

## Mill and Barry on the Foundations of Liberal Rights<sup>1</sup>

*Alex Voorhoeve*

In *On Liberty*, Mill famously propounded a view of the good life as the autonomous life. On this view, it is crucial that people develop and exercise, to a high degree, their ability to reason independently about what to believe and what to aim at in life. It is also important that they be able to freely hold and express their beliefs and effectively act on their aims. As Mill put it:

The mental and the moral, like the muscular, powers are improved only by being used. ... He who lets the world ... choose his plan of life for him has no need of any other faculty than the ape-like one of imitation. He who chooses his plan of life for himself ... must use observation to see, reasoning and judgment to foresee, activity to gather materials for decision, discrimination to decide, and when he has decided, firmness and self-control to hold his deliberate decision. And these qualities he requires and exercises exactly in proportion as the part of his conduct which he determines according to his own judgment and feelings.... It is possible that he may be guided in some good path ... without any of these things. But what will be his comparative worth as a human being? (p. 56).

Two of Mill's arguments for familiar liberal rights—which include children's right to a decent education, freedom of conscience, freedom of expression, and freedom of association—appeal to this ideal of autonomy. First, these rights are generally crucial for establishing the conditions under which people can freely make up their own minds about what to believe and how to live, and to act accordingly. Second, a society that respected these rights would, Mill thought, be more likely to have a vibrant public culture, in which divergent opinions and lifestyles lead to a 'generally high scale of mental activity', which together 'raise even persons of the most ordinary intellect to something of the dignity of thinking beings' (p. 33).

Though it is commonly accepted that liberal rights can be supported by appealing to the value of autonomy, many contemporary liberals are loath to do so. I want to explain why this is so and explore one alternative way of justifying these rights by drawing on the work of Brian Barry, the great liberal political theorist who died March 2009 at the age of 73.

*On Liberty* was an inspiration to Barry from a young age: an encounter with the book while in secondary school prompted him to compose an essay on 'why Mill had got it about right',

---

<sup>1</sup> Appeared as 'The Limits of Autonomy' in a special issue of *The Philosophers' Magazine* (3<sup>rd</sup> quarter, 2009): 78-82 commemorating the 150<sup>th</sup> anniversary of the publication of *On Liberty*. I wrote this piece in memory of Brian Barry, who was an inspiring and prickly grand master of political theory and a good friend. I thank Arthur Applbaum, Luc Bovens, Nir Eyal, Judy Jaffe, Maria Ospina, Michael Otsuka, and Jonathan Wolff for comments.

and several of his later works argued for the same conclusion. I am sure that Mill's philosophy was what most excited the schoolboy, but no doubt the famously pugnacious Barry was also attracted to Mill's pungent style. For example, in his discussion of freedom of conscience, Mill tells us that the 'revival of religion is always, in narrow and uncultivated minds, the revival of bigotry', and that while 'the ravings of fanatics or charlatans from the pulpit may be unworthy of notice', liberals should be alarmed at the 'imbecile display' of a British Undersecretary of State who, in 1857, declared that Muslim and Hindu faiths ought not to be tolerated (p. 30). Similarly, in his critique of multiculturalism, *Culture & Equality*, Barry remarks about a group of Evangelical Christians who withdrew their children from government-run schools in Tennessee because the curriculum contained a story about Catholics that 'the ability to distinguish between a story about Catholics and the advocacy of Catholicism is one of the things an education should provide. The Tennessee schools had clearly failed [these] parents in this regard', and adds that the home schooling they planned to provide would no doubt be a 'mind-numbing travesty' (pp. 246 and 249).

Still, despite his affinity for *On Liberty's* conclusions and style, Barry believed liberals should not follow Mill in appealing to the value of autonomy in order to justify liberal rights. Barry believed the basic liberal aim was to find social and political institutions that could be justified to citizens who held differing views about the good life as a fair way of adjudicating between these citizens' conflicting interests and conceptions of the good. Now, on some of these conceptions, autonomy is of limited value, if any. Consider, for example, the principles of monastic life propounded by St. John Cassian (360-435), according to which, as Michel Foucault wrote in *Technologies of the Self*, 'there is no element in the life of the monk which may escape from this fundamental and permanent relation of total obedience to the master.... Everything the monk does without permission of his master constitutes a theft. Here obedience is complete control of behaviour by the master, not a final autonomous state. It is a sacrifice of the self, of the subject's own will' (p. 13). Barry thought that adherents of such views cannot reasonably be expected to accept as the grounds for liberal arrangements a view of the good life as autonomy.

What's more, Barry argued, such citizens could reasonably object to at least some of the social arrangements that might be justified by an appeal to autonomy. For a state might promote autonomy by actively undermining forms of association that encouraged their members to submit to an authority on all matters; it might give selective subsidies for the arts and media in order to promote free inquiry and an independent choice of one's way of life; and it might limit parents' ability to send children to schools dedicated to inculcating a particular religious belief by requiring schools to acquaint pupils with a variety of religious and philosophical systems and to approach these systems in a critical spirit. Adherents of non-Millian views of what gives a human life its worth and dignity would rightly regard as partial, and therefore unfair, policies that were guided by Mill's idea of the good life. Now, Barry was quick to point out that Mill himself did not endorse such direct attempts on the part of the state to shape its citizens into autonomous beings. (For example, in *On Liberty*,

Mill is at pains to restrict the state's role in education to requiring satisfactory performance in 'general knowledge' public examinations.) But what matters here are not the policies that Mill advocated, but rather the political aims that would be licensed by the ideal of autonomy.

What was Barry's alternative? Inspired by the work of the moral philosopher T.M. Scanlon, Barry adopted a 'contractualist' approach. He proposed that we should think of social and political institutions as just if and only if they could reasonably be agreed to by all people who were motivated by a desire to find informed, unforced agreement with others, similarly motivated.

This approach may seem to do little to advance the cause. For what it is reasonable for each citizen to accept is precisely what is in dispute between people who hold different conceptions of the good. A Millian might hold that it is reasonable for all to accept liberal institutions because they are conducive to autonomy. But a Catholic of a conservative pre-Vatican II persuasion might likewise claim that it is not reasonable to accept liberal institutions because (at least in countries with a large Catholic majority) these institutions undermine adherence to the one true faith.

Barry met this difficulty by arguing for a sceptical approach to claims about the good life. He pointed out that countless leading thinkers through the ages have argued for a wide variety of views without being able to secure a consensus, even among people who possessed the intellectual virtues and who considered these views under conditions favourable to rational inquiry. Barry concluded that only modest faith in the correctness of any conception of the good is warranted. It follows, he believed, that in the process of justification of social institutions it is unreasonable to appeal to any particular conception of the good, because 'no conception of the good can justifiably be held with a degree of certainty that warrants its imposition on those who reject it' (*Justice as Impartiality*, p. 169). (Interestingly, the fallibility of our powers of reasoning in moral and religious matters is emphasized in *On Liberty*; Barry believed that Mill had not grasped all that followed from it.)

While this form of scepticism rules out evaluating social institutions by how conducive they are to autonomy or salvation, it *is* consistent with assessing social institutions in terms of how each individual fares in terms of things that could be recognized as good on a wide variety of conceptions of the good life. Barry believed that the familiar liberal rights could be recognized by all as among the most essential of such general goods. (Other examples of such goods are health, income, and education.) He also believed that, in ordinary circumstances, it would be reasonable for all to accept equal possession of these rights by each citizen, because the benefits that might accrue to members of some favoured group if these rights were unequally possessed would be of far less moral significance than the losses that such inequality would impose on members of the less favoured group. Barry's argument for equal possession of liberal rights is, in sum, (i) that these rights are crucial for

the pursuit of a wide variety of ways of life; and (ii) that unequal possession would burden the less well off far more significantly than it would benefit the better off.

What should we make of Barry's arguments? Barry's criticism of the argument from autonomy strikes me as spot on. I also share his conclusion that in assessing the impact of an institution on individuals, we must evaluate their situations in terms of goods that can be recognized as such by adherents of a wide variety of views. Barry's appeal to scepticism, however, seems to me to be vulnerable to an objection similar to the one he raised against the appeal to autonomy: scepticism cannot be accepted by people with a sufficiently wide range of outlooks. For Barry's scepticism involves a denial of core components of many people's views. To take just one example, Catholic doctrine as laid down in Vatican II holds that 'God ... can be known with certainty from created reality by the light of human reason; ... it is through His revelation that those religious truths which are by their nature accessible to human reason can be known by all men with ease, with solid certitude, and with no trace of error, even in the present state of the human race.'

It seems, then, that neither Mill's argument from autonomy nor Barry's argument from scepticism can form part of a justification of liberal institutions that all citizens in a society as diverse as ours could accept without giving up some of their central convictions.

Nonetheless, Mill's and Barry's spirited works paint a very attractive picture of liberal institutions, while showing the shortcomings of non-liberal views in sharp relief. They thereby inspire us to join the search for more broadly persuasive arguments for liberalism.

### **References and further reading**

Barry made his name in 1965 with *Political Argument* (reissued in 1991 by the University of California Press), a masterpiece that fused currents of thought in analytic philosophy, economics, and political theory. Later works include the influential *The Liberal Theory of Justice* (Oxford University Press, 1973), a book-length response to John Rawls's work, and *Theories of Justice, Vol. I*, which introduced a now famous division of theories of justice into (i) justice as mutual advantage; (ii) justice as impartial concern for all. It was followed by a defence of the latter, *Justice as Impartiality* (Oxford University Press, 1995). His two recent books, *Culture & Equality* (Harvard University Press, 2001) and *Why Social Justice Matters* (Polity Press, 2005) engage with concrete questions of social justice. I quote from John Stuart Mill, *On Liberty*, edited by Elizabeth Rapaport (Hackett, 1978 [1859]), Michel Foucault, *Technologies of the Self* (1988), [www.thefoucauldian.co.uk/tself.pdf](http://www.thefoucauldian.co.uk/tself.pdf), and from *Dogmatic Constitution on Divine Revelation*, art. 6, in *The Documents of Vatican II*, ed. Walter M. Abbott (New York: Herder & Herder, 1966). (Leif Wenar's article 'Political Liberalism: An Internal Critique', *Ethics* (1996) 105: 32-62, first drew my attention to this passage.)