transformed these principles into practical politics. The revolution asserted magnificently the innate freedom and equality of all men, and these principles found expressions in “The Bill of rights”, freedom of speech and expression, and in other rights. The revolution also led to the separation between church and state, and it strengthened the demand for free inquiry and thought.

But the above mentioned success can be said as a partial one because the leaders of the revolution were unprepared to extend the suffrage so as to include the mass of population. Their refusal to do so was based on the fact that they saw an inherent threat to property rights in the mass-rule. But the

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success of the revolution can nevertheless be said the success of the liberalism, because the success represented the triumph of those rights that liberals hold so dear, and these were also the same rights that the revolutionaries used as ideological weapons in their fights against absolutist colonial regimes. In the account of Arblaster, "although there was an absence of popular political participation, the qualifications for the franchise and office holding were generally liberalized."\(^41\)

Another issue which reveals the partial success of liberalism in America is that of slavery. "There was a huge gap, claims Arblaster, "between vows to eradicate slavery and the practical initiative in this regard. But within thirty years of after The Declaration of Independence, slavery had largely disappeared in New England state, New York, New Jersey, and Pennsylvania".\(^42\)

Liberalism however, could not remain confined to the stream of intellectual contribution only. It continued to guide the policies of many countries and symbolised the starting of a mission that aimed at emancipation of mankind from the shackles of serfdom. Liberalism brought its widespread impact when it reached its climax and it was the French revolution that brought this climax. The French revolution, together with the American one, transformed the historical power and prospects of liberalism. As Arblaster says of its impact: "Without the French revolution the liberal and radical ideas of the Enlightenment would have remained essentially ideas, circulating among the progressive intelligentsia, but without any substantial

\(^{41}\) Americana Encyclopedia, p.221.  
\(^{42}\) Arblaster, op.cit., p.182.
influence on political life. It was the French revolution that made liberal ideas of individual rights and equality a political reality, and it was the French revolution also that set its mission for emancipation of nations and freedom of people, outside France. The French revolution was instrumental in the great liberal achievements of the nineteenth century.

The revolution aimed at the abolition of the ancient regime and the rights and privileges associated with it. In this struggle the concept of rights and liberties of individuals was used as weapon. After having won the battle the revolutionaries were committed to economic and, in a little measure, to social equality as they demanded abolition of privileges based on birth and inheritance. But once again it was the right of property which was given precedence over other rights as is implied in the opposition by the leaders to economic equality and to interference with the operation of the market.

But whatever the case may be, the revolution had a worldwide impact and it spread a revolutionary message beyond France. For instance, it led to the closure of the Ghettos in the cities of Bonn, Rome and Vanice where the Jews had been confined and they were accorded equal legal rights. In Germany and Switzerland, slavery and serfdom were abolished.

The revolution prompted Kosciuszko to revolt against the Russian domination though it ended in a failure. The revolution inspired the war for liberation in Brazil and Latin America, and it equally inspired the Irish national struggle as well. "Everywhere" recounts Arblaster, "the French Revolution gave a fresh impulse to desire for national autonomy and to the

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43 Arblaster, op cit., p.204.
development of strong nationalist governments with support from the middle class and 'the people' may be dated, from this time”. 44

However, the most successful impact of the Revolution was the success of the first black revolt against the White rule in the French colony of Haiti. “The successful struggle of Black in Haiti for independence,” wrote Arblaster, “was one of the most remarkable consequences of the Revolution, and it shows perhaps more clearly than any other single development, that the liberal ideals of individual rights and personal freedom possessed at that time a revolutionary potential which no process of retraction or stabilization in France itself could stifle or destroy”. 45

Liberalism then could be seen as an ideological and political force emancipatory in its mission and assertive of the rights and liberties of the individual in principle, even though there has been a gap between universal assertion and selective practice. But what values and practices liberalism holds so dear still needs to be clarified. Thus in the light of what we saw in the course of rise and development of liberalism we may attempt now to sum up liberal values and principles.

But before doing that one question remains to be answered. This relates to the issue of the origin of liberalism. It is, however, not infrequently supposed that “England is the historic home of liberalism and that wherever it has been expounded abroad it has either been exported there by Englishmen or imported by Anglophiles.” 46 But historical

44 Arblaster, op. cit., p.213.
investigations yield the fact that there are original contributions to this doctrine made by independent continental and American writers, and that liberalism had taken a variety of appearances in different national cultures in which it had surfaced. "Throughout its history" describes Manning "French liberalism has been notably different from liberalism in England, liberalism in Germany has always confronted unique problems and American liberalism, though much indebted to English and French thought and practice, soon acquired novel features of its own".47 If this is true, then we are dealing with liberalisms than with liberalism. But despite these variations there are certain themes which are found to be common to all variants. Massimo Salvadori sees the possibility of identifying these common strands. Thus he says that "to locate these common elements could be possible if we see liberalism as a social and political force sharing the characteristics of a movement, and find that it has goals, principles and values shared by millions participating in this movement, and at the same time it will be found that it is this participation which makes the group cohesion."48 Again it is these goals, principles and values that differentiate liberalism from other ideological political movements of the period. And since there has never been so much disagreement on what are the values and principles that are central to liberalism, as is on the real meaning of these values and principles, we can now identify these liberal values and principles.

47 D.J.Manning, op.cit., p58.
48 Salvadori, op.cit., p.23.
LIBERAL VALUES

Freedom – The concept of freedom is so much associated with liberalism that both are used sometimes synonymously. Arblaster says about their association with each other in following words. He says: “The word ‘freedom’ is central to the definition of liberalism to such an extent that it is commonplace to define liberalism in terms of this single principle alone.” 49 But at the same time there has never been unanimity among the liberals in defining what freedom consists in. For whereas traditionally it meant an entitlement to take part in collective decision-making, early modern liberals such as Hobbes defined it as the absence of external impediments. “To a liberal”, as John Locke explained in his Essay ‘Concerning Human Understanding’ “liberty is the capacity for choice inherent in the reasoning faculties of human beings.” 50 And for Isaiah Berlin, freedom implies an area of non-interference, an area in which individual can act unobstructed by deliberate interference by others.

But whatever variations these definitions may yield, there is never much disagreement to the fact that ‘liberty’ or ‘freedom’ has consistently been used as the defining feature of liberalism.

Tolerance – The liberal case for tolerance reflects the anti-theocratic character of liberalism, and it is rooted in the liberals’ obsession with the rights of conscience, often implying a separation between church and the state. As we saw in the preceding discussions liberalism was associated with

49 Arblaster, op.cit., p.56.
the nineteenth century movement of separations of the two spheres of life-the secular and the spiritual. In Ryan's account "liberalism was associated with the nineteenth century movements of European ideas that concerned to drive a wedge between church and state and to make the Catholic Church no more influential in the politics of catholic countries than the various protestant churches were in the countries where they flourished. In essence the argument was an argument in favour of religious toleration and against any kind of religious monopoly."51

The arguments in favour of toleration appeared in its modern form in the writings of Locke, who supplemented the case for toleration with the arguments that suggested the separate functions for the church and the state. According to Locke, "a sovereign who tried to dictate how we practiced our religion was overstepping the proper bounds of his authority. Conversely a church that tried to dictate the secular law was over-stepping the bounds of its authority."52 Locke was further committed to the view that "God required an willing assent and a real faith, so that whatever kind of forced assent the state might induce us to make was an insult to God as well as an outrage upon the individual."53

Arblaster supports Locke by offering a pragmatic arguments. He says: "The pragmatic case for tolerance accepts that differences in belief and behaviours exist, and can not be eliminated, whether or not it is in principle desirable that they should be so eliminated."54

51 Alan Ryan, 'Liberalism', p.299.
54 Arblaster, *op.cit.*, p.66.
opinions receives further impetus from Mill, who regards these differences as positively desirable.

But there is one more argument which strengthens the case for toleration. This argument sees that there often prevails a good deal of uncertainty in the matter of religion, and it favours toleration as the result of scepticism. Thus for Locke, puts Salvadori “tolerance is another core value of liberalism and liberals do not see any possibility of peaceful co-existence on a footing of equality among groups possessing their own identities, and striving to lead their lives, unless tolerance is widespread.”

Respect for Reason – In ordinary sense the term ‘reason’ denotes a calculative faculty of the mind which can be useful in calculations and deliberations. But in its broader sense it may well imply more than the ability to think logically and to calculate rationally. It may refer to the ability to evaluate the means as well as ends. Thus in its broader sense reason involves a moral evaluation and hence, it is not morally neutral.

As human beings are believed to have possessed reason, “it is therefore in the name of reason as well as humanity – for the two go together – that the liberals of the Enlightenment campaigned against the power of the Catholic Church and against the judicial use of torture.” Thus reason has often been used by the liberals in their fight against religious dogmatism and superstition. And the fact that reason is central to the liberal core becomes

55 Salvadori, op.cit. p.29.
56 Arblaster, op.cit. p.79.
evident from the liberals’ appeal to reason where tradition, custom and prejudices were oppressive.

**Human Dignity** – Closely linked with respect for reason is the concept of the dignity of the individual. This concept has found its forceful assertion in the writings of Mill and Kant. Mill valued ‘individuality’ for its own sake. His individualism postulates that individual initiative should play its part unobstructed as long as it does not harm others. Kant also argues in a similar vein. He believes that human beings posses reason and it is this belief that led him to say that human beings should be treated as ends in themselves and not as means. Thus liberals put human dignity on the same footing as liberty.

**Equality** – It might be argued that the main concern of the liberals was ‘liberty’, not equality; hence, the ‘word’ equality cannot be added to the list of principal liberal values. But as we have seen already, liberals have consistently used the concept of equality as the justification for liberty. For instance, early liberals have claimed the state of nature also to be a state of equality. They demanded equality in legal and religious spheres as well. And at a later stage they believed in equality of opportunity, specifically in the economic field, even though they have used it in a cautious way as to preclude any implication of equality of means.

The values mentioned above can be found rooted deep in liberalism. But the identification of those values does not necessarily mean that liberalism is reducible to a set of values and propositions. In stead it is, if we believe in Arblaser’s account, “a historical movement of ideas and a
political and social practice.\textsuperscript{57} It is in order to see liberalism in this latter sense, we may have to refer now to some liberal practices.

(1) \textbf{Resistance to Tyranny and absolutism} – It has been at the forefront of the liberal agenda to oppose absolute and arbitrary power in all forms. This opposition is based upon the claim that “absolute rule violates the personality or the rights of those over whom it is exercised.”\textsuperscript{58} For instance, Locke argues in his “Second Treatise” that absolute and arbitrary authority are inconsistent with the civil society. “This opposition”, says Ryan “appeared in the twentieth century in the form of liberal’s contempt for the totalitarian regimes of Nazi Germany and Stalinist Russia”.\textsuperscript{59}

J.S. Mill has devoted his ‘On Liberty’ totally to developing arguments against absolutism and tyranny. But what he fears most is the tyranny of society that takes the form of social conformism highly inimical to the development of individuality.

Thus, the liberal history could also be seen as a history of opposition to all forms of tyranny and absolutism. Moreover, this opposition has been both the goal and practice associated with liberalism. To facilitate this there are other liberal practices to this end.

\textbf{Constitutionalism} – The liberals have repeatedly insisted on the adoption of constitution as a device to check the absolute and arbitrary power of the

\textsuperscript{57} Arblaster, \textit{op.cit.}, p.91.
\textsuperscript{58} Locke quoted in Ryan, ‘Liberalism’, p.298.
\textsuperscript{59} Ryan, \textit{op.cit.}, p.298.
state and government. They believe that a constitution provides a framework of rules and regulations within which the state and its institutions must operate, and in this way they see the constitution as instrumental in protecting rights and in securing greater freedom for the citizens.

**Rule of Law** – The liberal faith in constitutionalism has its corollary in the liberals' espousal of rule of law as a replacement for the rule of whim by the rulers. They see rule of law as the best means to protect the rights and liberties of the individual since it puts an end to the arbitrary and absolute power. In most cases, as in USA, the laws offer a system of checks and balances by defining sphere of authority of the each of the organs of the government. We saw as well in the preceding discussions that the rule of law expressing itself through the checks and balances in England fascinated Montesque and Voltaire, and made Montesque repose his faith in the rule of law.

The other fact which reinforces the liberals' faith in the rule of law is that laws are made by a body of freely elected representatives and a great deal of impartiality is involved in their application. As John Locke mentioned in the 'Second Treatise' “freedom of men under government is, to have a standing rule to live by, common to everyone of that society and made by the legislative power erected on it.”⁶⁰ Therefore, for liberals, laws must be obeyed provided they have been willed by citizens and that there are legal channels through which they can be modified.”⁶¹

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⁶⁰ John Locke, *Second Treatise* chapter 4, p.22.
⁶¹ Salvadori, *op.cit.*, p.46
Apart from preceding liberal values and practices discussed so far, there are other commitments of liberalism which have been endorsed, though not always openly by liberals in most cases without hesitation. According to Arblaster, "these commitments without being generally or openly abandoned, they are relegated into a limbo, where they lurk half-concealed like rocks which the liberal statesman wishes to avoid, but for that very reason cannot be wholly ignored. These half-hidden commitments are mostly to do with the relationship of liberalism to capitalism." 62

It then appears that to support a capitalist market economy has always been the part of the liberal campaign, and even today liberal democratic political systems find the atmosphere in the advanced capitalist countries most flourishing.

There are others like F.A. Hayek and Milton Friedman who do not even see any hope of liberal democracy and individual freedom where there is no capitalist market economy. The link they see between individual freedom and capitalism is rooted in the argument that other kinds of freedom are dependent upon the existence of the economic freedom which a capitalist economy alone can offer. Thus they see in socialism and fascism a transgression of individual freedom. In the accounts of Salvadori, "this line of defence, is essentially the one found in liberals from Adam Smith to Herbert Spencer." 63

62 Arblaster, _op. cit._, p.84.
63 Salvadori, _op. cit._, p.85.
Another argument which liberals advance in their defence of private property is that private property secures individual liberty more efficiently by widening the area of independence. For instance, the Whig liberals saw the poor and the propertyless as susceptible to submission to the will of the rich and hence they were dependent rather than independent. Hence property rights and a capitalist market economy were as much central to the core of liberal agenda as were other values discussed earlier.

Therefore, we can sum up the relation between property rights and liberalism along with Arblaster who says that “even though property and capitalism do not often figure prominently in the definition of liberalism, or lists of liberal values, which liberals themselves put on display, we are nevertheless, justified in concluding that both play a far more important part in determining the concrete historical character of liberalism than has been recognized.”

We have been introduced to some of the liberal values and practices. They concern in a great measure with the rights and liberties of the individual and their protection from absolute and arbitrary rule. At the same time the similar values and practices can also be found in the Fundamental Rights of the Indian Constitution. The Fundamental Rights also aim at protecting rights and liberties of the individuals by putting restraints upon the state. If we believe scholar like Austin for whom fundamental rights are the negative obligations upon the state not to interfere with individual liberty, we can see a close resemblance between Fundamental Rights and

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64 Arblaster, op.cit. p.89.
liberalism. But the question that arises here now is: Which liberalism? Is it classical or any other version of liberalism? This question arises in view of the fact that most of the values we discussed are found in the classical liberal discourse and the language of these rights suggest they contain the powerful elements of classical liberalism. Viewed from this angel, the Fundamental Rights appear as representative of the classical liberal values and practices, and confer the paramount value on the protection of the rights and liberties of individual which is evident from the inclusion of the Right to Constitutional Remedy in the category. Apart from 'Which Liberalism' another question that the following chapter tries to answer is that, is liberalism brought from outside and incorporated in the constitution or was there also a liberal tradition in India which, even though shaped to a great extent by Western Liberalism, modified itself according to requirements of Indian conditions before making its way into the constitution? It is to answer these questions that we may now turn to next chapter.