Forget equality? Security, liberty and the 'war on terror'

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Introduction

Critical engagements with the 'war on terror' have analysed the governance of terrorism by exploring either the element of continuity or discontinuity with liberal governance entailed by the new practices of war, security and risk. Those who take inspiration from Carl Schmitt's and Giorgio Agamben's theories of the exception argue about exceptional measures that are no longer temporally or spatially bound, but have become the norm. Guantanamo Bay, indefinite detention, extraordinary rendition, Abu Ghraib have been exposed as particular practices in a generalised exception (Paye 2007) or 'global matrix of war' (Jabri 2006). Others draw on governmental analyses and emphasise the continuity of practices of policing the international, of risk management, of biopolitical governance, the exclusion of aliens and the role of law (Amoore and de Goede 2005; Aradau 2007; Bigo 2006; Dillon 2007; Salter and Zureik 2005). If there are discontinuities that characterise the war on terror, these are located at different boundaries: the advent of neoliberalism and the influence of its governmental rationalities upon liberal democracies (Brown 2003), also read as the advent of empire brought about by immaterial labour practices (Hardt and Negri 2004), the merging of internal and external security at the end of the Cold War (Bigo 2001) or the catastrophic imaginary of precautionary risk (Aradau and van Munster 2007).

While security practices have been subjected to increased scrutiny and their location in the continuity or discontinuity of normal practices of liberal states hotly debated, liberty has been mostly shrouded in silence.[1] Even if the war on terror has rekindled debates on the trade-off between security and liberty, it is security that is closely and critically dissected and not liberty.[2] Yet, if Drucilla Cornell is right that 'defending ideals' is what critical engagements with the 'war on terror' should do, these engagements need to get to grips with the use of freedom as a fetish or an emblem rather than as an ideal (Cornell 2004: 88). Dismissing the usage of freedom in the US discourse

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[1] Freedom and liberty will be used interchangeably here. For a discussion of the subtle difference between liberty and freedom in Arendt, see Pitkin (1988).
[2] For an exception, see (Burke 2005).

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does not shed light on the very conditions of possibility of such a discourse. How does freedom become just a fetish and what are the conditions of possibility for an atrophied discourse of freedom? In his lectures on *History and Freedom*, Adorno argued that 'ideas that originally had a utopian complexion and critical complexion tend, notwithstanding their truth content, to degenerate in the course of history into ideologies' (Adorno 2006: 197). Adorno identifies the 'infallible sign' for the degeneration of freedom in the way freedom lends itself to the 'justification for restrictions on freedom, in other words, where talk about freedom is perverted into the exact opposite of what it is supposed to achieve' (Adorno 2006: 197). However, he does not account for the conditions of possibility of this degeneration of freedom. This paper unpacks the conditions of possibility for the degradation of freedom in the 'war on terror'. It argues that the degeneration of freedom can be understood by considering the relationship with equality and the role that security practices play in destroying equality. Liberty will both be placed in the continuity of modernity and considered in its singularity as the decoupling of liberty and equality and the 'forgetting' or destruction of equality as a principle of politics.

Discourses about the role of liberty in the war on terror display the contradictions that have been constitutive of the concept of liberty in political modernity. Measures to tackle terrorism are criticised on the grounds of civil liberties, while freedoms are deemed responsible for allowing terrorist propensities to flourish. Liberty appears to be both the source of all insecurity and the challenge to practices of (in)security. This contradiction is symptomatic of what one might call, following Kant, the antinomies of modernity. As Peter Wagner has put it, modernity is characterised by an ambiguous discourse of liberty and discipline (Wagner 1993). Modernity's project of liberty had to be contained within certain limits, boundaries had to be created against its own claims. The discourse of the excesses of liberty that need to be tamed has been explicitly invoked in the 'war on terror'. Faced with the looting that the demise of Saddam triggered in Iraq, Donald Rumsfeld offered us another piece of wisdom:

> Freedom's untidy, and free people are free to make mistakes and commit
> crimes and do bad things…They're also free to live their lives and do

wonderful things. And that's what's going to happen here' (Rumsfeld quoted in Loughlin 2003).

Liberty as the defining concept of modernity has been seconded by disciplinary and even authoritarian practices to tame its excesses. In another instantiation of the degradation of freedom, civil liberties are thought to allow for the unrestrained use of violence. Unless restricted and carefully disciplined, freedoms can be abused.

The new discourses of liberty versus security focus on the justification and extent of such disciplinary practices. How much discipline is needed to 'tame' the liberty of subjects? The ideal of freedom is not universal, it does not address everybody directly, but it is differentially distributed. This paper explores the transformation of freedom in relation to security and the role that equality plays in this transformation. Understood as the logic of separation and devoid of any connection with equality, liberty becomes – I shall argue – coextensive with security. To explore the role of equality in the deployment of security practices and the implications of its 'forgetting' for the equation of liberty and security, the paper proceeds in three stages. Firstly, it diagnoses the particularities of the invocations of freedom in the 'war on terror' and unpacks its relation to security. Secondly, it revisits Hobbes to expose the conditions of possibility for the degradation of freedom through the social contract of security, namely the exile of equality as a political principle. Lastly, it considers the exile of equality within the political and theoretical developments of the current conjuncture, variously defined as late modernity, empire or neoliberal globalisation. Contra these critiques and the foretold demise of equality, a different concept of equality is offered.

Freedom, whose freedom?

In close connection with the security imperative of the war on terror, liberty has been mobilised as either a justification for counter-terrorist measures or as the last rampart against governmental encroachments of human rights. Liberty is the ultimate challenge

against the new technologies of identification and surveillance, the practices of risk assessment and the dismantling of the private/public distinction. On the one hand, infringements of liberty are seen as the necessary consequence of matters of national security. Hence, the British government has for example argued – against the SIAC judgment concerning the 2001 Anti-Terrorist Act unlawful discrimination between nationals and foreigners – that the state has always discriminated between citizens and foreigners in matter of national security (Home Office 2004). Such practices appear therefore as acceptable when security is at stake. On the other hand, restrictions upon civil liberties are taken to undermine the freedoms that define democracy. Civil rights organisations and activists have reversed the argument of the trade-off and have claimed that certain liberties (such as *habeas corpus*, for example, or the right to a fair trial) cannot be suspended for anybody, be those foreigners or citizens. Debates about the role of identity cards in the UK, biometric identifiers, data bases, monitoring of communications, indefinite detention and even extraordinary rendition are formulated in terms of the illegitimate destruction of freedoms and denial of human rights. At the same time, the same governmental measures are rendered as necessary steps in the preservation of freedom. As Tony Blair has put it,

> When crimes go unpunished, that is a breach of the victim's liberty and human rights. When organised crime gangs are free to practice their evil, countless young people have their liberty and often their lives damaged. When ASB goes unchecked, each and every member of the community in which it happens, has their human rights broken. When we can't deport foreign nationals even when inciting violence the country is at risk (Blair 2006b).

Freedom is cast here in the ideological form that Adorno recognised in the justification of repression that degraded freedom can make possible. The conditions of possibility for the degradation of freedom are given, I submit, in the separation of freedom from equality.

The question, Blair reminds us, is not one of individual liberty versus the state but of which approach best guarantees most liberty for the largest number of people (Blair

2006a). Similarly, David Blunkett's comment on the Anti-Terrorism 2001 Act sees liberty as in need of 'taming' by boundaries and limitations:

> [The proposed reforms in the Anti-Terrorism, Crime and Security Bill contained] proportionate and targeted measures which will ensure and safeguard our way of life against those who would take our freedom away. […] Because we are talking only about a handful of people, we are not threatening the civil liberties of this country, but we are ensuring those handful don't threaten those civil liberties (The Guardian 13 November 2001).

What matters here is not the utilitarian implication of Blunkett's discourse, but the legitimation of practices of drawing lines and dividing populations. Anastassia Tsoukala has aptly analysed the elements of selective liberties in British political discourses. The 'rhetorical defence of the implicitly democratic British way of life is conceivable not only because the terrorist attacks of September 11th have been widely qualified as attacks on democracy and freedom, but also because it is presumed that the law on human rights is designed solely to protect the many and not the few' (Tsoukala 2006: 611). Anthony Burke has deciphered a similarly selective and inegalitarian understanding of freedom in the American discourse of freedom. This freedom is 'exclusive and self-regarding', it is something America brings to the world for itself and from within itself' (Burke 2005: 328). The liberty at stake in the war on terror is an already divided and inegalitarian freedom. Its limits and its selective bestowal are decided by the state.

The categorisation and distribution of populations into groups whose freedoms can be upheld, limited or eliminated does away with the ideal of equality. Klaus Günther suggested that the reason for the acceptance of restrictions on liberties may instead be that this security law operates as a promise of security to "good" citizens against "evil" in the international struggle against organized crime and international terrorism. People may be ready to put up with restrictions on liberties because they are given reason to expect that, as "good" citizens, they will in any case not be affected (Günther 2005: 385). This understanding of freedom is selective; only some aspects are regarded as dispensable and

only for a minority of 'evil' citizens. Freedom – Hindess has warned – is not something 'granted to individuals as such and in general: it is granted to certain individuals only and within particular circumscribed domains' (Hindess 2001: 97). The curtailment of procedural rights – for example those that concern arrests, wire tapping, or investigations – and the recent diminution of liberty in the US already applies more to alien residents than to US citizens and permanent residents. The anti-terrorist police powers in the UK have been used disproportionately against the Muslim population. All those detained indefinitely in the UK have been Muslim (Liberty 2004: 3).

Criticisms of counter-terrorist policies focus on the contestation of selective freedoms and their granting to particular categories of the population. When 'genuine' asylum-seekers become 'collateral damage' to a policy designed to target terrorists, when surveillance and data collection is liable to be extended to everybody and infuses our everydayness, when categories get blurred and overlap, when Muslim communities appear to be the illegitimate target to these policies, then there is a manifest discontent with security measures. However, these criticisms only hint at a need for better categorisation and more adequate selection and description of categories to be targeted and do not question the premises of inequality and discrimination that select these categories as privileged targets for anti-terrorist measures.

For example, the European Commission has emphasised in a Working Document on internal security and international protection that 'bona fide refugees and asylum seekers should not become victims of the recent events, and […] there should be no avenue for those supporting or committing terrorist acts to secure access to the territory of the Member States of the European Union' (quoted in Brouwer 2003: 411). A Report by the International Organization for Migration on 'International Terrorism and Migration' also graciously agrees that '[t]he stricter the regime and the more difficult it is to secure visas, the greater the potential for deterring *bona fide* visitors and businessmen' (IOM 2003: 23-25). The measures that IOM advises as part of counter-terrorist policies are simply boundary-drawing; they focus on categorisation and identification of risk groups. Externally such measures should focus on increased border and entry control, as well as improved information and identification systems (biometrics, data collection and exchange). Internally the IOM report advises tighter measures against suspects,

designation of terrorist organizations, holding of persons, in-country identification, and language analysis. All these measures consider how to categorise and identify suspects, how to delimit a population group that is potentially dangerous.

The division of populations suggest a subversive potential that equality entails for political order. Even for Kant, for whom freedom is the practical side of reason, the capacity for right and correct thought that is taken to be defining of the modern subject, the use of freedom entails inegalitarian limitations and restrictions. While reason makes the individual the ultimate measure of freedom, the public use of freedom presupposes a restriction of freedom. This restriction is noted by Adorno in the form of the 'disastrous word "as"' that introduces the restriction of the freedom to 'make public use of one's reason in all matters' (Adorno 2001). The public use of freedom can be made *as* writer and scholar, not however as servant of the state. Adorno notes the restriction of reason and hence of freedom with the division of labour in which human beings find themselves involved (Adorno 2001). The restriction of reason is rendered here as the division of labour in societies governed by a state apparatus. Kant's injunction 'Have the courage to use your own understanding!' (Kant 2001) is undermined by the allocation of subjective positions. What matters is not the distinction between private and public that Kant draws in arguing that the public use of reason is prohibited when the individual is just a 'cog in the machine'. For Adorno, the very public use of reason, the equal embodiment of the use of freedom is rendered inegalitarian through the division of labour. However, the public use of freedom holds the promise of critique that can be formulated if we know 'how the use of reason can take the public form that it requires, how the audacity to know can be exercised in broad daylight' (Foucault 1997). This promise is further undermined by the imaginary of the state as a protector and provider of security that is Hobbes' legacy to political modernity.

Hobbes, liberty and (in)equality

Unlike the Kantian concept of freedom that is based on the 'specific characteristic of man as a rational being' endowed with accountability and self-responsibility (Heidegger 2002:

179), Hobbes has a very restricted concept of liberty. The institution of sovereignty is based on the distinction of two types of freedom: freedom as a prerogative of the individual prior to the social contract (which will be shown to be no freedom at all) and freedom within the constraints and limitations of the Leviathan (freedom as necessity). The shift from natural to civil liberty is that from state of nature to the civil state of peace and order.

However, there is a moment of political liberty and equality in Hobbes' theory, i.e. the constitution of Leviathan by a multiplicity of discrete individual wills. With Hobbes, nobody is unfit for the task of politics. There are no slaves or people of lesser intellect who could not join in the constitution of the state and the 'equality of all under one'. Yet, this moment of the constitution of the state contains the very promise of its unmaking. As the Leviathan has been constituted through individual wills, it can also be undone through civil war. The ambiguity of the very constitutive moment of the Leviathan leads Hobbes to set up a mechanism of government that would make the eruption of civil wars impossible.

Marxist and post-Marxist readings of Hobbes have considered the problem of revolts and political revolutions as immanent to the constitution of the Leviathan. In this approach, Hobbes' theory is understood as a theoretically preventive attempt of the causes and outburst of civil wars. In Étienne Balibar's formulation, '[h]is entire organization of the state, including the way in which the distinction between the public and private sphere operates, can be understood as a system of preventive defence against the mass movements that forms the basis of civil wars (of classes and of religions) and of revolutions' (Balibar 1994: 16). Foucault has also argued that '[i]t is a discourse of struggle and permanent civil war that Hobbes wards off by making all wars and conquests depend upon a contract, and by thus rescuing the theory of the state' (Foucault 2004: 99).

Once individuals give up freedoms in search of security, the state is allowed to 'do whatsoever he shall think necessary to be done, both before hand, for the preserving of Peace and Security, by prevention of Discord at home and Hostility from abroad' (Hobbes 1985: 233). Although subjects are free to disobey commands that would contradict natural law and free to resist the sovereign when attacked, they cannot

challenge the actions of the Leviathan. And yet, the very spectre of sedition and resistance comes to haunt the Leviathan. The transfer of rights to the state does not do away with the possibility of civil war.

The spectre of resistance that unsettles the Leviathan is represented by the spectre of what Kant was later on to call the 'public use of reason'. Hobbes is adamant against the freedom of man to be the judge of good and evil (1985: 365), as this liberty could be a direct challenge to the state. Citizens cannot be private judges of public affairs and need to submit their judgement to that of the sovereign. The essence of freedom as the use of reason and right judgement is ousted from the state of peace and order ensured by the Leviathan. The freedom of judgement can only be true of the state of nature, as in the Leviathan the freedom of judgement would undermine the sovereignty of law and would be dangerously close to seditious actions. Hobbes' diatribe against Roman and Greek understandings of liberty, which could buttress claims of individuals against the state (1985: 369), entrenches the boundary between forms of liberty linked to the two forms of life, nature and civilisation. In *Behemoth*, he clearly states among the causes of the English civil war the exceeding number of men who had been educated by famous books on ancient Greece and Rome, in which 'popular government was extolled by the glorious name of liberty, and monarchy disgraced by the name of tyranny' (Hobbes 1990: 3).

The state can deprive individuals of freedom to various extents, depending on the role that is attached to state-undermining actions by the citizens or seditions. One could argue that citizens are allowed to enjoy as much freedom as does not lead to seditions. The only logically possible freedom is a qualified form of freedom, a freedom with limits enforced by the sovereign state (Walker and Neal 2005). The remaining freedoms are defined by the 'silence of the law'; and for such silence to be correctly interpreted and not lead to revolt, ordered and disciplined citizens are required. The preservation of civil peace requires practices of liberty that are consonant with the goals of the state. As David Burchell has put it, civil peace requires both an absolute sovereign and a population trained and educated in the civic virtues of justice, gratitude and complaisance[3]. He persuasively makes the argument that Hobbes' 'education' (*disciplina* in the Latin original) covered a wide range of 'discipines' by which human beings are made into

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[3] 'Man is made fit for society, not by nature, but by education' (Hobbes quoted in Burchell 1999).

citizens (1999). Chapter xxx of the *Leviathan* lists the virtues that need to be inculcated into people so as to make rebellion impossible: not to exalt fellow-citizens above the sovereign, not to speak evil of the sovereign, to respect their parents, not to deprive fellow subjects of their legitimate possessions, and not to have unjust intentions.

Peace, security and order can only be achieved through a process of permanent ordering, regulation and normalisation of the subject. The individual is 'the product of the civil society which is to regulate it, and the Hobbesian problem is how to form it so that it will be able and willing to abide by the natural laws and contracts appropriate to civil society' (Connolly 1988: 27). Ordering entails the normalisation and regulation of freedom, a liberty that continues to manifest itself within the Leviathan through the assertion of equality. Hobbes is wary of the multitude, the crowds who shun political unity and resist authority. If the constitution of the Leviathan entails the move from the 'multitude' to the 'people', the multitude reappears in the governing of the state. The multitude of the state of nature was already 'decomposed, reduced in advance (preventively) to the sum of its constituent atoms (people in the state of nature)' (Balibar 1994: 16), who can enter the social contract one by one, individually. 'When they rebel against the state, the citizens are the multitude against the people' (Virno 2002: 10). For Hobbes the multitude appears as a permanent remainder of the state of nature in the middle of the commonwealth.[4] As Virno has noted, the multitude is for Hobbes a negative concept, it is the very negation of the state of civil peace with its entailing techniques of normalisation. In *De Cive*, Hobbes defines a faction as a multitude of subjects united in opposition to the sovereign authority. Factions, he points out, are unjust, being 'contrary to the peace and safety of the people' (quoted in Ashcraft 1978: 42).

In rejecting the multitude and other forms of illicit associations, Hobbes rejects the very possibility of resistance against the Leviathan. To avoid the peril of its dissolution, the sovereign state is from its inception governmental, it reshapes and tames excessive liberty to make it consonant with civil laws. One of these dangerous practices, one of the 'diseases' of the Leviathan is the practice of excessive words, words

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[4] Malcolm Bull has suggested that it is a 'faction' as a simulacrum of the people and not the multitude that Hobbes opposes (Bull 2005). Yet, factions are a 'multitude of citizens', in many ways similar to other illicit organisations that Hobbes finds dangerous.

improperly used or words without a referent. The body politic is threatened by words and phrases like 'one must listen to the voice of conscience not to the voice of authority' or 'it is right to kill a tyrant' (Rancière 1992: 43). The greatest fear of the Leviathan is not the 'regicide', the sedition itself, but the naming of regicide as tyrannicide (Rancière 1992: 369). When the king is called a tyrant, other forms of justification of political action challenge the authority of the Leviathan. Tyrannicide is synonymous to the excessive use of liberty and the enactment of equality against relations of domination. The word 'tyrant' challenges the rightfulness of the sovereign and points to relations of domination and inequality. Claims of tyrannicide also enact the political equality from which Hobbes could make solely a moment of departure of the commonwealth. Political equality is suspended, however, in the functioning of the state.

Hobbes uses the concepts of liberty and equality in a counter-revolutionary move to create a pact, a social contract through which everybody is alienated (Balibar 2002). The inequality between the Leviathan and its subjects is also preserved through the fiction of the state of nature/the international as a state of pernicious equality, an equality that only leads to insecurity. Equality, as Hobbes has put it, leads to a state of nature that is comparable only with the international. The liberty that comes with the equality of the state of nature is what is to be abandoned in the Commonwealth. Thus, equality is to be ousted from the Leviathan, reduced to a negative concept, which can only be replaced by a qualified and selectively allocated form of freedom.

Equality is an awkward intruder in discussions of security as security is a practice of drawing borders, creating hierarchies and limiting political communities. Security legitimises inequality and the unequal relations between the sovereign and the subjects, state and individual, inside and outside, domestic and international. Following Hobbes, the relative equality of human beings has been conducive to insecurity, the defining concept of the state of nature to be both surpassed within the Leviathan and preserved in the international realm. Sovereign states re-enact the fiction of equality in the international realm, even if this fiction is underpinned by inequalities of power. Equality is considered to lead to insecurity, while security depends upon necessarily inegalitarian liberty.

The Hobbesian fiction of the state of nature (reproduced in the international sphere) as realms of pernicious equality, liberty and insecurity obscures and renders invisible the inequalities and divisions that security brings about. The international, as Rob Walker has remarked, is constituted through the legitimation of specific forms of inequality (Walker 2002: 8). Global patterns of economic inequality, the principle and historical experience of 'great powers' as a guarantee of 'international order', the capacities of certain kinds of political community to participate in the modern system of states, and the constitutive field in which the international is judged as the negation of positive values attributed to the domestic are all forms of inequality that Walker identifies as legitimated by the international (Walker 2002). The insecurity of the international is thus intrinsically related to the forms of inequality it protects.

Security legitimises inequalities between the domestic and the international, as well as practices of inequality among the different members of the realm of the international, be those states, political communities or other types of actors. The constitution of political communities is based on the inegalitarian delimitation of inside and outside, citizens and strangers, natives and aliens. The qualified form of liberty allowed in the commonwealth is accompanied by forms of discipline, inequality, hierarchy and division of populations. The initial political equality of the social contract is underpinned by inegalitarian practices of ordering and disciplining populations. Through these practices, freedom is itself divided, differentially granted to particular subjects.

Practices of security are therefore made possible by the intrusion of inequality in political life. Insecurity is not the result of the equality of every human being with any other human being, it is the legitimation of inequalities. Even when equality appears to define security relations, as in Schmitt's egalitarian friend/enemy relation, this supposed equality rests upon the delegitimation of the internal enemy, the foe. Security becomes compatible with divided liberty when the basis for these practices is inequality. However, these contradictions are exacerbated in a political conjuncture in which equality has become disposable. If the liberal state has a long history of people who have been denied freedom, the recovery of freedom has been rendered possible by the politicisation of claims to equality. In the current political conjuncture, this politicisation has been

rendered impossible. The next section considers the defining theoretical elements that have (sometimes unwittingly) contributed to the demise of equality as a potent political idea and considers what a 'revival' of the concept of equality means.

Equality beyond its demise

Equality does not only portend insecurity, as Hobbes would have us believe, thus requiring the hierarchical organisation of the Leviathan that promises security only through the naturalisation of another form of inequality. In liberalism, equality also cedes the place of political primacy to freedom. 'Premising itself on the natural equality of human beings', Wendy Brown has argued, 'liberalism makes a political promise of universal individual freedom in order to arrive at social equality, or achieve a civilized retrieval of the equality postulated in the state of nature' (Brown 1995: 67). With liberalism, equality is deferred, turned into a goal to be achieved, while liberty is seen as primary. Thus, while making a promise of potential equality, liberalism also legitimises existing inequalities. For Rawls, equality needs to be divided into acceptable forms of equality to be achieved (e.g. via redistribution) and necessary forms of inequality. According to the *Theory of* Justice, all 'social primary goods – liberty and opportunity, income and wealth, and the basis of self-respect – are to be distributed equally' (Rawls 1971: 303). The inequalities that are tolerated are the natural ones. Rawls' model of a liberal society thus legitimises inequalities as 'natural' and suppresses the possibility of resisting inequalities.[5]

The demise of equality is also manifest in the liberal concern with tolerance. Wendy Brown has analysed the limited and constrained impact of liberal equality in the comparison of the Jewish Question and the Woman Question (2004). Brown asks: why have these two questions of emancipatory politics triggered two different responses, tolerance for the Jews and equality for women. Tolerance, she argues,

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[5] This critique of Rawls is expounded in (Dupuy 2002).

is invoked in liberal orders when a hegemonic norm cannot colonize or incorporate its other with ease, when that norm maintains or regroups its strength through a new order of marginalization and regulation rather than through incorporation and direct relations of subordination (Brown 2004).

Tolerance appears to be the liberal reaction against the disrupting potential of more radical equality. While the equality of women remains partial, women being still embedded in relation of subordination in the private and economic realm, the Jews' access to political equality could also mean their access to labour rights. The concept of tolerance – or in Walzer's version of toleration (1999) – replaces more and more extensively claims to equality.

The political liberalism of equality is further undermined by its twin, economic liberalism. Only limited equality is desirable/possible in liberalism, as inequality itself is considered to be the motor of capitalist development. As Hayek brandished the frightening spectre of equality, equality would mean that the poor can go along not doing anything, thus taking away any incentive for profit from the entrepreneurial subjects of capitalism. The only equality that is allowed is the equality of the market. We can all enter the market and we are all exposed to the same goods in the shop windows). Yet, this equality of the market that does not exclude anybody (there is no outside to the market in neo-liberalism, everybody is potentially included) does not say anything about the forms of inequality that its own practices entail. The rise to domination of neoliberalism has spelt the end of liberal democracy. As Wendy Brown has argued, civil liberties and equality are unnecessary to *homo economicus*. The neoliberal subject is the 'undemocratic citizen' who wants neither freedom nor equality, even of the liberal sort (Brown 2006: 692). The neoliberal subject does not need to make public use of reason as an equal self-legislating subject – she is only required to make proper use of the freedoms allocated by the state.[6]

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[6] For an analysis of freedom as proper use versus freedom as excess and its roots in the Leviathan, see (Aradau 2008 Chapter 7). The governmentality literature that analyzes the technologies of governing through freedom in neoliberalism (e.g. Rose 1999) does not discuss these differences in the ideal of

Besides the liberal restrictions of equality, its exile from the social contract of security and the constitution of the neoliberal diminished subject of freedom, equality has also come under sustained attack from the political left. In the poststructuralist and feminist 'difference' tradition, equality is a negative concept associated with totalitarianism. Equality erases difference, destroys individuality and suspends freedom. The feminist problematique of equality-versus-difference derived from the political question of claims to equality, claims which were interpreted as subduing and erasing difference. The equality theorists were thought to accept the basic claims underpinning liberal political theory, that the idea of equality is neutral vis-à-vis gender (Squires 2000: 118). The difference theorists argued that equality is actually anthropocentric and called for women's specificity to be recognised in feminist struggles rather than effaced in claims for equality. The formal character of liberal equality was seen as 'severely compromised by the character of a (white, bourgeois, male, heterosexual) hegemonic subject' (Brown 2001: 9). Even for a perspicacious writer such as Joan Scott, the problem of individual and group identity remains one of the paradoxes of equality, although she also names equality as 'protest against discrimination' (Scott 1999). If claims for equality involve both the acceptance and rejection of group identity ascriptions, equality remains in the domain of identity/difference. Rather than considered in its political aspect of claims against discrimination, equality becomes a stand-in for identity. Thus, while critiques of inequality and poverty become more and more articulate, the principle of equality is progressively silenced.[7]

Geneviève Fraisse has rejected the subsumption of equality to identity in feminist theory and has questioned the reasons for linking a philosophical, ontological concept such as difference – whose correspondent is obviously identity – with a political principle such as equality – whose correspondent is liberty (Fraisse 2001: 251-253). Feminist literature has brought together the ontological discussion of identity/difference and the political one of equality/liberty through a combination of equality and difference. The rationale of such a move takes equality through the ontological prism of identity and

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freedom. Focusing on fleshing out the political rationalities and technologies of freedom in neoliberalism, it does not inquire into the conditions of possibility of its 'degradation'.

[7] For an attempt to reconcile the feminism of difference with a liberal concept of equality, see (Armstrong 2002).

assumes that equality is destructive of difference. Fraisse has suggested that the 'difference of the sexes' should not impede the formulation of a politics of equality and liberty. Thus, even when claims against political exclusion depend on the refusal of particular ascribed representation and in the process constitute other representations, equality is not identification or representation, but the claim against exclusion and the protest against discrimination. Even if claims to equality rely on identity predicates and representations, equality is coterminous to those. The struggle of dominated groups is never simply formulated in terms of 'being black', 'being women', 'being gay', etc. but is a struggle against inequality in which subjects emerge as other-than-represented.

Equality is a practice that processes political claims against discrimination. Several authors have derived such a concept of equality from the reinterpretation of the French Revolution (Balibar 1994; Menke 2006; Rancière 1995). I draw here on Christoph Menke's and Jacques Rancière's reformulations of equality as practice and 'maxim for action'. Menke's discussion of the critiques of the French revolution fleshes out some of the main elements of this understanding of equality as a claim and a practice. Burke and Babeuf attacked the French Revolution for mistakenly doing to much or too little to achieve equality. If for Burke, the revolution is a misguided attempt to make men equal that can only end in terror, Babeuf reproaches the revolution from exactly the opposite stance: the revolution has not stayed true to its own principle of equality (Menke 2006: 163). Marx on the other hand shows the two criticisms as flawed inasmuch as the aim of the French Revolution is not the achievement of perfect equality, but the imperative of undoing all relations of inequality. Equality appears therefore as negative, the principle that unmakes relations of 'debasement, enslavement, neglect and contempt' as Marx had called them (quoted in Menke 2006: 170). 'The demand for equality is raised in an objection to individually experienced injuries. The egalitarian relationships which are demanded by revolution remain related to these injuries in accordance with their normative meaning' (Menke 2006: 170).

This understanding of equality is neither restricted in the liberal fashion nor in the utopian one. Demands for equality are always raised against all situations which are experienced as injury, as debasement or enslavement. By re-reading Marx's interpretation of the French Revolution, Menke uncovers a concept of equality that is not substantive or

identitarian, but is understood as a practice of processing social and political discrimination. Rather than thinking of equality as lying at the end of a political process—a matter of what one receives—he puts it at the beginning. Politics begins with the presupposition of equality, in order to see where that may lead. Politics is a presupposition that needs to be verified in new situations by different subjects. It is thus not a question of identity or even of unification. Equality is a '*pre-supposition* rather than a goal, a *practice* rather than a reward situated firmly in some distant future to so as to all the better explain its present infeasibility (Ross 1991: 67)?

Rancière has argued that equality is equivalent to the processing of a social wrong, that it is a point of departure and not a destination (Rancière, Guénoun, and Kavanagh 2000: 3). The wrong can be any situation of debasement, slavery or contempt that can be interpreted socially and politically. A situation of dependence and debasement engenders a particular social reality and a particular distribution of social positions. However, as Ranciere points out in relation to a tailors' strike in 1833, what also exists is the 'inscription of equality, as it appears in the founding texts, from the Declaration of the Rights of Man to the preamble of the Charter' (Rancière 1995: 48). In the interval between the social reality and the legal/political inscription, a new social equality can emerge. Yet, this is not equivalent to simply achieving more economic equality. Equality, Ranciere points out, is enshrined in legal/political texts, then translated, displaced and maximised in everyday life (Rancière 1995: 48). Equality is a process that cannot be specified a priori, but *happens* in the resistance to relation of domination and discrimination. Equality functions through a process of translation and interpretation of forms of wrong that are seen as social wrongs rather than individual problems. The neoliberal 'therapeutic governance' of social problems individualises social wrongs and forms of injury and leads to private psychological interventions upon the individual rather than upon the social.[8] By means of these therapeutic interventions, the political processing of the wrong through the verification of equality is lost.

Equality as a maxim for action is not linked to any form of particularity or difference, but which intervenes in any situation in which difference is formulated as

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[8] On discussions of therapeutic governance and the role of risk in depoliticising social wrongs, see (Aradau 2004) and (Pupavac 2001).

domination or discrimination. If the allocation of selective freedoms to particular categories of the population buttresses practices of security, equality as the processing of discrimination functions as a claim that exposes the degradation of freedom. The degradation of freedom is made possible by the degradation of equality from its political status to a substantive concept that can also be allocated a priori of historical context.

Conclusion

This paper has argued that the degradation of freedom that we experience today, in the conditions of a 'war on terror' that justifies security practices through the selective liberties of 'good' citizens, can be understood by exposing the fate of equality in modernity. The social contract of security has been shown to constitute political communities through practices of inequality and unfreedom. The deferral of equality through the creation of the Leviathan makes the liberty granted to a selective and partial form of freedom, allowed to some in the conditions of the 'silence of the laws'. Yet, the spectre of equality is the greatest danger to the Leviathan. In Hobbes, the multitude can challenge the right of the sovereign to judge on good and evil and manifests itself as an equal judge. The multitude gives shapes to the equal right of publicly using one's judgement that Kant will later on see as the premise of the Enlightenment. However, if in Kant, this right is still submitted to a selection, to a division of the social positions according to the division of labour, post-Marxist interpretations of equality radicalise it by rendering equality as a maxim for action mobilised against situations of social and political wrongs. 'Peace, security and order' as both Hobbes and Schmitt defined the function of the modern state attempt do away with the politicisation of debasement, enslavement and contempt. The political community of security suspends the questioning of social and political wrongs.

However, if equality was the spectre that haunted political modernity and undermined the Hobbesian qualification and restriction of freedom within the Leviathan, the current political context is characterised by a quasi-total demise of equality. Equality has come under attack both from the right and the left of the political spectrum. Neoliberalism is destructive even of the limited liberal understanding of equality and

freedom, while poststructuralism and feminism reject the concept of equality as either limited to material factors or destructive of difference. While analyses of inequality are more and more articulate, in the absence of a concept of equality to counter discrimination, they can only reinforce the inegalitarian relations that divide populations and prepare particular categories for becoming objects of securitisation.

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