

What is the Right Thing to Do?

The Third Session:

John Stuart Mill and his Refinement of Bentham's Utilitarianism

Summing up Utilitarianism: Bentham and Mill

It has been some time since we have met. What I suggest is that we sum up Bentham, move to John Stuart Mill and his refinement of Bentham's ethics and finally set out the case for Libertarianism, the 'child' of John Locke. What stands out is how contrary Libertarianism is to Utilitarianism, indeed, to any real ethical approach that values the collective, the community. What is striking is how Libertarianism couches itself in ethical categories, but in a sense stands outside either the consequentialist approach of Bentham and Mill and the categorical approach of other ethical thought such as that of Kant.

Let's begin then with a summary of Bentham. While Bentham's approach to morality and ethics attempts to operate through a quantification of the general welfare, "minimizing pain and maximizing pleasure", two problems become notorious. The first, concerns the question of minorities. If the point of Bentham's approach is to maximize pleasure of a community or society, then what occurs to the minorities, at whose expense the pleasure of the majority may be expressed? The second question flows from this and has become well-known in the problems of cost-benefit analysis – a modern market adaptation of utilitarianism. We referred to two cases where the limits of this approach became obvious: the Phillip Morris Case in the Czech Republic and the Ford Pinto Case in the US. Each case in its own way pointed to the manner in which – the first, cigarette smokers – and the second, people involved in accidents because of faults in the Pinto – were considered expendable, for the good of the majority.

Moving onto Mill, it is clear that this question of the sacrifice of minorities stands out as the major ethical consideration for any moral philosophy. Mill in fact grounds his view of justice itself, in terms of individual rights. For Mill, individual rights are higher in the scale of things than simple majority rights. In other words, justice cannot be traded off with other things. He suggests that such thinking is utilitarian – of practical value – because it considers the long-term interest of all people of the community. If minorities are abused then in the end, all will suffer. The other things that Mill introduces into the discussion of social ethics is that of the failure of Bentham to measure pleasure – the very thing Bentham wants to maximize. While for Bentham, "pleasure is pleasure" and cannot be weighed in terms of superior pleasures or inferior ones, Mill tells us that in fact, such differentiation is necessary. For Mill the working out of pleasure requires judgements about whether a pleasure is superior to another. Mill argues that we must distinguish higher from lower pleasures by trying each and then deciding which is better. Michael Sandel tests this by three short clips, which we did not see last time: a Hamlet soliloquy about the human condition, the virtual reality program Fear Factor and The Simpsons. Which clip do most students prefer? Which is the highest, the noblest? Students differ in their appraisal, however there is a sense of agreement with Mill, that people will

prefer the higher pleasures because they engage our higher faculties: “it is better to be a human dissatisfied than a pig satisfied”.

A Very Different Ethics: Turning to Libertarianism

Libertarianism is the virtual polar opposite of Utilitarianism. At its heart lies the idea that the human being belongs to him and herself, that obligation to the broader community is an imposition, indeed exploitation and theft.

Sandel examines this as well as he is able, although you get a sense that he has little sympathy for it. This is in fact so, since his value system is very much of a collectivist nature. His presentation follows some careful steps, which I list below:

First, he puts the case that perhaps even Mill's logic that respecting people's individual rights is better for everyone in the long-run, may not be convincing. He asks, is this good enough? Is it not the case that individual rights reign supreme because the individual reigns supreme, that intrinsically the individual is of greatest value not the community?

Second, there may be stronger arguments for the supremacy of individual rights. Libertarianism is one of those stronger theories of individual rights. It says, the fundamental individual right is the right to liberty. We are separate from society in our individuality. We have the right to choose freely to live our lives as we please, provided we respect other people's rights to do the same. The Libertarian theorist Nozick puts it this way: “Individuals have rights so strong and far reaching, that they raise the question of what if anything the state may do”. What does Libertarianism say the state may do? Three things that the state should definitely not do are:

Not to engage in paternalistic legislation. The example that Sandel gives is that of seat-belt legislation for vehicles. The state has no business coercing individuals to wear seat belts by law. If people choose to or choose not to, should be their decision.

Not to engage in legislation about morals. Many laws attempt to give expression to particular virtues or morals. Libertarians argue that this is a violation of the right to liberty. Sandel refers in particular to the history of laws that seek to impede sexual intimacy between people of the same sex. The libertarian argues that no-one else is harmed and no-one's rights are violated, as long as it is consensual.

Not to engage in legislation that redistributes income from the rich to the poor. Redistribution of income and wealth is a form of coercion, in fact, theft by the state or the majority, if in a democracy. Libertarianism however does accept the need for a minimalist state, where taxing exists for basic things such as national defence, and a judiciary to enforce contracts and property rights, but that must be the limit. Note that the role of the judiciary is geared to the protection of wealth.

Sandel then proceeds to pursue this economic issue. He points out that the Libertarian challenges the idea that just because the distribution of income is unequal in a society, that this is a compelling enough reason to permit the state a redistributive role or function. He points that libertarianism holds to two arguments regarding the justice of wealth. The first, is that there is justice in the original

acquisition of wealth. Did people get the things they used to make their money, fairly? The second is did the distribution of income and wealth arise from the process of free consent, meaning people's free trading on the market? Provided people get what they used to generate their wealth fairly, and provided that the distribution of wealth results from free choices and decisions made within a market mechanism, then the distribution is just. What stands out here is a definition of justice that is shaped and determined by market philosophy.

To test these libertarian ideas, in the world of reality, Sandel takes two examples: Bill Gates and Michael Jordan. What follows is a discussion of each case and what is asked of the students is whether they are persuaded that Libertarian ideas carry weight. Sandel points out that from a Utilitarian point of view, the redistribution of income and wealth to many, many poorer people from Gates' billions and Jordan's millions would make an enormous difference to the general welfare. Libertarianism, however, argues that this is not the right way to think about it. Rather, the point is this: if Gates and Jordan gained their wealth fairly according to the two principles mentioned above, then it would be an act of coercion to take it away. The question which Sandel puts then in its bluntness is "Is redistribution for the benefit of the poor right or wrong"? For the Libertarian, taxation for redistribution is theft, but also forced labour - robbing a person of some of their hours of work. The conclusion is then that Gates and Jordan have become slaves: "I do not own myself". For Libertarianism, this is the failure of Utilitarianism: not to see that we own ourselves, we are not owned by the state or the community.

Questions

- 1. What is there in libertarianism that you find appealing? What worries you?**
- 2. The foundational principle of libertarianism is that the person owns him/herself. Are you persuaded? How does this fit with Christian ethics?**