

## Liberalism Untold

### Why A Genuine Liberal Thought Still Doesn't Exist

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#### Abstract

From a political-philosophical standpoint, liberalism has its roots in its focus on individuals' negative liberty, which entails the removal of any obstacle that might potentially hinder their actions. As Bobbio (1978) suggests, our agency can be limited at a social level by customary, legislative or moral norms. We can define the entirety of these norms as the *nomos* driving our day-to-day actions. Liberal thinkers usually argue that the state should regulate citizens' lives as little as possible. From this perspective, they seem to be mostly concerned with setting people free from the invasive *nomos* of public institutions. However, is this political approach *genuinely* liberal? Based on the original, and thus genuine, meaning of the term *nomos*, the answer is no.

A real safeguarding of negative liberty should be aimed at the removal of any *nomos* curtailing people's independence, not just the *nomos* of the state.

Within the context of the informal economy, for instance, poverty, marginality and precarious work have grown into veritable rules. When seen from this perspective, workers' disadvantage is indeed a *nomos* regulating, restricting, and limiting individual agency. Why has liberalism failed to promote the removal of this kind of *nomos* that curtails people's negative liberty with equal strength as that of the state? Is deregulation truly the solution to all the ills of the market? Should those who self-identify as liberals oppose or embrace a public *nomos* working against the spread of the *nomos* of job insecurity? This work claims that a genuinely liberal approach should be based on an etymological and broader understanding of the term *nomos*. It will also examine how private enterprises can favor the spread of this approach and safeguard workers' negative liberty.

**Keywords:** negative liberty, liberalism, informal economy

#### 1. An Introduction to the Concepts of Negative and Positive Liberty

Kant was one of the first to draw a distinction between negative and positive liberty. In his 1797 work *The Metaphysics of Morals*, he wrote, "*Human choice, however, is a capacity for choice that can indeed be affected but not determined by impulses and is therefore of itself (apart from an acquired aptitude of reason) not pure but can still be determined to actions by pure will. Freedom of choice is this independence from being determined by sensible impulses; this is the negative concept of freedom. The positive concept of freedom is that of the capacity of pure reason to be of itself practical. But this is not possible except by the subjection of the maxim of every action to the conditions of its qualifying as universal law*" (Note 1) (Kant, op. cit.; p. 214). These two concepts have been systematically analyzed by several authors throughout the 20<sup>th</sup> century. One of the most prominent among them was Norberto Bobbio (1955, 1978, 1995), whose work further clarified that there are two situations in which we experience *negative* liberty: 1) when we are free to *act* without running into impediments and 2) when we are free to *not act* without running into coercions. In the first situation, we are free to act because there is no norm preventing us from taking an action we wish to take; in the second situation, instead, we are free to *not act* because there is no norm coercing us into taking an action we do not wish to take. Regarding *positive* liberty, Bobbio claims that we experience it whenever our will is formed independently of others' will. From this perspective, the concept of positive liberty is thus akin to those of *self-determination* and *autonomy*. These two kinds of liberties are not mutually exclusive; as such, it would be pointless to consider them as antithetical. However, it is necessary to pinpoint some further differences. One is concerned with the subjects experiencing liberty. In this respect, Bobbio

explains that the subject of negative liberty is the individual, whereas the subject of positive liberty is the community. According to his reading, for example, an individual is *negatively* free when they do not run into obstacles in the course of their actions. Likewise, a community (e.g., nation, social group) is positively free when it autonomously provides itself with its own laws. It should not be forgotten that since the concept of liberty is twofold, the phrase “absence of liberty” takes on an equally twofold meaning. What is exactly the meaning of the lack or “absence of negative liberty”? What do we mean by the “absence of positive liberty”? In this case, Bobbio explains that the negation of negative liberty is found in any form of “-nomy” (e.g., law, rule, or custom). That is, whenever there is a restriction to individual action, no negative liberty can exist. The negation of positive liberty, instead, is found whenever we are presented with the opposite of autonomy, i.e., heteronomy. A group is not positively free whenever it is forced to abide by norms that were not willingly self-created.

The negative/positive liberty dichotomy has been analyzed in depth by another prominent 20<sup>th</sup>-century philosopher, Isaiah Berlin. When he was appointed the Chichele Professor of Political Theory at Oxford in 1958, he gave an inaugural speech titled “*Two Concepts of Liberty*” (Note 2). The speech was later published as an essay, with several editions made in the following years. Regarding negative liberty, the renowned philosopher states, “*I am normally said to be free to the degree to which no man or body of men interferes with my activity. Political liberty in this sense is simply the area within which a man can act unobstructed by others. If I am prevented by others from doing what I could otherwise do, I am to that degree unfree*” (Berlin, 1969; p. 169). This statement matches Bobbio’s. In fact, also in Berlin’s reading, we can be said to be negatively free so far as nobody hinders our actions. Regarding positive liberty, Berlin clearly claims, “*The ‘positive’ sense of the word ‘liberty’ derives from the wish on the part of the individual to be his own master. [...] 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*”. (Berlin, op. cit.; p. 178). After giving these two definitions, Berlin himself admits that the two concepts of liberty look fairly similar at first glance (“*no more than negative and positive ways of saying much the same thing*” [p. 178]); however, he goes on by pointing out that the two notions have historically evolved in extremely different ways. Essentially, the conception of the *self* underlying negative liberty has come to coincide with the individual, whereas the *self* linked with the concept of positive liberty has taken on the connotation of a sort of *collective self* overarching the single individuals by which it is composed. “*This dominant self*”, Berlin argues, “*is then variously identified with reason, with my ‘higher nature’, with the self which calculates and aims at what will satisfy in the long run, with my self ‘at its best’; which is then contrasted with irrational impulse, uncontrolled desires, my ‘lower’ nature, the pursuit of immediate pleasures, my ‘empirical’ or ‘heteronomous’ self, swept by every gust of desire and passion, needing to be rigidly disciplined if it is ever to rise to the full height of its ‘real’ nature*” (Berlin, op. cit.; p. 179). In this passage too, Bobbio’s and Berlin’s statements somehow overlap. In fact, in Berlin’s reading, one can also ideally link the two concepts of liberty with two separate subjectivities; on the one hand is an individual subject, and on the other is a “superindividual” subject. Therefore, there are points of contact between the two conceptualizations described above. In this work, these similarities will be used as a reference point for our discussion. *Figure 1* provides a summary of the notions of negative and positive liberty as understood and referred to in this essay.

	<b><u>Negative Liberty</u></b>	<b><u>Positive Liberty</u></b>
<b><u>Aspect of human life that is qualified by it</u></b>	<b>Action</b>	<b>Will</b>
<b><u>When we have it</u></b>	<b>Absence of <i>nomia</i></b> > When we are free to <i>act</i> without running into impediments > When we are free to <i>not act</i> without running into coercions	<b>Autonomy</b> > When our will is formed independently of others' will
<b><u>When we do not have it</u></b>	<b>Presence of <i>nomia</i></b> > When any <i>nomia</i> prevents us from acting > When any <i>nomia</i> forces us to act	<b>Heteronomy</b> > When our will is not formed independently of others' will
<b><u>Which subjects it refers to</u></b>	Individual self	Collective self

Figure 1

Figure 1.

## 2. The Centrality of the Concept of *Nomia* in Understanding the Two Notions of Liberty

The theorizations summed up in *figure 1* seem to suggest that negative and positive liberty are notions whose *presence* or *absence* in real life can be determined by referring to the concept of *nomia* implied in the suffix “-*nomia*”. In the case of negative liberty, an individual is said to be free insofar as no law, rule or restriction affects their actions. On the other hand, a full manifestation of positive liberty is found insofar as the norms observed by individuals are an expression of their own will. In this respect, *figure 2* helps us once again highlight how these two concepts of liberty are not antonyms. Further evidence of this is in the fact that their opposites are not antonyms either.

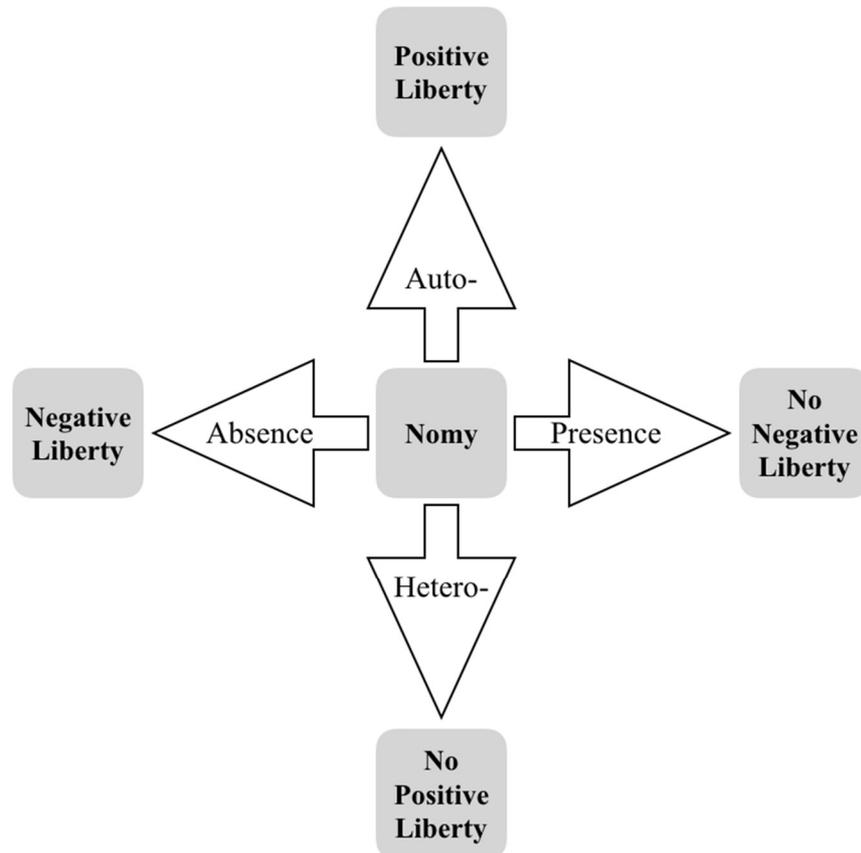


Figure 2

Figure 2.

It is thus worth examining the concept above in further detail since it plays a crucial role in our discussion. The Collins Dictionary gives us a very clear definition of “-nomy”: “(combining form in countable noun) indicating a science or the laws governing a certain field of knowledge. [...] (word origin) from Greek -nomia law; related to *nemein* to distribute, control” (Note 3). In short, it is a suffix that etymologically derives from the concept of *nomos* (νόμος). The *Encyclopædia Britannica* clearly explains that *nomos* can mean either *law* or *custom* (Note 4); this twofold meaning is useful when underlining the fact that what we generally call “law” does not necessarily equal a norm that is written and formally approved by those institutions whose function is to pass legislation. What is referred to as *nomos* in the original meaning of the term is whatever is accepted as a rule of behavior, whether this originates in written law or unwritten custom. Wherever one encounters a regularity in behavior, there is found a custom. In fact, we can call this custom *nomos*.

In the world of Ancient Greece, sophists introduced a distinction between *physis* (nature) and *nomos* (convention) between the 5<sup>th</sup> and 4<sup>th</sup> century BC to clearly differentiate between natural and human law. Each population or community followed their own *nomos* and thus their own laws. At the time, *nomos* equaled the positive law of the *polis*; this detail brings us back to the distinction evidenced in *figure 1*, in which it is no coincidence that the subject of positive liberty is the collective *self*.

One of the most authoritative Greek-English dictionaries, the Liddell-Scott-Jones lexicon (1940), provides the following definition of *nomos* (νόμος): “that which is in habitual practice, use or possession” (Note 5). It is an unequivocal definition; we can call *nomos* all that which can be read in terms of habitual practice. If one is to go by this definition, it is self-evident that we cannot identify the *nomos* with a law or a system of formally approved and enforced laws; this understanding would be biased by a limited interpretation of the concept. In fact, there is no question that “habitual practices” can be a consequence of the implementation of a law; however; they can also stem from the perpetuation of a convention or custom that is in no way regulated by law and which nevertheless is found over time as a recurring behavior within a given society.

After clarifying that *nomos* can either mean “law” or “custom” or can more generally describe any “habitual practice”, we should ask ourselves how this original and broader meaning of the term can affect our understanding

of the notions of negative and positive liberty. What immediately follows this questioning is that the definitions found in *figure 1* need to be rethought. As a matter of fact, *figure 3* shows how the approach to this twofold understanding of liberty changes when we adopt the original, and thus genuine, meaning of *nomos* (and thus of “-nomy”).

	<u>Negative Liberty</u>	<u>Positive Liberty</u>
<u>Aspect of human life that is qualified by it</u>	<b>Action</b>	<b>Will</b>
<u>When we have it</u>	<p><b>Absence of <i>nomy</i></b>  <i>Absence of laws, customs, habitual practices that generate impediments or coercions</i></p> <p>&gt; When no law, custom or habitual practice prevents us from acting            &gt; When no law, custom or habitual practice forces us to act</p>	<p><b>Autonomy</b>  <i>Laws, customs, habitual practices determined by own will</i></p> <p>&gt; When laws, customs or habitual practices are determined by the will of those who adapt to them</p>
<u>When we do not have it</u>	<p><b>Presence of <i>nomy</i></b>  <i>Presence of laws, customs, habitual practices that generate impediments or obligations</i></p> <p>&gt; When any law, custom or habitual practice prevents us from acting            &gt; When any law, custom or habitual practice forces us to act</p>	<p><b>Heteronomy</b>  <i>Laws, customs, habitual practices not determined by own will</i></p> <p>&gt; When laws, customs or habitual practices are not determined by the will of those who adapt to them</p>
<u>Which subjects it refers to</u>	Individual self	Collective self

Figure 3

Figure 3.

In terms of negative liberty, we soon notice that an actual restriction to individual action can originate not only from one's need to abide by a law of the state but also from a fear of going against a consolidated practice. In light of this, it is misleading to argue that the more an individual experiences negative liberty, the more the state relinquishes its power to regulate their individual action. In fact, there are instances in which the actions of a subject are not hindered by written laws but rather by all those “habitual practices” that invisibly prevent them from doing what they would do otherwise. Similarly, there is a clear absence of negative liberty whenever a subject is forced to adopt a behavior that is not imposed by a law of the state but whose adoption is deemed desirable by a social group because such behavior is in line with a tradition that has been consolidated over time. In this latter case, the subject forfeits the exercise of their own negative liberty to presumably benefit from this self-limitation (for instance, in terms of self-legitimation or resources); this benefit would be lost if the subject acted otherwise.

Our reading of the notion of positive liberty is also affected by a broadened understanding of *nomos*. In this second case, the crucial question is whether the criteria driving a given community originate in the community itself or elsewhere. There is no doubt that a social group providing itself with laws and observing them experiences a high degree of positive liberty. However, if the *nomos* exceeds the narrow confines of laws, it is fair to question the extent to which this same group is positively free whenever it conforms to practices or customs that have not been determined by its own will.

### 3. Concepts of Liberty and Their Historical Evolution in the Work of Benjamin Constant

In 1819, Benjamin Constant gave a lecture at the Athénée Royal with an unmistakably telling title: “*The Liberty of Ancients Compared with that of Moderns*”. According to the French thinker, liberty among the ancients was essentially understood as freedom to take part in political life through assemblies or ballots. This kind of liberty is found within fairly small societies in which people can gather, preferably in one single place, and thus start a debate on whatever issue needs to be settled. By contrast, the liberty of moderns is of a very different kind; it

equals the enjoyment of civil liberties and is evidently understood in more individualistic terms. In summary, the primary concern of moderns is to avert the danger of an excessive intrusion of public power into their private sphere rather than to favor citizens' participation in political decisions.

The two concepts that Constant calls "liberty of ancients" and "liberty of moderns" very much echo the notions of positive and negative liberty, respectively, and it is thus inevitable to bring the French author into our discussion. Another reason why it is important to cite Constant is that he helps us see how our civilization is not just the product of a number of historic events but also the result of different ways of understanding liberty through time. Specific economic or political structures rose to prominence throughout the centuries based on the prevalence of one particular idea of liberty over another. In this context, it is fair to wonder which idea of liberty prevails in today's society. There is no question that our world looks modern to us in terms of technical and productive innovation, and that we are generally advanced if we consider our civil society. This would lead us to presume that the idea of liberty underlying our society would be just as modern. As a matter of fact, we are used to thinking of our world as one in which people have a real potential to express their individuality without the oppressive legislative and moral constraints that once conditioned the private life of the ancients, to use Constant's words. However, are we sure that this is truly the case? How modern is the liberty of today's moderns? In his lecture, Constant reminds us that all private actions among the ancients were put under strict surveillance ("*Toutes les actions privées sont soumises à une surveillance sévère*"). For example, freedom of religion, which we moderns cherish as a valuable right, could not be easily exercised among the ancients because the very act of choosing which religion to practice was sometimes seen as sacrilege ("*La faculté de choisir son culte, faculté que nous regardons comme l'un de nos droits les plus précieux, aurait paru aux anciens un crime et un sacrilège*"). To put it briefly, among ancient societies, the individual was sovereign in public affairs and a slave in all private relations ("*Ainsi chez les anciens, l'individu, souverain presque habituellement dans les affaires publiques, est esclave dans tous les rapports privés*"). Instead, the liberty of us moderns—according to Constant—must consist of the "peaceable enjoyment of private independence" ("*Notre liberté à nous, doit se composer de la jouissance paisible de l'indépendance privée*") because "individual independence is the primary need of the moderns" ("*L'indépendance individuelle est le premier besoin des modernes*").

These statements make the tight conceptual link between the liberty of moderns and the notion of negative liberty all the more evident. In fact, the moderns' need for independence can be fulfilled as long as their actions are free from impediments or coercions. The table shown in *figure 4* sums up the notion of liberty that has been presented thus far.

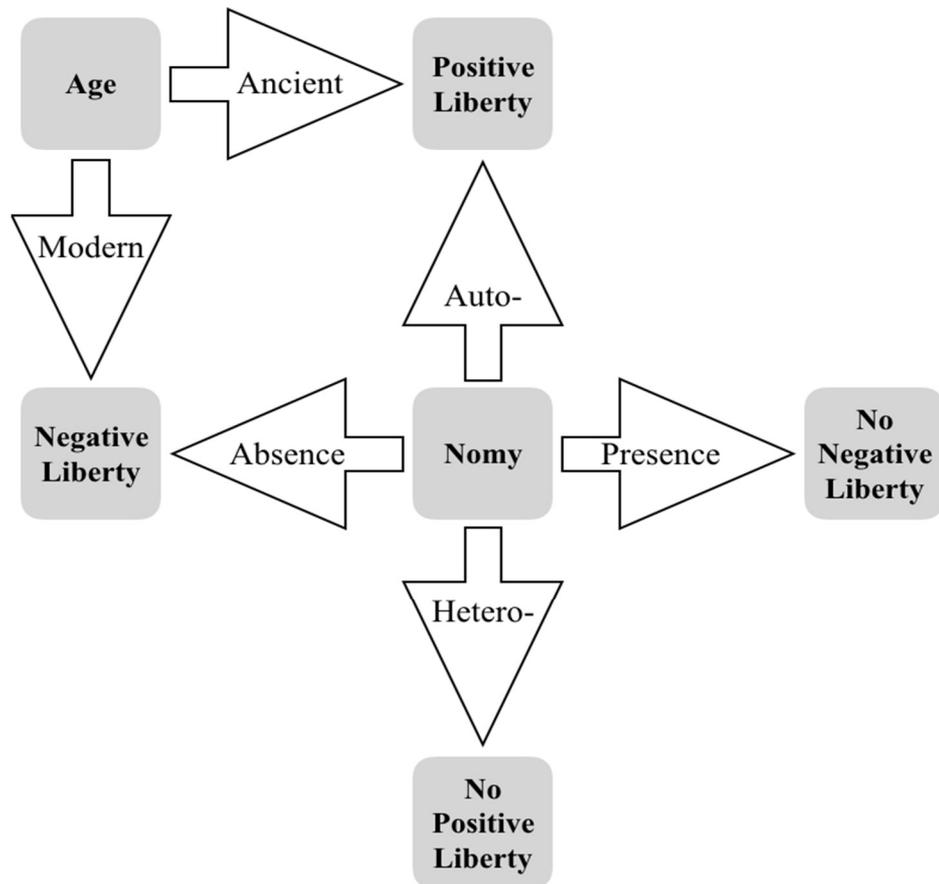


Figure 4

Figure 4.

#### 4. The Formalization of Work as a Source of Welfare for Society, Private Enterprises and Workers

Within *figure 4*, we can find some key variables that are closely linked with the notion of liberty and will be useful in our attempt to answer the following very specific question: *is the liberal approach to the issue of the informal economy genuinely liberal?*

Before answering, it is necessary to analyze the relationship between employment and the informal economy. Subsequently, we will be in a position to read the formal/informal work dualism in terms of liberty. Last, we can attempt an answer to the question that we have initially asked.

If we look at Italy, for example, the 2019 OECD survey provides some key information on the state of employment in the country. The document states that it would be necessary to both provide workers with in-work benefits and implement a guaranteed income scheme to boost employment and reduce poverty. One particular passage clearly states that it would be recommendable to “lower and taper off Citizen’s Income benefits to encourage beneficiaries to seek employment in the formal sector and introduce an in-work benefit for low-income earners” (OECD, 2019; p. 6).

Moreover, the OECD warns against the dangers arising from the possibility that the unemployed might excessively rely on such benefits. The survey overview states that “the level of the transfer provided by the current plan for the Citizen’s Income risks encouraging informal employment and creating poverty traps” (OECD, 2019; p. 4).

In short, according to the OECD, it is crucial to monitor the “formal/informal” connotation of work. The main characteristics of the two sectors are summarized in *figure 5*.

Formal sector	Informal Sector
Formal Contract and Letter of Appointment	Verbal Contract and No Appointment
Regularity of Employment	Irregular Employment
Fixed Wage Rate	Uncertain Wage Rates - Low Income
Fixed Working Hours	Long and Uncertain Working Hours
Legal Provision of Protection	Non Existence or Poor Level of Legal Protection

Source: Upadhyaya (2003)

Figure 5

Figure 5.

To get an idea of the current global level of the so-called *informal economy*, one needs only consider the figures given by the International Labour Office, according to whose estimates “two billion of the world’s employed population aged 15 and over work informally, representing 61.2 percent of global employment” (ILO, 2018; p. 13). It should be clarified that the terms *informal work* and *informal economy* are not synonymous. In addition, informal work can also occur within a formal economy (Smith Nightingale & Wandner, 2011). Even so, it is necessary to take into account that those people working in the informal sector often experience financial difficulties (ILO, 2018), which is why organizations such as the OECD, the ILO and the EU have encouraged countries to introduce policies promoting a transition toward a formal economy and formal employment (Mateman & Renooy, 2002; European Commission, 2007; Renooy, 2008; Pfau-Effinger et al., 2009). As further evidence, the ILO (2002) reminds us that “*decent work deficits [...] are most pronounced in the informal economy*” (p. 5). Informal work can cause relevant damage at an economic level (Pfau-Effinger, 2009) and inevitably affect workers’ life and welfare, since the level of salaries and social security tend to be lower within an informal context. The ILO leaves no room for misunderstanding when it writes that “*informality is a key component of insecurity in the world of work*” (ILO, 2015; p. 1). It is thus clear that removing the obstacles to the formalization of employment will lead to a higher level of job security, and this would certainly have a beneficial impact on workers’ lives.

However, this fundamental shift is not short of pitfalls. The ILO (2015) has conceded that informality can initially be seen as beneficial to both workers and employers because it may grant a higher degree of flexibility on the one hand and offer tangible employment opportunities to a number of workers who are usually left outside the formal economy on the other. However, the negative implications of informality far outnumber its supposed benefits. This damage affects both those who operate within the confines of informality and society as a whole. “*The informal economy can trap individuals and companies in a spiral of low productivity, poverty and unfair competition. It limits an individual’s ability to raise capital, acquire credit, engage technology, and participate fully in the job market. Furthermore, it deprives workers of their dignity and their fundamental rights at work, divests people of decent work conditions and opportunities, and fosters unfair competition from informal enterprises against registered and formal ones. Significantly, it inhibits governments from collecting taxes and social contributions*” (ILO, 2015; p. 1). Essentially, informality is detrimental to private enterprises, to the overall economic system, and most importantly, to the individual, not just as a worker but also as a person. The massive spread of informal work practices shows us that an extremely high number of entrepreneurs ordinarily engage in such activities (Williams et al., 2012). Generally, the governments of several countries have attempted to eradicate informal entrepreneurial activities by increasing control and penalties (Allingham & Sandmo, 1972; De Juan et al., 1994; Slemmerod et al., 2001) with uneven results (Schneider & Enste, 2002; Murphy, 2005). In addition to this approach, we now find another one with the aim of facilitating the process of formalizing informal work (Dekker et al., 2010; Williams and Renooy, 2009).

## 5. Reading the *Informal Economy* from a Liberal Perspective

In an interesting article dating from 2007, Ram and other scholars state that “*Even though the scholarly discourse on the informal economy ranges across a broad philosophical spectrum, most interpretations tend toward the economistic*” (Ram et al., 2007; p. 320). Therefore, it cannot be denied that we should resort to philosophical interpretations to understand the reasons for informal economy. In mentioning the most widely held views of the subject, Ram and these other scholars also cite the neo-liberals’ belief that the informal economy is a consequence of state intervention in economic affairs. For example, those who share this view see the implementation of a minimum wage as one of the triggers of the phenomenon of *informality*. In their opinion, the minimum wage increases labor costs, thus making them unaffordable for the majority of small businesses. As a consequence, microentrepreneurs are forced to circumvent the rules and operate in the informal sector to ensure that their clients’ legitimate expectations are still met (Ram et al., op. cit.). In this scenario, the entrepreneurs who choose this course of action would thus be “heroes rather than villains” (Ram et al., op. cit., p. 320). Instead, Williams (2006) defines the informal economy as “the mechanism through which enterprise culture can express itself” (p. 121) and, while discussing neo-liberalism, cites a few authors who offer very specific interpretations of this phenomenon. In Contini’s view (1982), for instance, underground work can be seen as a way through which the market takes its revenge on a hyperregulatory state. De Soto (1989) explains that informal entrepreneurial activities should be seen as a social answer to the state’s inability to fulfill the basic needs of the impoverished masses. Sauvy (1984) goes as far as saying that if we are to embrace this view of the informal economy, then underground work should be seen as the essence of liberalism.

At any rate, Williams (2006) warns us that an unbridled deregulation of the formal job market could deepen social inequalities. For example, the fact that disadvantaged people often operate in the informal sector is not necessarily a consequence of institutional obstacles. In fact, these people’s decisions might depend on their lack of skills or social connections (Pahl, 1984). This is a case in which a liberal-style solution might help overcome institutional barriers, but it would fail to overcome other kinds of obstacles that equally prevent a transition toward a formal economy (Williams, 2006; p. 125).

Therefore, it is worth quoting Gilbert (1994; p. 616), who stated that “*the hope that it [underground work] can generate economic growth on its own, that the micro-entrepreneurs can go it alone, with a bit of credit and some deregulation, seems to be hopelessly optimistic*”.

## 6. A Narrower Interpretation of the Concept of *Nomos* in the Liberal View of the Informal Economy

As previously discussed, liberal scholars see the rules imposed by the state as the major obstacle to the formalization of the economy. In other words, according to their perspective, the spread of informal practices is entrepreneurs’ inevitable response to the spread of a *nomos* that, if left unchallenged, would prove too restrictive for economic actors.

This conviction should come as no surprise at all; the affirmation of negative liberty is one of the pillars of an ideal liberal society (Bobbio, 1978). *Figures 1* and *2*, for example, effectively show how removing restrictions on individual agency is a necessary condition for the attainment of negative liberty. The presence of negative liberty is in turn a necessary condition for the fulfillment of the liberal ideal.

Why then should we state and highlight the obvious? What is so surprising about the fact that a liberal should oppose the spread of a *nomos* that presents itself through laws and institutional rules restricting people’s negative liberty?

The surprising fact is that those liberals who endorse this view tend to read the *nomos* through a limited and misleading lens. As already explained, *nomos* (in the *genuine* understanding of the term) denotes all that which is presented as “*habitual practice*”. There is no doubt that *nomos* can also mean *law*, but this latter meaning should be understood in broader terms because what we call *law* is not necessarily the result of a formal law-making process carried out by the state (Note 6). A *genuine* liberal should therefore *genuinely* oppose the entire range of understandings of *nomos*, not just the narrower connotation of its meaning. Consequently, someone wishing to put up a *genuinely* liberal defense of negative liberty should fight all those “habitual practices” limiting individual agency.

Within this framework, it is evident that the reliance on the informal economy merely focuses on the negative liberty of entrepreneurs, for whom the real *nomos* to fight is the law of the state. However, what about the liberty of other economic actors? What about the negative liberty of disadvantaged workers who are operating under another kind of *nomos* that is not as evident to and disliked by “selective” liberals? Factors such as lack of skills, access to education, poverty, and social marginalization indeed impose themselves on the lives of these people as

“habitual practices”, similar to a *nomos* that curtails their negative liberty, and yet nobody makes an effort to eradicate these practices. Who should demand the removal of such practices? Who should fight this unwritten *nomos*? The answer is simple and yet counterintuitive; the real liberal should. A genuine liberal is someone who does not tolerate the curtailment of negative liberty. After all, how can one be free to act in the presence of such stringent and yet seemingly invisible restrictions? What is the aim that “selective” liberalism wishes to achieve by focusing solely on market deregulation? Is the goal truly to focus on individuals’ negative liberty, or is it rather the ill-concealed objective to replace the *nomos* of the state with the *nomos* of those private enterprises operating in the informal sector? Can we consider informal work, which is often insecure and underpaid, *modern* if, as Constant says, the liberty of moderns coincides with the free enjoyment of individual independence? The impression one gets from these considerations is that we are rather in the presence of an “ancient” form of liberalism that seemingly focuses on the negative understanding of liberty but whose actual concern is to positively impose a *nomos* that is in no way a result of the will of those who are subjected to it.

### 7. Conclusions: A Philosophical Interpretation of the Role that Private Enterprises Play in the Transition Toward a Formal Economy

From the perspective of political philosophy, the transition from the informal to the formal economy takes on several meanings. Those organizations that operate transparently and in accordance with the rules safeguard liberty in at least two ways.

First, when an organization operates in the formal sector, it means that its workers are better safeguarded in terms of salary, social security and welfare. All these benefits allow individuals to experience independence, further their welfare and broaden their own spectrum of negative liberty.

Second, operating in the formal economy means complying with tax laws, which allows the state to access a higher number of resources that can then be used to counteract the financial difficulties experienced by disadvantaged workers. If these workers are safeguarded, their choices would be less likely to further the growth of the informal sector. As a matter of fact, economic disadvantage is often what triggers the decision to consider informal work as a viable option. Therefore, eradicating disadvantages means eradicating powerful constraints and coercion, once again resulting in the safeguarding of negative liberty (see *figure 1*).

Generally, private enterprises have great responsibilities because the future and liberty of workers depend on their decision to operate in either one economic domain or the other. A blind fight against the *nomos* of the state would be genuinely liberal only if one were to simultaneously devote oneself to eliminating any other kind of coercive *nomos*. Clearly, a private enterprise cannot solely eradicate all those “habitual practices” curtailing people’s independence. In addition, the safeguarding of entrepreneurs’ negative liberty cannot take place at the expense of workers’ negative liberty. In fact, if this happened, we would not find ourselves in a scenario of liberty but rather in one where the costs of someone’s independence were paid for by someone else’s coercion. Ultimately, a truly liberal approach to negative liberty should not be based on a fight against the state but rather on a fight against anything preventing an individual from attaining independence. From this perspective, there is nothing genuinely liberal in the decision to operate in the informal sector because not all of the people involved are truly negatively free and thus fully independent. Hence, it would be a form of deregulation that undermines workers’ independence and makes their actions all the less free; there is nothing liberal about it. From a philosophical standpoint, removing the state from the market at the expense of people’s negative liberty is an anti-liberal behavior.

The economy we live in should therefore be brave enough to once again be *genuinely* true to the ideology that generated it, and private enterprises can indeed drive this renewed attitude toward liberty. In short, we must go back to being *truly* and *etymologically* liberal—assuming that we have ever been, of course.

### References

- Allingham, M., & Sandmo, A. (1972). Income Tax Evasion: a Theoretical Analysis. *Journal of Public Economics*, 1(2), 323-338. [https://doi.org/10.1016/0047-2727\(72\)90010-2](https://doi.org/10.1016/0047-2727(72)90010-2)
- Berlin, I. (1969). Two Concepts of Liberty. In I. Berlin (Ed.), *Four Essays on Liberty* (New ed., in Berlin 2002). London: Oxford University Press. <https://doi.org/10.1093/019924989X.001.0001>
- Bobbio, N. (1955). La libertà dei moderni comparata a quella dei posteri. In N. Bobbio (Ed.), *Politica e cultura*. Torino: Einaudi.
- Bobbio, N. (1978). Libertà. In *Enciclopedia del Novecento*. Roma: Treccani.
- Bobbio, N. (1995). *Eguaglianza e libertà*. Torino: Einaudi.
- Constant, B. (2016). *De la Liberté des Anciens Comparée à Celle des Modernes*. Paris: Berg International.

- Contini, B. (1982). The Second Economy in Italy. In V. V. Tanzi (Ed.), *The Underground Economy in the United States and Abroad*. Lexington Books: Lexington, MA.
- De Juan, A., Lasheras, M. A., & Mayo, R. (1994). Voluntary Tax Compliant Behavior of Spanish Income Taxpayers. *Public Finance*, 49, 90-105.
- De Soto, H. (1989). *The Other Path: The Economic Answer to Terrorism*. Harper and Row: London.
- Dekker, H., Oranje, E., Renooy, P., Rosing, F., & Williams, C. C. (2010). *Joining up the Fight Against Undeclared Work*. DG Employment, Social Affairs and Equal Opportunities. Brussels.
- European Commission. (2007). *Undeclared Work in the European Union*. Report: Special Eurobarometer 284, by Arnold Riedmann and Gabriele Fischer. Brussels: European Commission.
- Gilbert, A. (1994). Third World Cities: Poverty, Unemployment, Gender Roles and the Environment During a Time of Restructuring. *Urban Studies*, 31(4-5), 605-633. <https://doi.org/10.1080/00420989420080601>
- ILO. (2002). *Decent Work and Informal Economy. Report VI. International Labour Conference, 90th Session*. International Labour Office. Geneva: Switzerland.
- ILO. (2015). *Regional Conference on the Formalization of the Informal Economy*. Summary Report, Montenegro, September 15-16. International Labour Organization. Geneva: Switzerland.
- ILO. (2018). *Women and Men in the Informal Economy: A Statistical Picture* (3rd ed.). International Labour Organization. Geneva: Switzerland.
- Kant, I. (1797). *The Metaphysic of Morals*, English translation by Mary Gregor (1991), Cambridge University Press: Cambridge.
- Liddell, H. G., Scott, R., & Jones, H. S. (1940). *A Greek-English Lexicon*. Oxford: Oxford University Press.
- Mateman, S., & Renooy, P. (2002). *Undeclared Labour in Europe. Towards an Integrated Approach to Combat Undeclared Labour*. Amsterdam: Regioplan.
- Murphy, K. (2005). Regulating More Effectively: The Relationship between Procedural Justice, Legitimacy and Tax Non-Compliance. *Journal of Law and Society*, 32(4), 562-589. <https://doi.org/10.1111/j.1467-6478.2005.00338.x>
- OECD. (2007). *Promoting Pro-Poor Growth: Policy Guidance for Donors*. DAC Guidelines and Reference Series, OECD Publishing: Paris.
- OECD. (2019). *OECD Economic Surveys - Italy*. Retrieved from <https://www.oecd.org/economy/surveys/Italy-2019-OECD-economic-survey-overview.pdf>
- Pahl, R. E. (1984). *Divisions of Labour*. Blackwell: Oxford.
- Pfau-Effinger, B. (2009). Varieties of Undeclared Work in European Societies. *British Journal of Industrial Relations*, 47(1), 79-99. <https://doi.org/10.1111/j.1467-8543.2008.00711.x>
- Pfau-Effinger, B., Jensen, P. H., & Flaquer, L. (2009). Formal and Informal work in European societies – a comparative perspective. In B. Pfau-Effinger, L. Flaquer, & P. H. Jensen (Eds.), *Formal and Informal Work in Europe. The Hidden Work Regime* (pp. 193-214). London, New York: Routledge. <https://doi.org/10.4324/9780203881392>
- Ram, M., Edwards, P., & Jones, T. (2007). Staying Underground. Informal Work, Small Firms, and Employment Regulation in the United Kingdom. *Work and Occupations*, 34(3), 318-344. <https://doi.org/10.1177/0730888407303223>
- Renooy, P. (2008). Undeclared Work: A New Source of employment? *International Journal of Sociology and Social Policy*, 27(5/6), 250-256. <https://doi.org/10.1108/01443330710757276>
- Sauvy, A. (1984). *Le Travail Noir et l'Economie de Demain*. Calmann-Levy: Paris.
- Schneider, F., & Enste, D. H. (2002). *The Shadow Economy: An International Survey*. Cambridge University Press: Cambridge. <https://doi.org/10.1017/CBO9780511493591>
- Slemerod, J., Blumenthal, M., & Christian, C. W. (2001). Taxpayer Response to an Increased Probability of Audit: Evidence from a Controlled Experiment in Minnesota. *Journal of Public Economics*, 79, 455-483. [https://doi.org/10.1016/S0047-2727\(99\)00107-3](https://doi.org/10.1016/S0047-2727(99)00107-3)
- Smith Nightingale, D., & Wander, S. A. (2011). *Informal and Nonstandard Employment in the United States. Implications fro Low-Income Working Families*. The Urban Institute, Brief 20, August.

- Upadhyaya, U. (2003). Social Protection for Informal Economy Workers in Nepal. *International Conference on Social Protection in Informal Economy*, May 16-17, Mahatma Gandhi Labour Institute, Ahmedabad.
- Williams, C. C. (2006). *The Hidden Enterprise Culture*. Edward Elgar: Cheltenham, UK. <https://doi.org/10.4337/9781847201881>
- Williams, C. C., & Renooy, P. (2009). *Measures to Combat Undeclared Work in 27 European Union Member States and Norway*. European Foundation for the Improvement of Living and Working Conditions. Dublin.
- Williams, C. C., Nadine, S., Barbour, A., & Llanes, M. (2012). *Enabling Enterprise: Tackling the Barriers to Formalization*. Community Links: London.

### Notes

Note 1. Translation from German by Mary Gregor (1991).

Note 2. Berlin invariably uses the terms “liberty” and “freedom” synonymously.

Note 3. Source: <https://www.collinsdictionary.com/dictionary/english/nomy>

Note 4. Source: <https://www.britannica.com/topic/nomos-Greek-philosophy>

Note 5. Source: <http://stephanus.tlg.uci.edu/lsg/#eid=73327>

Note 6. See for instance the Merriam-Webster Dictionary, in which *law* is also defined as “a binding custom or practice of a community”.

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