

Mill on freedom of action

This handout follows the handout on ‘The Harm Principle’. You should read that handout first.

In Chapter 3 of *On Liberty*, Mill turns to freedom of action, and the importance of individuality and variety. There need to be different ‘experiments of living’ (120). Through trying out different lifestyles, people discover what works in life and what doesn’t, what leads to their good and what detracts from it. In other words, there should be freedom for a variety of characters and for a variety of different modes of life – as long as these don’t harm others, of course.

‘Individuality’ is the development and expression of one’s own, particular character. People should act according to their own character, as opposed to going along with traditions and customs, because individuality is ‘one of the principle ingredients of human happiness, and quite the chief ingredient of individual and social progress.’ (120) But for a person to develop their individuality, there needs to be freedom and a variety of possible ways of life.

So, in outline, Mill’s argument for freedom of action follows this structure: Freedom is necessary for the development of individuality. Furthermore, ‘[t]he only freedom which deserves the name is that of pursuing our own good in our own way’ (72). There is no genuine freedom without individuality. Individuality is central to happiness and both individual and social progress, and so, utility. If he is right, freedom is necessary to utility ‘in the largest sense’. The Harm Principle defends freedom, so it promotes utility.

So Mill needs to establish three things: that freedom and individuality are linked as he says; that individuality is central to happiness (utility); and that individuality is necessary for individual and social progress. Correspondingly, objections to Mill’s argument can challenge any or all of these claims.

INDIVIDUALITY, FREEDOM AND HAPPINESS

‘Individuality’ is an ideal of character for Mill. It will benefit both the person and others. Mill quotes the German thinker and politician Wilhelm von Humboldt approvingly: each person’s end ‘is the highest and most harmonious development of his powers to a complete and consistent whole’ (121). Each person’s ‘powers’ are different, as are the desires and emotions which need to be developed to be ‘complete and consistent’. So each person’s development is individual to them, not a copy of anyone else.

Will one person’s individual development will interfere with or undermine someone else’s? Mill thinks that individuality should be developed within the limits imposed by the Harm Principle, by other people’s rights and interests. Here the idea of ‘complete and consistent’ is important. Individuality (as a character ideal) involves a harmony between one’s ability and willingness to obey social rules and not to harm others, and one’s ability to think and choose on the basis of one’s own character.

So, on the one hand, to develop our abilities to think and choose for ourselves, we must have the freedom to practice doing this: 'The mental and moral, like the muscular, powers are improved only by being used' (122). On the other hand, individual development is helped by the social restraints placed on people's inclinations to selfishness (128). It makes us kinder, more considerate, and just, and these are developments of our 'higher' powers. There is therefore no inconsistency between aiming at individuality and restraining people's actions if they harm others.

Is this too quick? Someone with individuality is not easily swayed by others, but has strong desires and emotions of their own, feelings that they identify with and seek to express. But people who do not have a strong will are more submissive, and will be more likely to obey moral rules.

Mill responds that it is a mistake to think that a strong will is dangerous. The problem is not strong desires but a weak conscience (124). And the development of conscience is part of the development of individuality. Of course, people can obey rules without individuality, without reasoning or thinking for themselves, without exercising their power of choice. 'But what will be his comparative worth as a human being?' (123)

These arguments rest on Mill's fundamental belief that 'Human nature is not a machine to be built after a model' (123). Each person is – potentially – different in what they need to develop as who they are, and this individual development is central to their happiness. Mill doesn't discuss his theory of happiness here, but in *Utilitarianism*, Ch. 2. He argues that the core of happiness is pleasures that involve thought, feeling and imagination, in other words, they depend upon people using their 'higher' faculties. But the pleasures of thought, feeling and imagination are only fully available to people who think, feel and imagination for themselves. People without individuality ask 'what do other people think or feel about this issue? what would other people choose?' (125). They do not ask what suits them, as individuals. And so this miss out on a good part of human happiness.

INDIVIDUALITY, SOCIETY AND UTILITY

If Mill can show that society as a whole benefits from the existence of individuality, or at least the existence of the freedom in which individuality will flourish, his case for the Harm Principle is strengthened. Mill presents five arguments for this conclusion (128-140).

First, we need freedom of action to discover new, better ways of living (129). But it takes a special sort of originality, a kind of genius, to introduce new practices into society. And geniuses have highly developed individuality. For such people to exist, we need freedom of action (within the limits of the Harm Principle).

Second, genius is needed for good government as well as good society, because there is a general tendency for mediocrity to dominate, so that 'public opinion' comes to rule society:

No government by a democracy or a numerous aristocracy, either in its political acts or in the opinions, qualities, and tone of mind which it fosters, ever did or could rise above mediocrity except in so far as the sovereign many have let themselves be guided... by the counsels and influence of a more highly gifted and instructed one or few... (131).

(This is not an argument for a benevolent dictatorship by genius, only for the freedom necessary for genius to 'point out the way' (132). If this is done, Mill trusts everyone to be able to see the wisdom of the advice, and willingly accept it.)

Third, everybody will benefit from not having particular ways of life imposed on them. 'If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best' (132-3), i.e. the best for him. People have different tastes and require different conditions in order to develop.

Fourth, people with highly developed individuality will have strong characters. Society needs strong people who are vigorous in their pursuit of making life better. If everyone in society is submissive, weak-willed, without strong opinions, then society itself will be weak. It will not progress towards better ways of doing things for lack of will and energy (135).

Fifth, societies that prevent originality stagnate. When custom is the final appeal for how to live, society ceases to progress (136). Mill cites the example of the 'whole East', and later specifies China. It was, in the past, a great country, in which many advances in arts and sciences occurred. But then it ground to a halt, inhibited by custom. It only did as well as it did because it had an unusually good set of customs.

In these arguments for freedom of action, Mill has defended that the Harm Principle in terms of utility – happiness and progress. The freedom the Harm Principle guarantees is necessary for the development of individuality. This is not only the highest end an individual can aim at, a principal ingredient in individual happiness; it is also a quality that greatly contributes to the general utility in society.

FREEDOM OF ACTION: EXCEPTIONS AND THEIR JUSTIFICATION

According to Mill, there are no exceptions to applying the Harm Principle to actions. If an action is self-regarding, then it is not to be restricted. If it harms others, then it may be restricted if restricting it is in the general interest.

However, it is not always easy to know whether an action should be restricted or not. Whether it is self-regarding, and then whether it is in the general interest to restrict it, are difficult questions. So it may appear that there are exceptions to the Harm Principle. Such cases are discussed in the handouts on 'The applications of Mill's principles' and 'Harm and offence'. It will emerge that, in the case of offence, it seems that Mill does make an exception to the Harm Principle, and it is very unclear as to why he does.

DO UTILITY AND FREEDOM CONFLICT?

The main objection that Mill's arguments face is whether there are situations in which coercion may lead to greater happiness than freedom.

That utility and freedom can conflict is illustrated by the potential drug addict. If we prevent someone from trying a powerfully addictive drug, e.g. heroin, we contribute more to their utility (and likely the utility of others) than if we allow them to try it. But this is no objection, because Mill does not say that utility and freedom never conflict. First, some freedom is ruled out by the Harm Principle for this very reason. Second, Mill

recognises that even freedom protected by the Harm Principle can conflict with utility in some situations. His answer to it is to once again point us towards the bigger picture:

The spirit of improvement is not always a spirit of liberty, for it may aim at forcing improvements on an unwilling people; and the spirit of liberty, in so far as it resists such attempts, may ally itself locally and temporarily with the opponents of improvement; but the only unfailing and permanent source of improvement is liberty, since by it there are as many possible independent centres of improvement as there are individuals. (136)

As long as we think that Mill's appeal to utility is about what is best in this or that individual situation, we misunderstand him. It is what permanently contributes to utility that interests him. Preventing someone from taking an addictive drug is one example of preventing people from engaging in activities that can endanger their health; do we always want to do this? Furthermore, utility, for Mill, relates to our interests as progressive beings. This involves our learning – and an excellent source of learning is mistakes.

But is Mill right that liberty is, in general, a 'source of improvement'? For instance, is he right to think that allowing diversity will help people find better ways of living, ones that will make them happy? Mill assumes that people learn from their and others' mistakes, so that diversity will lead to knowledge of what is truly good. But in the time since Mill wrote, we can argue that there has been greater diversity – the development of pluralistic societies – but no great increase in happiness or good living. Is individuality in the sense of pursuing our own good in our own way such a good thing? Or would people be happier with strong social guidance on how to live? We discuss this below, as Lord Devlin's argument.

We can agree with Mill that thinking and choosing for oneself is a key component of happiness. But do we really require as much freedom as Mill argues for in order to gain these benefits? If not, he has not defended the Harm Principle successfully.

If freedom and utility conflict, we are faced with a choice between them. If we continue to appeal to utility and limit freedom, Mill will challenge us to say on what basis we claim to know what contributes most to utility 'in the largest sense'. Or we defend freedom even when it conflicts with utility, e.g. arguing that we have certain rights to freedom that are more important than utility. Mill's reply is that if we think this, we are probably not understanding utility 'in the largest sense'.

OBJECTIONS REGARDING INDIVIDUALITY

Mill argues that freedom enables individuality, and this contributes to utility. Both these claims are empirical, and we can ask whether the facts support them.

Freedom and individuality

Is Mill right to think that if we limit freedom, we will necessarily limit the development of individuality and 'genius'? For instance, 'genius' flourishes under some dictatorships, not just in liberal democracies. But Mill agrees: 'Even despotism does not produce its worst effects so long as individuality exists under it' (128). Despotism is not inconsistent with the freedom necessary for the development of individuality (although, of course, it can harm utility in other ways).

In Ch. 2 (96), Mill points to eras in which genius and new ideas have flourished, viz. the time immediately following the Reformation, the late 18th century in Europe, Germany in late 18th and early 19th centuries. In each case, a 'mental despotism' had been thrown off and no new consensus had begun to dominate society. But none of these societies were liberal democracies. Mill's argument from individuality defends the freedom protected by the Harm Principle, not political freedoms.

To challenge Mill's claim about the connection between freedom and individuality, we need to find, if we can, an example of individuality flourishing in conditions of social suppression of new ideas and ways of behaviour. This does not mean finding an example of one individual who develops a new way of living under such conditions, but of individuality being a more widespread characteristic.

Individuality and utility

Does the general utility require individuality? Mill claims that individuality contributes new ways of living and good government, and its energy and originality drive progress. But could ideas about new ways of living come from a few, privileged individuals who are granted the freedoms necessary for individuality, while the government does not extend these freedoms to society generally? I.e. the aristocracy is free, but the majority 'common' people are required to obey a strict code. If such societies have progressed, then we don't need freedom for progress.

But the example actually supports Mill's position. If the development of individuality among the aristocrats drives progress, then won't extending their freedoms to everyone drive progress faster? For example, there may be a genius among the common people whose ideas revolutionise society for the better. If freedom to express such new ideas or experiment with new ways of life is limited to the aristocracy, society loses the benefit of those geniuses who exist among the common people.

This doesn't necessarily follow. There may be other benefits to utility that come from imposing a strict moral code on (most) people that outweigh the chance that some individual genius will be restricted as a result. We shall look at an example of the potential benefits of coercion next.

LORD DEVLIN'S ARGUMENT

The Law Lord, Lord Devlin, argued against the Harm Principle in the 1950s. If the government failed to preserve and enforce common moral values, he argued, society would begin to disintegrate.

[A]n established morality is as necessary as good government to the welfare of society. Societies disintegrate from within more frequently than they are broken up by external pressures. There is disintegration when no common morality is observed and history shows that the loosening of moral bonds is often the first stage of disintegration, so that society is justified in taking the same steps to preserve its moral code as it does to preserve its government and other essential institutions.

The suppression of vice is as much the law's business as the suppression of subversive activities; it is no more possible to define a sphere of private morality than it is to define one of private subversive activity. It is wrong to talk of private morality... You may argue that if a man's sins affect only himself it cannot be the concern of society. If he chooses to get drunk every night in the privacy of his own home, is anyone except himself the worse for it? But suppose a quarter or a half of

the population got drunk every night, what sort of society would it be? You cannot set a theoretical limit to the number of people who can get drunk before society is entitled to legislate against drunkenness. (from 'Morals and Criminal Law')

In summary, Devlin argues that

1. Morality is essential to the welfare of society.
2. Morality is social, not private.
3. It is the business of government to look after the welfare of society.
4. So it is legitimate for government to pass laws on the basis of preserving moral values.

This means that society should not tolerate practices that conflict with these common moral values. Now, if these common moral values were aimed just at preventing harm to others, Mill would agree. But Devlin includes moral disapproval of self-actions, e.g. drunkenness and homosexual activity (his article argued against the legalization of homosexuality). He appeals to utility, and points to the importance of social cohesion for the general welfare of society. Mill's 'experiments of living' threaten to undermine this social cohesion. Therefore freedom and utility conflict.

Mill would respond that in Devlin's society, we will not get at the truth about morality and correct our mistakes. Social morality may well need to change, as it might be inhibiting individual and social welfare. For example, homosexuality has been legalized. Has this led to the disintegration of social morality or society itself? Or is social morality better because it no longer condemns homosexuals?

But Devlin's argument returns us to a question we raised earlier (p. xxx). Mill assumes that people are reasonable and will learn both from their own mistakes and from the good, original ideas of geniuses. If he is wrong, then Devlin may be right that people need strong moral guidance. They need to be told the difference between right and wrong, or they will not be happy.

These thoughts lead to the question of whether Mill is right to think that humanity progresses. Mill's reply to the objection that freedom and utility conflict depends entirely on his claim that freedom doesn't conflict with utility in the sense of 'the permanent interests of man as a progressive being'. But if we are not progressive beings, if history does not show that the human race is moving towards happiness, reasonableness, and virtue, then Mill's theory of human nature is questionable. As societies have allowed more freedom of expression and action over the last 150 years, what 'progress' has been made? On the one hand, we could argue that there is greater recognition of human rights and the development of individuality, on the other, we can argue that any such recognition is more theoretical than practical, that all the wars of the 20th century demonstrate that we are no more reasonable or virtuous than we used to be, and that the dominance of global capitalism is undermining individuality and variety.