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**"Morality and the Liberal Ideal"**

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## Morality and the Liberal Ideal

*Michael J. Sandel*

One of the most important trends in contemporary political philosophy is often labeled “communitarianism.” The communitarian perspective cuts across traditional political categories, and the themes and emphases of communitarian writers vary. But they are united in their opposition to what they see as the dominant political philosophy of our times, namely, *liberalism*. In the following essay, Michael Sandel explores the differences among three political philosophies: utilitarianism, the rights-based (or Kantian) liberalism of John Rawls and Robert Nozick, and Sandel’s own communitarianism. While agreeing that utilitarianism must be rejected, he argues against rights-based liberalism, claiming it rests on a mistaken conception of the self as existing prior to its ends and roles, as independent of the aims and attachments that make us who we are. He then considers some of the political disagreements that divide liberals from communitarians.

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Liberals often take pride in defending what they oppose—pornography, for example, or unpopular views. They say the state should not impose on its citizens a preferred way of life, but should leave them as free as possible to choose their own values and ends, consistent with a similar liberty for others. This commitment to freedom of choice requires liberals constantly to distinguish between permission and praise, between allowing a practice and endorsing it. It is one thing to allow pornography, they argue, something else to affirm it.

Conservatives sometimes exploit this distinction by ignoring it. They charge that

those who would allow abortions favor abortion, that opponents of school prayer oppose prayer, that those who defend the rights of Communists sympathize with their cause. And in a pattern of argument familiar in our politics, liberals reply by invoking higher principles; it is not that they dislike pornography less, but rather that they value toleration, or freedom of choice, or fair procedures more.

But in contemporary debate, the liberal rejoinder seems increasingly fragile, its moral basis increasingly unclear. Why should toleration and freedom of choice prevail when other important values are also at stake? Too often the answer implies some version of moral relativism, the idea that it is wrong to “legislate morality” because all morality is merely subjective. “Who

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is to say what is literature and what is filth? That is a value judgment, and whose values should decide?"

Relativism usually appears less as a claim than as a question. "Who is to judge?" But it is a question that can also be asked of the values that liberals defend. Toleration and freedom and fairness are values too, and they can hardly be defended by the claim that no values can be defended. So it is a mistake to affirm liberal values by arguing that all values are merely subjective. The relativist defense of liberalism is no defense at all.

What, then, can be the moral basis of the higher principles the liberal invokes? Recent political philosophy has offered two main alternatives—one utilitarian, the other Kantian. The utilitarian view, following John Stuart Mill, defends liberal principles in the name of maximizing the general welfare. The state should not impose on its citizens a preferred way of life, even for their own good, because doing so will reduce the sum of human happiness, at least in the long run; better that people choose for themselves, even if, on occasion, they get it wrong. "The only freedom which deserves the name," writes Mill in *On Liberty*, "is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it." He adds that his argument does not depend on any notion of abstract right, only on the principle of the greatest good for the greatest number. "I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being."

Many objections have been raised against utilitarianism as a general doctrine of moral philosophy. Some have questioned the concept of utility, and the assumption that all human goods are in principle commensurable. Others have objected that by reducing all values to preferences and desires, utilitarians are unable to admit qualitative distinctions of worth, unable to distinguish noble desires from base ones. But most recent

debate has focused on whether utilitarianism offers a convincing basis for liberal principles, including respect for individual rights.

In one respect, utilitarianism would seem well suited to liberal purposes. Seeking to maximize overall happiness does not require judging people's values, only aggregating them. And the willingness to aggregate preferences without judging them suggests a tolerant spirit, even a democratic one. When people go to the polls we count their votes, whatever they are.

But the utilitarian calculus is not always as liberal as it first appears. If enough cheering Romans pack the Coliseum to watch the lion devour the Christian, the collective pleasure of the Romans will surely outweigh the pain of the Christian, intense though it be. Or if a big majority abhors a small religion and wants it banned, the balance of preferences will favor suppression, not toleration. Utilitarians sometimes defend individual rights on the grounds that respecting them now will serve utility in the long run. But this calculation is precarious and contingent. It hardly secures the liberal promise not to impose on some the values of others. As the majority will is an inadequate instrument of liberal politics—by itself it fails to secure individual rights—so the utilitarian philosophy is an inadequate foundation for liberal principles.

The case against utilitarianism was made most powerfully by Immanuel Kant. He argued that empirical principles, such as utility, were unfit to serve as basis for the moral law. A wholly instrumental defense of freedom and rights not only leaves rights vulnerable, but fails to respect the inherent dignity of persons. The utilitarian calculus treats people as means to the happiness of others, not as ends in themselves, worthy of respect.

Contemporary liberals extend Kant's argument with the claim that utilitarianism fails to take seriously the distinction between persons. In seeking above all to maximize the general welfare, the utilitarian treats society as a whole as if it were a single person;

it conflates our many, diverse desires into a single system of desires. It is indifferent to the distribution of satisfactions among persons, except insofar as this may affect the overall sum. But this fails to respect our plurality and distinctness. It uses some as means to the happiness of all, and so fails to respect each as an end in himself.

In the view of modern-day Kantians, certain rights are so fundamental that even the general welfare cannot override them. As John Rawls writes in his important work, *A Theory of Justice*, "Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. . . . The rights secured by justice are not subject to political bargaining or to the calculus of social interests."

So Kantian liberals need an account of rights that does not depend on utilitarian considerations. More than this, they need an account that does not depend on any particular conception of the good, that does not presuppose the superiority of one way of life over others. Only a justification neutral about ends could preserve the liberal resolve not to favor any particular ends, or to impose on its citizens a preferred way of life. But what sort of justification could this be? How is it possible to affirm certain liberties and rights as fundamental without embracing some vision of the good life, without endorsing some ends over others? It would seem we are back to the relativist predicament—to affirm liberal principles without embracing any particular ends.

The solution proposed by Kantian liberals is to draw a distinction between the "right" and the "good"—between a framework of basic rights and liberties, and the conceptions of the good that people may choose to pursue within the framework. It is one thing for the state to support a fair framework, they argue, something else to affirm some particular ends. For example, it is one thing to defend the right to free speech so that people may be free to form their own opinions and choose their own ends, but something else to support it on the

grounds that a life of political discussion is inherently worthier than a life unconcerned with public affairs, or on the grounds that free speech will increase the general welfare. Only the first defense is available in the Kantian view, resting as it does on the ideal of a neutral framework.

Now, the commitment to a framework neutral with respect to ends can be seen as a kind of value—in this sense the Kantian liberal is no relativist—but its value consists precisely in its refusal to affirm a preferred way of life or conception of the good. For Kantian liberals, then, the right is prior to the good, and in two senses. First, individual rights cannot be sacrificed for the sake of the general good; and second, the principles of justice that specify these rights cannot be premised on any particular vision of the good life. What justifies the rights is not that they maximize the general welfare or otherwise promote the good, but rather that they comprise a fair framework within which individuals and groups can choose their own values and ends, consistent with a similar liberty for others.

Of course, proponents of the rights-based ethic notoriously disagree about what rights are fundamental, and about what political arrangements the ideal of the neutral framework requires. Egalitarian liberals support the welfare state, and favor a scheme of civil liberties together with certain social and economic rights—rights to welfare, education, health care, and so on. Libertarian liberals defend the market economy, and claim that redistributive policies violate peoples' rights; they favor a scheme of civil liberties combined with a strict regime of private property rights. But whether egalitarian or libertarian, rights-based liberalism begins with the claim that we are separate, individual persons, each with our own aims, interests, and conceptions of the good; it seeks a framework of rights that will enable us to realize our capacity as free moral agents, consistent with a similar liberty for others.

Within academic philosophy, the last de-

cade or so has seen the ascendance of the rights-based ethic over the utilitarian one, due in large part to the influence of Rawls's *A Theory of Justice*. The legal philosopher H. L. A. Hart recently described the shift from "the old faith that some form of utilitarianism must capture the essence of political morality" to the new faith that "the truth must lie with a doctrine of basic human rights, protecting specific basic liberties and interests of individuals. . . . Whereas not so long ago great energy and much ingenuity of many philosophers were devoted to making some form of utilitarianism work, latterly such energies and ingenuity have been devoted to the articulation of theories of basic rights."

But in philosophy as in life, the new faith becomes the old orthodoxy before long. Even as it has come to prevail over its utilitarian rival, the rights-based ethic has recently faced a growing challenge from a different direction, from a view that gives fuller expression to the claims of citizenship and community than the liberal vision allows. The communitarian critics, unlike modern liberals, make the case for a politics of the common good. Recalling the arguments of Hegel against Kant, they question the liberal claim for the priority of the right over the good, and the picture of the freely choosing individual it embodies. Following Aristotle, they argue that we cannot justify political arrangements without reference to common purposes and ends, and that we cannot conceive of ourselves without reference to our role as citizens, as participants in a common life.

This debate reflects two contrasting pictures of the self. The rights-based ethic, and the conception of the person it embodies, were shaped in large part in the encounter with utilitarianism. Where utilitarians conflate our many desires into a single system of desire, Kantians insist on the separateness of persons. Where the utilitarian self is simply defined as the sum of its desires, the Kantian self is a choosing self, independent of the desires and ends it may have at any

moment. As Rawls writes, "The self is prior to the ends which are affirmed by it; even a dominant end must be chosen from among numerous possibilities."

The priority of the self over its ends means I am never defined by my aims and attachments, but always capable of standing back to survey and assess and possibly to revise them. This is what it means to be a free and independent self, capable of choice. And this is the vision of the self that finds expression in the ideal of the state as a neutral framework. On the rights-based ethic, it is precisely because we are essentially separate, independent selves that we need a neutral framework, a framework of rights that refuses to choose among competing purposes and ends. If the self is prior to its ends, then the right must be prior to the good.

Communitarian critics of rights-based liberalism say we cannot conceive ourselves as independent in this way, as bearers of selves wholly detached from our aims and attachments. They say that certain of our roles are partly constitutive of the persons we are—as citizens of a country, or members of a movement, or partisans of a cause. But if we are partly defined by the communities we inhabit, then we must also be implicated in the purposes and ends characteristic of those communities. As Alasdair MacIntyre writes in his book, *After Virtue*, "What is good for me has to be the good for one who inhabits these roles." Open-ended though it be, the story of my life is always embedded in the story of those communities from which I derive my identity—whether family or city, tribe or nation, party or cause. In the communitarian view, these stories make a moral difference, not only a psychological one. They situate us in the world and give our lives their moral particularity.

What is at stake for politics in the debate between unencumbered selves and situated ones? What are the practical differences between a politics of rights and a politics of the common good? On some issues, the two theories may produce different arguments for

similar policies. For example, the civil rights movement of the 1960s might be justified by liberals in the name of human dignity and respect for persons, and by communitarians in the name of recognizing the full membership of fellow citizens wrongly excluded from the common life of the nation. And where liberals might support public education in hopes of equipping students to become autonomous individuals, capable of choosing their own ends and pursuing them effectively, communitarians might support public education in hopes of equipping students to become good citizens, capable of contributing meaningfully to public deliberations and pursuits.

On other issues, the two ethics might lead to different policies. Communitarians would be more likely than liberals to allow a town to ban pornographic bookstores, on the grounds that pornography offends its way of life and the values that sustain it. But a politics of civic virtue does not always part company with liberalism in favor of conservative policies. For example, communitarians would be more willing than some rights-oriented liberals to see states enact laws regulating plant closings, to protect their communities from the disruptive effects of capital mobility and sudden industrial change. More generally, where the liberal regards the expansion of individual rights and entitlements as unqualified moral and political progress, the communitarian is troubled by the tendency of liberal programs to displace politics from smaller forms of association to more comprehensive ones. Where libertarian liberals defend the private economy and egalitarian liberals defend the welfare state, communitarians worry about the concentration of power in both

the corporate economy and the bureaucratic state, and the erosion of those intermediate forms of community that have at times sustained a more vital public life.

Liberals often argue that a politics of the common good, drawing as it must on particular loyalties, obligations, and traditions, opens the way to prejudice and intolerance. The modern nation-state is not the Athenian polis, they point out; the scale and diversity of modern life have rendered the Aristotelian political ethic nostalgic at best and dangerous at worst. Any attempt to govern by a vision of the good is likely to lead to a slippery slope of totalitarian temptations.

Communitarians reply, rightly in my view, that intolerance flourishes most where forms of life are dislocated, roots unsettled, traditions undone. In our day, the totalitarian impulse has sprung less from the convictions of confidently situated selves than from the confusions of atomized, dislocated, frustrated selves, at sea in a world where common meanings have lost their force. As Hannah Arendt has written, "What makes mass society so difficult to bear is not the number of people involved, or at least not primarily, but the fact that the world between them has lost its power to gather them together, to relate and to separate them." Insofar as our public life has withered, our sense of common involvement diminished, we lie vulnerable to the mass politics of totalitarian solutions. So responds the party of the common good to the party of rights. If the party of the common good is right, our most pressing moral and political project is to revitalize those civic republican possibilities implicit in our tradition but fading in our time.