

Phil 114, April 19, 2007
Mill: Between Bentham and the Conservatives

Mill's criticism of Whewell

“Vicious circle the first”: “*Right* means that which we *must* do, and the rule of action is, that we must do what is right; that we must do that which we must do.”

What must we do?—Not violate the rights of others.

What are these rights?—Person, property, family, state, and contract.

How do we know that these are rights, and the only rights?—That they are recognized as such by the law.

But can't it be morally right to resist a law?

Whewell concedes this. His claim is just that the sorts of things that laws generally regulate are the same things that are of moral concern. “Personal safety, property, contracts, family and civil relations, are everywhere the subjects of law, and are everywhere protected by law; therefore we judge that these things must be the subjects of morality, and must be reverently regarded by morality.”

But this doesn't help us discern which rights there are. Moreover, Whewell's claim becomes: that we ought to respect legal rights, where such rights ought to be respected. So we have “vicious circle the second.”

Why not concede that “we must have a rule of right before it can be decided what ought to be rights; and that, both in law and in morals, the rights which ought to exist are those which for the general happiness it is expedient should exist”?—Whewell refuses to concede this. “rights are founded on the whole nature of man, in such a way that he cannot have a human existence without them. He is a moral being, and must have rights, *because morality cannot exist where rights are not.*”

The argument is: Morality is conforming to rights. So we must have rights, otherwise there would be no morality. Thus: “vicious circle the third.”

The general lesson: “Every attempt to dress up an appeal to intuition in the forms of reasoning, must break down in the same manner. The system must, from the conditions of the case, revolve in a circle. If morality is not to gravitate to any end, but to hand self-balanced in space, it is useless attempting to suspend one point of it upon another point.”

Supposing that there are moral rules, what are they? We deduce them from four considerations:

- (i) there must be such rules
- (ii) for man,
- (iii) living among men, and
- (iv) for the whole of man's being.

Mill then proceeds to show, rather mercilessly, that this method is completely empty. “Whether the rule is to love or to hate our neighbor, it will equally answer all Dr. Whewell’s conditions.”

- (i) There must be such rules. —OK: Given that we are trying to find such rules, we implicitly accept that we need them. But why do we need them? What end do they serve?—No end, Whewell says.
- (ii) For man to obey. —OK: But *what* is man required to do?
- (iii) Regarding how man conducts himself among other men. —OK: But *how* is he supposed to conduct himself?
- (iv) Regarding not only his actions, but also his desires. —OK: But *which* actions and desires?

To answer these questions, we need to appeal to the *end* that moral rules are supposed to serve. And what end could there be but general happiness?

Mill’s agreement with Bentham

- Utilitarianism’s methodological and substantive appeal.
- Conservative intuitionists, such as Whewell, are not only intellectually bankrupt, but also impediments to reform and progress.

Mill’s departures from Bentham:

1. “Pleasure” as activity rather than passive sensation

- “Pleasures” are not, or at least not primarily, sensations or feelings.
- Instead “pleasures” are activities, in which certain faculties are exercised.

2. A qualitative distinction between higher and lower pleasures

- For Bentham, all pleasures were the same in kind; they differed quantitatively—in intensity and duration, for example—but not qualitatively.
- For Mill, there is a basic difference in kind, between “higher” and “lower” pleasures.
- The difference is shown by the “Decided Preference Test”:
Of two pleasures, if there be one to which all or almost all who have experience of both give a decided preference, irrespective of any feeling of moral obligation to prefer it, that is the more desirable pleasure. If one of the two is, by those who are competently acquainted with both, placed so far about the other that they prefer it, even though knowing it to be attended with a greater amount of discontent, and would not resign it for any quantity of the other pleasure which their nature is capable of, we are justified in ascribing to the preferred enjoyment a superiority in quality, so far outweighing quantity as to render it, in comparison, of small account.
- What, if anything, is decidedly preferred? The exercise of the higher faculties.
- The higher pleasures just are the exercises of the higher faculties. These include, among other things, the exercises of intellectual faculties.
- The lower pleasures consist in the meeting of bodily needs, which is attended by certain pleasurable sensations.
- Thus, the PU favors promoting any positive quantity of the higher pleasures, no matter how small, over promoting any positive quantity of the lower pleasures, no matter how great.

- Does this mean that the PU tells us to disregard the lower pleasures entirely? No, because the lower pleasures are necessary, to some extent, for the higher pleasures. In other words, unless our bodily needs are met to an adequate degree, we will not be able to exercise our higher faculties at all.
- There is a kind of cut-off point to the lower pleasures. Until we reach it, only the lower pleasures matter, although for purely instrumental reasons. Unless we have enough of the lower pleasures to reach the cut off, we cannot enjoy the higher pleasures. Once we reach it, however, then only the higher pleasures matter.
- So, when combined with the distinction between higher and lower pleasures, the PU in effect recommends the following strategy: First, focus entirely on ensuring that people's basic needs are met to an adequate degree. Once you've done that, then focus entirely on ensuring that they exercise the higher faculties.

3. *Morality as distinct from mere expediency*

- While Mill agrees with Bentham that any action that is wrong is wrong because it undermines general utility, he does not think that every action that undermines general utility is wrong.
- There is a distinction between simple expediency—doing what promotes general utility—and morality—doing what is right.
- What is the distinction? One acts wrongly only when one does something that *ought to be sanctioned* in some way.
- “Ought” is cashed out in terms of the PU. This is what makes Mill's theory utilitarian.
- Mill thus puts forward a two-tiered structure, along the lines of rule-utilitarianism.
- We ask whether sanctioning in a certain way a certain kind of behavior would promote general utility.
- In some cases, the answer will be yes. In other cases, the answer will be no; the cure—sanction—will be worse than the disease—individual failures to promote general utility.
- When the answer is yes, the behavior is wrong. When the answer is no, the behavior is not wrong—even if it may be “inexpedient.”
- *Justice* is only part of morality. It is that part of morality that *an assignable person can claim as his right*.
- In contrast to Bentham, Mill offers an account of pre-legal rights: “To have a right...is... to have something which society ought to defend me in the possession of” (189).
- But Bentham and Mill agree that one cannot invoke these pre-legal rights as *independent grounds* for instituting the corresponding legal rights. To invoke a pre-legal right of this kind is just to say that there it would promote general utility to institute the corresponding legal rights. As Mill goes on to say, “If the objector goes on to ask why [society] ought [to defend me in the possession of this thing], I can give him no other reason than general utility.”
- Mill thinks, of course, that the rules of justice take priority over promoting general utility in other ways: “justice is a more sacred thing than policy, and... the latter ought to be listened to after the former has been satisfied.”
- Why? The priority of justice derives “from the extraordinarily important and impressive kind of utility which is concerned”: namely, “security, to everyone's feelings the most vital of all interests.”

- This explains why, for an individual, protecting his security should take priority over providing *him* with other benefits. But does it explain why, for an individual, protecting his security should take priority over providing a greater number of *others* with other benefits?

4. The importance of effects on character

“All acts suppose certain dispositions, and habits of mind and heart, which may be in themselves states of enjoyments and wretchedness, and which must be fruitful in *other* consequences, besides those particular acts. No person can be a thief or a liar without being much else.”

Why is this so important? Why is it the “great fault” of Bentham as a moral philosopher?

- The defense of liberty, as we will see, rests on liberty’s positive effects on *character*. If one looks only at the specific consequences of acts of liberty, then one will overlook much of the value of having the liberty to perform such acts.
- The same is true of sexist practices. One of their chief evils is their negative effect on the characters of both the *sexist* and the *proximate victim* of sexism. The patriarchal family is a nursery of traits of despotism and servility.