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T. H. Green

John Morrow

We shall probably all agree that freedom, rightly understood, is the greatest blessing; that its attainment is the true end of all our effort as citizens. But when we thus speak of freedom, we should consider carefully what we mean by it. We do not mean merely freedom to do as we like irrespectively of what it is that we like. We do not mean a freedom that can be enjoyed by one man or one set of men at the cost of a loss of freedom to others. When we speak of freedom as something to be highly prized, we mean a positive power or capacity of doing or enjoying something worth doing or enjoying, and that, too, something that we do or enjoy in common with others. We mean by it a power which each man exercises through all the help and security given him by his fellow-men, and which he in turn helps to secure for them. When we measure the progress of a society by its growth in freedom, we measure it by the increasing development and exercise on the whole of those powers of contributing to social good with which we believe the members of the society to be endowed; in short, by the greater power on the part of the citizens as a body to make the most and best of themselves. Thus, though of course there can be no freedom amongst men who act not willingly but under compulsion, yet on the other hand the mere removal of compulsion, the mere enabling a man to do as he likes, is in itself no contribution to true freedom.

The passage that heads this chapter comes from T. H. Green's 'Liberal Legislation and Freedom of Contract'. This lecture, delivered on 18 January 1881, was doubly credentialed with a liberal pedigree by being given under the auspices of the Leicester Liberal Association in the city's Temperance Hall.¹ Green, Whyte's professor of Moral Philosophy at the University of Oxford and a fellow of Balliol College, was active in local liberal politics. No other work in political theory was

published during his lifetime but his teaching and personal example profoundly influenced a range of later writers. Green's moral and political ideas enjoyed a wide circulation after his death in 1882, with his *Lectures on the Principles of Political Obligation* and *Prolegomena to Ethics* being reprinted until the middle of the twentieth century. They played a significant role in the 'new liberalism' which emerged at the turn of the century.

The general philosophical position of Green and his immediate followers (often referred to as the 'British' or 'Oxford' Idealists) was marked by an overt antipathy to the empiricist cast of prevailing British philosophy as represented in the writings of Locke, Hume and the nineteenth-century Utilitarians. It was sympathetic towards, but by no means uncritical of, aspects of Kant's, Fichte's and Hegel's moral and political philosophy. Green identified Kant and Hegel with the idea that the reality of freedom depended on the quality of the objects to which the will was directed.² His writings promoted a conception of free action in relation to the fulfilment of human potentiality (or 'self-realisation') that stressed the socially embedded character of individuality. They presented a conception of individual interaction with its locus in the state that evoked aspects of the political philosophy of Fichte and Hegel.

These ideas underpinned the liberal moment represented in 'Liberal Legislation and Freedom of Contract', but that lecture was firmly grounded in the history of practical liberal politics in Great Britain and contemporary debates among liberals in that country. It looked back to liberal objections to aristocratic privilege and class government that were prominent in early nineteenth-century political argument, and forward to the state-sponsored promotion of labour protection, public health and popular education and the questioning of prevailing conceptions of private property rights that characterized 'new liberal' policy at the turn of the century. It advanced a conception of freedom and its political implications that challenged both conservatives and 'classical liberals'. Green's liberal moment is a riposte 'not only on those interested in keeping things as they are, but ... [to] others to whom freedom is dear for its own sake, and who do not sufficiently consider the conditions of its maintenance in such a society as ours'.³

Green shared J. S. Mill's commitment to a moral ideal that made liberty a necessary condition of human development, or 'self-realisation'. But his understanding of this requirement was set within a theological framework in which an ideal of human perfection was already embodied in the 'eternal consciousness' or God. He rejected Mill's lingering attachment to hedonistic

utilitarianism on the grounds that it substituted a natural object for a moral one, stressing, in a manner reminiscent of Kant, the primacy of a good, and hence rational, will which had the moral goal of self-realization as its object. 'The determination of will by reason ... which constitutes moral freedom or autonomy, must mean its determination by an object which a person willing, in virtue of his reason, presents to himself – that object consisting in the realisation of an idea of perfection in and by himself.'⁴ Green used the term 'freedom' to refer to autonomous human agency, that is, the 'freedom of the will', and to 'juristic' freedom: the social and legal recognition of free agency in laws and practices or 'juristic' freedom.⁵ He insisted, however, that these forms of freedom were only morally significant when they were integrated with and sustained 'real' freedom, that is, free agency that optimized self-realization. Green's idea of real freedom took positive account of the moral qualities of actions and the motives that impelled them, rather than focusing exclusively and negatively on actors' immunity from compulsion by others. Isaiah Berlin claimed that Green's position involved the dangerous Rousseauian idea that individuals could be forced to be free, but this criticism rests on a misreading. Real freedom consists in doing what is right because one thinks it is right and necessarily involves freedom of the will.⁶

Although Green thought that it made no sense to talk of human improvement 'except as relative to some greater worth of persons', he insisted that the acts through which individuals realized their moral perfection could only be understood in relation to the pursuit of a 'common good'. This object derived from the reliance of individual moral personality on the recognition of other such personalities, and its integration with the eternal consciousness.⁷ Shorn of its theological presuppositions, Green's idea of the basis of the common good reflects an embedded notion of individuality similar to that espoused by modern 'communitarian' thinkers.⁸ While there were avenues for self-realization – through art or religious experiences, for example – that were primarily individual, Green's idea of the common good drew attention to its collective dimensions and to the social institutions (political forms, law, customs, mores) which helped to secure it. These institutions were expressions of a historically conditioned moral consciousness; they embodied particular understandings of the requirements of self-realization and they harmonized individual efforts to pursue the common good. Contrary to Berlin's characterization, he saw the self-realization of individuals taking place through their *freely* determined pursuit of the common good, whether in the restricted confines of personal relations,

through wider community engagement, through the active membership of a political community committed to its advancement or through the genuine recognition of the claims of humanity. Green's 'advanced' liberalism involved the promotion of democracy within political societies and a commitment to liberal internationalism beyond their boundaries.⁹

Liberalism was seen by Green as the underlying creed of all 'genuine political reformers'; it was the most recent fruit of what he termed a timeless 'passion for improving mankind'.¹⁰ While he regarded personal freedom as a necessary condition of human improvement, he argued that the political implications of this requirement varied with time and place. Earlier liberals had focused on relieving individuals from the legal burdens imposed by an oligarchic state presided over by an aristocratic caste. As a result, many layers of aristocratic privilege and corrupt practice had been stripped away, and the parliamentary Reform Act of 1832 and radical changes to local government that followed had begun to democratize British government. Nevertheless, the pursuit of human perfection in contemporary British society continued to be hamstrung by legacies of its feudal past that inhibited the efficient use of resources and the redistributive tendencies of free markets, turned large sections of the urban working class into a self-perpetuating proletariat and reduced the Irish peasantry to a condition of utter degradation. In these circumstances, it was a mistake to restrict reform to freeing individuals from legal constraints. In contemporary debate, this view of liberalism was expressed in terms of resistance to any attempts by government to undermine 'freedom of contract' and the related ideas that individuals were the best judges of their interests, with an absolute right to 'do what they liked with their own'.

Green argued that these claims rested in part on conventional liberals' misunderstanding of the significance of the history of liberal reform in early nineteenth-century Britain. In traditional European societies, where political power was monopolized by aristocratic elites and used to further their interests at the expense of the common good, the liberal cause could be served initially by attacking class privilege in the name of individual freedom. Once this goal had been achieved, however, the impediments to human development arising from the economic and sociocultural legacies of feudalism still remained. Liberals who advanced 'freedom of contract' as a dogmatic axiom of their reforming faith laboured under a fundamental philosophical misunderstanding about the relationship between morality and freedom and the role of rights in giving positive effect to it. When analysing rights, it was useful to consider them in

relation to 'a claim of the individual arising out of his rational nature, to the free exercise of some faculty' on the one side and 'a power given to the individual of putting the claim in force by society' on the other, but Green cautioned against seeing these two sides as having any separate existence. The recognition of the claim by others reflected their appreciation of the moral status of the liberty in question as an expression of *rational* will, not merely an expression of will.¹¹ Free action and the recognition of particular rights in relation to it were not ends in themselves: as the passage above states, 'though ... there can be no freedom among men who act not willingly but under compulsion, the mere enabling a man to do as he likes, is in itself no contribution to true freedom'.

Although Green never offered an explicit critique of 'On Liberty', it is clear that he did not share Mill's distrust of state action as such. In a political environment in which both liberals and conservatives strenuously resisted 'government interference' in the name of individual liberty, the prospect that the state might overawe society must have seemed very distant. More significantly, Green rejected John Austin's Hobbesian and Benthamite idea that sovereign power derived ultimately from the fear of those subject to it. To the contrary, he argued that rulers were obeyed because subjects understood the role that states and law played in furthering the common good.¹² Green thought that this argument explained the moral ground of political obligation and provided the basis for evaluating state action in particular cases. That is, legal enactments had to be considered in relation to their capacity to promote the common good, and could not be condemned out of hand because they infringed on the liberty of subjects or shifted the balance of power and responsibility between government and the governed. In some cases, individuals might 'obey' the law for reasons that had nothing to do with its coercive capabilities, following its requirements out of an appreciation of the role it played in facilitating what was, for all practical and moral purposes, the self-directed pursuit of the common good. Green thus suggested that legally enforced school attendance did not impinge on the liberty of those parents who would, in any case, ensure that their children's educational needs are met.¹³ Even where particular interventions relied on the force of law, however, no general principled objections could be made to them if they were necessary to promote the conditions under which individuals could contribute freely to the advancement of the common good. The test here was whether the curtailment of individual autonomy in given cases seemed likely to enhance the general capacity for true freedom in the future.

Green applied this test to proposed measures giving local residents the right to decide whether licensed liquor outlets should be allowed in their neighbourhoods, and if so, their number and location. He argued that the restrictions adopted would reflect the views of those most directly concerned and would not impinge on the freedom of the sober; they would support the resolution of those who were well disposed towards sobriety but open to temptation and reduce the sociocultural impact of public houses on the communities in which they were permitted. These measures clearly impeded free action and in radically different circumstances that might be a matter of regret. Green argued, however, that the extent and intractability of the threat posed to the advancement of the common good by alcohol abuse, and the relative insignificance of the moral potentiality that was being interfered with, justified restricting access to liquor by those whose abuse of it contributed to a culture of crime, domestic violence, the neglect of parental responsibilities and the degradation of the quality of life in working-class neighbourhoods. Since it was not the good of the drunkard that was at stake here, the Millite objection to paternalism did not apply.

Green regarded rights to private property as an instance of the 'powers' that societies recognized as being particularly significant in relation to individuals' capacity to contribute freely to the common good.¹⁴ He considered, but rejected, the idea that private property, economic competition and the other features of capitalist economies were responsible for the existence of a self-perpetuating proletariat. He saw commercial and industrial wealth as virtually unlimited and argued that, provided that the principle of freedom of trade was upheld, the acquisition of property by some did not necessarily preclude acquisition by others. Once the barriers imposed by ignorance, drunkenness and morally debilitating living and working conditions disappeared, all members of the population would have opportunities to acquire morally significant amounts of property – that is, sufficient property to allow them to frame and pursue ways of living that advanced self-realization – without state interference in the accumulation and distribution of commercial and industrial wealth.¹⁵

These assumptions did not, however, apply to landed property. Land was a finite resource and private property rights in it always carried some risk of monopoly. These rights were open to abuses that restricted the circulation of land, inhibited access to it and reduced the stimulus to effective exploitation of these key resources. In addition, the implications of current patterns of landholding were affected directly by economic, social and moral distortions arising from the feudal origins of modern British society. Industrialization

and urbanization swept up a rural population that was already demoralized by poverty and dependence. Moreover, the aristocracy and gentry had used their power and status to maintain practices that were incompatible with the rationale of rights. Thus, while landlords' retention of hunting rights over agricultural land might appear to be justified by reference to property owners right to do what they liked with their own, it ignored the unequal bargaining power of landlords and tenants and compromised efficient production. Devices that ensured the ongoing consolidation of large landed estates by bequeathing them to single heirs and tying their hands as to their future transmission interfered with property-holders rights to dispose of their property in morally appropriate ways, and left agricultural land in the hands of those who often lacked the capital and will to exploit it efficiently. In a predominately rural society such as Ireland, the prevailing pattern of property rights deprived the bulk of the population of access to the primary means of subsistence on terms that were consistent with their moral status and potentialities. Green argued that the ongoing damage arising from these feudal vestiges outweighed any moral or social advantages of allowing landholders to continue to do what they liked with their own, and justified the 'social control of land'.¹⁶ Since such control was necessary to remove barriers to the pursuit of the common good, it was entirely consistent with real freedom and with the rationale of rights. Rights were claims recognized as conducive to the common good, and if some features of prevailing private property rights in land were incompatible with that good, there could be no principled objection to their modification, or indeed, their abolition.

Green's conception of liberalism was based on presuppositions arising from his moral-political economy and involved an understanding of individual liberty that was premised on a socially embedded notion of individuality focused on the common good. This conception of human well-being made the recognition of particular rights conditional on their role in promoting a common good to which the moral good of all individuals was necessarily integral. Green believed that the movement towards democracy in 'advanced' societies opened up new opportunities for ordinary citizens to freely contribute to identifying and furthering the common good within their community and enhancing their scope for self-realization. When he applied these ideas to shaping liberal political programmes, Green focused on issues – the ongoing impact of aristocratic power and values on modern society, popular education, temperance reform, the wider distribution of electoral rights – that were characteristic of mid-century Victorian middle-class liberalism, and continued

to accept assumptions about the operation of free-market capitalism that were central to it. These assumptions shaped the policy prescriptions that Green drew from them but they were incidental to the underlying character of his liberalism. As a result, when some late-nineteenth-century liberal thinkers (who were more sophisticated political economists than Green) questioned these assumptions, they were able to utilize his political and moral theory to develop a form of democratic liberalism that regarded extensive intervention in the market, and significant levels of welfare provision, as being necessary to sustain a society which integrated moral (rather than merely legal) autonomy with the pursuit of the common good and maintained material and social conditions where Green's ideal of active citizenship might be realized.¹⁷