

Review of

The Right to Higher Education: A Political Theory

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As its title suggests, Christopher Martin's *The Right to Higher Education* aims to establish that there is a moral right to access to higher education. At a moment of abundant academic and political controversy about higher education's purpose and social role, Martin's book is especially timely. In academic and political debates about education, it is all too easy for talk about rights to proliferate. But rights are morally heavyweight items. It is difficult to establish their existence in general, and it is initially surprising to think that there could be a moral right concerning higher education in particular. Recognizing these facts, Martin faces up with admirable forthrightness to the task of defending a right to higher education (RHE), identifying autonomy as the value that underwrites such a right. Along the way, he develops an intriguing – indeed, an inspiring – vision of the role that higher education can play in a free society. Martin's case that there is an RHE is not, as I will suggest below, unquestionable. But his arguments are clear, powerful, and rigorous. They deserve to be widely read and discussed.

Martin's case for an RHE is motivated by the shortcomings of two standard views about higher education, laid out in the book's introduction and first two chapters. According to the first of these standard views, discussed in the first chapter, higher education is morally significant in the first instance because it mediates access to scarce and high-paying jobs and social positions. This standard view, Martin argues, should be rejected. Higher education does play such a mediating role, but it does not follow that that is the fundamental reason why higher education matters – and, consequently, it does not follow that principles of distributive fairness are the most fundamental normative principles that apply to higher education. According to the second of these standard views about higher education, discussed in the second chapter, the moral significance of higher education is roughly continuous with the moral significance of *compulsory* education – that is, it is something that citizens in a liberal democracy are owed. The dominant version of that view, too, Martin argues, should be rejected, on the grounds that it inadequately captures the value of higher education itself. The view does, however, contain an insight, which Martin's own view takes as its starting point: the thought that access to education can be something citizens in a liberal democracy are owed, and so something to which they have a moral right. But, if there is a right to *higher* education, it has to be grounded in some morally significant interest in higher education that has yet to be satisfactorily identified. That is what motivates developing a positive case that there is an RHE.

Developing a positive case that there is an RHE faces two *prima facie* challenges. First, how could the interest both be morally significant *and* nevertheless be one that is properly left up to people whether or not to pursue? Second, how could promoting the interest in question be consistent with liberal commitments against paternalistically promoting a person's good? Martin dubs these twin challenges the “normative weight problem” (p. 8) and the “paternalistic aims problem” (p. 9).

The core of Martin's positive case that there is an RHE, developed in chapters 3 and 4, can be summarized as follows. First, if something x is a necessary condition of autonomous flourishing over a whole life, then each person has a right to x . Second, having lifelong access to higher education is a necessary condition of autonomous flourishing over a whole life. The first step expresses the familiar liberal claim that the rights we have are linked to our most fundamental interests – for example, our interest in autonomous flourishing. The crucial second step expresses the claim that autonomous flourishing is linked to access to higher education. It is worth exploring in some detail Martin's support for this crucial second step of the argument.

Following Joseph Raz, Martin takes living autonomously to correspond to a kind of achievement: the successful realization of goals that one determines for oneself in the right way. To realize such goals, one must be in the right internal state to be able to determine one's own goals in the right way – that is, have the relevant talents, skills, and dispositions to do so. For example, one cannot determine one's goals in this way if one lacks the cognitive skills and noncognitive dispositions needed to reflect on one's values. Second, and crucially for Martin's purposes, one must also be situated in the kind of external social conditions that make it possible to realize one's self-determined goals; one has to be situated in an environment containing the right sorts of "social forms and practices" (p. 114) to allow one's internal skills and dispositions to be put into practice, developed, and brought to fruition. One of Martin's examples helpfully illustrates the point: A would-be triathlete may have all the requisite physical and psychological characteristics needed to engage in a triathlon; without anyone to race *with*, however, she cannot flourish in this way. But without robust, universal, lifelong access to higher education, there will not be reliable access to a range and variety of valuable social practices – everything from athletic achievement to civic engagement – within which people can flourish. The link between higher education and autonomy, in short, is that access to higher education is needed to preserve the social conditions for autonomous flourishing. (As these remarks suggest, in a world in which Martin's RHE is vindicated, the higher education sector could well differ dramatically from our own. For an interesting sketch, see chapter 7.)

This autonomy-based case for an RHE, Martin suggests, is immune from the normative weight problem and the paternalistic aims problem. Both problems are avoided for the same basic reason: the fact that the RHE is grounded in an *autonomy* interest. Autonomy is morally significant, and yet it is fitting that it be left up to people to decide whether and how to pursue it. So there is no normative weight problem – the fitting place for such an interest to be protected is a voluntary education sector to which no one lacks access. And aiming to support and enable someone's autonomy is, of course, quite different from aiming to promote their own good, irrespective of how they wish it to be promoted. So there is no paternalistic aims problem either – a higher education sector reformed and expanded in the ways that Martin's view requires would not be one that aims to promote one's own good, or someone else's conception of one's good, irrespective of one's own wishes in the matter.

The autonomy-based case for an RHE, Martin further suggests, has two other significant points in its favour. First, as Martin argues in chapter 5, it is particularly well fitted to account for the judgement that the state has the normative *authority* to vindicate this right. When combined with what Martin takes to be the most plausible account of normative authority (namely, Raz's service conception of authority), Martin's case for an RHE yields the result that the state has the normative authority to maintain an autonomy-supporting higher educational sector. So, in contradistinction to other accounts of higher education (even other accounts that propose there is a right to it), Martin's account has the merit of yielding principled guidance about the grounds and limits of who is properly *empowered* to make decisions concerning higher education. Second, as Martin argues in chapters 6 and 7 of the book, grounding the RHE in autonomy yields a principled basis for believing that higher education should be publicly *funded*, even if higher education benefits some more than others – and even if it costs more, in terms of social resources, to secure access to higher education for some people than it costs to secure it for others. So Martin's account also has the merit of yielding principled guidance about this especially vexed real-world political controversy.

It is worth stepping back to appreciate the novelty of Martin's position. As noted above, it contrasts most saliently with a widespread view in the literature according to which access to higher education matters, in the first instance, because it is tied to our interests in being treated *fairly* (cf. Brighouse and Mullane, forthcoming). If Martin is right, access to higher education is tied to a much weightier and more fundamental interest – namely, our interest in being *free*. And even among those who are broadly sympathetic to an RHE, Martin's view is distinctive. Some writers suggest that such a right is grounded in the fact that higher education is a public good (see, for example, Miller-Adams, 2021); others in the fact that higher education has become broadly practically necessary in the way that a high-school education has long been (see Goldrick-Rab, 2016); and still others in the fact that widening access to higher education would deliver significant global benefits (see Gilchrist, 2018). Martin's autonomy-based case for an RHE does not rest on any such empirical claims. So, if it succeeds, it would provide especially robust support for an RHE.

Does Martin's case succeed? Let me focus here on just one locus of possible disagreement. In previous work (i.e., O'Brien, 2022), I have suggested that political liberals – those who accept a broadly Rawlsian view about justice – face an especially steep task in justifying reforms to higher education, even when those reforms would make higher education better promote the ends of justice. The basic issue is that political liberalism's commitments preclude it from treating universities as a mere vehicle for the promotion of these ends, roughly on the same grounds that political liberalism's commitments preclude it from treating an institution like the family as such a vehicle. If political liberalism is correct, some institutions like the family (and, so I have argued, some higher educational institutions) in effect have a special normative status that precludes certain direct interventions on them, even when those interventions would make the institution better promote an end of justice. (Very importantly, the point is *not* that political liberals take such institutions to be outside the sphere of justice. The point is rather that, even if such institutions, as they are now configured, do not maximally conduce to the promotion of justice-given ends, these institutions are to be, as Rawls puts it, taken as a given and worked around, with their effects compensated for elsewhere in a society's basic structure.)

In developing his positive case for an RHE in chapter 4, Martin notes that my arguments pose a potential complication for his view. But he argues that, on reflection, the complication is merely apparent. As he rightly notes, my arguments are limited to the case of reforms to higher education that promote ends of justice like equalizing opportunity and maximally benefitting the worst off. By contrast, Martin is in effect claiming that reforms to higher education can be *liberty* promoting, not only equality promoting. That, he suggests, is a key difference. Once one sees that higher education matters fundamentally because of the support it gives to persons in their autonomous pursuit of a good life, one can see that without guaranteed lifelong access to higher education, some citizens would be precluded from autonomously flourishing on morally irrelevant grounds – and that is something condemned by the core motivations of liberalism.

Martin is, I think, quite right to note the important difference between liberty-promoting and equality-promoting reforms. He is also quite right that, by liberals' lights, liberty matters in a more fundamental way than equality does. Nevertheless, it is questionable whether those points alone are enough to avoid the complication that the arguments in my previous work pose. To see this, let us return again to the case of the family. When discussing the family's tendency to impede equality of opportunity, political liberals claim that the politically essential function of the family (in effect, reproducing society over time) gives it a measure of protection against direct interventions on it, even when such interventions would better realize equality of opportunity. Now suppose we discover, to our surprise, that some thoroughgoing reconfiguration of the family would, say, allow everyone to enjoy greater freedoms of occupational choice. Then it would be true that the family, as it is now configured, has a tendency to impede that basic liberty. But what exactly, within political liberalism, licenses treating this case any differently from the case in which the family has a tendency to impede equality of opportunity? It would remain just as true that the family, as it is now configured, is serving a politically essential function. *If* that was enough to give it a measure of protection against direct interventions that would make it better

promote equality of opportunity, I can see no reason why that would not be enough to give it the same measure of protection against direct interventions that would make it better promote the basic liberty in question. The foregoing remarks suggest, then, that the *mere* fact that some reform is liberty promoting, rather than equality promoting, does not undermine the special normative status that (if the arguments in my previous work are correct) certain institutions enjoy if political liberalism is correct. So the arguments in my previous work may still pose a complication for Martin's view. The upshot of those arguments is that, if political liberalism is correct, then some higher educational institutions are not always fittingly treated as mere vehicles, *even* for ends as significant as liberty promotion. (Notably, Martin allows in chapter 4 that, in the case of universities in particular, there *may* be some limits to permissible liberty-promoting reforms. So further work would be needed to identify *how* great the tension is between Martin's position and the arguments in my previous work. For further discussion of the different kinds of interventions that political liberalism can license on different kinds of higher educational institutions, see O'Brien [2022].)

I have emphasized, advisedly, that the arguments in my previous work *may* pose a complication for Martin's view. That is because the arguments in my previous work concern only the commitments of broadly Rawlsian *political* liberalism. But, as noted in the summary above, Martin's case for an RHE draws deeply on elements from a broadly Razian *perfectionist* liberalism. The basic commitments of perfectionist liberalism do not, to my knowledge, motivate assigning any comparable special normative status to any basic structural institutions. So whether my previous work poses a complication for Martin's view depends crucially on whether Martin's arguments are ultimately underwritten by a version of political liberalism or perfectionist liberalism. (My comments here thus approach, from a different direction, a theme that I explore in another critical response to Martin's book (O'Brien, 2023). I suggest, there, that it makes a significant difference to the content, if not to the existence, of an RHE whether the conception of autonomy at the heart of Martin's argument is interpreted along perfectionist-liberal lines or political-liberal lines.) That, in turn, points to a broader lesson that emerges from my discussion here: it seems to make a surprisingly significant difference, to one's view about the normative questions that Martin has expertly formulated and investigated in this book, whether one accepts political liberalism or perfectionist liberalism. Further exploring that difference would, I believe, be a valuable direction for future research on higher education that builds on Martin's important work.

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