JOHN STUART MILL AND THE PRACTICE OF LIBERTY:

A STUDY OF JOHN STUART MILL'S ESSAY "ON LIBERTY"

by

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ABSTRACT

The thesis gives an account of Mill's defence of liberty in the essay "On Liberty" and critically examines Mill's arguments therein. In Chapters One and Two, we consider Mill's principle of liberty, which is mainly dealt with in Chapters One, Four and Five of "On Liberty." We also consider the purported utilitarian justification of the liberty principle. In Chapters Three and Four, we analyze Mill's theory of the liberty of thought and discussion, and his theory of individuality, respectively. In Chapter Five we return to a consideration of the true nature of Mill's justification of liberty, in the light of our inquiry in the preceding chapters. Wherever possible, Mill's arguments are dealt with in the same order as they appear in "On Liberty."

With respect to the principle of liberty, it is argued that Mill's concept of harm or injury to others is problematic and that the liberty principle is not ultimately a workable guide for delimiting the scope of individual liberty. It is also seen that the nature of Mill's justification for the liberty principle is by no means clearly utilitarian in the sense of Mill's essay "Utilitarianism."

Mill's theory of liberty of thought and discussion as being necessary to the attainment of vigorous knowledge of

truth and also thereby the mental well-being of mankind is seen as compelling and persuasive. Central to Mill's position is his belief in objective truth and in the importance to mankind of the rational search for and appreciation of the truth.

We then turn to a discussion of Mill's account of individuality. Because of the rich variety of senses of individuality present in the limited space of Chapter Three of "On Liberty," it is not always easy to see the exact nature of Mill's conception of human personality, but running throughout the chapter is Mill's concern that although society is conformist, individuals are not naturally the same in all respects. Therefore individual choice and liberty in things which do not harm others are necessary in order to develop our human capacities for thought, judgment, discrimination and creativity. We see that, for Mill, contrary to the views of some critics, variety and eccentricity are not valued for their own sake. We also criticize Mill's overly atomistic view of man's place in society and argue that Mill's practical strategy for securing individuality could be improved by a sense of the need for individuals to seek support from helpful social practices and institutions. Ironically, among these may be some traditions, of which Mill is very critical.

In concluding our study of "On Liberty," we see that

despite the inadequacy of the liberty principle, Mill's arguments for liberty of thought and discussion, and for individuality, have enduring value. We see that the justification on which Mill's theory of liberty centres is mankind's capacity for developing our human faculties of mind and character, which he expounds in Chapters Two and Three of "On Liberty." As seen in the essay "On Liberty" and in passages from other relevant works, the justification of liberty in terms of the development of our distinctive human endowments, is underwritten by Mill's confidence in the advancement of knowledge of objective truth.

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To my Mother and Father

CHAPTER I

THE PRINCIPLE OF LIBERTY

Mill's subject in "On Liberty" is the liberty of the individual from social interference. In the essay Mill is not concerned primarily with the issue of political liberty; that is, liberty from tyranny or oppression by the state. Rather, Mill's purpose is to address the issue of the coercion and constraint of the individual by society, not only by means of law, but by traditions, customs, conventions, usages, and the opinions of others, especially of the conformist majority. By Mill's time many societies had developed quite effective measures for limiting the powers of civil government. But Mill was of the view that the liberty of the individual was just as endangered by contemporary social developments. The measures proposed by social reformers were often hostile to individual liberty and differences. Industrial society tended to make people more alike. And the growth of democracy presented the danger that the majority, upon realizing that it controlled the means of choosing society's governors, would use its political power in ways inimical to individual freedom. Other thinkers, most notably de Tocqueville, were also warning of

the possible "tyranny of the majority." Therefore, individual liberty needed protection from society itself.

> Protection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendencies of society to impose by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formulation, of any individuality not in harmony with its ways, and compels all characters to fashion themselves upon the model of its own.[1]

In order to protect individual liberty from society, Mill seeks to set a limit on the permissible interference by society with the liberty of the individual. To Mill it is essential that we properly locate the limit of social and collective interference with respect to the liberty of individuals. Mill does this by limiting the appropriate grounds or reasons for interference. To Mill it is essential that reasons rather than personal preferences, based upon feelings, inform our effort to draw this line. The likings or dislikings of society, no matter how enlightened or well-intentioned, are not appropriate grounds for interference with the liberty of an individual.

Mill says that intolerance is natural to men, and that feelings and likings and dislikings are the usual bases for what is tolerated, including the scope of religious belief, which Mill acknowledges has made some historical progress.

It is Mill's purpose to put forth a principle with respect to the proper scope and limits of the liberty of the

the individual from the interventions and constraints of society. Mill expresses this "liberty principle" in one of the most famous passages of modern political philosophy:

> The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.[2]

Mill then continues with an expansion of the principle:

> His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to someone else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.[3]

To this full statement of the principle of liberty, Mill adds this qualification:

> Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion.[4]

Mill excludes non-adults, people who cannot care for themselves, and "backward states of society."[5] The liberty principle includes the right to compel people to perform positive actions the neglect of which would be harmful, such as giving

evidence in a law court, or saving the life of another.

The first question which arises concerns the status of the liberty principle, or as it may be alternatively styled, perhaps, the harm principle, or self-protection principle. What is the nature of the liberty principle as a value? What is its foundation or justification as a normative proposition? Why does Mill value liberty? Is it an intrinsic, ultimate, absolute, or fundamental value or good or entitlement, or is it an instrumental value?

Upon reading Mill's noble declaration of the liberty principle, one's conviction is that it is a paradigmatic statement of an intrinsically justified good, an ultimate value and a fundamental, natural, human right.

But Mill explicitly disavows such a characterization of the liberty principle:

> It is proper to state that I forego any advantage which could be derived to my argument from the idea of abstract right, as a thing independent of utility. 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 a man as a progressive being.[6]

However, Mill himself uses language which indicates that he is prone, in spite of himself, to think of the principle of liberty as a right. In his above quoted statement of the principle of liberty he says:

> That principle is, that the sole end for which mankind are *warranted*. . . . That the only purpose for which power can be *rightfully* exercised. . . . In the part which merely concerns himself, his independence is, *of right*, absolute.[7]

Mill appears to regard a person's warrant or right to self-protection as self-evident or axiomatic; and in Chapter Five of "On Liberty" Mill says: "all restraint, *quâ* restraint, is an evil."[8] Also, Mill's advocacy of liberty is so noble and eloquent that it is difficult to believe that he would allow any utilitarian argument to qualify or override his defence of liberty.

Yet Mill says that he regards "utility as the ultimate appeal on all moral questions."[9] Two utilitarian arguments for liberty occur to us. First, restraint is unpleasant, and, therefore, undesirable. Second, a rational adult might usually be said to know his own desires better than anyone. But Mill does not raise such considerations here. What precisely is the relation of the liberty principle to utility? Mill says of utility that "it must be utility in the largest sense, founded on the permanent interests of a man as a progressive being."[10] This is not a formulation of utility according to either Bentham's notion of the maximization of pleasure or Mill's own formulation of utility in his essay "Utilitarianism" wherein he states:

> The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the absence of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, pain, and the privation of pleasure.[11]

Mill goes on in "Utilitarianism" to elaborate the idea of pleasure by introducing the notion of qualitative differences

in pleasures. Eventually, Mill's account of utility as happiness becomes quite different from any Benthamite conception of utility as pleasure. But in Mill's own conception of utility in "Utilitarianism," happiness is closely bound up with what people desire. This utilitarianism could easily conflict with the liberty principle. It could dictate interference with an individual's liberty where the liberty principle would forbid interference.

When Mill speaks of utility in "On Liberty" as "the permanent interests of a man as a progressive being"[12] he seems to be thinking of utility in terms of human progress and development. But these permanent interests do not turn out to be utilitarian in either the Benthamite sense or in the sense of Mill's account of utility in his "Utilitarianism." They are, in Chapter Two of "On Liberty," vigorous knowledge of the truth, and in Chapter Three, individual excellence. It is undeniable however that Mill was a utilitarian by conviction, and we might suppose that "the permanent interests of a man as a progressive being" may be happiness as in "Utilitarianism." This connection is not stated explicitly, but it is reasonable to infer that for Mill there would be a connection between a man's happiness and his "permanent interests as a progressive being."

Sharply modifying this utilitarian perspective is the fact that the goal of the development of individual excellence

in Chapter Three seems to be bound up with a certain conception of the person; akin to a respect for persons concept. Mill's ideal is of a morally autonomous individual actively developing his unique human capacities. Mill quotes with enthusiasm Wilhelm von Humboldt's statement that: "the end of man . . . is the highest and most harmonious development of his powers to a complete and consistent whole."[13]

With respect to liberty, it would seem that Mill regards it as an instrumental good, justified on the basis of its instrumentality in attaining our permanent interests.

Mill then expands on the areas which are comprised by the principle of liberty:

> This, then, is the appropriate region of human liberty. It comprises, first the inward domain of consciousness; demanding liberty of conscience in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people, but being almost of as much importance as the liberty of thought itself and resting in great part on the same reasons, is practically inseparable from it. Secondly, the principle requires liberty of tastes and pursuits; of forming the plan of our life to suit our own character. . . . Thirdly, from this liberty of each individual, follows the liberty, within the same limits, of combination among individuals.[14]

Mill here speaks of the principle of liberty as requiring liberty of opinion and action, as this freedom is a branch of the principle of liberty. This is a fleshing out of the proper scope of the liberty principle.

Mill then says that for convenience he will first argue in favour of one branch of the "general thesis,"[15] that of liberty of thought and of the intimately related liberty of speech and writing. The "philosophical and practical grounds"[16] on which this branch of liberty rests are considered first by Mill.

Mill proceeds then in Chapter Two of "On Liberty"—"Of the Liberty of Thought and Discussion"—to defend and justify liberty of thought and discussion, or opinion, spoken or written, on the basis that such liberty is necessary to attain certain goods: "the mental well-being of mankind (on which all their other well-being depends)."[17] It is also necessary to attain that which is essential to mental well-being, namely, a vigorous and rational comprehension of truth and knowledge, which in turn will have a vital effect on human conscience and conduct.

In Chapter Three of "On Liberty," entitled "Of Individuality, as One of the Elements of Well-Being," Mill argues that liberty of individual non-malificent conduct and mode of life is a necessary element of human happiness and progress.

In Chapter Four, "Of the Limits to the Authority of Society Over the Individual," Mill draws together his arguments for the liberty principle in the light of its value as the means of attaining, or giving effect to, the ideals

of knowledge of truth and the development of individual excellence.

Chapter Five, "Applications," is concerned with a series of examples, often legal, of the operation of the liberty principle.

Therefore, Mill's defence or justification of the principle of liberty as the proper scope of individual liberty throughout the essay is in terms of instrumental, consequentialist arguments. Liberty is an instrumental value. The principle of liberty is the necessary procedure or means of achieving certain ends: knowledge of truth and the development of individuality, or individual excellence.

We have seen that Mill develops his account of liberty as an instrumental value. The scope of liberty set forth in the principle of liberty is calculated to secure the amount of liberty necessary to attain the ends of knowledge of truth and individual excellence in Chapters Two and Three respectively, of "On Liberty." The principle of liberty is defended and justified by its instrumentality in achieving these ends.

But, despite this, it seems that in Chapter Three, liberty is not only an instrument or means to attaining individual excellence, but considered as moral autonomy, is a part of the desired good, and is thereby an intrinsic good, valued for its own sake:

> freedom in the sense of individual moral autonomy appears as a good which is valued for its own sake, because it is part of the happiness of the self-consciously progressive man. . . . Mill is . . . painting a picture of the kind of autonomous individual he had in mind; and he does not show that freedom is a means to the development of such a character so much as that it is an essential element in it.[18]

We have seen that Mill claimed that the principle of liberty has a utilitarian justification. The grounds or justification for liberty as delimited in the liberty principle is its instrumental value in attaining our permanent interests. The interests or ends described in "On Liberty" are knowledge of truth and the development of individual excellence.

But another question which arises concerns the analysis of the liberty principle itself, or as it may alternatively be styled, the harm or self-protection principle. The principle of liberty is a noble and certainly the most influential statement of the proper scope of individual liberty.

Apart from the questions of the liberty principle's utilitarian justification, and its relationship to the values and arguments throughout "On Liberty," many have asked whether the liberty principle, considered in itself, is of value in helping us to make decisions about the appropriate scope and limits of individual liberty in society. To what degree does it constitute a useful decision procedure which can be of use to us in determining the proper reasons for, and areas of, social intervention?

Whether the liberty principle is regarded as having a utilitarian or other instrumental or consequential justification, or whether it is regarded as being inherently justified as a right or good in itself, the principle of liberty has seemed to many to be the most intuitively obvious way in which to delimit the liberty of the individual as against the claims of society. Yet, as well, many have criticized Mill's principle of liberty for drawing an untenable line between conduct which affects only oneself, and conduct which affects others. It is commonly said that there is no conduct which does not affect others and that therefore the liberty principle would justify excessive interference with the liberty of an individual. Still other critics say that the liberty principle would permit too much scope to the individual, and that there are other reasons, as well, to intervene in the affairs of an individual.

In *The Principles of Political Thought*,[19] S.I. Benn and R.S. Peters have argued that Mill treats the liberty principle as self-evident, despite his claim that it has a utilitarian justification, and that, by itself, the liberty principle is a purely formal principle, and as such is not a substantive guide for our decisions and choices.

Benn and Peters say that Mill treats the principle "all restraint, *qua* restraint, is an evil," to which we have referred above, as self-evident. He offers no justification for it. They say that what is implied in Mill's statement

is that "the onus of moral justification"[20] is always on those who would restrain liberty: "It is not that freedom of action is necessarily valuable in itself, but that there is always an initial presumption in its favour that must be overcome."[21] They claim that this presumption is part of the definition of a *moral* justification. To ask a man to justify his restraint of another's liberty is to recognize that there is a moral relationship which requires that others must be treated as ends, not merely as means. It is part of the criteria defining the sphere of morality and is therefore "a purely formal, or procedural maxim. It indicates where the responsibility for justification lies: it does not help us to decide whether a justification is adequate."[22]

To Benn and Peters, the same is true of the liberty principle, which they call the "self-protection" principle. This principle, like the principle "all restraint, *qua* restraint, is an evil," is a statement of the moral requirement that we must have respect for persons and must consider what the consequences would be for everyone if such conduct became general. These principles are, they say,

> procedural or formal criteria for moral judgment [but] they cannot provide the substantive rules for interference and non-interference that Mill expected of them. The most they will do is to rule out certain reasons for interference as morally insufficient.[23]

Mere prejudice or dislike are not sufficient reasons for interference. But, say Benn and Peters, these principles

are still purely formal. In order to deal with liberty in a substantive way we must evaluate the specific things that we wish to have liberty to do.

Benn and Peters speak of Mill's principles as statements of their respect for persons' view of moral judgments. Although we may hesitate to say that Mill's principles constitute exhaustive statements of the criteria for this view of moral judgments, we may wish to agree that they certainly constitute part of the criteria for a respect for persons view of moral judgment.

But although Mill's principle of liberty may not be a kind of general proposition from which we can deduce specific rules about the proper scope of individual liberty, nevertheless it can be of enormous value as a criterion against which to test certain proposed instances of liberty or restrictions of liberty. By disallowing reasons for interference based on prejudice or dislike rather than harm as improper, the principle can help us to see what kind of test a proposed interference ought to meet.

However, whether Mill was consistent in his treatment of the liberty principle as self-evident or as having a utilitarian or other instrumental justification, he clearly regarded the principle as comprising substantive liberties within discernible boundaries. In Chapter One of "On Liberty," after elaborating the liberty principle, Mill says:

> But there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest; comprehending all that portion of a person's life and conduct which affects only himself, or if it also affects others, only with their free, voluntary, and undeceived consent and participation. . . . This, then, is the appropriate region of human liberty. It comprises first, the inward domain of consciousness; demanding liberty of conscience in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects. . . . Secondly, the principle requires liberty of tastes and pursuits; . . . Thirdly, from this liberty of each individual, follows the liberty, within the same limits of combination among individuals.[24]

It would seem that, to Mill, substantive conclusions about specific liberties and their scope could be found in, or drawn from, the concepts contained in the principle of liberty. These concepts deserve examination and analysis in order to see if they might help to yield substantive guidance. The concepts to examine might be said to include such ideas as self-regarding and other-regarding actions, and the distinction between them, and the idea of harm to others. How are we to determine what an other-regarding action is? What is it to harm or injure others? How are we to determine what is harmful?

CHAPTER II

MILL'S CONCEPT OF HARM

Mill's distinction is, as we have seen, between self-regarding actions, or actions which primarily concern only the individual, and those which do not, or, as commentators commonly term them, other-regarding actions. This distinction has been extensively criticized. It is said that there are no significant human actions which affect only the actor. Only the most trivial conduct is without effect on others: no man is an island. It is not accurate to think of society as an atomistic collection of individuals who can and ought to live in substantial isolation from one another. Every action can affect others in a variety of ways, both obvious and subtle. And further, what kind of individuality can be fostered by this approach, asks R.P. Anschutz:

> It is necessary, says Mill, to provide an area within which individuality may be freely developed; but the only sort of individuality that is likely to be developed under these circumstances is the sort that is utterly worthless—the hothouse individuality of caprice and pretence.[1]

Anschutz challenges Mill's position as "the principle of insulation":

> The ruling prinicple of the essay on *Liberty* . . . may be called the principle of insulation, or the principle of political monadism. . . . Mill held that they were to be protected because of "the absolute and essential importance of human development in the richest diversity." Thus in his opinion a

> circle should be drawn round every human being within which his individuality ought to reign uncontrolled either by any other individual or by the public collectively.[2]

But Mill admits that self-regarding actions or conduct are not without effect on others. Nevertheless, Mill says that we can distinguish between conduct which is clearly other-regarding, and conduct which is "directly," or chiefly, or mainly self-regarding. What affects onself directly may affect others indirectly: "When I say only himself, I mean directly, and in the first instance; for whatever affects himself, may affect others through himself."[3] Later, in Chapter Four, Mill says:

> I fully admit that the mischief a person does to himself may seriously affect, both through their sympathies and their interests, those nearly connected with him and, in a minor degree, society at large.[4]

Mill endeavours to qualify and clarify his position by speaking of the violation of "distinct and assignable obligations."[5] But then he goes on to speak of damage to "the people":

> Whenever in short, there is a definite damage, or a definite risk of damage, either to an individual or to the public, the case is taken out of the province of liberty and placed in that of morality or law.[6]

Of course Mill is concerned with conduct which harms or injures or damages, or in some way adversely affects others.

J.C. Rees, in his essay "A Re-Reading of Mill on Liberty,"[7] argues that the proper reading of Mill is to see that Mill's concern is not with conduct which merely affects

or does not affect others, but rather with conduct which affects or does not affect certain interests of others. This reading has the benefit of substituting the more objective concept of interest for the subjective concept of affecting others, which might consist in disturbing another's unusually delicate sensibilities.

But how definite is the concept of interest? Rees says that Mill is really interpreting interests in terms of rights. In Chapter Four of "Liberty" Mill states that individuals should not injure the interests of others: "or rather certain interests, which, either by express legal provision or by tacit understanding, ought to be considered as rights."[8] And later, on the same page: "The acts of an individual may be hurtful to others or wanting in due consideration for their welfare, without going to the length of violating their constituted rights."[9]

But it must be pointed out that beyond such passages, Mill does not work out a theory of human interests or rights in "Liberty." Rees says that interests "depend for their existence on social recognition and are closely connected with prevailing standards about the sort of behavior a man can legitimately expect from others."[10] The obvious difficulty here is that the scope of the individual's freedom is determined by society's prevailing ideas about appropriate human behaviour. Far from securing personal liberty against

the tyranny of the majority, this formula puts personal liberty securely in the power of society. Majority opinion would determine whether any given individual conduct violated the interests or rights of others.

Mill does not use his terms consistently. He expresses his position using a variety of terms, leaving the reader to grasp his meaning from an extended and rich exposition rather than from a closely worked analysis. Mill refers to harm, interests, concerns, rights, to what affects others, directly and indirectly. It is most tempting for the reader to try to interpret Mill's position, or to give it greater content by interpreting him as a utilitarian. After all, Mill does refer to "utility." But he defines it as being based on "the permanent interests of a man as a progressive being." But beyond this passage, there is no support for a clearly utilitarian interpretation of harm, interests, or rights. Nowhere in "Liberty" does Mill say that liberty is a principle to be judged in terms of the separate and primary principle of utility. Rather he says that utility is "grounded on" the permanent interests of man. It is these interests which we have been trying to clarify, and they are not explicated in terms of pleasurable or happy consequences.

Also, there might well be many occasions when a consistent utilitarian would think it justified to allow society

to intervene in self-regarding actions. Some interventions might increase happiness. Society's distress or strength of feeling concerning certain self-regarding actions might be so strong as to warrant intervention. Indeed, James Fitz-james Stephen attacked Mill's position from a utilitarian perspective in *Liberty, Equality, Fraternity*.[11] Therefore, it cannot be maintained that Mill's utilitarian convictions can lead us to say that utility in the sense of the greatest happiness principle is the basis of Mill's self-regarding and other-regarding conduct distinction, or his interest or harm or injury concepts.

Mill certainly means that the majority's feelings of what is immoral or improper or its subjective preferences, tastes, caprices, likings and dislikings, are not proper grounds for intervening in an individual's liberty. This, however, does little to clarify the scope of liberty beyond recognizing the need to give good reasons for intervention. If we grant that only some definite harm or threat of harm can be a good, that is, relevant reason for interfering with individual liberty, then we may say that it is this harm or threat of harm which makes conduct other-regarding. But how do we give content to this formula? How are we to decide what is a legitimate idea of harm, interest, injury, or right? These concepts cannot be given content by purely factual inquiry.

Our ideas of harm, injury, interest and right are formed by our values and by our conceptions of human nature and needs. Our notion of whether an action or its consequences are harmful may derive from what we know most people wish to avoid, or, it may derive from what we think people ought to avoid. It is clear that there are certain actions and consequences of actions which are virtually universally regarded as harmful or injurious or prejudicial, or in some sense undesirable. The clearest type of such an act is physical harm or injury, including death. Another is the deprivation of liberty. Still others would centre on the deprivation of necessary resources including food, housing, employment, and perhaps some education and health care. But we can see that even these latter mentioned instances such as employment, education and health care will involve us in considerable debate about the limits of individual liberty and the proper scope of social intervention and action in order to secure certain resources, needs, claims or "entitlements" to members of society.

As well as universally recognized harms, different societies will have their own distinct ideas of harm which are commonly held among its members.

J.R. Lucas says that without some common universal or societal conception of what is harmful, there would be no basis for any community among humans: "A number of men whose

sets of values had nothing in common, could have no common passions, no common sympathies, no common life."[12]

It is surely correct that there must be a concept of harm and that there must be certain things regarded as harmful for there to be any basis for a human community. As Lucas says further: "What is regarded as harmful depends upon the common values of the community and the ideal patterns of life cherished by it."[13]

But, as we have said, beyond a certain more or less clear core of harms, agreement soon becomes harder to attain about what is sufficiently harmful so as to make social intervention appropriate. Mill's argument does not make this a less elusive concept.

Mill tries to make his notion of harm in the liberty principle more definite by speaking in terms of duty (or, correspondingly, in terms of rights): "things . . . which whenever it is obviously a man's duty to do, he may rightfully be made responsible to society for not doing."[14] Mill also speaks of "a distinct and assignable obligation"[15] Mill also gives the examples of contributing one's share to defence, defending the weak against ill-usage, giving evidence in court, saving another's life; these are things "which whenever it is obviously a man's duty to do, he may rightfully be made responsible to society for not doing."[16] But the notions of duty and right, of obligation, of

contributing one's fair share, beyond obvious cases such as protection against physical injury or death, are shaped by the values of the society in question. Clearly obvious duties provide too narrow a scope for the idea of harm: most societies would want a wider definition of harm. And beyond the more obvious duties and rights, matters become highly debatable and litigible, even within societies with some shared values. Physical injury is too narrow, and any wider definition of harm is shaped by values which are too complex to be reduced to simple, transparent, axiomatic ideas of interest, right, or duty.

Nor are desires or wants more satisfactory than values. Desires can be manipulated by behavioural conditioning techniques. Desires, like values, can be shaped by the range of choices available and by institutions of political, cultural, and economic power.

Because the notion of harm is ambiguous, the harm principle may justify too much societal interference with individual liberty, if too many individual actions are considered to be harmful. Or, if too few individual actions are considered harmful, the harm principle may not, in the view of many, supply sufficient protection against certain kinds of conduct, such as conduct which may harm the general public interest, as distinguished from conduct which causes a definite harm to a specific person or group of persons.

Therefore, many may say, because of the ambiguity of the idea of harm, the liberty principle provides insufficient grounds for legitimate intervention with respect to individual actions. Just what it is for an action to harm; to affect the interests of others; to be of concern to others?

Mill was no doubt sensitive to these objections. He distinguishes between those actions which directly affect others, or the interests of others, and those actions which affect others or the interests of others only indirectly.[17] By this distinction he hopes to clarify the appropriate line or grounds for societal interference with individual liberty. In Chapter Four of "On Liberty," Mill says that when the private vicious conduct of individuals, such as drunkenness or idleness "violate a distinct and assignable obligation to any other person, or persons, the case is taken out of the self-regarding class, and becomes assignable to moral disapprobation in the proper sense of the term."[18] A drunken or extravagant individual might be censured or even punished, not for his self-regarding vice, but because of his breach of duty and harm to his family or creditors, or even to the community for being unable to perform some public duty.

> Whenever, in short, there is a definite damage, or a definite risk of damage, either to an individual or to the public, the case is taken out of the province of liberty, and placed in that of morality or law.[19]

In an individual's conduct is that which "neither violates a specific duty to the public, nor occasions perceptible

hurt to any assignable individual except himself; the inconvenience is one which society can afford to bear, for the sake of the greater good of human freedom.[20] But who decides, and by what means, what is "a specific duty" or a "perceptible hurt"? Mill's sensible and admirable efforts of clarification may still allow too much interference. Conversely, do "definite damage" or "specific duty to the public," or "perceptible hurt" allow sufficient grounds for a society seeking a certain level of distributive justice?

In his book, *Mill on Liberty*,[21] C.L. Ten argues that Mill's notion of harm is connected "to the infringement of those rules which are necessary for the continued survival of society."[22] He quotes Mill's belief that many of our duties arise from the benefits we receive from society: "everyone who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest."[23] To the concept of harm is related the needs of a whole society and the benefits we receive from it. Ten seeks to expand and clarify this interpretation of Mill's concept of harm by referring to H.L.A. Hart's discussion of what he calls "the minimum content of natural law in *The Concept of Law*."[24] Therein Hart says that there are certain undeniable facts about human beings: their vulnerability to violence and

bodily harm, their approximate equality of strength, their limited altruism, and the limits of the resources needed by them. Given these undeniable facts about human beings, then, if any human society or social life is to exist, it is necessary that there be certain rules which prohibit the use of violence or the infliction of bodily harm, which restrain aggression, which prohibit theft, rules respecting some property rights and uses, and rules which provide for contracts. There must also be institutions which enforce all these rules.

C.L. Ten submits that such rules can form the basis of "a universal concept of harm, common to all societies. . . . Something like this is what Mill seems to have in mind, and most of his examples of harm to others can be captured within this notion of harm."[25] The great problem with this concept of harm is that it is compatible with much that we might find socially repugnant. We know that Nazi Germany had, and other undesirable societies have, civil and penal rules and institutions designed to secure social and economic order. Ten's connection of Mill's concept of harm with Hart's minimum content of natural law is unacceptable because a basic stability may be necessary for any social order, but is consistent with considerable injustice, oppression, and even selective official terror, especially given modern technical methods of social control. Therefore the idea of a core

concept of harms common to all societies, based on the rules necessary for the survival of society is not a solution.

Ten recognizes that although Hart's rules are those needed for the survival of any society, there may be other rules necessary for the survival of any particular society. Also, it does not follow in any straightforward way that from having rules in common, a society has values in common. The mere fact all societies have certain rules in common does not imply that the same concept of harm or injury is being embraced by all societies. Further, any particular set of rules may be sufficient to ensure the existence of any particular society: "It can survive even if some groups in society are unfairly discriminated against and are not permitted to acquire certain resources."[26] The rules need not meet our standards of morality or justice. This would make Mill's concept of what it is to harm or injure one or more persons dependent upon the notions of harm, injury and the values held by those in power or in the majority in any given society, good or bad. This dependence of the concept of harm on the social and cultural factors may be unavoidable, but it shows that Mill's liberty principle, and the concept of harm therein, cannot stand independently as an answer or guide to the problem of liberty.

Ten attempts to rescue Mill from this consequence. He says that "Mill seems to fall back on something like"[27] arguing that as a common system of rules is necessary for the existence of any society, it is harmful conduct to break those rules. But there are competing alternative sets of rules which are also capable of preserving social existence and may be more desirable in certain ways. Anyone who is adversely affected by the operation of existing rules can be harmed by them since "they are not the only rules available."[28] Ten finds support for this interpretation of Mill in "Utilitarianism":

> Mill's account of justice in *Utilitarianism* gives some support to this reading of him. We have already seen that for him unjust acts are harmful. He also says that "it is just to respect, unjust to violate, the legal rights of anyone" (p. 40). This means, for example, that it is unjust and therefore harmful to violate a person's property rights. But Mill goes on to say that some laws are bad, and confer rights which ought not to exist. A bad law causes harm by infringing the moral rights of persons.[29]

It is not clear how, because persons can claim to be harmed by the operation of existing rules as well as by breach of existing rules, that this saves Mill from a very broad relativism. Unjust acts may be harmful (and infringe the moral rights of others) but what acts are unjust? Ten says that in answering the question, which set of rules ought we to adopt (which is, one supposes, a way of answering the question of what rules are just or unjust), "Mill's answer here is utilitarian: the ideal rules are those which

best conform to the utilitarian standard."[30]

Apart from the above quoted extract from "Utilitarianism," Ten offers no textual support for his case. However, there is a case to be made for a connection between Mill's utilitarianism and his theory of liberty.

We have discussed above Mill's claim that he regards utility "as the ultimate appeal on all ethical questions."[31] We have also seen that he defines utility, not in terms of the greatest happiness principle, but rather as "grounded on the permanent interests of a man as a progressive being."[32] We have also discussed the ways in which utilitarianism may conflict with the principle of liberty.

However, we have also seen how Mill uses instrumental arguments in Chapters Two and Three with respect to the necessity of liberty in the attainment of knowledge of truth and the development of individual excellence. We also know that Mill was a utilitarian by upbringing and by personal conviction and it is most likely that he would relate utility to the idea of liberty. As well as Mill's avowal of utility and the instrumental, consequentialist arguments, there is a passage in Chapter Five of "On Liberty" in which the reason for respecting an individual's liberty is that one uses one's liberty to choose what one desires:

> The reason for not interfering, unless for the sake of others, with a person's voluntary acts, is consideration for his liberty. His voluntary choice is evidence that what he so chooses is

> desirable, or at least endurable, to him, and his good is on the whole best provided for by allowing him to take his own means of pursuing it.[33]

This is utilitarian. To Mill, an action is to be judged according to how it furthers the greatest happiness of the greatest number; and what people desire, or find desirable, is of the essence of happiness.

The approach in this passage is not further elaborated or developed, but it is further evidence that Mill's utilitarian outlook was by no means completely absent from his considerations on liberty.

C.L. Ten suggests that Mill's concept of what actions are harmful is connected to the question of whether actions are just or unjust. He quotes from Chapter Five of Mill's "Utilitarianism" entitled "On the Connection Between Justice and Utility."[34] Let us examine this chapter in order to see if Mill's account of justice therein is of help in explicating the content of the idea of harm, and thereby the principle of liberty.

To recapitulate, C.L. Ten connects Mill's concept of harm with the infringement of rules necessary for social existence, and also with the operation of rules which adversely affect a person or persons. Ten says that, for Mill, unjust actions are harmful. He quotes from Chapter Five of Mill's "Utilitarianism," entitled "On the Connection Between Justice and Utility." Therein Mill says that it is

unjust (and therefore according to Ten, harmful) to infringe a person's legal rights, and also that a bad rule of law causes harm by infringing a person's moral rights. Ten says that for Mill the rules we ought to adopt "are those which best conform to the utilitarian standard."[35]

Although there is no explicit link between Mill's account of justice in "Utilitarianism" and his argument in "On Liberty," we have seen that there is a striking passage in Chapter Five of "On Liberty" in which a utilitarian justification of the principle of liberty is offered. Also, we have acknowledged Mill's utilitarian convictions and his avowal of utility in Chapter One of "On Liberty" as the ground for his principle of liberty. It is therefore plausible that, as C.L. Ten argues, Mill sees the issues raised by the liberty principle, including the notion of harmful conduct, from a utilitarian point of view. Let us therefore consider Mill's account of justice in "Utilitarianism" in order to see if it can be of any help in illuminating his concept of harm, which is so essential to his principle of liberty.

In Chapter Five of "Utilitarianism," Mill says that the common ingredient in all variously held notions of justice is "the idea of a personal right—a claim on the part of one or more individuals, like that which the law gives when it confers a proprietary or other legal right."[36] He further

says that, "Justice implies something which it is not only right to do, and wrong not to do, but which some individual person can claim from us as his moral right."[37]

Mill says that the "sentiment of justice" has two essential elements: "the desire to punish a person who has done harm, and the knowledge or belief that there is some definite individual or individuals to whom harm has been done."[38] The sentiment of justice arises from our feelings of self-defence and sympathy for others.

The violation of a right is that which hurts an assignable person or persons, and is that for which we desire to punish. To speak of a person's right is to speak of a person's "valid claim on society to protect him in the possession of it."[39]

At this point Mill introduces the idea of utility. He says that the reason why society ought to protect a person's rights, or valid claims, is that of "general utility."[40] But it is a uniquely important kind of utility: "The interest involved is that of security, to every one's feelings the most vital of all interests."[41] This indispensable quality of security gives great strength of force to our feelings that we have a claim on others to help provide security:

> The feelings concerned are so powerful, and we count so positively on finding a responsive feeling in others (all being alike interested), that *ought* and *should* grow into *must*, and recognized indispensability becomes a moral necessity, analogous to physical, and often not inferior to it in binding force.[42]

The concept of justice, to Mill, is therefore a right based on the general utility of security and derives its morally binding force from our intense and powerful feelings that we have a claim on others to help bring about security.

Mill believes that the utilitarian formulation of justice escapes the broad range of opinion concerning non-utilitarian theories of justice as a good in itself, or, as Mill says, as a "standard *per se*."[43]

But we may ask Mill, is it always the case that there is uncertainty and disagreement about what is just? It may be that the concept or sense of what justice requires may be common and clear but that knowledge of how to apply it to specific human cases may be imperfect. There may be factual disagreements about individual instances. The variability and uncertainty to which Mill points do not establish that there is no common basis for the concept of justice independent of utility. If one cuts an apple into quarters and gives one-quarter to each of four children, one would not have to explain one's distribution. If one distributes the quarters in any other manner, it is likely that some explanation would be rather urgently called for. All four children would doubtless presume that they each equally merit or deserve a quarter of the apple. It may be that in a given specific instance some other claim of entitlement might be put forward and judged relevant. But it would have to be

argued for as a variation on the *prima facie* idea of what is a just distribution, and, there may well be a dispute about what facts are to be adjudged relevant in the consideration of a given entitlement claim. There is scope for some disagreement here, but it is by no means clear that the utility of the need for security and the intense feelings about its necessity make for more certainty.

Another difficulty for Mill's utilitarian account of justice is the absence of any concept of merit or desert. As seen from our example above, our idea of justice is closely tied to the idea of merit or desert. There is nothing in the notion of general security which accounts for or explains our idea of merit or desert. Further, Mill's utilitarianism theory does not explain the importance of an individual's entitlement which the idea of justice must have. What is there about Mill's theory of general security which underwrites each individual's right to protection against injustice? As one commentator has said: "Mill does not see that in cases of injustice we resent each instance of injustice, and not just the resulting insecurity."[44] We ask why an injustice was suffered by *this* person. To speak of doing justice to an assignable person is to speak of what *he* merits or deserves as an individual, and of his rights apart from the consequences to the general security.

Mill then continues with the exposition of his theory of justice. In speaking of justice, he says:

> The moral rules which forbid mankind to hurt one another (in which we must never forget to include wrongful interference with each other's freedom) are more suited to human well-being than any maxims, however important, which only point out the best mode of managing some department of human affairs.[45]

Here we see that harming others and interfering with a person's freedom are to Mill, as C.L. Ten says, acts of injustice. But what kinds of acts are unjust? At this point in the argument, Mill offers only some examples of injustice which would be included in any notion of harmful conduct. He includes: "acts of wrongful aggression, or wrongful exercise of power over someone . . . wrongfully withholding from him something which is his due."[46] Nor is there an argument offered as to why these examples are derived from the utilitarian account of justice as security, and not any other account of justice.

Mill then introduces the Greatest Happiness Principle as the ultimate foundation. This principle invokes the rule that "one person's happiness, supposed equal in degree (with the proper allowance made for kind) is counted for exactly as much as another's."[47] In a footnote, Mill says that "happiness" and "desirable" are synonymous terms. Mill stated earlier that the idea and sentiments of justice are based on that particular utility in which people desire security.

Crucial to Mill's principle of liberty is the issue of resolving conflicts between the freedom of action of an individual and the interests of others. Mill's use of the notion of harm in his principle of liberty is calculated to be the sole reason for interfering with the liberty of an individual. The notion of harm is intended to provide the line of division between those actions which primarily concern oneself from those actions which adversely affect the interests of others and are therefore the proper concern of others. Does Mill's account of justice help provide us with a means of resolving such conflicts? We have seen that to Mill, harmful acts are unjust. Unjust acts are those which harm a person's rights which are valid because of the utility of our interest in security. Therefore, if harmful acts are unjust acts, unjust acts are those which harm rights related to the interest in security. This would seem to be ultimately circular.

We have also seen that Mill's account of justice has not established that there can be no common basis for the concept of justice other than utility, and that it does not properly address the question of merit.

Mill's theory of justice may not resolve our concerns about the adequacy of the concept of harm in the principle of liberty, but it does help us to have a fuller idea of Mill's notion of harm: as based on the vital interest of

security which is the very ground of our existence in society. Our desire and need to maintain security is so intense that our sentiments about harmful actions against this basic utility are feelings of what is right and wrong and not merely of what is expedient or inexpedient.

From our discussion, we see that the concept of harm (and therefore the principle of liberty) does not provide an adequately substantive means of adjudicating the appropriate scope of individual liberty. The principle may not provide a sufficient basis for the defence of individual liberty, including, for example, liberty of thought and discussion, which Mill advocates in Chapter Two of "On Liberty." J.W.N. Watkins[48] has raised the question of the possibility that the publication of a certain book might lead to even greater harm to life and property than would have been caused by Mill's own example of a speech to an excited mob outside a corn-dealer's house to the effect that corn-dealers are starvers of the poor.[49] In such circumstances, would not such harm justify society, acting on Mill's principle, in suppressing such a book? Watkins offers as another example the research papers which made possible the development of nuclear armaments. Ought not they to have been suppressed? Mill would presumably reply by defending the vital nature of unfettered intellectual freedom in our search for perfect knowledge of truth. This would be an excellent reply, but

it is one which goes beyond the principle of liberty and its concept of harm.

But the more likely danger is that the principle of liberty will not leave enough liberty to individuals due to the concept of what is harmful being too broadly interpreted. It is not possible to provide a substantive formula for delimiting the scope of individual liberty in every likely dispute. What the principle of liberty does do is to rule out as unacceptable any reasons for interference with an individual's liberty other than the self-protection or the prevention of harm to others or to their interests. A proposal to interfere with the liberty of an individual is acceptable only if the proposed interference is aimed at some other-regarding action which adversely affects, or poses a definite risk of adversely affecting, the interests of another person or persons; that is, a harmful action.

As we said in Chapter One above, this is an excellent formal or procedural principle but in order to provide a guide for conduct, in order to decide what actions are harmful and which are not, we must go beyond an analysis of "liberty," "harm" or "interests" *per se*. Rather, we must go beyond the liberty principle to consider substantive questions of the nature and purposes of human life, of the necessary goods for human life. We must also consider the value of the things we wish to have the liberty to do.

In Chapters Two and Three of "On Liberty," Mill does turn to substantive considerations. Mill's liberty principle may not provide a sufficient basis for the defence of the goods which are defended in those chapters, but Mill's arguments therein are of independent value, and liberty must be regarded as an essential element to the attainment of knowledge of truth and individual self-development.

In the next chapter we shall consider Mill's arguments for freedom of thought and discussion, and in Chapter Four we shall consider Mill's arguments in favour of individuality.

CHAPTER III

MILL ON THE LIBERTY OF THOUGHT AND DISCUSSION

In this chapter we shall first give a brief exposition of Mill's position in Chapter Two of "On Liberty," entitled "Of the Liberty of Thought and Discussion." Then we shall examine those arguments and some of the historical evidence which Mill adduces in support of his position.

Chapter Two of "On Liberty" is devoted to a defence of liberty of thought and discussion. It is the most closely reasoned chapter in the essay. In the introductory chapter Mill states that the principles underlying freedom of thought and discussion have a wider application beyond the areas of thought and discussion, and further, that a consideration of liberty of thought and discussion is the "best introduction" to the remainder of the subject of liberty.[1]

Mill states at the outset that liberty of thought and discussion are practically inseparable.[2] Neither society nor the state is ever justified in restraining liberty of thought and discussion. Silencing the expression of opinion is robbing the human race, including posterity. If the opinion suppressed is right, then we lose truth. If it is wrong, then we lose a clearer perception of truth which is produced

by the collision of ideas. To suppress an opinion because one is sure it is false is to assume infallibility. This is inimical to the truth:

> Complete liberty of contradicting and disproving our opinion is the very condition which justifies us in assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right.[3]

The preponderance of "natural opinions and rational conduct" is due to the fact that "errors are corrigible . . . by discussion and experience."[4] Mill seems to have an idea of falsifiability when he says "the beliefs which we have most warrant for have no safeguard to rest on, but a standing invitation to the whole world to prove them unfounded."[5] That is, the certainty of any opinion depends on its being able to withstand contrary opinions and arguments. Indeed arguments for full discussion, says Mill, must be good even in extreme cases, if they are good and valid for any case.

The assumption of infallibility is also the error of those who suppress new opinions because received opinions are useful. Mill says that the usefulness of opinions is also disputable. "The truth of an opinion is part of an opinion's utility."[6]

History shows that we must be especially careful not to suppress opinions because we believe them to be immoral or impious. Mill offers the examples of the condemnation of Socrates, the crucifixion of Christ, and the persecution of

the Christians under Marcus Aurelius. These were examples of the suppression of views for reasons of immorality or impiety, and which such views are now generally held to be neither immoral or impious, but rather quite the reverse.

Also it is an error and contrary to experience, says Mill, to think that truth will always win out over error and persecution. For example, the Reformation of Christendom was often put down before it was finally successful.

Mill feared the revival of religious prejudice. As well, social intolerance might make for "intellectual pacification,"[7] but at the cost of suppressing the best intellects, especially those in persons of timid character.

Assuming that received opinions are true, if their truth is not freely and openly opposed, then they will be held as "dead dogma" not as "living truth."[8] True opinion, held as a prejudice, independent of argument and an understanding of the rational grounds for the opinion, is not having a knowledge of the truth. It is only superstition, "accidentally clinging to the words which enunciate the truth."[9]

When a creed's struggle ceases against contrary opinions, there is a decline in its power.

A vital part of Mill's position is his faith in intellectual progress: the general acceptance of doctrines will increase, but the danger posed thereby to the lively

apprehension of the truth of such doctrines means that devil's advocates[10] will be needed to put the case for opposing views. Except for mathematics and the natural sciences no one can be said to have knowledge except so far as he has gone through "the same mental process which would have been required of him in carrying on an active controversy with opponents."[11]

Mill's third argument for not suppressing heterodox opinions is that they may contain part of the truth or important additions to the truth. For example, Rousseau's celebration of primitive social life pointed out many of the drawbacks of civilization.[12] Also pagan teachings supplement the Christian emphasis on self-abnegation.[13]

Mill concludes by denying that exponents of heterodox opinions ought to be required to maintain a code of gentlemanly discourse as a condition of the liberty to express their opinions. This is because they can never count on such fair and restrained conduct from partisans of the dominant, received opinions. With so many obstacles to overcome, dissenting opinions would have even less chance of obtaining a proper hearing were they to be held to such requirements.[14]

Mill gives pride of place to liberty of thought and discussion in the arrangement of his treatment of the several

areas of liberty in human life. There is a persuasive reason for this: liberty of thought and discussion likely has more support than other types of liberty, at least in those countries "which profess religious toleration and free institutions."[15] If he can convince people of the validity and cogency of the arguments for liberty of thought and discussion, he can then perhaps find it easier to persuade the reader of the soundness of liberty of action, as the grounds for liberty of thought and discussion "when rightly understood, are of a much wider application than to only our discussion of the subject, and a thorough consideration of this part of the question will be found the best introduction to the remainder."[16]

Chapter Two of "On Liberty" is also perhaps the most important part of the essay for us to study because the liberty of thought and discussion are necessary to the operation of liberty of action. Individuality would be seriously restricted without the liberty of communicating one's values and choices in the style and substance of one's life. Indeed it is common today that virtually all freedoms or proposed freedoms tend to achieve or seek at least partial manifestation in speech, print, the several electronic media, or the performing or plastic arts. All these manifestations of what many consider at any given time to be politically subversive, destructive of the family, obscene or pornographic can be

considered in the context of "freedom of expression." All questions and issues of freedom show a tendency to be annexed in some degree to the substance of the arguments relevant to the liberty of thought and discussion.

Also, the issues concerning other aspects of the question of liberty, such as those Mill deals with in Chapters Three, Four and Five of "On Liberty" are more likely to be bound up with and more easily confused with issues of public order and safety. Perhaps therefore an examination of the issues of liberty in its aspect of thought and discussion will allow us to inspect and evaluate most clearly the principles underlying individual liberty.

Lastly, it is important to attend to Mill's arguments for liberty of thought and discussion in order to see how accurately we have been able to understand the full meaning of Mill's position.

The first thing that may be remarked with respect to the substantive arguments for liberty in Chapters Two, Three and Five of "On Liberty" is that while Mill says that "the object of this essay is to assert one very simple principle"[17] concerning the relation of society and the individual "in the way of compulsion and control,"[18] or that "On Liberty" is "a kind of philosophic text-book of a single truth,"[19] nevertheless the issue of liberty in society raises a tangle of issues which can be seen as touching many of the classical

topics in political philosophy, including those of justice, political obligation, social order and authority, the relation between church and state, the relation between law and morals, the common good, and rights.

As we have said, the first substantive argument for liberty in the essay is with respect to thought and discussion: that liberty is essential because without it one cannot secure a lively, full and rational knowledge of the truth: "We have recognized the necessity to the mental well-being of mankind (on which all their other well-being depends) of freedom of opinion, and freedom of the expression of opinion."[20] Thus Mill's advocacy of liberty of thought and discussion is of an exclusive character, and the force of the argument in Chapter Two rests on the assumptions that the fundamental value is a lively, full and rational knowledge of the truth, and that it always outweighs the values of all those goods which might be endangered or lost by freedom of the expression of opinion.

Mill also seems to be assuming that truth cannot be known without discussion of opinions, except in the subjects of mathematics and the physical sciences.

Mill also seems to make a too sharp division between the liberty of thought and discussion on the one hand, and liberty of individual action on the other: Mill's example on the first page of Chapter Three, "Of Individuality, as One

of the Elements of Well-Being," of the mob in front of a corn-dealer's house being incited by the opinion that corn-dealers are starvers of the poor, raises issues which ought to be dealt with as part of the subject matter of liberty of thought and discussion. This example raises the issue of the nature and consequences of free speech in the clearest possible way. It shows not only, as Mill puts it, that liberty "of the individual" must be limited in that the individual must not molest others "in what concerns them,"[21] but also that the particular issue of liberty of thought and discussion itself must be characterized by concerns beyond its necessity in the attainment of knowledge of the truth, namely the practical consequences.

One critic has questioned why a man would want to express an opinion unless it could have the practical consequences of affecting the actions of others.[22] As well, how can a person know that his opinions will not have practical consequences? He says that Mill seems to be arguing that only when one's opinion is about to become effective ought one's liberty to be interfered with. This is unfair to Mill. It is clear from Chapter One of "On Liberty," that Mill is concerned not to interfere with an individual's liberty when his views become effective, but when it causes harm or the definite risk of harm to others or their interests.

The same critic says also that Mill's position assumes that one may hold a principle (e.g. that tyrannicide is justifiable), without any intention to ever apply it. He says that such a person cannot really hold such a principle, but is only pretending to hold it. Nor does such a person have any right to profess or persuade others to such a principle unless he is willing to act on it.[23] But this is wrong, surely. A lack of courage or even time to act upon a principle does not entail that it is any less sincerely held. One may lack the virtue or resources to act upon one's principles.

However, Mill can also answer these criticisms by saying that his justification for liberty of thought and discussion rests upon the importance of liberty of thought and discussion in order to make possible knowledge of the truth about things. Mill would perhaps also answer that a person could hope to persuade others as to the correctness of his view that tyrannicide is called for, or that corn-dealers are starvers of the poor, or that private property is theft without giving up hope that once the truth of such a view became established, society could act upon it through its legal public institutions of decision-making. A justification of liberty of thought and discussion according to its promotion of knowledge of truth must come to terms with the fact that seeking such truth may often be unsettling and

unpleasant.

Mill's theory of the liberty of thought and discussion is an intellectualist one. A *cordon sanitare* is placed around his consideration of thought and discussion, including even discussion about action, separating it from his consideration of the liberty of individual action. As we have seen, to Mill it is "the mental well-being of mankind"[24] upon which all other well-being depends. Mill does not explicate this phrase, but from the arguments and examples throughout Chapter Two of "On Liberty," it is clear that he concentrates on the faculties of reason and understanding. He is concerned with mental freedom and intellectual vigor. Mill is concerned with opinions and doctrines being true, false, or containing part of the truth. He is concerned with comprehending the "rational grounds" of a doctrine or opinion. It is interesting to consider this intellectualist orientation in relation to the qualitative distinction which Mill makes in "Utilitarianism" between the higher intellectual pleasures and the lower pleasures.

It is also interesting to note that Mill's emphasis upon opinions and doctrines which can be true, false, or partially true and partially false is of a much narrower ambit than are more recent concerns for a broad freedom of expression, which may include issues arising from the depiction of cruel or pornographic material. On Mill's terms it

would seem that such issues would more properly fall within a consideration of whether such expressions or depictions are actions which adversely affect, that is harm, others. This is a significant point because such issues are frequently raised today as issues of freedom of speech.

Mill only refers to such matters as pornography obliquely in a passage in Chapter Five of "On Liberty" entitled "Applications":

> Again, there are many acts which, being directly injurious only to the agents themselves, ought not to be legally interdicted, but which, if done publicly, are a violation of good manners, and coming thus within the category of offences against others, may rightly be prohibited. Of this kind are offences against decency, on which it is unnecessary to dwell, the rather as they are only connected indirectly with our subject, the objection to publicity being equally strong in the case of many actions not in themselves condemnable nor supposed to be so.[25]

From our contemporary perspective, it is not easy to see how Mill could deal with the issue of decency so briefly. There is surely more to this issue than "a violation of good manners." Surely not everything which offends good manners can be said to be harmful conduct. This is an example of the difficulty of considering the concept of harm without references to other values.

Mill may be admired for the vigor with which he applies the label of liberty of thought and discussion, reserving it for "opinions." This is certainly true to the tradition of liberal thought, beginning with Locke. If we see Mill as writing within this tradition, it is perhaps understandable

why he did not turn his attention to the possible use of his theory as a justification for expressions beyond what he perhaps regarded as the intuitively obvious and justifiable boundary of decency.

From our present perspective it is not, of course, realistic to think that freedom of thought and discussion would be regarded by all as only "opinions," which can be reasonably discussed. Perhaps freedom of thought and discussion should be so regarded, but Mill's theory has been appealed to by many in order to support complete freedom of expression without any reference to his arguments.

Mill criticizes those who would "admit the validity of the arguments for free discussion, but object to their being 'pushed to the extreme'; not seeing that unless the reasons are good for an extreme case, they are not good for any case."[26] Mill is not saying here that there ought to be no limits to liberty of discussion. Liberty of discussion may be interfered with if it causes harm or the definite risk thereof, as in Mill's example of a denunciation of corn-dealers as starvers of the poor to an excited mob outside a corn-dealer's house.[27] Rather, Mill is referring to people who object to some doctrine being questioned because it is certain, or as Mill says, "because *they are certain* that it is certain."[28] To do so, says Mill, is to assume that we ourselves "are the judges of certainty."[29]

Mill's insistence on disallowing exceptions to freedom of discussion in such extreme cases has been criticized:

> The methodological principle ennunciated by Mill, that unless the argument holds for the extreme case it does not hold for any case, conflicts with the dictum professed by most legal philosophers, that hard cases (difficult, extreme, exceptional situations) make bad law, and with the common sense idea that although rules admit of exceptions need not, indeed, should not be incorporated into the rules.[30]

There is good sense to the idea that there are likely to be exceptions or borderline cases to any concept or practice. But Mill is making a narrower point. By an extreme case, Mill means where people are certain of a doctrine and so wish to prevent discussion of it.

Another commentator has said that the general soundness of Mill's argument for liberty of discussion is compatible with recognizing that there may be situations where discussion of certain opinions ought not to be allowed:

> No doubt there is danger in admitting exceptions of this sort since they may so easily be used as precedents in cases where the circumstances are not similar; but the danger on the other side is, I think, even greater; if you decline to admit exceptions under any circumstances (for example, in time of war) you immediately expose your general rule to a reductio ad absurdem from which it will never recover.[31]

There certainly are limits to the liberty of discussion for Mill. But these limits would doubtless be regarded by Mill as limits flowing from the operation of the harm or self-protection principle, rather than as exceptions. Mill would no doubt regard laws against fraud and defamation as examples of opinions which offended the harm principle. As well, we

may question whether Mill would regard many putative exceptions as really falling within the realm of liberty of thought and discussion. The language used by Mill throughout Chapter Two of "On Liberty" such as "doctrine," "proposition," and including the very terms "opinion" and "discussion," suggest that the subject of Mill's concern in this chapter is with verbal and written propositions which can be true or false, right or wrong, and having to do with debate, reason and understanding. To Mill, therefore, Anschutz' example of the publication of war plans, or American Supreme Court Justice Oliver Wendell Holmes's dictum that freedom of speech does not give one the right to cry "Fire!" in a crowded theatre, would perhaps arise not as issues of liberty of thought and disucssion, but as issues of liberty of action.

Mill then says that to suppress opinions because they supposedly conflict with useful beliefs and doctrines is as much an assumption of infallibility as is the suppression of an opinion because one presumes to know the truth of a matter with absolute certainty.[32] Mill says here that the usefulness of an opinion is as disputable as its truth. Indeed, the "truth of an opinion is part of its utility."[33] To know whether an opinion is useful or not we must consider whether it is true: "In the opinion . . . of the best men, no belief which is contrary to truth can be really useful."[34]

Thus Mill again makes it clear that the justification of liberty of thought and discussion is the attaining of knowledge of the truth. To Mill, knowledge of truth would seem to be a goal in its own right, but it is also of the essence of man's mental well-being, and general well-being. Mill says at one point: "the well-being of mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested."[35] And later he says: "We have now recognized the necessity to the mental well-being of mankind (on which all their other well-being depends) of freedom of opinion."[36] At this point one might wish to ask if it is always the case that there are no opinions which a civilized society might wish to suppress. Perhaps an opinion ought to be suppressed on grounds of patent falsehood or lack of utility, or on some related ground, such as revulsion against the obvious evil of an opinion? What of an opinion which contests the principle that it is always wrong to wantonly, arbitrarily, or without good reason, inflict pain? Is it really unacceptable, a person might ask, even in a sincerely truth-seeking society, to "assume one's infallibility" and refuse to accord a forum such an opinion? Or is it unacceptable or unreasonable for a sincerely truth-seeking society to refuse to permit a hearing to proponents of racial or religious hatred or violence against an identifiable group in society? Would it be unacceptable for a

society in which it is commonly held that there are certain requirements of human survival and social viability which must be met if human beings are to continue in association (which is itself a necessary condition for truth seeking), to refuse to countenance opinions which do not recognize or respect the necessary protection and forbearances which are indispensable to human life and association?

Mill's answer is that to undertake to decide a question for others by refusing to allow the contrary side to be heard is to assume infallibility, "and so far from the assumption being less objectionable or less dangerous because the opinion is called immoral or impious, this is the case of all others in which it is "most fatal. These are exactly the occasions on which the men of one generation commit those dreadful mistakes which excite the astonishment and horror of posterity."[37] Mill gives as examples the execution of Socrates, the crucifixion of Christ, and the persecution of the Christians by Marcus Aurelius. So much for opinions qua ideas. With respect to the consequences of opinions, Mill would no doubt invoke the liberty, or harm principle, although we are aware of the difficulties involved in the application of that principle.

We might also, however, try to supplement Mill's reply, as it is in the text of "On Liberty." Mill is, we might say, not objecting to us being certain, or acting with certainty

about some principles, but rather he is objecting to one type of certitude; that is, the suppression of doubts or opinions contrary to a given principle or doctrine, no matter how deeply held. It might be better here to understand the idea of the assumption of infallibility, not so much as arrogance, but as something incompatible with rationality itself. Rationality is priviledged, in that it does not have to justify itself. It is itself the source of the justification of our efforts to know and to understand. A society can hold the values of the necessary protections and forbearances described above and still be tolerant of the publication of opinions contrary to such values. To be tolerant is not the same as having no values or convictions. It is not necessarily relativistic or skeptical. We might submit that the best bulwark against cruelty and injustice is a compassionate and justice-loving people, and that such people are far more likely to be fostered in a free and tolerant society.

Also, tolerance for the discussion of all opinions, qua opinions, no matter how outrageous, does not mean that there are never any other considerations of the public interest or others' rights which are not to be considered relevant. It is always a relevant question whether the mode or consequences of the expression of an opinion have, as Mill would say, harmed or provided a definite risk of harm; or as others might rather say, violated the rights of others

or of the commonweal. It can be argued that the Criminal Code of Canada enactments against the propagation of racial or religious hatred follow the position described above. It can be argued that those enactments are aimed not at the suppression of certain ideas qua ideas, regardless of how revolting the Members of Parliament find ideas of racial or religious hatred, but rather that they are aimed at the evil of the phenomenon of the encitement of hatred towards people and the assault on the right of people to security and to be free from fear.

The weakest part of Mill's theory of the liberty of thought and discussion remains the difficulty of applying the principle of liberty, which we have considered in the previous chapter. The principle must, in practice, be applied by men, although often acting through institutions. It is a matter of judgment as to when the consequences of the expression of an opinion have caused, or are likely to cause, harm. The responsible authority may not always have as clear an indicator that the interests of others are about to be harmed, as exists in the case of the excited mob outside the corn-dealer's house.

Mill never says in Chapter Two that liberty of thought and discussion will guarantee the emergence of complete knowledge of the truth. Liberty of thought and discussion is a necessary, not sufficient condition. Other conditions

which might help liberty of thought and discussion in the attainment of knowledge (with which Mill does not deal in the chapter, but with which we might feel confident he would agree) would include widespread literacy, education, and other means of intellectual and cultural self-development. These are especially crucial to a democratic society.

One writer has expressed concern with the manner in which opinions are discussed:

> In the context of free discussion a plausible, unscrupulous propagandist may cause a rationally grounded true belief to be abandoned for a false belief based on pure emotion. It is this argument, more than any, which exposed Mill to the damaging criticism that he had an exaggerated idea of the rationality of men, and of the level and character of public discussions.[38]

Another writer has expressed the same concern:

> But he underestimates the harm done by false and mischievous opinions, especially when these happen to be minority opinions. And we have to add that it is no less sentimental to suppose that truth must prevail over the ridicule, slander, provocation, bogus philosophizing, and vituperation of minorities. Mill overlooks the tactical advantage of being in opposition, with no other immediate end than the discredit of authority. He remarks that invective, sarcasm, personal vilification and immeasured vituperation are of little if any use to a minority. How much better all demagogues have known their own business.[39]

These writers raise a considerable problem. But what is their solution? What kind of limits are they proposing? Is it really possible to promulgate Marquis of Queensberry rules for public disputes?

By way of answer we may argue that it is of the essence of the case for liberty of thought and discussion that the real safeguards against demogoguery and other abuses of free

discussion can only be strongly developed in a society where free discussion of all issues is allowable.

Liberty of thought and discussion are not to blame, but there are factors in modern societies, such as our own, which can greatly hinder fair and full discussion and consideration of issues. One of these is the power of the dominant opinion. Mill refuses to agree that unpopular minority opinions ought to be tolerated only if gentlemanly standards of conduct are adhered to. He says that the law has no business making rules and that more gentlemanly circumspection would tend to be expected of unpopular opinions than would be expected of prevalent opinions. This is probably a shrewd observation on Mill's part. The position of unpopular or even unfashionable opinions is difficult in modern societies. The means of production and distribution of opinion in modern societies are often subject to the commercial imperatives of those in control of print publishing, television, radio, film, and videographic material.

Mill says that "diversity of opinion [is] advantageous . . . until mankind shall have entered a stage of intellectual advancement which at present seems an incalculable distance."[40] Variety is "advantageous." Mill does not value variety simply for variety's sake. It is a means to an end. That end is the advancement of knowledge of the truth:

> The peculiar evil of silencing the expression of an opinion is that it is robbing the human race. . . . If the opinion is right they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, . . . the clear perception and livelier impression of truth, produced by its collision with error.[41]

This end is also necessary to "the mental well-being of man."[42] Variety by itself and in itself may simply enervate people and convince them of the relativity of all opinions, and of the wrong-headedness of the idea of knowledge of truth. Such a debased form of tolerance, as a permanent attitude, may lead to a deadening of the rigorous, lively, vital conflict of opinions.

Some people have expressed their deep dissatisfaction with the effect of contemporary conditions on the effort to achieve knowledge. Karl Britton says:

> Indeed, the development of a mass-society (middle-class in its standards of living but without any of that individual initiative which Mill admired in the middle class), has provided a market of immense size for every kind of opinion capable of expression in popular terms. The result has hardly been one which Mill would have wished to see: a mass-public bewildered, blasé, and exhausted by variety; the crowding-out of difficult and more profound thought.[43]

Britton offers no evidence that this is indeed the state of affairs. But his unhappiness with popular mass media is shared by Alexander Solzhenitsyn. One writer has described Solzhenitsyn's criticism as follows:

> The last shock Solzhenitsyn had on coming to the West was to look at our newspapers and television. Only someone who has read the Communist press, with its heavy diet of enormously lengthy speeches, no gossip, no crime, and an almost eerie lack of hard facts, can imagine the eagerness with which Solzhenitsyn looked

> forward to reading for the first time in his life a press that was free. But two things soon depressed him beyond measure. The first was the relentless triviality of so much of even what is still laughably known as the 'serious' press. The second thing that struck him about the Western press despite the fact that it is 'free', was how astonishingly conformist it is. "Without any censorship, in the West fashionable trends of thought are carefully separated from those which are not fashionable; nothing is forbidden, but what is not fashionable will hardly ever find its way into periodicals or books or be heard in colleges."[44]

Whether or not these quotations are fair descriptions of the present state of affairs would require a factual inquiry beyond our scope herein. It is clear, however, that there are those who are sharply critical of the exchanges of contemporary opinions.

Mill himself is deeply concerned with the possible effects of mass society and does not believe that truth will always necessarily triumph over its adversaries. This makes liberty of thought and disucssion all the more necessary. There may be other conditions which are necessary to aid the discernment of truth. These might conceivably include rules, practices, or institutions which help to ensure fairness of access to the means of communication for those without commercial resources, but surely the most important conditions which include genuine education and the widespread ability for independent and critical thought are themselves made truly possible only through liberty of thought and discussion.

Mill advocates liberty of thought and opinion, not because he is indifferent to truth, but because he respects truth and respects truth-seeking. Such a tolerance is crucially different from a kind of tolerance which tries to justify or base itself upon a sense of the relativity of truth, or non-existence of truth, or impossibility of knowing the truth. Such an attitude, disrespectful of truth, cannot be firmly counted on to place value on the individual's right to seek knowledge of the truth through the liberty of thought and discussion.

Following the foregoing critical overview, we now turn to a further consideration of some of Mill's key arguments, including the historical arguments he uses.

Mill selects religious beliefs to illustrate his arguments for the desirability and indeed necessity of free thought and discussion of all opinions. He concentrates on the value of truth emerging, not on the value that such freedom has for the vitality with which a belief is held.

Mill claims that in so choosing religious belief "or any of the commonly received doctrines of morality,"[45] he has chosen the area least favorable to him, as it is in these areas "in which the argument against freedom of opinion, both on the score of truth and on that of utility, is considered strongest."[46] In fact, except for the example

of Socrates, Mill talks only of religious beliefs in this section of Chapter Two. Presumably Mill would note that commonly received doctrines of morality are religious in their inspiration and foundation.

Mill says that it is cases where people are most certain that an opinion ought to be suppressed because of its alleged falseness, immorality and impiety, that the most unfortunate results for truth occur:

> And so far from the assumption being less objectionable or less dangerous because the opinion is called immoral or impious, this is the case of all others in which it is most fatal. These are exactly the occasions on which the men of one generation commit those dreadful mistakes which excite the astonishment and horror of posterity.[47]

Mill wants his readers, including presumably Christians or other religious believers to come to realize that freedom of opinion is indispensable in every area because the area where one might think one was most justified in suppressing heterodox opinions (i.e. the area of religious belief) led to the intolerance of the ancient Athenians against Socrates, the crucifixion of Jesus, and the intolerance of the Jews and Romans which led to the persecution of the Christian faith. Freedom is shown to be indispensable when even so enlightened and rational a man as Marcus Aurelius could persecute the Christians for their faith.

There will be people who believe in the certain truth of their religions or moral doctrines who will agree with Mill's argument for liberty of thought and discussion but

not because they believe that a greater truth will emerge to supplant or qualify their doctrine. Rather they may advocate freedom of thought and discussion in religion and morals because of a conviction that religious faith has redemptive, intellectual and moral value for a person only if that person comes to such belief uncoerced, of his own will, and in accordance with his God-given faculties.

If one is an anti-Christian, such as Gibbon or Voltaire, one would not be reassured by Mill's argument. Such a person is not likely to think that truth and utility have necessarily gained from the Romans' lack of success in suppressing Christian opinions. Mill has not produced an argument to show that truth and utility have been secured by the survival of Christianity. Rather, he seems to assume it. This may be an effort to be as persuasive as possible to his readers.

Mill's entire choice of religious belief as the examples to illustrate his position is one of the easier, most persuasive choices he could have made. The examples of the execution of Socrates, the crucifixion of Christ and the persecution of the Christians by Marcus Aurelius were all instances of the attempted suppression of eminently serious religious and moral beliefs and doctrines. By the nineteenth century it had become accepted in an ever growing number of Western advanced societies that liberty of thought and

discussion of religious beliefs and opinions, if not practices, ought to be secure; that people ought not to be persecuted for sincerely held religious and moral beliefs which are seriously and soberly presented and discussed.

Accompanying this general tolerance, religious views were still held in a lively and vigorous manner such as to cause the most intense debates about issues with implications for religious belief. A dramatic case of this is the furore created by the publication in 1859 of Charles Darwin's *Origin of Species*. To be consistent, Mill would have preferred, or ought to have preferred, the sharp contention that such issues excited, to an indifferent or tepid public reception.

In Mill's lifetime, religious beliefs were subject to some social interference, certainly greater than official interference. But there were also a number of other opinions which were also subject to social and official sanction. Such opinions might include the several varieties of socialism, egalitarianism, radical democratic republicanism, anarchism, or syndicalism. Mill might well have considered these examples as well.

There are those who, realizing that the same arguments that they may wish to make for the suppression of religious heterodoxy could also have justified Marcus Aurelius, held "that persecution is an ordeal through which truth ought to

pass, and always passes successfully."[48] Against these people, Mill denies that truth inevitably triumphs over persecution. However, he later seems to qualify this somewhat by saying that a true opinion will always find "champions."[49] To illustrate his point, Mill selects the example of the persecution of heretics in Christendom, before the success of Martin Luther. Before Luther, the Reformation had broken out many times, but had always been put down. Here again Mill seems to assume that the Reformation is to be regarded as an instance of the advancement of truth (and utility) as distinct from an increase in variety or diversity of belief, which diversity may be desirable on the grounds of individuality; but Mill does not avail himself of arguments in favour of individuality, as such.

Although Mill admits that the surviving petty persecutions of atheists in his time are "the rags and remnants"[50] of persecution, he fears that repression may become strong again. He then states that what really makes the England of his day "not a place of mental freedom"[51] is the social stigma of unpopular beliefs. This is an important point, for although social stigma from unpopularity of one's beliefs is not the same as the societal or legal suppression of opinions, nevertheless that stigma can be extremely effective in controlling liberty of discussion, and ultimately, perhaps, limiting the scope of freedom of thought itself. The greater

the price to be paid in terms of social standing and possibly even economic opportunities for holding unpopular opinions, the lesser the likelihood that many people will venture to express or perhaps even hold unpopular opinions. We might observe, however, that we are going to have to accept that as long as there are any standards at all, some views will attract stigma.

Mill refers to the moral costs to a society which is not completely free. The price of "intellectual pacification" is "the sacrifice of the entire moral courage of the human mind."[52] The truth gains more, says Mill, by the error of one who thinks for himself than from those who hold their opinions without thinking about them. Also mental freedom is necessary in securing the best possible "mental stature" of "average" men.[53]

Here we see a skilful and interesting blending of arguments based on the value of truth and the value of individual excellence. But even mental stature is always coupled in Chapter Two, with the argument for the advancement of living knowledge of the truth. The historical periods Mill selects as exemplifying his position do not establish as much as he claims. Mill states that in only three periods of European history, "the times immediately following the Reformation," the latter half of the eighteenth century (on the Continent) and the "Goethian and Fichtean period" in Germany,"[54] "the

yoke of authority was broken."[55] "Every single improvement which has taken place either in the human mind or in institutions, may be traced distinctly to one or other of them."[56]

This is a remarkable and implausible claim. Such historical and factual claims deserve to be examined carefully, because Mill bases his arguments upon them. The ancient world of classical Greece and of the Hebrews and even of Rome have certainly supplied us with great contributions to literature, philosophy, religion and moral doctrine, mathematics, art and architecture, law, political institutions, and political wisdom. The Middle Ages, including the Humanist era of Erasmus, cannot be ignored either. It was in this era that classical learning and religious teaching were synthesized, and that our ideas of limited government, constitutionality, and the universal dignity of all humans were established. Later in the essay, Mill compares the Middle Ages favorably with the modern period as a time of individual strength and independence of character. Even Mill's own era can legitimately claim to be worthy of inclusion.

Mill speaks of "the yoke of authority" and "an old mental despotism" being "thrown off."[57] But he says nothing of how this is to be achieved; of how liberty of thought and discussion is to be preserved from the oppressive and meddlesome public opinion. As well, Mill does not mention any political,

economic or other conditions, other than liberty of thought and discussion, as being necessary to secure improvement in our knowledge of truth. Because Mill does not mention other conditions it might lead a reader of "On Liberty" to conclude that liberty of thought and discussion is not only a necessary condition, but the sufficient condition for the attainment of knowledge of truth. This would, however, be incorrect. Mill does not claim that liberty of thought and discussion is the sufficient condition for the attainment of knowledge of truth. Rather he only says that liberty of thought and discussion is essential.

To Mill, it is important that people have to deal with the arguments of opinions contrary to their own, if they hope to understand their own position or possess knowledge of the truth about a matter. He notes that Cicero studied his adversary's case as carefully as he studied his own case: "he must feel the whole force of the difficulty which the true view of the subject has to encounter and dispose of; else he will never really possess himself of the portion of truth which meets and removes that difficulty."[58] Mill further says:

> So essential is this discipline to a real understanding of moral and human subjects, that if opponents of all important truths do not exist, it is indispensable to imagine them, and supply them with the strongest arguments which the most skilful devil's advocate can conjure up.[59]

Mill is therefore adding to liberty of thought and discussion

the value of a kind of adversarial clash between contending opinions. "Both teachers and learners go to sleep at their post, as soon as there is no enemy in the field."[60] To Mill this process ought to take place within a person's own reflections on a controversial issue, if there are no contending opponents.[61]

Surely, however, adversarial clashes between contending opinions are not the only fruitful way in which free discussion may proceed. Also, it would be useful to consider the nature of adversarial practices if they are to be as beneficial as possible. It is worth noting that there are at least two institutions in our country in which opinions are expressed in adversarial manner. Parliament (and the provincial legislatures) and the law courts. In Parliament and the legislatures debate is aimed at getting at the truth of a matter, but also at the full representation of conflicting opinions and interests and of seeking resolutions to, and adjustment of conflict. Compromise of interests, if not of convictions, is an important value in our political process.

Our courts of law also rely on the adversarial system. But of course in our courts of criminal justice the value of fairness to the accused is just as important as the truth. Thus the Crown is required to prove its case beyond a reasonable doubt rather than on the balance of probabilities, which is the evidentiary burden on the plaintiff in civil

disputes. Also, the accused is not required to give evidence on his own behalf, meaning that it is not required for the accused to present a plausible alternative to the Crown's evidence.

With respect to civil justice, truth is the primary value, but there is an extraordinarily elaborate, cumbersome, slow and expensive structure of rules of evidence and procedure designed to elicit the most probable version of the truth.

There are no such careful structures in any other social institutions, unless it be the debates among scholars and scientists, chiefly carried on through the medium of scholarly and scientific journals and conferences. Here there are requirements of preparation and discourse which are designed to advance the pursuit of knowledge of the truth.

Earlier in this chapter we noted that Mill did not agree with those who would only permit free discussion of all opinions if they were expressed in a temperate way. It would be impossible, he said, to fix the bounds. Also, intemperate discussion is not often in good faith, and unpopular opinions would probably suffer more by legal regulation than would the dominant or popular opinions. Mill is probably correct in his judgment on this issue. However, when we move from the question of making the expression and discussion of unpopular opinions conditional

upon their conforming to some notion of temperateness to the question of the usefulness of the adversarial clash of opinions, it would be wise to consider the nature of dispute if we are concerned with making disputes as beneficial as possible to our efforts to attain knowledge of truth.

And it is not only in adversarial clashes in which the question of how we speak with one another arises. Mill has concentrated on the need for dispute. But collaboration and co-operative inquiry may also be valuable instruments in our efforts to attain knowledge of truth, and we must take great care in how we speak with one another if we ever hope to enter into effective intellectual collaboration with others.

In the second part of the argument in Chapter Two, Mill considers the manner in which received opinions "are likely to be held when their truth is not freely and openly canvassed."[62] To Mill, even if a received opinion is true, without free discussion, "it will be held as a dead dogma not a living truth."[63] This does not include subjects such as mathematics, says Mill.[64] Free discussion is necessary to secure not only the emergence of truth, but also to secure the liveliness of truth. Thus to Mill, the way in which truth comes to be held is virtually as important as the truth itself: the truth must come to be accepted by free and rational discussion, that is, by the vigorous

competition of opinions, and not by way of some received doctrine unexamined and untested by comparison with other doctrines. Only in this way will there be a rational understanding of the truth. Otherwise a person may have an opinion which, although it happens to be true, is held as a prejudice: "This is not knowing the truth. Truth thus held is but one superstition the more, accidentally clinging to the words which enunciate a truth."[65]

This is one of the most striking and vital points in the whole essay. Objective truth exists, says Mill. We can attain it. The only proper way to attain it is by knowing it; by understanding the rational grounds of the true proposition. True belief alone is not acceptable; it must be rationally justified, understood true belief. Otherwise, one's belief might be held purely superstitiously. Knowledge of the truth is therefore possible, but, because of our human limitations, very difficult to attain; so difficult, indeed, that we cannot afford to suppress any opinion. Such certainty as we can rightfully claim, Mill has said earlier, rests upon a standing invitation to be proved wrong. Nevertheless, perhaps surprisingly, Mill is convinced that eventually, this process will produce general certainty about a number of issues, that is certain knowledge, not just a psychological attitude of certitude.

It is, therefore, a fundamental error to interpret Mill as an intellectual or moral relativist. One writer has said so, in quoting Mill's position that those who suppress opinions, which may be true, are assuming their own infallibility. This part of Mill's argument, it is said:

> resembles a familiar form of relativism: the idea of truth is posited, but only as the abstract, ideal end of inquiry, an end we can never be certain of attaining but which we can pursue only by keeping open every possibility, entertaining every opinion that may take us closer to that end. In practice, the end always eludes us. Even those beliefs we most confidently accept as truth—Mill cited the example of 'Newtonian philosophy'—lack that final certainty and must therefore be exposed to constant challenge.[66]

It is submitted that this view of Mill is wrong. We may first remark that Mill was correct in refusing even Newtonian physics the status of being unchallengeable. We may say, more generally, that there is a difference between being a relativist, that is, holding that there is no objective truth and that it is therefore futile to pursue the truth; and, in distinction from relativism, holding that objective truth exists, that we can and ought to seek it, but that because of the difficulty in seeking it, we ought not to suppress opinions contrary to our own. Mill held this latter view.

So far from being an intellectual or moral relativist, Mill was convinced of the inevitable progress of intellectual and moral understanding, and of a growing consensus about moral and scientific truths.

> As mankind improve, the number of doctrines which are no longer

> disputed or doubted will be constantly on the increase: and the well-being of mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested.[67]

Indeed, Mill states that in future it may be necessary to devise devil's advocate-style techniques, "as mankind improve,"[68] against unopposed truths, or to contrive some means to challenge opinions which have become so clearly identified as the truth, that they, while being true, are in danger of becoming held as dead dogma, without meaning or understanding.

This is essential to an accurate understanding of Mill's position. He says "the well-being of mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested."[69] But the disadvantage to the lively apprehension of truth, which is itself required for knowledge of truth, requires that this otherwise beneficial result be counteracted by the stimulation resulting from continuing challenge.

If such an institution were ever enacted, it could surely lead to some peculiar practices, arguments, and controversies, if the demonstrable truth were all on one side of a dispute, a situation Mill thinks inevitable in at least some departments of thought. Also, there are challenges other than challenges to the truth of an opinion or doctrine. Challenges arise from the practical problems encountered by a doctrine, such as the challenge of accounting for new

facts or meeting the challenge posed by certain scientific methodological truths. Many things are inherently challengeable.

In dealing with the importance of an idea's "living power," Mill again uses a religious example. The example is intended to support his argument that once a dogma's struggle for survival or ascendancy ceases, it tends to lose its "living power." Mill says that Christians of his day believe Christ's teachings only in a passive, uncritical, customary way. Most Christians do not have a "living belief which regulates conduct."[70]

But in criticism of Mill, it is not satisfactory to assume that the moral imperfection which comes from a failure to live the teaching of Christ (or any religion) must be due to a weakness in the intellectual and moral understanding of Christ's teachings. It could be explained by a lack of character. Presumably, this is why love and hope, as well as faith, are said to be virtues.

Nevertheless, it is reasonable to say that without some stimulation or way of bringing to mind the practical relevance of religious or moral principles, then the depth with which they are understood will suffer. The question is one of what form the required stimulation ought to take.

Constant polemics, or at least a constant concern for polemics, or 'negative logic' as Mill calls his form of

criticism of opinions, may have an ill-effect on a maturing understanding of an opinion about moral matters, or scientific matters as well. Many, perhaps most, people come to at least tentative conclusions about certain principles, and then modify those gradually in the light of reflection and experience. Polemical challenge can stimulate egoistic obstinance, as well as liveliness, and may hinder the development of thought.

Mill says that a "collision of opinion works its salutary effect" on the "disinterested bystander" rather than on "impassioned partisans."[71] Mill ought to be alive to possible dangers as well as the benefits of the collision of opinions such as if bystanders constantly hear differing opinions controverted by holders of other opinions, they may tend to lose their respect for, or desire to have, a "living belief" in any opinion.

Mill's arguments all show his commitment to seeking the objective truth. It is essential to appreciate Mill's theory of objective moral truth which we can come to know by an empirical and cognitive procedure of consciously attending to our reasons for our actions. Social liberty is essential for this moral and epistemological goal and is essential to furthering human dignity as a "thinking being."

Mill then turns to what he considers to be, and what probably is in fact, the commonest situation confronting us

with respect to the truthfulness of opinions. It is not where the received or prevailing is opinion is false, and the heterodox opinion is true, nor where the prevailing opinion, while true, is in need of the stimulus of conflict in order to arouse a greater apprehension for its truth. No, rather the commonest situation is where the prevailing opinion is neither entirely true nor entirely false. For example, says Mill, Rousseau's criticism of civilization contained true and salutary truths which had been previously neglected.

Also, says Mill, the teaching of Christianity is defective in that it does not urge us to the more noble, assertive energetic values.

Mill's general point is well taken but his historico-social examples of Christian teaching is problematic. It is difficult to maintain that Christ's teaching suppresses or is hostile to "magnaminity, high-mindedness, personal dignity [and] a sense of honour."[72] It can be argued that these virtues are contained in Christ's teaching.

Mill himself says that there is no real conflict between Christian and non-Christian ethics,[73] and so there is no real support here for the necessity for conflict among opinions.

In summary, Mill argues for complete freedom of thought and discussion, and clash of all opinions as being necessary to the attainment of knowledge of truth and, by means of the endeavor to know the truth, the betterment of men through their thus achieving "the dignity of thinking beings."[74] Not only is freedom of opinion necessary for the attainment of knowledge of the truth, but also freedom of opinion is much more likely to produce truth-seeking, thoughtful people and knowledge of the truth than is a lack of freedom.

We have offered some criticisms of the arguments and examples in Chapter Two, but Mill's case for freedom of thought and discussion is compelling and persuasive by virtue of its forcefulness as well as by virtue of its eloquence.

From our foregoing inquiry, we see that the principle of liberty may not constitute a very useful guide to the appropriate scope and limits of the liberty of thought and discussion nor be a sufficient basis or justification for liberty of thought and discussion. C.L. Ten says: "Mill has paid very little attention to the circumstances in which freedom of expression may justifiably be restricted."[75] It may be supposed that Mill was of the view that the principle of liberty provided for the scope and limit of liberty of thought and discussion. To Mill the liberty of thought and discussion is necessary in order to achieve knowledge of

truth and the attendant mental well-being of mankind. But there are perhaps many who, from the perspective of contemporary society, would think that Mill ought to have directed his attention explicitly to the question of factors which can serve to hinder the operation of liberty of discussion. Such factors might include the phenomena of commercial motives and rationales, a few large, powerful sources of mass popular communications which may be informed by commercial rationales, or at least by motives other than the pursuit of knowledge of truth. Another possible objection from such critics might be that modern societies such as our own lack a cohesive nature due to considerable atomization of individual association and due also to a lack of consensus about fundamental issues, or at least a code of conduct. Our imagined critics might say that our society is fundamentally different from that of Victorian Britain in which Mill lived and wrote, and that in a society such as our own it is much more difficult for knowledge of truth to emerge from the babel of different opinions, assumptions, rules of discourse, and frames of reference. Such critics may argue that a sort of Gresham's Law may operate in such social circumstances in respect of discussion: the lower, more glamorous and sensational opinions may drive the better, more serious, truer opinions from the marketplace of ideas and opinions. Or the truth about a given issue may be swamped by the shifting

fashions of polemical debate. They may argue that in such circumstances, Mill's theory of the liberty of thought and discussion is of sharply reduced relevance. Or, they might argue that in such a society, constant disputation may lead to a complete retreat into concern with fashion and novelty, or to a skepticism about the possibility of attaining knowledge of truth.

In reply to such possible critics, we should say that the issues they raise are deserving of serious consideration. They are of course factual claims and need to be supported by evidence, however plausible many or all of their points may be from time to time to any social observer. As well, it must be stressed that Mill nowhere claims that his theory of the liberty of thought and discussion will guarantee emergence of knowledge of truth, but only that it is necessary for knowledge of truth. The distinct argument that such liberty, in the absence of certain social and intellectual conditions, rules, practices or institutions, may actually hinder the quest for knowledge would be an extremely difficult case to make out, for how would we ever be able to know whether a certain set of social rules or institutions or liberty of thought and discussion was responsible for whatever success our efforts toward knowledge had attained?

Thirdly, we may say that in the absence of empirical certainty of all these considerations, liberty of thought

and discussion is the clearest essential requirement in attaining knowledge of truth. Lastly, we may say that there will always be risks as well as benefits attached to liberty of thought and discussion.

As well as the consensus put forth by the possible critics we have been discussing, it is of concern to many that liberty or freedom of speech or expression may also be used to protect certain expressions which they hold to be insupportable. These include expressions in print, but more likely photographic, theatrical, cinemagraphic, or videographic depictions which are held to be variously obscene, indecent, violent, cruel and degrading, especially to women and children. As we have seen in our foregoing discussion, Mill touches on this subject only once, in Chapter Five of "On Liberty," when he refers to "offences against decency" which may be "directly injurious only to the agents themselves," and therefore ought not to be interfered with, but nevertheless may be interfered with if they are done publicly, and thus "are a violation of good manners." As such, they come "within the category of offences against others" and "may rightly be prohibited." He then says that "it is unnecessary to dwell" on offences of this kind as "they are only connected indirectly with our subject."[76] To Mill, therefore, public offences against decency (which Mill does not define, but which he seems to regard as common and

uncontroversial notions), are within the realm of conduct which is harmful to others and therefore deserving of interference, just as defamatory or fraudulent utterances would be. Indeed this matter is mentioned, not in Chapter Two, but in Chapter Five of "On Liberty."

In Chapter Two, Mill deals not with freedom of expression in general, or freedom of speech per se, or for its own sake, rather Mill is concerned with a more precisely defined liberty; liberty of thought and discussion. And he is concerned with it for a specific reason: such liberty is essential for achieving knowledge of truth and the attendant mental well-being of mankind. Mill believed that knowledge of truth was attainable. This belief is clearly evidenced by the entire purpose and rationale of Chapter Two of "On Liberty," and it is illustrated by his statement in Chapter Two, which we have noted above, and which is worth repeating here:

> As mankind improve, the number of doctrines which are no longer disputed or doubted will be constantly on the increase: and the well-being of mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested.[77]

Mill is thus part of a tradition of thought which includes Milton, in which the justification of liberty of thought and discussion lies in the search for truth.

The final answer of Mill, and those in the tradition to which he belongs, to those who fear liberty of thought

discussion of opinions *simpliciter* (not including those who reprobate obscenity and cruelty, and with whom Mill would presumably sympathize) is therefore that by suppressing liberty of thought and discussion, we may be suppressing truth, and this would accordingly also be detrimental to the well-being of humankind. Indeed, as we have seen, Mill is optimistic about the development of knowledge of truth. It would therefore be folly to restrict liberty of thought and discussion.

Mill, and other thinkers who adhere to this view of the need and justification for liberty of thought and discussion, are to be distinguished from those who may be skeptical about knowledge of truth, especially in matters of morals, politics and philosophy, or regard truth as relative, and who are, unlike Mill, pessimistic about the likelihood or even possibility of liberty of thought and discussion to help us achieve knowledge of truth. A view of knowledge of truth, such as Mill has, is perhaps a firmer foundation for the liberty of thought and discussion than is the view of those who are skeptical of knowledge of truth. It may be thought that skeptical or relativist views will cause people to be more tolerant of different opinions precisely because they are skeptical about the possibility of truth, or of knowing truth. But an equally possible result is that people may decide that there is little value in tolerating the opinions

of others if they are convinced that it is more socially useful or efficient to impose their own opinions, especially if to do so accords with their own interests. Also, those in political authority may conclude that there is less to be lost by suppressing certain opinions than there is by permitting them and the attendant social disunity and possible social conflicts. The less such authority believes in the possibility of truth, the more likely it will feel the need to impose some order and unity. If, on the other hand, it is believed strongly that liberty of thought and discussion are essential to knowledge of truth, and that there is a good possibility that we can thereby gain knowledge of truth, then people, including political authorities, may find it easier to resist the temptation of intolerance.

Mill's Chapter Two of "On Liberty" is persuasive. It is nobly and powerfully reasoned. We have seen that throughout Chapter Two, Mill defends liberty of thought and discussion as necessary to the attainment of knowledge of truth, which is of the essence of "the mental well-being of mankind (on which all their other well-being depends)."[78]

To Mill, the manner in which we hold the truth is crucial. He would not agree with James Fitzjames Stephen whose view it was that it would be "the greatest of all intellectual blessings"[79] if all people could simply come to have true opinions or beliefs. Although Mill thinks that

there is a likelihood that there will come to be a consensus of true opinion about many matters which are presently disputed,[80] it is not merely true belief and the progress which is fostered thereby which is important, as desirable as this might be. It is knowing the truth, as distinct from merely believing the truth, which is important to Mill. Knowing the truth requires the use of the human faculties of reason and understanding. It is important to have good grounds for our opinions; the importance of this to Mill is seen by his concern for the benefits of dispute even for true opinions. Without such dispute, truth will "be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds" and its "vital effect on the character and conduct"[81] would be lost. The "mental well-being" of mankind is thus connected with knowledge of truth; with the manner in which a person holds the truth. This points to a related defence of liberty of thought and discussion. It is one which is contained in Chapter Two of "On Liberty," but which is not developed as explicitly as are Mill's arguments for knowledge of truth. This defence is that liberty of thought and discussion is essential to the dignity of the human person and personality. We have seen the importance which Mill attaches to human rationality in knowing rather than simply believing the truth. Mill also refers to the moral virtues involved in liberty of thought and discussion when

he says that intolerance may result in "intellectual pacification," but at the price of sacrificing the "moral courage of the human mind."[82] Liberty of thought and discussion is just as important for people of average capacities:

> Not that it is solely, or chiefly, to form great thinkers, that freedom of thinking is required. On the contrary, it is as much and even more to enable average human beings to attain the mental stature which they are capable of. There have been, and may again be, great individual thinkers in a general atmosphere of intellectual slavery. But there never has been, nor ever will be, in that atmosphere an intellectually active people.[83]

Liberty of thought and discussion is necessary to raise "even persons of the most ordinary intellect to something of the dignity of thinking beings."[84] For Mill, thinking, rational people are desired because their qualities are needed to attain knowledge of truth and because thinking beings have dignity. This ideal or value would seem to be related to the ideal or value of the development of individuality, or individual excellence in Chapter Three of "On Liberty," entitled "Of Individuality, As One of the Elements of Well-Being." Mill's admirable and powerful justification of liberty of thought and discussion in terms of knowledge of truth and the dignity of men as thinking beings, and its kinship to the ideal of the development of human excellence in Chapter Three of "On Liberty" puts us in mind of our discussion in Chapter One above, wherein we saw that Mill's language and arguments contain elements of a certain type of utilitarian justification for liberty as necessary for achieving certain

interests such as knowledge of truth which may be connected to happiness, and also elements of a justification for liberty as a right or value connected with a certain conception of the person, akin to a respect for a persons' principle.

Mill's chapter on the liberty of thought and discussion is a rich, vigorous and enduring defence of intellectual liberty. It must always be taken into account in any consideration of this subject.

CHAPTER IV

MILL ON INDIVIDUALITY

Chapter Three of "On Liberty" is entitled "Of Individuality, as One of the Elements of Well-Being." In Chapter Two of "On Liberty," Mill advocated that individual liberty, the scope of which he endeavored to define in the liberty, or harm, principle, should apply to the realm of thought and discussion. In Chapter Three, Mill considers whether:

> the same reasons do not require that men should be free to act upon their opinions—to carry these out in their lives, without hindrance, either physical or moral, from their fellowmen, so long as it is at their own risk and peril.[1]

Mill argues, in Chapter Three, for the value of applying the liberty principle to those actions of individuals which do not cause injury to the interests of others. This is the ideal of individuality. In Chapter Three of "On Liberty," Mill speaks of individuality having instrumental value in developing mental and moral vigor, and creativity and genius. Mill also speaks of individuality, or "individual spontaneity" as having "intrinsic worth"; as being valuable "on its own account."[2] In the title of Chapter Three, Mill refers to individuality as being one of the "elements" of well-being. To Mill, individuality seems to be a constituent part of well-being, as well as being a necessary requirement or

condition of well-being. Individuality or individual excellence describe a significant element of human well-being. Making our own choices, which is a vital part of what constitutes individuality, is the exercise and development of "the qualities which are the distinctive endowment of a human being. The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference are exercised only in making a choice."[3]

At the beginning of Chapter Three, Mill acknowledges that "no one pretends that actions should be as free as opinions."[4] He expresses a version of the liberty principle as follows:

> The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people. But if he refrains from molesting others in what concerns them, and merely acts according to his own inclination and judgment in things which concern himself, the same reasons which show that opinion should be free, prove also that he should be allowed, without molestation, to carry his opinions into practice at his own cost.[5]

It might be wished that Mill would explicate the implication of the phrase "at his own cost," which is not self-explanatory as to what kind of costs would be included in Mill's mind.

Mankind is fallible. Half-truths are widespread, and therefore unity of opinion is undesirable without a full comparison of opposing views. Just as there are good reasons for liberty of thought and discussion, so there are also good reasons for "different experiments of living."[6] Mill

then says:

> Where, not the person's own character, but the tradition or customs of other people are the rule of conduct, there is wanting one of the principal ingredients of human happiness, and quite the chief ingredient of individual and social progress.[7]

In this passage Mill connects individuality with the goal of happiness, as well as with progress. This passage also shows Mill's recognition that for many people, there is a gap between the guide or rule of conduct provided by their own character, and the guide or rule of conduct provided by tradition and custom. In Mill's view, where there is such a dichotomy, it should be allowed to express itself.

Mill then says that if people would only recognize the importance of individuality as an end, as a necessary part of "civilization, instruction, education, culture . . . there would be no danger that liberty should be undervalued, and the adjustment of the boundaries between it and social control would present no extraordinary difficulty."[8] It is, however, implausible to think that the difficult "adjustment of boundaries" involved in the application of the liberty principle will present no serious difficulties if only people appreciate the importance of individuality as a goal.

Mill then quotes with approval Wilhelm von Humboldt's claim that the end of man, as dictated by reason "'is the highest and most harmonious development of his powers to a complete and consistent whole'" and therefore everyone must "'direct his efforts . . . [to] the individuality of power

and development.'" For this, the two requisites are "'freedom, and a variety of situations.'" These combine to give rise to "'individual vigour and manifold diversity'" which in turn combine in "'originality.'"[9] The frontispiece of "On Liberty" is also a quotation from von Humboldt referring to the "essential importance of human development in its richest diversity."[10] To develop human powers, it is said, we require "freedom and a variety of situations." "Situations" is not explained, but this may refer to the conditions of life as distinct from a variety of characters. Freedom and a variety of situations unite to produce "individual vigour and manifold diversity"; therefore, diversity is a product of freedom and variety. Vigour and diversity then combine in "originality," which is the final result of the requisites: freedom and a variety of situations. Although it is not entirely clear, it seems that here individual excellence is primarily thought of as originality.

Mill then turns to a discussion of individuality in terms of "excellence in conduct"[11] and character. For this to be achieved one must of course, says Mill, take account of the prior experience of others, but a person must "use and interpret experience in his own way."[12] Each individual is by nature unique, and so he must judge according to his unique character. Even if a custom is a good one, and suitable to an individual, "yet to conform to custom, merely *as*

custom, does not educate or develop in him any of the qualities which are the distinctive endowment of a human being."[13] We can improve our mental and moral processes only by using them. There can be little quarrel with this view that the individual cannot become mentally or morally developed by merely aping others or custom. Mill then claims that to adopt an opinion that is not also endorsed by one's own reason will result in the weakening of his reason. And if the "inducements to an act"[14] are not endorsed by an individual's own feelings and character the effect will be enervating. This is very true, but we should add as a qualification the possibility that a custom can have positive value in that a person might intelligently choose to follow a custom, or value certain rituals as a way of maintaining links of continuity with important elements of the past, as for example in the liturgy of a religious community.

Mill then discusses individuality as choosing one's own "plan of life" which requires qualities of "observation . . . reasoning . . . judgment, activity, discrimination . . . firmness and self-control."[15] Later he refers to the need for men to develop according to "the inward forces."[16]

Mill's argument then takes an interesting turn. He concentrates on the need for individual independence of "desires and impulses"[17] in order to be an individual character. Such a person, with strong and varied desires and

feelings has more of the "raw material of human nature."[18] This is another name for energy. Society needs strong and energetic characters. At one time perhaps there was excessive spontaneity and individuality, when laws and society had insufficient sway. But in modern times, society has the better of individuality; now "everyone lives under the eye of a hostile and dreaded censorship."[19] People think only of following what is customary. We may perhaps dispute this factual claim that the social censorship and power of custom were very much less in the villages and feudal estates of earlier times than even in Victorian England. In earlier or simpler societies conformity might have seemed less oppressive or more natural because of the absence of the option of full individuality. And surely it is possible that the pre-Victorian Regency period was more relaxed than either.

Mill then criticizes Calvinism as a doctrine hostile to individuality in that it seeks to extirpate all self-will. Mill says that it is more consistent for religous persons to believe that a good God gave individuals faculties so that they might be "cultivated and unfolded,"[20] and that God delights in "every increase in any of their capabilities of comprehension, of action, or of enjoyment."[21] As a contrast to Calvinism Mill speaks of the "Greek ideal of self-development, which the Platonic and Christian ideal of self-government blends with, but does not supersede."[22] He says that

it would be better to be a Pericles than a John Knox.

To the degree to which his description of Calvinist doctrine is correct, Mill does an excellent job of drawing out an alternative Christian attitude favourable to individuality. Mill distinguishes Greek self-development with which the Platonic and Christian ideal of self-government "blends but does not supersede"; yet in the light of what Mill says about the appropriate religious attitude toward individuality, he might recognize that any consistent endeavour to live according to Christian or possibly other transcendental traditions may require a not inconsiderable individuality.

Further, as Maurice Cranston has observed, individualistic doctrines can have anti-individualistic effects: "According to Reformation teaching every man was to be a priest unto himself; which mean, in effect, that every man was a priest unto everybody else, and public opinion assumed sovereignty in morals."[23] Cranston's observation suggests that perhaps an unrestrained individualist outlook can strengthen the tyranny of public opinion and a heightened social conformism. It may be that securing individuality in society is more complicated than advocating an individualism unconstrained by any social practice, tradition or institution. The real possibility in the functioning of society may not be a clear and simple choice between freedom

and restraint, but rather a choice between different kinds and degrees of restraint. Earlier in Chapter Three, as we have seen, Mill recognized the value of "the ascertained results of human experience."[24] He does not, however, say that such experience or any social practices or institutions could be useful to individuality itself. But Mill does discuss the kind of restraint that he regards as not harmful to individuality; that is, that which seeks to prevent the individual from trenching on the rights and interests of others:

> As much compression as is necessary to prevent the stronger specimens of human nature from encroaching on the rights of others cannot be dispensed with; but for this threat is ample compensation even in the point of view of human development. The means of development which the individual loses by being prevented from gratifying his inclinations to the injury of others, are chiefly obtained at the expense of the development of other people. And even to himself there is a full equivalent in the better development of the special part of his nature, rendered possible by the restraint put upon the selfish part. To be held to rigid rules of justice for the sake of others, develops the feelings and capacities which have the good of others for their object.[25]

As Mill says, such compression protects not only the rights of others, and indeed the development of individuality in others, but it also has a salutary effect on the individual who is required to learn respect for the rights of others. Mill then says:

> But to be restrained in things not affecting their good, by their mere displeasure, develops nothing valuable, except such force of character as may unfold itself in resisting the restraint. If acquiesced in, it dulls and blunts the whole nature. To give any fair play to the nature of each, it is

> essential that different persons should be allowed to live different lives.[26]

In these two above quoted passages, Mill is very forceful and eloquent about the beneficial effects of properly balanced liberty and constraint, and about the pernicious effects of the wrong balance between liberty and constraint, especially excessive restraint. When Mill says that to acquiesce in unwarranted restraint "dulls and blunts" human nature, and that it is essential that different persons should be allowed to be different, we may perhaps see what might be part of Mill's theory, or conception, of the individual human personality; of what an individual and individuality really consist in, or amount to. There is a great richness in Mill's account of individuality in Chapter Three. His account has great heuristic value. But it is difficult to know if Mill has a clear, coherent conception of individuality and individual human personality precisely because of the variety of senses or interpretations of individuality which are present in Chapter Three.

One way in which Mill interprets or presents individuality is to say that it is required for, and is of the essence of independent, freely choosing, morally mature, self-directed persons. Mill's celebration of development of the intellectual and moral, and indeed other powers of individuals sounds very much like a respect for persons, as distinct from a utilitarian outlook, as is seen in Mill's

quotation from Wilhelm von Humboldt:

> "The end of man, or that which is prescribed by the eternal or immutable dictates of reason, and not suggested by vague and transient desires, is the highest and most harmonious development of his powers to a complete and consistent whole."[27]

Mill himself says:

> yet to conform to custom, merely *as* custom, does not educate or develop in him any of the qualities which are the distinctive endowment of a human being. The human faculties of perception, judgment, discriminative feelings, mental activity, and even moral preference, are exercised only in making a choice.[28]

A second discernible interpretation of individuality presented in Mill's account is an aesthetic celebration of the rich variety of individual particularity:

> It is not by wearing down into uniformity all that is individual in themselves, but by cultivating it, and calling it forth, within the limits imposed by the rights and interests of others, that human beings become a noble and beautiful object of contemplation; and as the works partake the character of those who do them, by the same process human life also becomes rich, diversified, and animating, furnishing more abundant aliment to high thoughts and elevating feelings.[29]

Thirdly, Mill speaks of individuality as the development of one's individual unique potentiality, which may include the eccentricity which is, Mill says, so often and rightly associated with genius:

> Genius can only breathe freely in an atmosphere of freedom. Persons of genius are, ex vi termini, more individual than any other people—less capable, consequently, of fitting themselves, without hurtful compression, into any of the small number of moulds which society provides in order to save its members the trouble of forming their own character.[30]

And further:

> Eccentricity has always abounded when and where strength of character has abounded; and the amount of eccentricity in a society has generally been proportional to the amount of genius, mental

> vigour, and moral courage it contained. That so few now dare to be eccentric marks the chief danger of the time.[31]

This type of passage has led R.P. Anschutz to say that Mill is guilty of substituting "bohemian nonsense for bourgeois nonsense"; when he celebrates eccentricity for its own sake, Anschutz claims that Mill commits

> the error of assuming that a man is only himself when he succeeds in being different from other men, as if individuality meant peculiarity and idiosyncrasy. Hence—and this is the greatest weakness of his position—he is led to ignore the fundamental part played by tradition in providing a context for the empty form of individuality.[32]

Anschutz is right to note Mill's failure to appreciate the importance of tradition to an authentic individuality. But it is not correct to say that Mill thinks of individuality as just "peculiarity and idiosyncrasy." Mill thinks that people are naturally different from one another in many respects and that these differences should not be artificially compressed. It is harmful if people should have to think and act alike despite their real differences. To Mill diversity is also a requirement for breaking through the wall of custom and public opinion, with the purpose of achieving individuality. To Mill, eccentricity is a sign, or index, or epiphenomenon of genius, as opposed to being an end in itself. Where there is genius, there will also be eccentricity.

A fourth discernible aspect of Mill's account of individuality is the notion that the value of individuality does

not merely pertain to individuals, but also to society generally. The health of a society depends on individual variety, which in turn is, in Mill's view, necessary for developed individuals. Referring to the cultivation of energy and strong feelings, Mill says: "It is through the cultivation of these that society both does its duty and protects its interests; not by rejecting the stuff of which heroes are made, because it knows not how to make them"[33] and:

> these developed human beings are of some use to the undeveloped . . . originality is a valuable element in human affairs. There is always need of persons not only to discover new truths, and point out when what were once truths are true no longer, but also to commence new practices, and to set the example of more enlightened conduct, and better taste and sense in human life.[34]

Mill has even stronger praise for the roles of developed individuals:

> The initiation of all wise or noble things comes and must come from individuals; generally at first from some one individual. The honour and glory of the average man is that he is capable of following that initiative.[35]

And in discussing the fates of entire societies and civilizations, Mill says:

> Unless there were a succession of persons whose ever-recurring originality prevents the grounds of those beliefs and practices from becoming merely traditional, such dead matter would not resent the smallest shock from anything really alive, and there would be no reasons why civilization should not die out, as in the Byzantine Empire.[36]

In distinguishing the superior civilization of Europe to the nations of the East, Mill says: "A people, it appears, may be progressive for a certain length of time, and then stop:

when does it stop? When it ceases to possess individuality."[37]

It is clear from such passages as these, that Mill regards liberty, and the individuality it helps to secure, as being not only valuable to individual human beings, but as having an inherent and direct social value as well. Not only can less well developed individuals be helped toward wisdom or greater development by well developed individuals, but well developed individuals are directly necessary to the health and vigour of a society or civilization.

A fifth element in Mill's account of individuality is his methodological individualism. By this is meant that in his advocacy of the value of individuality and his description of its nature, Mill depicts society as essentially and ultimately a collection of discrete individuals and individual actions, and that the way to understand society, or specific social phenomena, is to endeavour to analyze social phenomena into the individuals who are identifiable in the phenomena. In *A System of Logic*, which contains Mill's theory of both physical and social scientific explanation, Mill says:

> The laws of the phenomena of society are, and can be, nothing but the laws of the actions and passions of human beings united together in the social state. Men, however, in a state of society, are still men; their actions and passions are obedient to the laws of individual human nature.[38]

This theory of social atomism is, therefore, mandated by

Mill's theory of scientific explanation. It is, of course, also a key part of Benthamite moral philosophy, classical economics, and the tradition of British psychology from Hume through Hartley to James Mill. In "On Liberty," Mill speaks, as we have seen from the above quoted passages, of public opinion, of the majority, of masses, of classes, of custom and tradition. But beyond these general or abstract expressions, there is an absence of a discussion of the effects of specific social, political and economic institutions on individuals or on one another. In "On Liberty," the idea of injury or harm to others is that of injury or harm to the rights and interests of other identifiable individuals. If individuals hurt or help society, they do so through the medium of their effect on specific individuals.

The presence of these several strains or elements in Mill's account of individuality constitutes a significant part of the appeal of Mill's account, which, by virtue of its richness, comprehends, or is at least sensitive to, the plurality of elements we can encounter in a study of individuality.

Mill has considerably enriched the narrow Benthamite view of the individual as the basic unit of social analysis, maximizing his own interests in the marketplace or other social arenas, but otherwise substantially similar to all other individuals. The richness and variety of Mill's

account of individuality may come from a choice on Mill's part to augment the Benthamite view with a more socially adequate and rounded view of the individual human personality. This may be a part, or a result, of Mill's endeavour to unite the insights of Bentham and Coleridge, as evidenced by his essays on those two men.[39] But this noble and characteristic Millian enterprise can result not only in richness, but in confusion and some incoherence, as a result of the tensions between the different values and perspectives which compose Mill's account of individuality.

A view which emphasizes the richness of individual variety may have different implications for interpersonal relationships and public policy than would a methodological individualist analysis, in which individual interests and desires are driven by the uniform dictates of the market. Perhaps Mill's account of individuality is ultimately more hospitable toward methodological individualism since Mill's account does not consider the possibility that some persons may require the shelter of protective institutions to buffer their more delicate natures against other individuals or majority opinion that are to be prohibited from injuring rights and interests, but not sensibilities.

As well, Mill does not adequately develop the morally mature, self-directed, freely choosing element in his account. Mill says that the individual must choose his way

of life according to his own lights. Except in the realm where the legitimate interests of others are concerned and where presumably utilitarian calculations are demanded, there are no objective criteria of choice. People are naturally different and must be allowed to be different:

> If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is best in itself, but because it is his own mode.[40]

In this light, Mill appears not only romantic but even existentialist. Read in different ways, Mill can be claimed by a number of schools. The variety and tensions within Mill's account of individuality also help make it clear why "On Liberty" continues to be such a controversial, and indeed exciting, work.

We have seen that Mill formulates his conception of individuality in a variety of ways: as moral self-direction, as genius, and as originality. We have also seen that his celebration of individuality is accompanied by a theory of methodological individualism. But whatever doubts we may have about Mill's account of individuality, we cannot doubt what it is that Mill sees as the nature of the challenge to individuality. To Mill, the whole general tendency of modern society is against individuality:

> I insist thus emphatically on the importance of genius, and the necessity of allowing it to unfold itself freely both in thought and in practice, being well aware that no one will deny the position in theory, but knowing also that almost everyone, in reality, is totally indifferent to it. People think genius a

> fine thing if it enables a man to write an exciting poem, or paint a picture. But in its true sense, that of originality in thought and action, though no one says that it is not a good thing to be admired, nearly all, at heart, think that they can do very well without it.[41]

Indeed, Mill is of the opinion that the world is becoming more inhospitable to individuality than it was in earlier times:

> In ancient history, in the Middle Ages, and in a diminishing degree through the long transition from feudality to the present time, the individual was a power in himself, and if he had great talents or a high social position, he was a considerable power. At present individuals are lost in the crowd. In politics it is almost a triviality to say that public opinion now rules the world.[42]

And later in Chapter Three, he says:

> There is now scarcely any outlet for energy in this country except business. . . . The greatness of England is now all collective; individually small, we only appear capable of anything great by our habit of combining. . . . But it was men of another stamp than this that made England what it has been; and men of another stamp will be needed to prevent its decline.[43]

It is clearly central to Mill's outlook to see the trend of history as being against individuality. This sense of danger lends an eloquent and powerful urgency to Mill's social criticism.

Mill speaks highly of the social diversity and individual energy of earlier times in contrast with the power of mass public opinion and other forces of modern society. However, Mill's historical sense may be inadequate here as it is not at all clear that historical eras before modern, post-feudal times, or the mid-nineteenth century were more congenial to individuality. A strong characteristic of many

earlier societies was the presence of customary practices.

It may well be that in ancient and medieval times there were considerable constrictions on some aspects of individuality and on individual energy for many in society, together with greater liberties and scope for the expression of spontaneity, originality and energy by those who occupied a high enough place in society. For many in earlier times, there was surely little or no option but to conform. And when there is little or no option but to conform, the consciousness of having to conform lessens or does not arise in an acutely felt way. It may be that for this reason, and also perhaps because their constraints felt natural, due to the organizational, economic and technical nature of the times, many individuals in earlier times did not feel the oppressive or restrictive or constraining aspects of society as acutely as individuals in Mill's time or since. Mill then says that custom, or what is customary, is the enemy of liberty, which in turn is "the only unfailing and permanent source of improvement."[44] Liberty promotes the maximum in individual excellence, because it promotes "as many possible independent sources of improvement as there are individuals."[45] "The despotism of custom"[46] is the great force which has extinguished liberty and therefore individuality and originality, and therefore improvement and progress, in Eastern civilizations. Progress ceases when

individuality is lost. Mill says that we may desire and applaud the goal of progress, but we cannot achieve it without individuality, which we generally in fact do not desire or applaud: "It is not progress that we object to; on the contrary, we flatter ourselves that we are the most progressive people who ever lived. It is individuality that we war against."[47]

In China, says Mill, stagnation set in despite a talented population, wise men, "a good set of customs" and an "apparatus" well fitted for inculcating wisdom into the people and for choosing the best to be leaders of society. Stagnation resulted because "the Chinese educational and political systems" had the effect of making everyone alike, "all governing their thoughts and conduct by the same maxims and rules."[48] And this, says Mill, is merely an organized form of what modern public opinion in our society is in an unorganized form.

European civilization has heretofore succeeded in escaping such stagnation by virtue of the "remarkable diversity of character and culture"[49] of Europeans. This variety has been effected, not by tolerance, but by an inability to wholly dominate one another.

Mill here has presented a cultural contrast which is well drawn and which seems to be strikingly illuminating.

But Mill is pessimistic about European society. For

modern tendency is for the circumstances of different individuals and groups, and therefore, of the individuals and groups themselves to become more and more alike:

> Formerly, different ranks, different neighbourhoods, different trades and professions, lived in what might be called different worlds; at present to a great degree in the same. Comparatively speaking, they now read the same things, listen to the same things, see the same things, go to the same places, have their hopes and fears directed to the same objects, have the same rights and liberties, and the same means of asserting them.[50]

To Mill, the forces of modern society which promote the assimilation of individual differences are numerous and strong: Political changes "tend to raise the low and to lower the high."[51] The extension of education "brings people under common influences, and gives them access to the general stock of facts and sentiments."[52] Communications bring people from distant places together. Commerce and industry spread "the advantages of easy circumstances"[53] and spread ambitious striving and competition among all classes. And "the ascendency of public opinion"[54] is the greatest force of all.

Interestingly, Mill here again notes, as he does with respect to industry and commerce, the equalizing or social levelling effect of public opinion on individuality. He says that "social support for nonconformity"[55] or for non-conforming opinions and tendencies ceases "as the various social eminences which enabled persons entrenched on them to disregard the opinion of the multitude gradually become

levelled."[56] This is interesting in the light of the democratic traditions in Mill's Benthamist background. It is not clear from the passage whether Mill would favour an amendment of the Benthamist social outlook, or whether Mill is merely accepting the growing social egalitarianism as an inevitable fact to be accepted as such.

The chapter on individuality is very powerful in depicting the dangerous tendencies in modern society which are hostile to individuality. But Mill is extraordinarily brief in his consideration of what can be done to protect and further individuality, in a consideration of how to achieve individuality in the face of the onslaught of the customs and opinions of the majority, and all the other forces hostile to it. Although Mill speaks approvingly of earlier times, he does not recommend the dismantling of modern society. There are two passages in which he addresses the problem of a practical defence of individuality:

> It does seem, however, that when the opinions of merely average men are everywhere become or becoming the dominant power, the counterpoise and corrective to that tendency would be the more pronounced individuality of those who stand on the higher eminences of thought.[57]

And at the end of Chapter Three, Mill concludes by expressing his deep concern that the forces hostile to individuality are so strong that individuality may not survive "unless the intelligent part of the public can be made to feel its value."[58] Mill's practical strategy for defending individu-

ality is to convince people of a higher mental calibre of the importance of individuality and of the possibility of choosing it.

Educating the intellectually distinguished as to the value of individuality is admirable, so far as it goes. But given what Mill says about the power of the social, political and economic forces of public opinion, democracy, industry and so forth, and the seemingly simple and innate hostility of the majority toward individuality, it is not easy to see how this recommendation could be enough. Indeed, it is possible that individuality or eccentricity may be accepted, perhaps in some artistic or intellectual circle but yet not succeed in penetrating the broader society. It is possible to accept individuality and at the same time to isolate that acceptance. Also, there is little to indicate that intelligence necessarily or even tends to predispose people toward individuality. Even if the education of these intelligent persons were successful, intelligence does not necessarily translate into social, political or economic influence sufficient to counter the forces hostile to individuality.

We have suggested that Mill is too brief in his consideration of what can be done to protect and further individuality. As so much of the challenge to individuality comes from the various homogenizing forces of modern mass society,

as Mill so powerfully states, it may be useful to consider the possibility of seeking out any social practices, institutions, or other phenomena which may be of assistance to efforts to protect and further individuality. Among such possible candidates there may be some traditions found. Some traditions may serve as useful counterweights to many of the general tendencies of modern society which Mill describes.

It is unclear how Mill defines tradition. Near the beginning of Chapter Three he says:

> The traditions and customs of other people are, to a certain extent, evidence of what their experience has taught them. . . . Customs are made for customary circumstances and customary characters. . . . He who does anything because it is the custom makes no choice.[59]

Little is said of tradition, except in the first phrase. Custom and the customary seem to mean that which is the habitual or preferred practice among the majority or mass of the people. It seems, in Mill's exposition, to be similar to the idea of prevailing public opinion, and not necessarily a traditional, time proven, or at least time honoured institution or usage of either practical or liturgical , symbolic purpose. Later in Chapter Three, Mill refers to "the sway of Custom . . . the despotism of Custom"[60] in the eastern civilizations. We have seen that Mill develops or explicates this in terms of a regime of imposed sameness, as in the Chinese educational and politi-

cal systems, which are, he says, the organized parallel of public opinion in Western societies. In short, Mill describes custom as the force or tendency of imposing or inducing sameness, and of denegrating variety. Referring to the threat facing European civilization, he says: "the despotism of custom with which these nations are threatened is not precisely stationariness. It proscribes singularity, but it does not preclude change, provided all change together."[61] Therefore, to Mill, custom is the sameness of mass public opinion. And this is something which social, political and economic forces are abetting.

Perhaps Mill's analysis of custom prevented him from seeing that in some form, custom, or more particularly tradition, which Mill seems to use as a synonym for custom, could serve as an ally against the mass public opinion and the homogenizing forces of modern society. Individuality may be fostered in many instances by traditions which are distinct from modern trends. Indeed it is ironic that Mill does not develop this idea as he is conscious that "different ranks, different neighbourhoods, different trades and professions" serve to help individuality. A crucial part of such different circumstances is the presence of institutions with traditional structures of allegiance and function such as the family, both immediate and extended, the locality and neighbourhood, the religious congregation and church,

local schools and beneficient or charitable societies, local businesses, farms, guilds, unions or trade associations, and a sense of past rootedness to a particular place that comes from long residence by oneself or by one's ancestors.

In the present condition of modern society, such institutions may be able to serve as bulwarks or at least filters against so many of the centralizing, rationalizing tendences of modern urban, industrial, electronic, democratic society. It is also ironic that Mill should have overly praised, as we have suggested, ancient and medieval times for the amount and quality of individuality available to most people, while condemning custom, and not considering the benefits of tradition as a counterpoise to modern trends. In this context it should be stressed that tradition can mean something distinct from custom or the customary, especially in the sense in which Mill uses the term custom, as synonymous with public opinion.

Traditional practices and institutions may provide a different, and therefore useful, source of opinion and conduct than the forces of modern society such as education, popular democracy, mass communications, industry and commerce.

Our society has a mass scale. Many of its institutions have a monolithic quality. The effect of such qualities is bound to be augmented in societies with large, urbanized,

linguistically uniform populations, large state administrations, and economic organizations of an often transnational scale. These forces and that of public opinion are not necessarily the same as those of traditional institutions, practices, usages, and values which may help us to resist the homogenizing influences of mass society by providing alternative and particular communities, loyalties and sources of authority. At the very least, such institutions ought to be seriously considered for their usefulness, as indeed , the question of the relationship between the various factors affecting individuality is an extremely difficult one. In Chapter Three, Mill moves from a warning about the effects of custom and tradition upon individuality to a discussion of the influence of public opinion which he identifies with custom. But these factors cannot be collapsed into one another. Public opinion may not only induce uniformity but may also be informed by the influences of fashion, restlessness, and a constant desire for novelty, which, ever present in modern society, can even foster a certain debased form of individuality which we see in the phenomenon of popular celebrity.

Also, in defence of traditions or customs, as distinct from public opinion, we should note that the deliberate, reasoned choice of an individual to follow custom may be an act of authentic individuality, if we believe that a

tradition or custom is appropriate or is the best option. Indeed, Mill himself appreciates the importance of choice.

Also, our efforts toward individuality in one or more areas may be actually aided by the availability of traditional or customary guides. As one writer has said, Mill ought to acknowledge:

> the immense economies of effort made possible by the existence of ready-made customs which we can take on without having to think out from first principles how to behave in this area.[62]

And further:

> [I]n trying to reform one practice or institution one relies on a great variety of practices and institutions which one is not now seeking to reform. The stability of these other institutions is likely to be indispensable for the rational reform of the institution in question.[63]

These reflections and observations make a more complex but perhaps more adequate picture of the place of individuality in society. A more adequate analysis of the place of individuality in society may help us to clarify our understanding of individuality itself. Rather than studying to understand individuality and society as a bifurcation or dichotomy, we ought, perhaps, to see individuality as embedded in a social context, from which the individuality qua vritue or ethic may be abstracted as an ideal type for certain conceptual purposes, but from which the actual effort or practice of individuality cannot. In practice, individuality has to choose between different constraints, disciplines, institutions, usages and other forces as allies or opponents.

CHAPTER V

THE PRACTICE OF LIBERTY

In the essay "On Liberty," John Stuart Mill argues that liberty, according to the scope of the liberty principle, is necessary in order to attain the human benefits or goods of knowledge of truth and individual excellence. Mill does not insist that liberty is the sole condition necessary for the attainment of these goods. But it is clear that for Mill, the vigorous practice of liberty will enable men to develop and exercise those distinctive human endowments[1] which, for Mill, are essential elements in the achievement of a worthwhile human life, and indeed help constitute such a life.

Mill's sense of the benefits of the human endowments of reason and knowledge is also to be seen in another work: *A System of Logic*.[2] In Book Six thereof, Mill states his conviction that the fundamental principles of inquiry and explanation in the enormously successful physical sciences are also the proper methods of the social or "moral" sciences. All sciences, physical and moral, are natural sciences. To Mill, the path is clear for the development of the human sciences.

Mill concludes Book Six with a chapter entitled "Of the Logic of Practice, or Art, Including Morality and Policy."[3]

Therein Mill considers the role of practice or art in human affairs, and the distinction and relation between art and science:

> Whatever speaks in rules or precepts, not in assertions respecting matters of fact, is art; and ethics or morality is properly a portion of the art corresponding to the science of human nature and society.[4]

The relation of art to science is that art proposes the goal we wish to attain. Practice or art supplies:

> the original, major premise, which asserts that the attainment of the given end is desirable. Science then lends to Art the proposition (obtained by a series of inductions or deductions) that the performance of certain actions will attain the end. From these premises, Art concludes that the performance of these actions is desirable, and finding it also practicable, converts the theorem into a rule or precept.[5]

Mill states that the "general premises" which determine "the proper objects of approbation . . . form (or rather might form) a body of doctrine, which is properly the art of life, in its three departments, Morality, Prudence or Policy, and Aesthetics; the Right, the Expedient, and the Beautiful or Noble, in human conduct and works."[6] To Mill, "Every art is thus a joint result of the laws of nature disclosed by science, and of the general principles of what has been called Teleology, or the Doctrine of Ends."[7] There must, says Mill, be one single ultimate standard of conduct "to which all rules of practice ought to conform."[8] It is "that of conduciveness to the happiness of mankind, or rather, of all sentient beings: in other words, that the promotion of happiness is the ultimate principle of teleology."[9] For a

justification of this principle, Mill refers us to "Utilitarianism." Mill goes on to say that the promotion of happiness is the justification of all actions, but it is not itself the sole "end of all actions, or even of all rules of action."[10] Mill says "that the cultivation of an ideal nobleness of will and conduct should be to individual human beings an end"[11] to which their own happiness may have to give way. But such conduct will advance human happiness both in the "humble sense of pleasure and freedom from pain, and in the higher meaning, of rendering life, such as human beings with highly developed faculties can care to have."[12]

Mill's view here seems to be that the development of the good human life, and of developed human faculties in the practice or art of life has at its disposal the principle of teleology, or, of the greatest happiness which, to Mill, is based on the obvious desire of human beings for happiness,[13] which is shown to us by our reason and experience. And the development of the good human life also has at its disposal the findings of science.

In the light of this outline of the way of human development, we can see the basis of Mill's antipathy toward what he termed "intuitionism":

> The notion that truths external to the mind may be known by intuition or consciousness, independently of observation and experience, is, I am persuaded, in these times, the great intellectual support of false doctrines and bad institutions. By the aid of this theory, every inveterate belief and every intense feeling, of which the origin is not remembered, is enabled to

> dispense with the obligation of justifying itself by reason, and is erected into its own all-sufficient voucher and justification.[14]

For Mill, intuitionism is not only pernicious but unnecessary in a society in which liberty of thought, discussion and choice in matters not harmful to others exists; and in which the rational justification of practical and scientific views is recognized. Mill's optimism is expressed in his Autobiography. Speaking of an era in which science has succeeded theology and metaphysics in human knowledge, Mill says:

> I looked forward, through the present age of loud disputes but generally weak convictions, to a future which shall unite the best qualities of the critical with the best qualities of the organic periods; unchecked liberty of thought,unbounded freedom of individual action in all modes not hurtful to others; but also, convictions as to what is right and wrong, useful and pernicious, deeply engraven in the feelings by early education and general unanimity of sentiment and so firmly grounded in reason and in the true exigencies of life, that they shall not, like all former and present creeds, religious, ethical, and political, require to be periodically thrown off and replaced by others.[15]

The spirit of confidence is also present in the essay "On Liberty":

> As mankind improve, the number of doctrines which are no longer disputed or doubted will be constantly on the increase: and the well-being of mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested.[16]

To Mill, liberty is underwritten by a confidence in the advancement of scientific and practical, including moral, knowledge. As well, the practice of liberty is necessary for, and is in large measure justified by, the benefits it

makes possible for the development of human faculties of mind and character. Speaking of the liberty of thought and discussion, he says: "We have now recognized the necessity to the mental well-being of mankind (on which all their other well-being depends) of freedom of opinion."[17] And without freedom of opinion, even the truth will be held as a mere prejudice and without an understanding of "its rational grounds." As such it will lose "its vital effect on the character and conduct . . . [becoming] inefficacious for good . . . and preventing the growth of any real or heartfelt conviction, from reason or personal experience."[18]

Similarly, in Chapter Three of "On Liberty," individual excellence is tied to the faculties or:

> qualities which are the distinctive endowment of a human being. The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice.[19]

To Mill, such choice does not issue out of nothing. Truth is important to individuality, as well as to thought and discussion:

> It will not be denied by anyone, that originality is a valuable element in human affairs. There is always need of persons not only to discover new truths, and to point out when what were once truths are true no longer, but also to commence new practices, and set the example of more enlightened conduct, and better taste and sense in human life.[20]

When all of the essay "On Liberty" is examined, and when Chapters Two and Three, which express the value of liberty, are read together, we see that despite the ambigu-

ities of Mill's avowed utilitarian justification for liberty, the inadequacies of the liberty principle, and any shortcomings in his arguments for liberty in Chapters Two and Three, a crucial part of the enduring value of Mill's defence of liberty must be the vital necessity of liberty to the distinctive virtue or character of human beings: "the dignity of thinking beings."[21]

In noting the presence in Mill's theory of liberty of what might be seen as a respect for persons justification, we ought not simply to criticize Mill for inconsistency, but ought also to appreciate Mill's sensitivity to the moral and rational character and, therefore, requirements of man's being.

NOTES

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[1]John Stuart Mill, "On Liberty," in *Utilitarianism, Liberty, and Representative Government*, Everyman's Library (London: J.M. Dent & Sons, 1910), p. 68.

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[3]Ibid.

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[6]Ibid., p. 74.

[7]Ibid., p. 73.

[8]Ibid., p. 150.

[9]Ibid., p. 74.

[10]Ibid.

[11]Mill, "Utilitarianism," in *Utilitarianism, Liberty, and Representative Government*, p. 6.

[12]Mill, "On Liberty," p. 74.

[13]Ibid., p. 115.

[14]Ibid., p. 75.

[15]Ibid., p. 77.

[16]Ibid.

[17]Ibid., p. 111.

[18]Alan Ryan, *J.S. Mill* (London: Routledge & Kegan Paul, 1974), p. 133.

[19]S.I. Benn and R.S. Peters, "The Philosophical Problem of Liberty," in *Limits of Liberty: Studies of Mill's "On Liberty,"* ed. Peter Radcliff (Belmont, Ca.: Wadsworth Publishing Company, 1966), p. 82.

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[20]Ibid., p. 83.

[21]Ibid.

[22]Ibid., p. 84.

[23]Ibid., p. 86.

[24]Mill, "On Liberty," p. 75.

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[1]R.P. Anshutz, *The Philosophy of J.S. Mill* (Oxford: Clarendon Press, 1953), p. 48.

[2]Ibid., pp. 58-59.

[3]Mill, "On Liberty," p. 75.

[4]Ibid., p. 137.

[5]Ibid.

[6]Ibid., p. 138.

[7]J.C. Rees, "A Re-Reading of Mill on Liberty," in *Limits of Liberty: Studies of Mill's "On Liberty,"* ed. Peter Radcliff (Belmont, Ca.: Wadsworth Publishing Company, 1966), p. 87.

[8]Mill, "On Liberty," p. 132.

[9]Ibid.

[10]Rees, "A Re-Reading of Mill on Liberty," p. 94.

[11]James Fitzjames Stephen, *Liberty, Equality, Fraternity* (Cambridge: Cambridge University Press, 1967).

[12]J.R. Lucas, *The Principles of Politics* (Oxford: Clarendon Press, 1966), p. 73.

[13]Ibid.

[14]Mill, "On Liberty," p. 74.

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[15]Ibid., p. 137.

[16]Ibid., p. 74.

[17]Ibid., p. 75.

[18]Ibid., p. 138.

[19]Ibid.

[20]Ibid.

[21]C.L. Ten, *Mill on Liberty* (Oxford: Clarendon Press, 1980).

[22]Ibid., p. 56.

[23]Mill, "On Liberty," p. 132.

[24]H.L.A. Hart, *The Concept of Law* (Oxford: Clarendon Press, 1961), pp. 189-195.

[25]Ten, *Mill on Liberty*, p. 57.

[26]Ibid., p. 59.

[27]Ibid.

[28]Ibid.

[29]Ibid., p. 60.

[30]Ibid.

[31]Mill, "On Liberty," p. 74.

[32]Ibid.

[33]Ibid., p. 158.

[34]Mill, "Utilitarianism," p. 38.

[35]Ten, *Mill on Liberty*, p. 60.

[36]Mill, "Utilitarianism," p. 46.

[37]Ibid.

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[38]Ibid., p. 47.

[39]Ibid., p. 49.

[40]Ibid., p. 50.

[41]Ibid.

[42]Ibid., p. 51.

[43]Ibid.

[44]Alan Ryan, *J.S. Mill*, p. 121.

[45]Mill, "Utilitarianism," p. 55.

[46]Ibid., p. 56.

[47]Ibid., p. 58.

[48]J.W.N. Watkins, "John Stuart Mill and the Liberty of the Individual," in *Political Ideas*, ed. David Thomson (London: C.A. Watts, 1966), p. 173.

[49]Mill, "On Liberty," p. 114.

Chapter III

[1]Mill, "On Liberty," p. 77.

[2]Ibid., p. 79.

[3]Ibid., p. 81.

[4]Ibid., p. 82.

[5]Ibid., p. 83.

[6]Ibid., p. 84.

[7]Ibid., p. 93.

[8]Ibid., p. 95.

[9]Ibid., p. 96.

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[10]Ibid., p. 104.

[11]Ibid., p. 105.

[12]Ibid., p. 106.

[13]Ibid., p. 108.

[14]Ibid., p. 113.

[15]Ibid., p. 77.

[16]Ibid.

[17]Ibid., p. 72.

[18]Ibid.

[19]John Stuart Mill, *Autobiography of John Stuart Mill* (New York: Columbia University Press, 1924), p. 177.

[20]Mill, "On Liberty," p. 111.

[21]Ibid., p. 114.

[22]Anschutz, *J.S. Mill*, p. 48.

[23]Ibid.

[24]Mill, "On Liberty," p. 111.

[25]Ibid., p. 153.

[26]Ibid., p. 83.

[27]Ibid., p. 114.

[28]Ibid., p. 83.

[29]Ibid.

[30]Gertrude Himmelfarb, *On Liberty and Liberalism* (New York: Alfred A. Knopf, 1974), p. 26.

[31]Anschutz, *J.S. Mill*, p. 50.

[32]Mill, "On Liberty," p. 84.

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[34]Ibid.

[35]Ibid., p. 103.

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[40]Mill, "On Liberty," p. 105.

[41]Ibid., p. 79.

[42]Ibid., p. 111.

[43]Britton, *Mill*, p. 107.

[44]Christopher Booker, *The Seventies* (Harmondsworth: Penguin Books, 1980), p. 54.

[45]Mill, "On Liberty," p. 85.

[46]Ibid.

[47]Ibid.

[48]Ibid., p. 88.

[49]Ibid., p. 90.

[50]Ibid.

[51]Ibid., p. 92.

[52]Ibid., p. 93.

[53]Ibid., p. 94.

[54]Ibid., p. 95.

[55]Ibid.

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[56]Ibid.

[57]Ibid.

[58]Ibid., p. 97.

[59]Ibid., p. 98.

[60]Ibid., p. 102.

[61]Ibid., p. 105

[62]Ibid., p. 95.

[63]Ibid.

[64]Ibid., p. 96.

[65]Ibid.

[66]Himmelfarb, *Liberty*, p. 25.

[67]Mill, "On Liberty," p. 103.

[68]Ibid.

[69]Ibid.

[70]Ibid., p. 101.

[71]Ibid., p. 111.

[72]Ibid., p. 109.

[73]Ibid.

[74]Ibid., p. 95.

[75]Ten, *Mill on Liberty*, p. 136.

[76]Mill, "On Liberty," p. 153.

[77]Ibid., p. 103.

[78]Ibid., p. 111.

[79]Stephen, *Liberty*, p. 86.

Chapter III contd.

[80]Ibid., p. 103.

[81]Ibid., p. 112.

[82]Ibid., p. 93.

[83]Ibid., p. 94.

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Chapter IV

[1]Mill, "On Liberty," p. 114.

[2]Ibid., p. 115.

[3]Ibid., p. 116.

[4]Ibid., p. 114.

[5]Ibid.

[6]Ibid., p. 115.

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[9]Ibid., p. 115.

[10]Ibid., p. 62.

[11]Ibid., p. 116.

[12]Ibid.

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[24]Mill, "On Liberty," p. 116.

[25]Ibid., p. 121.

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[27]Ibid., p. 115.

[28]Ibid., p. 116.

[29]Ibid., p. 120.

[30]Ibid., p. 122.

[31]Ibid., p. 125.

[32]Anschutz, *J.S. Mill*, p. 27.

[33]Mill, "On Liberty," p. 118.

[34]Ibid., p. 122.

[35]Ibid., p. 124.

[36]Ibid., p. 122.

[37]Ibid., p. 128.

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[44]Ibid., p. 128.

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[46]Ibid.

[47]Ibid., p. 129.

[48]Ibid.

[49]Ibid.

[50]Ibid., p. 130.

[51]Ibid.

[52]Ibid.

[53]Ibid.

[54]Ibid., p. 131.

[55]Ibid.

[56]Ibid.

[57]Ibid., p. 124.

[58]Ibid., p. 131.

[59]Ibid., p. 116.

[60]Ibid., p. 128.

[61]Ibid.

[62]Watkins, "John Stuart Mill and the Liberty of the Individual," p. 71.

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[63]Ibid.

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[1]Mill, "On Liberty," p. 116.

[2]Mill, *A System of Logic*, p. 545.

[3]Ibid., pp. 616 and 622.

[4]Ibid., p. 616.

[5]Ibid., p. 617.

[6]Ibid., p. 620.

[7]Ibid.

[8]Ibid., p. 621.

[9]Ibid.

[10]Ibid.

[11]Ibid.

[12]Ibid.

[13]Mill, "Utilitarianism," p. 32.

[14]Mill, *Autobiography*, p. 158.

[15]Ibid., p. 116.

[16]Mill, "On Liberty," p. 103.

[17]Ibid., p. 111.

[18]Ibid., p. 112.

[19]Ibid., p. 116.

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