

AUTONOMY AS NECESSARY FOR THE RIGHT TO EFFECTIVE PARTICIPATION

By

VICTORIA ASCHLY HIRSCH

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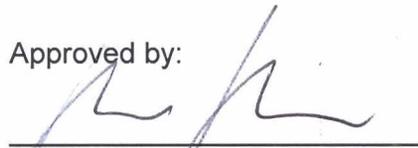
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Approved by:



Dr. Thomas Christiano

Department of Philosophy

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Autonomy as Necessary for the Right to Effective Participation

Abstract

In this paper, I present and defend an idea that there exists a basic right to autonomy. I begin by defining the concept of a right. Second, I define and discuss the fundamental importance of autonomy, and then look to see what the standard threats to it are and attempt to guarantee the good of autonomy against these threats by identifying relevant duties that must be upheld. Next, I explain in what respect there exists a basic right to autonomy, and attempt to show that autonomous thought is necessary for truly effective participation in society. I hope to show that in addition to the meaningful methods of input usually thought of as the primary requirement for effective participation, individual autonomy is required for effective participation to truly serve its purpose. Finally, I conclude by briefly exploring the value of autonomy beyond its contribution to the right to effective participation.

Victoria Hirsch

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In this paper, I present and defend an idea that there exists a basic right to autonomy. I begin by defining the concept of a right. Second, I define and discuss the fundamental importance of autonomy, and then look to see what the standard threats to it are and attempt to guarantee the good of autonomy against these threats by identifying relevant duties that must be upheld. Next, I explain in what respect there exists a basic right to autonomy, and attempt to show that autonomous thought is necessary for truly effective participation in society. I hope to show that in addition to the meaningful methods of input usually thought of as the primary requirement for effective participation, individual autonomy is required for effective participation to truly serve its purpose. Finally, I conclude by briefly exploring the value of autonomy beyond its contribution to the right to effective participation.

Section I: The notion of a “right.”

In order to argue that a basic right to autonomy exists, I will begin by giving an account of what, exactly, a “right” is. In his classic work, Utilitarianism, J.S. Mill provides an influential definition: “To have a right...is, I conceive, to have something which society ought to defend me in the possession of.”¹ Importantly, Mill’s definition requires that one’s holding a right entitles him to claim its protection from those around him, who are thus obligated to obey this claim. One person’s right, then, results in others’ obligation not to violate that right. Henry Shue, whose argument in Basic Rights: Subsistence, Affluence, and US Foreign

¹ J. S. Mill, *Utilitarianism* (Oxford: Oxford University Press, 1998) 98.

Policy will inform the course of my own argument in this paper, gives a succinct definition in line with Mill's:

*A moral right provides (1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats.*²

Like Mill, Shue believes that a right is a thing that a person can demand be guaranteed by society against “standard threats.” Any right-holder can demand the arrangements required for protection of that right.³ Shue considers these arrangements “correlative duties,” because the means of protecting some right exist in terms of obligations those around a right-holder have to her.⁴ By reference to what is necessary to socially guarantee a given right, its standard threats, and, by extension, its relevant duty holders, can be identified. If a right is universal, “everyone else and all organizations ought to at least avoid violating it, and some others ought to protect it and to assist those deprived of it.”⁵ So, even though every person has a negative duty to avoid violating any given right, some others have positive duties to protect it. This will depend on the actor's capacity to socially guarantee and protect a right against standard threats, on her relation to the right-holder, and on the nature of the right itself. Typical duty-holders include the government, relevant institutions, family members, and general members of society. For any given right, all of these duty-holders may have obligations, but the government, for example, may have a specific obligation to create arrangements for the protection of the right. Other duty-holders, such as family members, may have the less stringent obligation of making sure those arrangements are accessible by the right-holder, and this will be especially evident when thinking about children and their

² Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton: Princeton University Press 1996) 13.

³ Shue 16.

⁴ Shue 73.

⁵ Shue 73.

inability to independently secure such necessary provisions as food and healthcare. Still other duty-holders will have the minimal, negative obligation to simply avoid interfering with a given right.

Finally, basic rights are those rights that are causally important to other rights. Shue argues that basic rights can be identified when “any attempt to enjoy any other right by sacrificing the basic right would be quite literally self defeating.”⁶ Shue focuses on basic rights as “everyone’s minimum reasonable demands upon the rest of humanity,” and in the remainder of this paper, I will attempt to show that personal autonomy should be considered in this category.⁷

Section II: The fundamental importance of autonomy.

In another work, On Liberty, Mill provides a valuable idea of the “individuality of power and development,” which holds that individuals should be “free to form opinions, and to express their opinions without reserve.”⁸ To Mill, this pursuit is so important that it is considered “the object ‘towards which every human being must ceaselessly direct his efforts.’”⁹ In his book, The Morality of Freedom, Joseph Raz presents a further look at this idea, using the word “autonomy” to describe it, and gives a framework for what development of it requires. Raz defines autonomy as the “free choice of goals and relations” that enables people to control, “to some degree, their own destiny, fashioning it through successive decisions throughout their lives.”¹⁰ Raz lists three requirements essential to the development of the

⁶ Shue 19.

⁷ Shue 19.

⁸ J.S. Mill, *On Liberty* (Luton: Andrews UK, 2011) 75.

⁹ Mill, *On Liberty* 75: quotes von Humboldt

¹⁰ Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986) 369.

capacity for autonomy: “appropriate mental abilities, an adequate range of options, and independence.”¹¹ Though the ability to control one’s own life is the ultimate goal of autonomy, it is necessary to acknowledge that no individual can ever hold complete control of his entire life; regardless of the degree of mental strength, realization of options, and independence an individual possesses, she will remain influenced by society, her environment, and perhaps her weaknesses, even if only to a small degree. Comprehensive control of one’s own life is, therefore, unattainable. The term “autonomy,” then, should refer to the maximum amount of control an individual can reasonably hold with respect to his own life, though, as Raz admits, determining specifically “how much control is required for the life to be autonomous... is an enormously difficult problem.”¹²

Raz provides a succinct account of what having “appropriate mental abilities” for the capacity of autonomy entails. The autonomous person will “have the mental abilities to form intentions of a sufficiently complex kind, and plan their execution. These include minimum rationality, the ability to comprehend the means required to realize his goals, the mental faculties necessary to plan actions, etc.”¹³ So, appropriate mental capacities will prove necessary to the second required component for the development of autonomy, “an adequate range of options.” Autonomy requires not only that these options exist, but also that the individual has the ability to comprehend the full range of options available to her and to make independent decisions about them; otherwise, available options are meaningless. Though it remains impossible to assume absolute control of our lives, our range of options should be meaningfully large enough to provide us with the ability to

¹¹ Raz 372.

¹² Raz 373.

¹³ Raz 373.

experience a significant amount of control in every aspect of our lives, throughout our entire lives.¹⁴ Importantly, these options, according to Raz, must include those that “enable him to sustain throughout his life activities which... exercise all the capacities human beings have an innate drive to exercise.”¹⁵ An autonomous being is one who can pursue any experience she desires, and whose desires the pressures of society will not severely negatively impact.

Finally, autonomy requires independence, which Raz defines as the absence of “coercion and manipulation.”¹⁶ If an individual’s environment features substantial amounts of coercion and manipulation, she—regardless of her mental capacities or range of options—may develop desires that cannot be considered autonomous. Perhaps her parents coerce her to pursue a specific career, or perhaps elements of her environment manipulate her to believe she is not worthy of all the options she perceives. In either case, she cannot be considered an autonomous decision-maker.

Section III: Standard threats to autonomy and their corresponding protections.

Society must successfully protect autonomy against its standard threats. I will identify and assign protections against these standard threats to autonomy by considering children in society, for two reasons. First, individuals should begin developing their capacity for autonomy at a young age. If an individual does not develop the requisite mental capacities, begin recognition of her full range of options, or acquire the tools to become independent from a young age, she may never meet the requirements for autonomy. Further, protecting a right from its standard threats requires specific provisions, and it is less difficult to argue for these provisions for young people than it is to do so for adults, since it may be easy to make

¹⁴ Raz 374.

¹⁵ Raz 375.

¹⁶ Raz 378.

the argument that some adults lack these resources as a fault of their own. My discussion of autonomy, from this point forward, will also be unique to society in the United States today. Though autonomy is very valuable everywhere in the world, available options and what is necessary for pursuing them effectively differ by society.¹⁷ For example, in a society like ours, the ability to read is very important to the development of autonomy, since literacy is required to take advantages of virtually all resources available and thus gives individuals the opportunity to independently perceive diverse opportunities in society.

Forces that may limit an individual's actual or perceived options, development of appropriate mental capacities, and independence from coercion and manipulation may be identified as standard threats to autonomy. There are three standard threats to autonomy. These are by no means the only threats to autonomy, but, as with any other right, it would be ridiculous to attempt to prevent any threat to autonomy whatsoever. It is not the case that "a right has been fulfilled only if it is impossible for anyone to be deprived of it;" once a right has been identified, only "some reasonable level of guarantee" can be provided.¹⁸

The first of these standard threats is inability to access quality education. Without a proper education, individuals will remain unable to identify the variety of options actually available to them. Schools that promote autonomy will introduce a variety of subjects that promote "minimum rationality, the ability to comprehend the means required to realize... goals, the mental faculties necessary to plan actions," and so on.¹⁹ Student bodies should also be diverse, with representatives from a variety of different backgrounds, so each attending student can become acquainted with lifestyle options they may not have seen outside of

¹⁷ Raz 375.

¹⁸ Shue 17.

¹⁹ Raz 373.

school. When these two requirements are met, students should have the appropriate mental faculties and level of independence necessary to recognize and pursue the variety of options available. When these two requirements are ignored, however, students may lack these faculties.

Though schools are not, in theory, the only place where children can gain exposure to tools for thinking critically or to a variety of potential options, in practice, it is the only realm in which exposure to these requirements for autonomy can be protected by society without a major paradigm shift. The government cannot mandate that parents or guardians introduce their children to a variety of subjects and people, and even if it did, this exposure would likely not take place on such a wide scale as it may at a public school. Therefore, a major focus of the government's responsibility to protect autonomy should lie in its establishment of quality schools. Today in the United States, though a law exists that requires all students to remain in school until the age of 16, it is not the case that all schools provide an education of the quality sufficient for the development of personal autonomy. Michael Walzer comments on this in his book, Spheres of Justice, when he says "in ghetto and slum schools, children are prepared, and prepare one another, for ghetto and slum life."²⁰ Students in such schools are obviously not introduced to a range of options sufficient for realization of the diversity of actual available possibilities. Schools that promote autonomy will overcome this unfortunately prevalent issue by, among other things, working to demonstrate the full range of options to its students and enabling them to think critically about which options they would like to pursue. Walzer shares a similar sentiment, and acknowledges that "the system of education in a state must...be one and the same for all, and the provision of this system

²⁰ Michael Walzer, *Spheres of Justice* (New York: Basic Books, 1983) 222.

must be a matter of public action.”²¹ The second relevant group of duty holders with respect to the provision of quality education is the group of taxpaying adult citizens, who have a responsibility to pay their taxes to support these systems of quality education. More importantly, parents or guardians of children must ensure their physical presence at school, at least until the students can meaningfully assume this responsibility themselves, and the ability to successfully perform in school. This includes providing children with adequate school supplies and necessary resources such as sufficient rest and food. This will also include the provision of physical and economic security, which I will discuss as the next threats to autonomy.

Mill, who similarly believes that the state should require the education of all its citizens to promote “individuality,” approaches the provision of education differently. Mill argues that a “general State education” such as the one briefly outlined here “is a mere contrivance for moulding people to be exactly like one another” and therefore hinders “individuality of character, and diversity in options and modes of conduct.”²² Mill’s concern makes sense. If the government maintains total control over the school curriculum, the government may take advantage of this authority and execute it as a means of promoting assent. Though this concern is valuable, it seems extreme. We should assume that the government’s interest lies in the well being of its citizens, and that, by extension, that it is interested in a general school curriculum that promotes autonomy, though it is important to remain aware of the potential of the government’s power. Mill’s suggestion that parents should “obtain the education where and how they (please)” endangers the ability of some individuals to develop the

²¹ Walzer 202.

²² Mill, *On Liberty* 127.

capacity for autonomy.²³ If parents choose to put their children in schools that focus on the family trade, or if parents are forced out of economic necessity to send their children to schools lacking in the requisite resources, students will not develop the capacity to make free choices about their lives.

Lacks of access to physical and economic security prove especially serious threats to autonomy because these types of security are essential to survival. If an individual's "every action and thought must be bent to the fast of survival," her range of options and her ability to develop a sense of mental prowess and independence necessary for autonomous thought will be severely limited.²⁴ I will focus on each of these threats, beginning with a lack of physical security. When an individual is faced with phenomena, such as domestic or neighborhood violence, that threaten her physical security, her mental functions will be almost entirely devoted to ensuring her security by any means necessary. If these threats are consistent, she will spend a disproportionate amount of her life working to ensure her physical security. In this case, she will not have the opportunity to develop the mental capacities required to identify and choose available options, or to effectively pursue any of those options. In response, the government, society in general, and family members have correlative duties that can help protect autonomy from the threat a lack of physical security presents. The government must establish meaningful laws against such sub-threats as weapons, violence, and domestic violence. Further, the government must arrange and execute effective enforcement of these laws. Society has a responsibility to obey the laws made against violence, and a responsibility to pay taxes to support enforcement of these laws. Those people designated to enforce these laws have a responsibility to directly interfere

²³ Mill 127.

²⁴ Raz 379.

with physical violence they witness, and to organize themselves as to prevent as much violence in society as possible. The families of children developing autonomy must advocate for the physical protection of their children until they are old enough to do so for themselves. This requires families teach their children how to advocate for their own protection once they are old enough to do so.

The final standard threat to autonomy that I will identify is a lack of economic security. Similarly to physical security, a lack of economic security forces an individual to disproportionately focus her thoughts on securing her next meal, her funding for health care, and her shelter. Again, her thoughts will be limited to this; thought about anything else will necessarily be minimal, so she will become limited as a thinker in general. She will be unable to develop the capacities to recognize and effectively pursue the full range of options that are actually available to her, and she will not develop a conception of herself as independent from her economic insecurities. Government, society, and the family will again be responsible for performing correlative duties for the insurance of the economic security of young children. The government has a responsibility to make sure it is reasonably possible for each individual to access a job that makes enough money to provide her family with such basic needs as food, shelter, and healthcare. Further, it is the government's responsibility to provide some form of financial aid, such as welfare, to ensure individuals who cannot access food and healthcare on their own still have their basic needs met. Though my focus of provisions for autonomy remains on young children, parents must have their needs met in order to provide for their young children. Society's responsibilities to protect against this threat remain the same as in the prior two threats—adults able to pay taxes must do so to vitalize the economy and support financial welfare. Parents and guardians again have a responsibility to protect their children who are too young to protect themselves against the

threat of inadequate economic security by securing these resources for and allocating them to their children. The government will have an additional responsibility to ensure each individual is in a position where she can receive these resources. If a child's parents are not adequately obeying their duty to provide their child with adequate food, shelter, and healthcare, the government must have means to become aware of this situation and place the child in a situation where her needs will be met.

Section IV: In what respect a basic right for autonomy exists.

Thus far, I have defined what it means to have a right, and explained what autonomy entails. In this section, I will build on these concepts to ultimately argue that there exists a basic right to autonomy because it is essential to the exercise of the right of participation, which is basic.

The argument's first premise consists of the definition of a basic right. A right is basic if enjoyment of it "is essential to the enjoyment of all other rights."²⁵ Its second premise asserts that the rights to security and subsistence are basic. As identified in the above discussion of standard threats to autonomy, physical and economic security, or, in Shue's own terms, security and subsistence, threaten the protection of autonomy and therefore must be secured before autonomy can be enjoyed. More broadly, security and subsistence are actually causally essential to the enjoyment of all rights. To enjoy any given right, one's physical security must first be guaranteed; otherwise, "threats to his or her physical security" may be used to "thwart the enjoyment of the other right."²⁶ Once physical security is established as basic, it is possible to identify other basic rights. Subsistence, or "minimal economic security," defined more specifically as "unpolluted air, unpolluted water,

²⁵ Shue 19.

²⁶ Shue 22.

adequate food, adequate clothing, adequate shelter, and minimal preventive public health care” is the second basic right that Shue identifies.²⁷ When individuals lack the resources that constitute subsistence, they are at a greater risk of death or serious illness; when individuals face death or serious illness, their ability to enjoy any of their rights is effectively eradicated. The right to subsistence reasonably protects against death and serious illness, so it is thus essential to the enjoyment of all rights and therefore basic. Therefore, the first two premises to the argument for autonomy as a basic right are as follows:

1. *A basic right is defined as a right that is causally important to the enjoyment of other rights.*
2. *Security and subsistence are basic rights, because enjoyment of them is essential to the enjoyment of all other rights.*

Participation is genuine influence over “all the fundamentals and details affecting one’s own case.”²⁸ Effective participation within society requires “genuine influence upon the fundamental choices among the social institutions and the social policies that control security and subsistence and, where the person is directly affected, genuine influence upon the operation of institutions and the implementation of policy.”²⁹ Because security and subsistence are basic rights, it follows that there also exists a basic right to some degree of influence over the factors that determine individual access to security and subsistence.

Access to security and subsistence determine an individual’s ability to live and to enjoy his or her general rights. Due to the dominance of political, economic, and social organizations that control access to these rights in cotemporary United States society, no individual can maintain complete control over his or her access to security and subsistence.

²⁷ Shue 23.

²⁸ Shue 71.

²⁹ Shue 71.

Individuals, therefore, should “expect effective management, when necessary, of the supplies of the essentials of life.”³⁰ Effective management typically exists in the form of effective social policies regarding subsistence and security. Different social policies will affect access to security and subsistence. The only way to ensure that the policies that determine the ability to access resources for security and subsistence secure each individual’s right to them is to guarantee a means for effective participation over these policies. If individuals do not have effective influence over the policies that control their access to security and subsistence, the forces that control these policies have no incentive to ensure that individual access to security and subsistence is guaranteed. Each individual, then, must have a right to effective participation in the form of genuine influence over the forces that control security and subsistence. Since this is necessary for the enjoyment of the basic rights to security and subsistence, effective participation is also a basic right. Premise three, then, is as follows:

3. *Effective participation is a basic right, since the ability to influence social policies regarding security and subsistence is essential to the enjoyment of the basic rights to security and subsistence.*

Shue believes that the right to effective participation requires security in the form of “channels” through which individuals can make their opinions known to the relevant societal forces. These channels are essential to protection of the right to effective participation, because “without channels through which the demand can be made known to those who ought to be guaranteeing its fulfillment,” the right is meaningless.³¹ Therefore, the government should set up systems in order to guarantee this right to its citizens, including honest, efficient means of voting that includes reasonable access to voter registration and polling places, and meeting spaces where local political leaders can meet with and get

³⁰ Shue 25.

³¹ Shue 75.

feedback from their constituents. In response, political systems, especially the “social institutions and the social policies that control security and subsistence,” must generally adapt to reflect majority preferences.³²

Shue thinks of these “channels” as the primary tool for defending the right to effective participation. However, autonomy is an equally essential, but often overlooked, component of effective participation. Meaningful, responsive channels for effective participation exist to influence the social institutions and policies that determine access to means of security and subsistence so that, ultimately, those institutions and policies can best address the overwhelming needs of society. This will require autonomous constituent input. Only participation that reflects freely achieved sentiment will accurately reflect what the majority of society requires to best access the provision of security and subsistence. Participation that is not truly autonomous will not accurately reflect society’s needs. Without the skills to think autonomously about the organizations and institutions that govern our lives, individuals will remain unable to identify what is truly positive or negative about them; instead, those non-autonomous thinkers will accept their current states. For example, individuals living in the ghetto may only experience access to limited resources, and as a result, their rights to security and subsistence may not be met. The ability to think autonomously would provide these individuals with the ability to identify their relatively inferior access to resources and use existing channels of effective participation to make clear demands for the improvement of their quality of life. Without the ability to think autonomously, then, individuals in the ghetto may not be able to effectively demand that their rights be met. Whatever influence non-autonomous constituents have over these institutions and organizations will be restricted to a false sense of compliance, and can hardly be considered “effective participation.” Inability

³² Shue 71.

to think independently about rights to security and subsistence and whether they have been adequately satisfied will thus perpetuate existent injustices. In this way, since participation is considered a right because it should effectively influence organizations and institutions to address the needs of their constituents, participation that is not autonomous may not be any more valuable than a total lack of participation. Since the very purpose of the right to effective participation is to provide the ability to meaningfully influence the institutions that govern access to security and subsistence, participation should only be considered valuable when it reflects freely chosen decisions. Effective participation, then, only achieves its intended purpose when it reflects the input of autonomous individuals. Ultimately, effective participation requires the ability to question the status quo and demand that governing institutions and policies adequately meet basic rights. Without the ability to think autonomously, people who are unable to question the status quo will merely comply with it. Therefore, true enjoyment of “effective participation” requires the ability to think autonomously. Reflecting this, premise four of the argument for autonomy as a basic right is:

4. *Autonomy is causally necessary to enjoyment of the right to effective participation.*

By reference to definition of a basic right as a right that is causally important to the enjoyment of other rights, autonomy is a basic right, since it is causally important to the enjoyment of the basic right to effective participation, and thus the argument concludes.

5. *The right to autonomy is basic because autonomy is essential to the exercise of the right of participation, which is basic.*

Therefore, the right to autonomy deserves protection as a basic right. Without recognition of autonomy as a basic right, the basic right to effective participation could not be enjoyed, and therefore, individuals would lack any form of meaningful control over the

institutions and policies that control their access to their basic rights to security and subsistence.

Section V: Objections to the argument for autonomy as a basic right.

To Shue, society should be arranged to protect the rights of the people within it. In Anarchy, State, and Utopia and “The Dark Side of Human Rights,” Robert Nozick and Onora O’Neill, respectively, argue that rights are exclusively protected by negative corresponding duties. Because space does not permit full development of these ideas, I will sketch the basic concept of these potential objections and my responses to them here. To Nozick, rights are defined in terms of “side constraints,” or the duties they impose on others, which are meant to “express the inviolability of others, in the way they specify.”³³ This conception reflects the Kantian principle of humanity “that individuals are ends and not merely means.”^{34,35} The idea that each individual should treat others as ends in themselves produces a negative duty for individuals to refrain from violating the rights of others by not treating them as “mere means.” The Kantian idea that informs this principle states that belief in morality requires belief that humanity has absolute value. This belief, then, suggests that the source of our rights lies within people, as dignity, and, since it has absolute value, society should be arranged to protect it. Violations of dignity can occur in more than one way. One way is actively violating negative duties such as those to refrain from killing or stealing. Nozick’s presentation of “side constraints” acknowledges this view, and he would use it to argue against the positive arrangements required for the protection of autonomy as presented in the argument for autonomy as a basic right. However, indifference can also violate dignity,

³³ Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974) 32.

³⁴ Nozick 31.

³⁵ Immanuel Kant, *Foundations of the Metaphysics of Morals* (New York: Liberal Arts Press, 1959) 428-429.

and protection against indifference requires positive duties that necessitate action.

Individuals have basic interests to security and subsistence that are absolutely valuable and thus require more protection than rules against active violation of these interests. Society, then, should be organized to protect basic interests such as these. If it is not organized to do so, it is not treating individuals with dignity. For example, if society is organized in a way that allows people within it to starve, then it is not acknowledging their dignity. This right to subsistence requires more than the negative duty not to violate subsistence; it also requires the positive duty that provisions should be arranged to prevent people from starving. In this way, the Kantian principle of humanity that Nozick employs to argue for side constraints may also require the positive constraints Shue argues are necessary for the protection of basic rights, such as autonomy.

In her paper, *The Dark Side of Human Rights*, Onora O'Neill presents a deeper Nozickian worry about the common perception of rights. O'Neill argues that before any right can be meaningfully claimed, its corresponding duties and specific duty-holders must be "well specified."³⁶ Basically, to O'Neill, morality is comprised of duties, and a definite account of the duties required to protect a right must be given before the right can be established. Therefore, O'Neill argues, the only definite duties that exist are negative duties. This argument rests on Kant's formula of the universal law, which argues that the right action is one that can be performed universally. Individuals have a negative duty to refrain from action that violates the universal law. In this way, O'Neill suggests that the Shueian conception of corresponding duties used to uphold the basic right to autonomy that has been established here is too indefinite to successfully guarantee any rights. However, Kant may object to O'Neill's assertion that only negative duties exist by arguing that strong

³⁶ Onora O'Neill, "The Dark Side of Human Rights," *International Affairs* 81 (2005): 429.

negative duties cannot exist without acknowledgement that the duty must exist to protect something with absolute value and, as discussed above, the absolute value is humanity.

Again, once the absolute value is recognized, it makes sense that society should guarantee the absolute value of humanity by arranging itself to establish positive and negative duties for the protection of rights.

By exploring the potential objections from Nozick and O'Neill, it becomes evident that negative duties alone are insufficient for the protection of the dignity of persons. The Shueian conception of rights does not rely on the value of human dignity, but upon closer consideration, Nozick's conception of "side constraints" does require consideration of human dignity, and, similarly, a Kantian analysis of O'Neill's argument also requires this recognition. The establishment of the fundamental importance of dignity necessarily produces positive and negative duties to defend it, and requires that society should be organized to protect it.

Conclusion: The value of autonomy beyond effective participation.

In his discussion of autonomy, Raz states that "since we live in a society whose social forms are to a considerable extent based on individual choice, and since our options are limited by what is available in society, we can prosper in it only if we can be successfully autonomous."³⁷ Though the argument presented here defends autonomy as a basic right because it is causally essential for the enjoyment of the right to effective participation, which is basic, the value of autonomy may go significantly beyond this. Autonomy may contribute to the effective exercise of the rights of association, contract, and conscience. Similarly to the ability to autonomously participate in society to defend the basic rights to security and subsistence, the right to association is most effectively exercised when the association is

³⁷ Raz 394.

autonomous. Autonomous individuals will be able to independently identify broad political values and associate with each other to effectively demand those values be met.

Autonomous individuals can also effectively take advantage of their right to freedom of contract, since they will be able to identify the most beneficial contracts available to them and critically think about their terms before entering one.

Perhaps most obviously, the capacity for autonomy contributes to effective exercise of the right of conscience. An individual's ability to think critically about his or her environment and their role within it, and to form opinions reasonably independently from external influence, seems intrinsically valuable. Further, this capacity for independent thought has the ability to minimize social inequalities. Today, poverty seems self-perpetuating. An individual who is born into poverty may experience the three standard threats to autonomy: a lack of quality education, inadequate physical security, and inadequate financial security. In this case, the individual may not garner the resources required to identify his or her options for upward mobility, or to make effective demands for social change. The ability to think autonomously, then, may enable individuals born into poverty to build lives for themselves beyond it.

In this way, it becomes obvious that the provision of resources that promote autonomy are valuable beyond serving as a method of ensuring a right to effective participation. The ability to think autonomously can promote an individual's, and by extension, all of society's, sense of well being. It is essential, therefore, to recognize the value of autonomy and that social guarantees for it are necessary and can benefit all of society.

Works Cited

Kant, Immanuel. *Foundations of the Metaphysics of Morals*. New York: Liberal Arts Press, 1959.

Mill, J.S. *On Liberty*. Luton: Andrews UK, 2011.

Mill, J.S. *Utilitarianism*. Oxford: Oxford University Press, 1998.

Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.

O'Neill, Nora. "The Dark Side of Human Rights." *International Affairs* 81 (2005): 439-439.

Raz, Joseph. *The Morality of Freedom*. Oxford: Clarendon Press, 1986.

Shue, Henry. *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*. Princeton: Princeton University Press, 1996.

Walzer, Michael. *Spheres of Justice*. New York: Basic Books, 1983.