

Phil 2, November 14 and 16, 2007

New question: Why should we tolerate beliefs and practices that we find offensive, immoral, or self-destructive?

Must we deny that there are any moral truths in order to defend toleration? Mill does not deny that there are moral truths. But he thinks that these truths support a principle of tolerance.

The aims of On Liberty

The subject of the work is “the nature and limits of the power which can be legitimately exercised by society over the individual” (5). The problem is no longer that of setting limits to the power that the ruler may exercise over the people, viewed as a corporate body. The problem, now, is that of setting limits to the power that the people may exercise over individuals.

The power that the people exercise consists not simply in legal penalties, but also informal social pressures. Both have the same structure. If you don’t do what the state or society says you must do, the state or society disadvantages you for that reason. Call both: “social regulation.”

Note, however, that social regulation does not include “the inconveniences which are strictly inseparable from the unfavourable judgement of others” (86). So if people think that you’re an idiot, then the fact that they think it, and the fact that they are consequently disinclined to seek your company, give weight to your opinions, and so on, do not count as social regulation.

There must be *some* social regulation. The question is where to draw the line.

The Harm Principle

At least part of Mill’s answer is his famous Harm Principle:

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. 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.

We cannot justify social regulation on paternalistic, moralistic, or perfectionistic grounds.

This does *not* mean that we may not try to *change* a person’s behavior on these grounds. The point is that we must not do this *by means of social regulation*: by disadvantaging him, or threatening to disadvantage him, if he does not change. We must instead try to change his behavior by changing his mind, by presenting him with arguments for changing his behavior.

The List of Liberties

Having said, negatively, what *isn’t* free from social regulation, Mill begins to say what, positively, *is* free from social regulation.

- (1) Firstly, “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.”

- (2) “Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit our own character; of doing as we like, subject to such consequences as may follow: without impediment from our fellow creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong.”
- (3) “Thirdly, from this liberty of each individual, follows the liberty, within the same limits, of combination among individuals; freedom to unite, for any purpose not involving harm to others: the persons combining being supposed to be of full age, and not forced or deceived.”

Many readers of Mill assume the LL is supposed to follow from the HP. The LL is the list of actions that do not harm others.

Problems with the Harm Principle

There are two basic problems with the HP, however, which cast doubt on its suitability as the *basis* of Mill’s defense of liberty.

- On the one hand, the HP may seem too weak. It would seem that just about any behavior can harm others, on some plausible, ordinary conception of harm.
- On the other hand, the HP may seem too strong. It seems that the government often justifiably regulates our actions even when those actions do not harm others, on some plausible, ordinary conceptions of harm.

What justifies the List of Liberties?

What justifies the LL, if not the HP? For Mill, the LL, like all other principles, flows from the Principle of Utility. “I regard utility as the ultimate appeal on all ethical questions.”

However, for Mill, utility is *not pleasurable sensation*—as Bentham understood utility. Instead, it is “utility in the largest sense, grounded in the permanent interests of man as a progressive being.” That is, the *fullest development and exercise of the highest human capacities*.

In deciding questions of social regulation, Mill thinks, we should have one basic goal in mind: the fullest development and exercise of the highest human capacities. His fundamental claim is that we will always better promote this goal by protecting the LL. The question is why.

The argument for liberty of thought and discussion:

The *first argument* assumes that the belief protected by censorship might be false, whereas the belief censored might be true.

One might expect Mill to argue as follows:

- First, from where we now stand, we have reason to expect that the yield of true opinions will be greater if we censor no opinion than if we censor some opinions.
- Second, from where we now stand, we have reason to expect that the utility gained by the increased yield of true opinions will exceed whatever utility might be gained censoring some opinions.

However, Mill seems to argue in a different way:

- (i) If an authority censors other opinions on the grounds that the opinion that it is protecting is true, then that authority presupposes that it is infallible.
- (ii) No authority is infallible.

- (iii) Therefore, the presupposition of this argument for censorship is false.

Why accept (i)? Why can't the censor say that he is entitled to proceed on the assumption that his opinion is true, not because he is infallible, but instead because he has sufficient reason to believe that it is true?

Mill's answer is that he cannot have sufficient reason to believe that his opinion is true, unless that opinion has been exposed to free discussion.

- One question about this argument is whether complete liberty of discussion really is necessary for rational assurance.
- Notice that Mill's argument, if sound, only shows that one (and the only?) argument for censorship does not work. It does not provide a positive argument against censorship.

The *second argument* grants, for the sake of argument, that the belief protected by censorship is true, whereas the belief censored is false.

Still, Mill argues, exposing the protected opinion to free discussion will lead those who hold it to understand better both the *justification* and the *content* of that opinion.

But supposing that people affirm the protected opinion, and that the protected opinion is true, then why should it matter whether people also understand its justification and content?

First, unless they understand the justification and content of the opinion, their affirming it—in the sense of their paying lip service to it—won't be of any use to them or anyone else. Otherwise, they won't act on the opinion; it won't have any practical effect.

Second, in making up their own minds about the opinion, people exercise on of their highest capacities. This good can *only* be realized *freely*. And it can be realized, *even* by arriving at *false* opinions.

The argument for liberty of action:

In the third chapter, Mill turns from liberty of thought and discussion to liberty of action. "As it is useful that while mankind are imperfect there should be different opinion, so it is that there should be different experiments of living; that free scope should be given to varieties of character, short of injury to others; and that the worth of different modes of life should be proved practically, when any one thinks fit to try them" (63).

Mill's argument takes at least three forms:

- (i) First, people may be mistaken about the best way to live. The only way to find out is to allow individuals to conduct "experiments in living."
- (ii) Second, deciding for oneself how to live is itself the exercise of a higher faculty. There is no other way to realize this value than to give people the conditions to do it for themselves. Here the significance of free choice is *constitutive*.
- (iii) Third, there may be no single best way to live. Differences in circumstances and character may suit people to different lives. And individuals are the best judges of

which way of life suits their circumstances and character (85, 92–93). Here the significance of free choice is *predictive*.

Mill's justification

How can we promote utility: the cultivation and exercise of the higher faculties?

Each of us can try to cultivate and exercise *his own* faculties. *Social regulation* of this would be *counterproductive*. We need to do it for ourselves in order to do it at all.

We cannot *directly* cultivate and exercise the faculties of *others*. The most we can do is, *first*, to provide others with the material conditions and liberties that they need to cultivate and exercise their faculties and, *second*, to engage them in discussion and present them with the example of our own “experiments in living.”

The social regulation of the *second*—discussion and displaying our own “experiments in living”—is counterproductive. For this is simply the exercise of *our* liberties.

But the social regulation of the *first*— providing the material conditions and liberties that others need to cultivate and exercise their faculties—is *not always* counterproductive. What matters is simply that others have the material conditions and liberties; the fact that we were compelled to cede them to others doesn’t detract from their value.

Hence the Harm Principle: We “harm” others when we deprive them of, or fail to provide them with, the material conditions and liberties that they need in order to be cultivate and exercise their higher faculties.

- If someone is *not* harming others, then social regulation of his behavior is *counterproductive*; it does not help anyone cultivate and exercise their higher faculties; it does not promote utility.
- If someone *is* harming others, then social regulation of his behavior *may not* be counterproductive. We need to take a closer look.

What about the harm to the intolerant?

There are many who consider as an injury to themselves any conduct which they have a distaste for...; as a religious bigot, when charged with disregarding the religious feelings of others, has been known to retort that they disregard his feelings, by persisting in their abominable worship or creed. But there is no parity between the feeling of a person for his own opinion, and the feeling of another who is offended at his holding it; no more than between the desire of a thief to take a purse, and the desire of the right owner to keep it (93).

- Doesn’t this beg the question? Doesn’t it *presuppose* that people have a right to their opinions? Why *should* they have that right?
- Mill’s answer must be that it promotes general utility. Allowing a person to form his own opinions promotes utility. By doing so, he exercises his higher faculties.
- Why suppose that this outweighs the cost to the bigot? Because there is no cost to the bigot. Being confronted with a contrary opinion is a *good* thing for him. It stimulates *his* faculties.