



# Impinging on Democracy: The Limits to Free Choice

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**Abstract:** Prompted by a particularly striking observation of Slavoj Žižek, this article aims to discern the extent to which freedom of choice can be expanded without impinging on other democratic values (e.g., equality of opportunity, egalitarianism, social justice). This article strives to relieve the tension between such integral democratic values in three sections. In the first section, the neoliberal philosophy of David Schmidtz will be presented to expound upon the rationale behind freedom of choice. In sections two and three, the limits to collective- and individual decision-making are respectively put forward. Here, the preconditions for choice to conform to democratic values are analysed and clarified with historical illustrations. The result is a surprisingly elegant (additional) prerequisite for expansions of individual choice, which safeguards other democratic values: unless somebody can *not* be assumed to be *unfamiliar* with the potentially harmful consequences of any particular decision, expanding the freedom of individual choice impinges on democracy.

**Keywords:** Choice, Decision-making, Neoliberalism, Democratic Theory, Democracy, Philosophy, History

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## Introduction

Choice can be undemocratic. An authoritarian dictator might, for example, host elections where choice is limited between representatives of a governing party. Western politicians are often among the first to condemn such dishonest claims to democratic legitimacy. But illusionary choices are not as foreign to western democracies as one might think. In their quest for a synthesis between market efficiency and freedom of choice, modern liberals often present their electorate with similar *unfreedoms* dressed up as freedoms. In these instances, expansions of individual choice are misrepresented as simultaneous expansions of individual freedom. In 2014, Slavoj Žižek provided some clarifying observations of this phenomenon in his letter exchange with Russian political dissident Nadezhda Tolokonnikova.<sup>1</sup> Here, both thinkers simultaneously criticize the authoritarian Putin-regime *and* ‘permissive’ liberal society. Both forms of government are declared hypocritical precisely because they dress up *unfreedoms* as freedoms. The following examples of this phenomenon in liberal societies are given:

*“When we are deprived of universal healthcare, we are told that we have been given a new freedom of choice, to choose our health-care provider; when we can no longer rely on a long-term employment and are compelled to search for new precarious work every few years, [...]; when we are obliged*

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<sup>1</sup> Tolokonnikova and Žižek, Comradely Greetings.

*to pay for the education of our children we are told that we become 'entrepreneurs of the self,' [...]. Constantly bombarded by such imposed 'free choices,' forced to make decision for which we are not even properly qualified or sufficiently informed, we more and more experience our freedom as a burden that causes unbearable anxiety."<sup>2</sup>*

From this observation, we cannot conclude that freedom of choice is inherently undesirable. But we *can* conclude that implementing choice might directly limit other democratic values; removing policies such as universal healthcare, stable jobs, or public schools increases social inequality. Yet choice itself is a core democratic value. As Rousseau once famously argued, our brief moments of choice inside the ballot-box can even be seen as our *only* moments of democracy.<sup>3</sup> So there appears to be a tension between different democratic values: freedom of choice on the one hand, and egalitarianism, social security and equality of opportunity on the other. It is important to note, moreover, that the measures which exemplify Žižek's frustration are not necessarily enacted outside proper democratic procedure — they are usually implemented by chosen representatives mandated to implement such policies. But this does not, however, mean that the observations are any less relevant: they *still* limit democratic values such as egalitarianism.

This paper aims to discern the philosophical boundaries to the freedom of choice (henceforward: choice) within democratic society. When does choice become undemocratic? In other words: do neo-liberals act *undemocratically* when implementing the (sometimes regressive) market mechanism of choice? Answering this question requires consideration of two distinct, but overlapping, dimensions; collective- and individual choice. On the one hand, collective choice signifying, in this particular paper, decision-making by governing bodies within democratic states — put bluntly: to deny citizens choice (or relieve them from it). On the other hand, individual choice refers to the obligation (or freedom) to choose matters which might be organized collectively. These two types of decision-making overlap because representative government can very much be interpreted as indirect individual decision-making.<sup>4</sup> But there are also important differences. Governments hold coercive power and, as will be shown, are subjected to different limitations than individuals. Distinguishing between these two types of choice will, moreover, enhance analytical clarity. And, though admittedly (at least partially) arbitrary, the difference between government-imposed policy and personal choice conforms to the overwhelming majority of everyday experience — as is clear from Rousseau's quote above.

The structure of this paper is a case in point: the boundaries to governmental action and those of individual choice merit different sections, which engage with different philosophical texts. But first, to determine whether neoliberals act undemocratically when implementing choice, the neoliberal argument will be presented. For this part, a work of David Schmidtz<sup>5</sup> will be examined. This specific literature is used for two reasons. Firstly, because it represents one extreme end of the spectrum — a thinker who holds almost no reservations regarding freedom of choice. This increases the feasibility to subtract from his arguments, thus enabling a clearer conclusion. And secondly, because universal healthcare, public education and labour security are all aspects of the welfare state, analysing his polemic against the welfare state provides the opportunity to respond directly to the tension described above. Next, the debate surrounding the limits of democratic authority will be discussed. In this debate, principles which limit collective choice are defined. In other words, what are the boundaries

<sup>2</sup> Tolokonnikova and Žižek, *Comradely Greetings*, 98 and 99.

<sup>3</sup> Rousseau, *Social Contract*, 127. He states: 'The people of England believes itself to be free; it is quite wrong: it is free only during the elections of Members of Parliament. Once they are elected, the people is enslaved, it is nothing.'

<sup>4</sup> Manin, *Representative Government*, 1–7.

<sup>5</sup> Schmidtz and Goodin, *Welfare and Responsibility*.

to (democratic) governmental choice? And finally, Robert Dahl's justification of democracy will be used to establish to what extent individual choice is justified. This third section will also feature a historical detour to contextualize the development of complex, large, and wealthy societies and its implications concerning individual choice.

## The Neoliberal

The idea of the freedom of choice is intimately linked to capitalism and market-efficiency. It is the essential mechanism of supply and demand which satisfies needs and ensures material progress, competition, and innovation.<sup>6</sup> Or at least, that is ideally so. This notion of the bond between economic growth and personal choice is central to Schmidtz' agitation against the welfare state. His central claim concerns an opposition of market-enhancing *internalised* responsibility and market-defeating *externalised* responsibility. The first concept signifies a conviction of one's own responsibility for their well-being. The second, opposite notion presupposes a belief that someone else is responsible for that. Internalised responsibility can be interpreted as a proxy to freedom of choice. This is because in order to maximise internalised responsibility, as Schmidtz pleads for, individual decision-making must also be maximised (which he also supports). Put differently: to feel responsible for the consequences of one's actions, personal decisions must first take place. The reverse also holds. Externalised responsibility requires someone else to make decisions for you. For example, what healthcare you are entitled to, what labour securities are implemented, and the curriculum of your school. Along with these concepts, the neoliberal thinker employs a Rawlsian blueprint of justice. Both liberals claim that society must be a 'cooperation towards mutual advantage'.<sup>7</sup> Schmidtz argues that this Rawlsian end-goal can best be accomplished through maximising internalised responsibility and minimising externalized responsibility. So, what arguments does Schmidtz put forward to support such maximisation of internalised responsibility?

First and foremost, Schmidtz underpins his understanding of society by exemplifying progress as a tide. Through innovation, cooperation, and hard work, market society creates a tide which lifts boats — wealth is increased for the people on these boats. However, the market cannot always guarantee that *all* boats are lifted (assuming, of course, that everyone owns a boat). Some will be left behind. Schmidtz argues that this does not merit that *no boats* be lifted because in time, material advancement also helps out those initially left behind; the water level is raised. Refrigerators, cars and televisions are, for example, eventually attainable by all, thus drastically improving the day-to-day lives of all. Perhaps more importantly, markets are taken to ensure that the poor in wealthy nations are better off than the rich in poor countries. From these observations, Schmidtz infers that material progress is of supreme importance within societies.<sup>8</sup>

The neoliberal philosopher substantiates this claim that an expansion of free choice creates a richer society through the Lockean proviso, which asserts that private property can be allotted as long as there is 'still enough and as good left; and more than the yet unprovided could use.'<sup>9</sup> This paper does not, however, require any deep understanding of John Locke's philosophy on property rights. It suffices to quickly state what Schmidtz uses; that the appropriation of

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<sup>6</sup> CORE Economics Education, 'Unit 3: Scarcity, Work and Choice', in: *The Economy*. Choice is one of the central analytical tools for economists. The cited work discusses the basic dynamics of choice within market economies.

<sup>7</sup> Schmidtz and Goodin, *Welfare and Responsibility*, 84–86.

Both assumptions are used throughout, yet here the connection is mentioned explicitly.

<sup>8</sup> Schmidtz and Godin, *Welfare and Responsibility*, 3 and 4.

<sup>9</sup> Schmidtz and Godin, *Welfare and Responsibility*, 3 and 4.

property is justified as long as it leaves “enough and as good for others.”<sup>10</sup> Most philosophers dismiss this Lockean proviso as an impossibility. That is because appropriation is argued to invariably diminish the options of others.<sup>11</sup> Schmitz, however, argues otherwise. He states that by assigning previously collectively owned land to individuals, a positive-sum game is triggered because responsibility is internalized.

As a result, the development of wealth is expected. Which, in turn, is assumed to create *additional* resources — which in turn enriches society. Schmitz expands this effect into the wider, modern, market society. Externalizing responsibility, embodied by the welfare state, erodes innovation, competition and overall ‘activity.’<sup>12</sup> It nurtures dependence and passivity — in fact, the neoliberal puts forward numbers which suggest that social policy in general greatly diminishes both the gross domestic product. And even social values.<sup>13</sup>

So, effectively, the merits of *all other* democratic values are subordinated to economic growth, which is expected to enhance by maximising freedom of choice. This seems quite radical, and Schmitz indeed appears to portray social security as a waste of human capital. Consider this:

*“We should ask which system creates career paths that enable handicapped people to contribute, because whether a handicap is incapacitating can depend on the social context. Every system wastes human capital, but market society, wasteful though it may be, is vastly better than the alternatives at minimizing the significance of physical limitations.”<sup>14</sup>*

Taking care of the handicapped is perceived as a waste of human capital so long as they *could* ‘contribute.’ To advance, it is necessary to translate the arguments above towards the central tension under review in this article — the tension between choice and democratic values such as social justice. The goal of this section was to ascertain what boundaries to freedom of choice are proposed. At first sight, the neoliberal appears to propose no boundaries to choice at all, because individual choice is expected to maximize economic growth — which is given precedence. But a closer look reveals the contrary. Schmitz *does* indeed propose limits to collective choice. Governmental action is not allowed to diminish the positive effects of market society. And it is, specifically, not permitted to choose social policy, to prevent the ‘human capital’ of the incapacitated (and others) from being wasted.

## Principles which Defeat Democracy

So, Schmitz, the neoliberal, proposes no limits to individual freedom of choice and a strict limitation of collective freedom of choice. To assess whether this would conform to democracy, the next section will address collective decision-making. The philosophical debate on the limits of democratic authority provides a helpful route of investigation.<sup>15</sup> It aims to discern principles which defeat collective choice; what decisions cannot be made if a collective wishes to remain democratic? The arguments can be divided into two categories (whose names are reminiscent of Schmitz’ concepts): *internal* and *external* limits to democratic authority. Internal limits

<sup>10</sup> Schmitz and Goodin, *Welfare and Responsibility*, 26.

<sup>11</sup> Schmitz and Goodin, *Welfare and Responsibility*, 28 and 29; Adam Swift, *Political Philosophy*, 40–41; Robert Nozick, *Anarchy, State and Utopia*, 175. The term ‘Lockean Proviso’ was originally coined by Robert Nozick.

<sup>12</sup> Schmitz and Goodin, *Welfare and Responsibility*, 7–9.

<sup>13</sup> Schmitz and Goodin, *Welfare and Responsibility*, 14–20 and 61. Schmitz gives examples of the erosion of both values and growth throughout; these citations directly concern the examples given.

<sup>14</sup> Schmitz and Goodin, *Welfare and Responsibility*, 93.

<sup>15</sup> Christiano and Bajaj, “Democracy”. These authors present a clear overview of this debate in section 3.3

follow from democratic principles; external limits are independent, though inseparable from democratic principles.

Philosophers discern two internal limits. Namely: procedural- and resource-based limits. Firstly, thinkers such as John Hart Ely have argued that the political rights of citizens, such as freedom of press, association and to vote cannot be limited by democratic choice as it undermines democratic procedure.<sup>16</sup> Amongst historians, a popular example of procedural limits is the election of the German National-Socialist party. Despite upholding democratic procedure in electing this party, a large group of citizens was subsequently stripped of political rights. Internal limits to democratic authority were trespassed as German Jews could no longer take part in collective decision-making. In Rawls' influential *Theory of Justice*, a crucial role is assigned to democratic procedure. His 'basic liberties,' in fact, conform exactly to these procedural limits to democratic authority.<sup>17</sup> These liberties are to be guaranteed for all members of a society equally, and form essential underpinnings for his theory.

But procedural limits do not, however, engage directly with the tension between choice and social policy that Žižek so helpfully pointed out. To analyse the implications within the realm of social policy, Thomas Christiano provides helpful insights regarding resource-based limits. He argues that a violation of underlying democratic values such as equality can be interpreted as internal limits as well.<sup>18</sup> He infers this from the observation that democracy is founded on the principle of equality. Apart from the assumption that all members are equal in *theory*, he also derives *practical* implications from this. Namely, that democracy also requires equality of resources as far as resources are collectively owned. A number of examples are given; namely public spaces, defence, and public education.<sup>19</sup> If resources are owned by the collective, all members of society are to have equal shares of it. Christiano does not directly engage with the implications this has concerning tax-money. But this wealth funds public spaces, defence, and public education. Therefore, it can be interpreted as the root or, rather, trunk, of collectively-owned wealth—be it tangible or non-tangible assets.<sup>20</sup> Because the principle of equality underpins democracy, collectively owned resources that are also decided over through the collective are required to be distributed as equally as possible.

*External* limits to democratic authority are boundaries which arise from values that are independent of democracy. As this paper focuses on the limits posed on governments, a short overview suffices. Locke has argued that certain rights are inalienable and are therefore to be respected irrespective of governmental form.<sup>21</sup> The declaration of human rights as drawn up by the United Nations can be interpreted as a modern conception of this. Hannah Arendt's seminal critique of these human rights in *The Origins of Totalitarianism* can be interpreted as supporting this interpretation. She argued that national authorities remain responsible to guarantee proclaimed universal human rights — her critique is that *external* limits are made into *internal* limits.<sup>22</sup> The contents of the human rights charter make these external limits tangible. Articles 18 through 21 support procedural limits as mentioned before. But, more significantly for the goal of this paper, articles 22–25 of the charter state that every member of society is entitled to social securities. And that these securities need to be guaranteed to the extent that resources allow for it.<sup>23</sup> From Arendt's line of reasoning, it can be concluded

<sup>16</sup> Ely, *Democracy and Distrust*, Chapter Four: Policing the Process of Representation.

<sup>17</sup> Rawls, *Theory of Justice*, 53.

<sup>18</sup> Ten, "Limits of Democratic Authority"; Christiano, "Freedom, Consensus, and Equality;" Christiano, "Authority of Democracy".

<sup>19</sup> Christiano, "Freedom, Consensus, and Equality," 175 and 176.

<sup>20</sup> Christiano, "Freedom, Consensus, and Equality;" Christiano, "The Authority of Democracy."

<sup>21</sup> Locke, *Two Treatises of Government*, Chapter XI.

<sup>22</sup> Arendt, *The Origins of Totalitarianism*, 267–302.

<sup>23</sup> U.N. Assembly, "Universal Declaration of Human Rights."



that the external limits to democratic authority as defined by human rights require social securities to be interpreted as *wide* as possible to ensure the requirements for democratic government. Notably, this reasoning appears in direct opposition to Schmidtz' argumentation, who pleads for social securities to be enacted as *narrow* as possible.

To conclude, there are three types of limits to democratic authority: *procedural*, *resource-based* and *external* limits. Procedural limits appear not to be trespassed by Schmidtz, as we can assume he supports a Rawlsian definition of basic liberties. As Christiano argued, equality requires that resources which are collectively owned need to be equally distributed. This differs from the convictions of the neo-liberal Schmidtz, who aims to minimize social policy regardless of this limit. But if tax-money is collectively owned, members of society are entitled to equal shares of it. So a clear boundary flows from the distinction between collective- or individually owned resources; as freedom of choice allows for difference, governments act *undemocratically* when inequality is allowed to permeate realms which are paid for by the collective. Moreover, the human rights as defined in the United Nations Charter require the *widest possible interpretation* of social securities. As mentioned before, this is in direct opposition to Schmidtz' argumentation for the *narrowest possible interpretation* of social securities to enhance economic growth.

## Qualification and Justification

Apart from these boundaries to democratic collective decision-making, the limits to individual choice must be discerned. When does individual freedom of choice become undemocratic? To find logical boundaries to individual choice, the justification for democracy as defined by Robert Dahl<sup>24</sup> is enlightening. This political philosopher aims to critically assess whether governmental choice by individuals is warranted in the first place. As will be shown, a byproduct of this justification presents a clear boundary to individual choice.

Dahl starts his investigation by positing the function of democracy — which he defines as being “rule by members of a society who are considered equals to reach governmental decisions.”<sup>25</sup> Note how this definition contains three substantive parts. Who can be considered a member of society? Who is considered equal, and why? And lastly, how are they justified to make governmental decisions? The first question need not detain us here; this paper does not aim to discern what constitutes a legitimate people.<sup>26</sup> The other questions do, however, as they concern *what* choices are justified for people to make and *who* should make these decisions.

Dahl begins by rejecting equality as a sufficient requirement to justify democracy. This has two reasons; firstly, equality is not inherently desirable. And, secondly, even if equality *were* inherently desirable, democracy is not necessarily the best way to ensure it. According to Dahl, complete democratic equality is not inherently desirable because it leads to some undesirable conclusions. It would, for example, require mentally handicapped people to make governmental decisions. Another example: a society where nobody has anything is equal but undesirable nonetheless.<sup>27</sup> In these situations, democracy is not justified. Other forms of government, ones that enable difference and material wealth, would be more

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<sup>24</sup> Dahl, *Democracy and its Critics*, Chapters 6 - Justifications and 7 - Personal Autonomy.

<sup>25</sup> Dahl, *Democracy and its Critics*, 83.

<sup>26</sup> Sofia Näsström, "The Legitimacy of the People", 624–658. Näsström provides strong philosophical arguments that philosophical argumentation for the constitution of the people is unable to account for the people's fluidity. But, because this creates what she calls a 'productive gap', the impossibility to reify the conception of a people ensures it/them the possibility of redefining itself, and thereby justifying its enduring existence as 'a people'.

<sup>27</sup> Dahl, *Democracy and its Critics*, 87 and 88; Adam Swift, *Political Philosophy*, Part 3: Equality.

Both authors give examples of this. Yet Swift expands on the political implications for this rejection.

desirable; at least not all citizens would starve. The second problem expands on this rejection. It states that even *if* all citizens were intrinsically equal, it does not follow that democracy is justified. This follows from the necessity to judge what equality would entail. To best ensure equality, an independent arbiter would be required who would have superior knowledge over the relative ‘wants’ of citizens. Not all citizens require as many resources to acquire their wishes. And, perhaps more importantly, it does not follow from intrinsic equality that each is best suited to represent their own interests. That is why Dahl introduces hypothetical arbiters; godlike figures who would be best suited to make decisions for the group — therefore supremely neutral and all-knowing, yet free from all prejudice.<sup>28</sup> But this hypothetical umpire defeats democratic decision-making; the arbiter would be similar to (and probably be renamed) a despot, a tyrant or an authoritarian dictator.

To save democracy from dictators, Dahl combines equality with a presumption of personal autonomy. It holds that people are, as a rule, the most capable to decide in favour of their own interests. Conversely, arbiters are in a disadvantaged position to know, intimately, your interests. Dahl defines the presumption of personal autonomy as such: “In the absence of a *compelling showing to the contrary* everyone should be assumed to be the best judge of his or her own good or interests.”<sup>29</sup> Before drawing conclusions from Dahl’s justification for democracy, however, we must first turn to historical contingency.

### Schumpeter’s Observations

This is because in his *Capitalism, Socialism and Democracy*,<sup>30</sup> Joseph Schumpeter gives such a ‘compelling showing to the contrary’ Dahl asks for. Schumpeter examined the influence of complex societies on democratic decision-making. As these observations directly concern Dahl’s definition, they require inclusion.

Schumpeter wrote in 1942 that within modern societies, citizens often act irrationally concerning political decisions. His primary, but not only, example concerns the mass-psychology which was so aggressively and successfully employed by propagandists surrounding the World Wars. From this irrationality surrounding political decisions, Schumpeter inferred a connection between familiarity, distance and rationality. The more familiar an issue, he states, the more likely it is that citizens will act rationally. The more distant an issue, the more likely it is that citizens act *irrationally*. Therefore, he argues, democracy should only be for a circulating elite, who *are* (assumed) to be able to act rationally concerning political issues. Additionally, procedure is kept in place to ensure competition amongst elites, and incentives to improve the condition of all members of society.<sup>31</sup>

Schumpeter’s connection between familiarity and rationality holds implications for Dahl’s presumption of personal autonomy. The irrationality concerning political decisions which are too distant for familiarity constitute a ‘compelling showing to the contrary’ as demanded by Dahl. Put differently: the observations that Schumpeter made convincingly show that everyone *cannot* be assumed the best judge of their own interests in cases where the subject is not likely to be knowledgeable. For example, through the absence of familiarity. But also through the irrational behaviour of influenced individuals or, perhaps more significantly: groups. I posit that these two parts necessitate a narrower presumption of individual freedom. Namely: as we can assume that familiarity is necessary to make rational decisions, individual

<sup>28</sup> Dahl, *Democracy and its Critics*, 151.

<sup>29</sup> Dahl, *Democracy and its Critics*, 100 (emphasis added by author).

<sup>30</sup> Schumpeter, *Capitalism, Socialism and Democracy*.

<sup>31</sup> Schumpeter, *Capitalism, Socialism and Democracy*, 269–73.

decision-making is only justified when: a) procedural, resource-based, and external limits of democracy are not impinged upon. And b) a person can be *not* assumed to be *unfamiliar* with the (potentially distant and unlikely) consequences of the choice in question.

## To Conclude

Despite Schmidtz' high hopes for material wealth through expanding individual choice and minimizing the choices of the collective, philosophy places clear requirements and boundaries on both. Its governments must at least guarantee procedural integrity. And when resources are collectively owned, they must be equally shared. And, lastly, external limits place requirements on collective choice which go beyond Schmidtz' idealized minimal government. Democracy requires governments to harbour quite a bit more welfare characteristics than the neoliberal argues for. Individual freedom of choice is, in contrast, limited through democratic philosophy. Dahl limited choice by adding a presumption of personal autonomy to the principle of equality, where only citizens who are capable of decision-making get to make democratic decisions – albeit for the collective.

Ironically, the capitalist banker Schumpeter provides yet stronger arguments for social policies. As he showed that people often act irrationally, individual decision-making is only justified when a person can be assumed not to be *unfamiliar* with the consequences of the choice. When looking back at the observations of Žižek, the implications of this statement become tangible. And his remark that we are 'forced to make decision for which we are not even properly qualified or sufficiently informed'<sup>32</sup> now becomes infinitely more relevant. As most citizens can be assumed to be unfamiliar with the risks which health-insurance companies use as variables, we should not implement freedom of choice here. As most citizens are not intimately familiar with the consequences of one curriculum over others for their children or themselves, public schooling should be universally provided. And as workers do not know what the future holds for them when labour securities are disbanded, insurances and safety-nets should be as *widely* implemented as resources permit.

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<sup>32</sup> Tolokonnikova and Žižek, *Comradely Greetings*, 98 and 99.



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