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978-0-521-87356-7 - Mill's On Liberty: A Critical Guide

Edited by C. L. Ten

Excerpt

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C. L. Ten

FREE EXPRESSION AND INDIVIDUALITY

In a letter to his wife, Harriet, of January 15, 1855, Mill discussed the urgency of writing an essay on liberty. He claims that “opinion tends to encroach more and more on liberty, and almost all projects of social reformers are really *liberticide* – Comte, particularly so.”¹ *On Liberty* was published in 1859, the year after Harriet’s death, and it carried a lavish dedication to her. Mill believed that the essay was “likely to survive longer than anything else that I have written (with the possible exception of the *Logic*).”² *On Liberty* has not only survived, but it has also been the center of much discussion, most of it rather hostile. It has done so precisely because the tendency towards *liberticide*, to which Mill had alluded, remains a constant threat to individual liberty, as Mill conceived and cherished it.

But what is the nature of the liberty that Mill wanted to defend, and what are the sources of danger to it? First, Mill is very clear that the real danger to liberty comes from “a social tyranny,” which is greater than any kind of political oppression because “it leaves fewer means of escape, penetrating more deeply into the details of life, and enslaving the soul itself” (*CW*xviii, 220 [1, 5]).³ He sees this tyranny as encroaching on both opinions and

¹ *The Later Letters of John Stuart Mill (1849–1873)*, vols. xiv–xvii of *The Collected Works of John Stuart Mill*, ed. Francis E. Mineka and Dwight N. Lindley (Toronto: University of Toronto Press; London: Routledge & Kegan Paul, 1972), vol. xiv, 294, Mill’s emphasis.

Throughout the present volume, references to Mill’s works are given by volume and page(s) to *The Collected Works of John Stuart Mill*, 33 vols., gen. ed. John M. Robson (Toronto: University of Toronto Press; London: Routledge & Kegan Paul, 1963–91), abbreviated as *CW*; and, where appropriate, to the chapter and paragraph number(s) of the relevant work.

² John Stuart Mill, *Autobiography* (1873), in *The Collected Works of John Stuart Mill*, vol. i: *Autobiography and Literary Essays*, ed. John M. Robson and Jack Stillinger, introduction by Lord Robbins (Toronto: University of Toronto Press; London: Routledge & Kegan Paul, 1981), 259.

³ Throughout this volume, references to *On Liberty* are to *The Collected Works of John Stuart Mill*, vol. xviii: *Essays on Politics and Society*, Part I, ed. John M. Robson, introduction by Alexander Brady (Toronto: University of Toronto Press; London: Routledge & Kegan Paul, 1977), 213–310, giving the page number(s) and the chapter and paragraph number(s).

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conduct, and thereby preventing the development of genuine individuality. The liberty he values therefore includes liberty of thought and discussion, and liberty of conduct. Both are required for the flourishing of individuality. As he notes, “there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by means other than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them” (*CW* XVIII, 220 [1, 5]).

But Mill realizes that, as important as it is to nurture and protect individuality against the tyranny of ideas and practices, no form of civilized life is possible without the enforcement of some restraints on conduct. Thus if people could freely harm one another, then there would be no security, without which, as Mill points out in *Utilitarianism*, we would not be able to achieve anything of value, apart from instant gratification (*CW* x, 251 [v, 25]). So the problem is to establish a proper balance between “individual independence and social control” (*CW* XVIII, 220 [1, 6]).

Mill identifies three areas which constitute “the appropriate region of individual 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 of 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. 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. (*CW* XVIII, 225–6 [1, 12])

He then summarizes his view: “The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not deprive others of theirs, or impede their efforts to obtain it” (*CW* XVIII, 226 [1, 13]). This shows how closely he sees the connection between liberty and individuality. Without securing “the appropriate region of individual liberty,” persons will lack individuality in that they are unable to form independent beliefs about the shape they want their own lives to take, nor are they able to lead their lives in accordance with their own conception of

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what a good life for them should be. Mill then proceeds to give a detailed defense of liberty of thought and discussion, and of the ideal of individuality that such liberty ultimately serves. But as the defense is intended to persuade the general public, many of whom do not as yet share his deep convictions about the value of individuality, the defense has to be broad-based. It has to show not just the intrinsic value of individuality, but also its various instrumental values.

Thus Mill first defends the freedom to express opinions, all opinions no matter what their content or intrinsic nature, on the ground that we would all be losers by their being silenced. The argument rests on the value of truth. He points out that if the suppressed opinion is true, then we would have lost the opportunity of replacing the error of our received opinion with the truth of the silenced opinion. On the other hand, if the suppressed opinion is false, we would lose the benefit of having “the clearer perception and livelier impression of truth, produced by its collision with error” (CW XVIII, 229 [II, 1]). But in the end what is really at stake is a certain relationship between individuals and the opinions which they hold, whether or not these opinions are true in some impersonal sense. Thus Mill elaborates on the possibility that the suppressed opinion may be true by maintaining that those who seek to suppress an opinion they believe to be false “have no authority to decide the question for all mankind, and exclude every other person from the means of judging” (CW XVIII, 229 [II, 3]). Here the argument has shifted from the likelihood of the opinion being true or false, to the claim that every person should be able to judge for himself or herself the truth or falsity of an opinion. However, this claim is not accurately put, as Mill does, by asserting that “All silencing of discussion is an assumption of infallibility” (CW XVIII, 229 [II, 3]). For those who suppress an opinion need not even claim that the opinion is false. Opinions may be suppressed because it is feared, but not known, that it might be true, or partly true, or because, true or false, it is deemed to be offensive, or politically or socially incorrect, or just inappropriate for the occasion. When Mill explains further what he means by “an assumption of infallibility,” his emphasis is not on the truth as such of a suppressed opinion, but on the importance of allowing each person to decide for himself or herself what opinions to hold. He asserts, “It is the undertaking to decide that question *for others*, without allowing them to hear what can be said on the contrary side” (CW XVIII, 234 [II, 11], Mill’s emphasis).

In fact Mill is not only claiming that each person should be allowed to form his or her own opinions, rather than have them imposed by others. He also wants to depict the basis on which we should or should not make our own judgments, or form our own opinions. We should be open to “facts

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and arguments.” Our minds should be open to criticisms of our opinions and conduct, and we should “listen to all that could be said against” us (*CW* xviii, 232 [II, 7]). He does not clearly distinguish between the conditions which in fact make us confident of the truth or reliability of our opinions, and the conditions which justify us in having such confidence. But it is the latter normative claim that he is most concerned to defend. He believes that we should not be confident about the truth of our opinions unless there is complete freedom to challenge it, and it remains unrefuted. As he puts it,

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 ... if the lists are kept open, we may hope that if there is a better truth, it will be found when the human mind is capable of receiving it; and in the meantime we may rely on having attained such approach to truth as is possible in our day. This is the amount of certainty attainable by a fallible being, and this is the sole way of attaining it. (*CW* xviii, 232 [II, 8])

If his argument has anything to do with the truth, it is evident that he is not so much concerned about whether freedom of expression will lead to the discovery of true beliefs, and all the individual and social benefits which such discoveries would bring. Rather, he is more interested in the manner in which people hold their beliefs, whether true or false. For him there is no great value in merely having a true opinion, if one does not know the meaning and the grounds of that opinion. A person can acquire a true opinion by simply relying on authority, without having any ability to “make a tenable defence of it against the most superficial objections.” A true belief could be held like “a prejudice, a belief independent of, and proof against, argument.” Mill rejects such an approach to the acquisition of true beliefs: “this is not the way in which truth ought to be held by a rational being. This is not knowing the truth. Truth, thus held, is but one superstition the more, accidentally clinging to the words which enunciate a truth” (*CW* xviii, 244 [II, 22]).

Mill spends much time in explaining his notion of “knowing the truth.” First, he advises us to follow the example of Cicero, whose “forensic success” depends on his studying with great intensity his adversary’s case. It is not enough that we should learn about an opposing view, and the arguments and evidence for it, from well-informed people who do not, however, believe in it. We must hear the case against our own beliefs, and in favor of the opposing view, from those who really accept the opposing belief, and who would expound it in its most plausible and persuasive form, and who would raise the greatest difficulties for our views. Without allowing those who wish to challenge our beliefs to speak their minds, we can have no “rational assurance” that all objections to those beliefs can be adequately answered.

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For Mill, therefore, the connection between freedom of expression and knowing the truth is not one of means to end. Those who seek to know the truth will not only want to judge for themselves which opinions are true or false, but they will also seek to understand the meaning and grounds for these opinions. They will seek a rational assurance for their beliefs, and this requires them to be open to all arguments and evidence for and against these beliefs, especially as these are presented by those committed to the relevant beliefs. Those aspiring to knowledge of the truth would therefore require freedom not only for themselves, but also for all others who may wish to challenge prevailing views, and who wish to decide for themselves the truth or otherwise of an opinion. Mill would concede that even with extensive censorship, it is possible for people to have true opinions, perhaps because they are lucky, or can rely on authority. But they would not know the truth. "Their conclusion may be true, but it might be false for anything they know: they have never thrown themselves into the mental position of those who think differently from them, and consider what such persons may have to say; and consequently they do not, in any proper sense of the word, know the doctrine which they themselves profess" (*CW* xviii, 245 [ii, 23]).

In a footnote to the chapter on liberty of thought and discussion, Mill asserts, "If the arguments of the present chapter are of any validity, there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered" (*CW* xviii, 228 [ii, in.]). Mill therefore condemns the imposition of sanctions against those who profess views which society regards as impious and immoral, as Socrates was supposed to have done, or blasphemous, as in the case of Christ (*CW* xviii, 235 [ii, 12–13]). It is only when "the fullest liberty of professing and discussing" any doctrine has been secured that you can have "an intellectually active people." It is in such an atmosphere of freedom that "even persons of the most ordinary intellect" can be raised "to something of the dignity of thinking beings" (*CW* xviii, 243 [ii, 20]). For Mill, intellectual progress cannot be achieved simply by the replacement of false beliefs by true beliefs. The atmosphere of freedom is a crucial part of intellectual progress. Individuals, who have "the dignity of thinking beings," will accept as true only a belief that survives the challenges thrown at it in a free and open society where those holding diverse and conflicting views are encouraged to assert their opinions and debate with one another.

Whatever Mill's personal views may be about the truth of various opinions, such as controversial religious doctrines, his overriding commitment is to free and open discussion. He makes this clear in his example of Christianity, which he treats as the received opinion in his society. Many

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who regard themselves as Christians do not treat the doctrines of Christianity as living beliefs. Instead, "The sayings of Christ coexist passively in their minds, producing hardly any effect beyond what is caused by mere listening to words so amiable and bland" (*CW* XVIII, 249 [II, 29]).

Freedom of thought and discussion is part of the liberty which Mill sees as necessary for his defense of the right of individuals to form opinions in a rational manner, sensitive to argument and evidence, in pursuit of knowledge of the truth. But individuals also need the liberty to act in accordance with the opinions they have adopted, and Mill takes up the case for liberty of conduct in the chapter on individuality, which immediately follows that on liberty of thought and discussion.

He begins by pointing out that liberty of conduct should not enjoy the absolute non-interference of liberty of thought and discussion. He adds, "even opinions lose their immunity, when the circumstances in which they are expressed are such as to constitute their expression a positive instigation to some mischievous act" (*CW* XVIII, 260 [III, 1]). He gives an illustration with the opinion that corn-dealers are starvers of the poor, or that private property is theft. The opinion may be freely circulated through the press. But the verbal expression of the opinion before an excited mob gathered outside the corn-dealer's house, or the circulation of the opinion on a placard to the angry mob, may be punishable. So it is not the content of the opinion as such, but rather the circumstances of its expression, which determine whether interference is justified. Where the clear intention of the speaker or writer, or the obvious immediate effect of the expression of an opinion, is to instigate people to engage in harmful, illegal acts against others, there would be no hindrance to the quest for knowledge of the truth in prohibiting the expression. Earlier, Mill had imposed even more stringent conditions on the punishment of instigation. In a footnote at the beginning of the chapter on liberty of thought and discussion, he discusses whether it should be permissible to advocate the lawfulness of tyrannicide. He concludes that "the instigation to it, in a specific case, may be a proper subject of punishment, but only if an overt act has followed, and at least a probable connection can be established between the act and the instigation" (*CW* XVIII, 228 [II, 1n.]). Here the requirement is that a harmful, illegal act should have taken place, which can be causally related to the act of instigation, whereas in the corn-dealer example, it is enough that the harm is very likely to result from the instigation. What remains common is Mill's view that no punishment is to be directed at the expression of "any doctrine, however immoral it may be considered." The intrinsic nature and offensiveness of the opinion expressed are not in themselves the reason for punishment.

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At the very beginning of the chapter on individuality, Mill asks whether the same reasons for giving freedom to individuals “to form opinions, and to express their opinions without reserve,” would also apply to giving them freedom “to act upon their opinions – to carry these out in their lives, without hindrance, either physical or moral, from their fellow-men, so long as it is at their own risk and peril” (*CW* XVIII, 260 [III, 1]). Mill’s answer is in the affirmative. So we have to see how the central argument in the earlier chapter is duplicated in the case of conduct. We have identified that central argument as the quest for knowledge of the truth, the manner in which one holds on to one’s opinions, rather than the mere discovery or holding of true opinions. In the case of conduct, freedom to engage in “experiments in living” can lead to useful discoveries of new and better ways of life. But imposing these superior ways of life on individuals who do not endorse them is not conducive to the development of individuality. Just as individuals must make their own judgments about an opinion, so too they must choose for themselves their plans of life, the kind of life they regard as worthwhile and to which they want to be committed. Part of the reason for this is that it is through the exercise of choice that the human faculties can develop.

The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice. He who does anything because it is the custom, makes no choice. He gains no practice either in discerning or in desiring what is best. The mental and moral, like the muscular powers, are improved only by being used. The faculties are called into no exercise by doing a thing merely because others do it, no more than by believing a thing only because others believe it. (*CW* XVIII, 262 [III, 3])

This suggests that unreflective dependence on custom, without the exercise of choice, will not serve us well, as it will leave us mired in ways of doing things which have outlived their usefulness when the circumstances of social and individual lives change. Only the regular exercise of choice will give us the capacity to adapt to these circumstances. But while this is certainly a part of what Mill regards as valuable when individuals have freedom to choose, it is not the most crucial part of his defense of choice. He believes that without choice there is a reduction in a person’s “comparative worth as a human being.”

It really is of importance, not only what men do, but also what manner of men they are that do it. Among the works of man, which human life is rightly employed in perfecting and beautifying, the first in importance surely is man himself. Supposing it were possible to get houses built, corn grown, battles fought, causes tried, and even churches erected and prayers said, by machinery – by automatons in human form – it would be a considerable loss to exchange for these automatons even the men and women who at present inhabit the more civilized parts of the world, and

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who assuredly are but starved specimens of what nature can and will produce. Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing. (*CW* xviii, 263 [iii, 4])

The passage exactly parallels Mill's emphasis on the importance of not merely having true opinions but also arriving at and holding them in the proper manner, captured in the requirement of knowing the truth. Now, he is arguing that even if it is possible to discover ways of life that are otherwise ideal without exercising choice in accepting them, something of great value would be missing. For choice itself is a vital constitutive element of a worthwhile or valuable human life.

Individuality is a value that can be realized only when each person freely chooses her own plan of life for herself. So while the "highly gifted One or Few" could initiate "wise and noble things," it is not "only persons of decided mental superiority who have a just claim to carry on their lives in their own way." Mill goes on to claim, "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 the best in itself, but because it is his own mode" (*CW* xviii, 270 [iii, 14]). Individuality cannot be imposed, and all that "the strong man of genius" can do is to exercise "freedom to point out the way": "The power of compelling others into it is not only inconsistent with the freedom and development of all the rest, but corrupting to the strong man himself" (*CW* xviii, 269 [iii, 13]).

In a footnote, Mill refers to individuality as "the right of each individual to act, in things indifferent, as seems good to his own judgment and inclinations" (*CW* xviii, 271 [iii, 14n.]). This same idea, that the right to individuality is an equal right of all who have "any tolerable amount of common sense and experience," is pervasive in the chapter. There is no conception of individuality as an aggregative goal whose maximum realization can, in appropriate circumstances, require the trading off of the individualities of some for the greater individualities of others. In declaring the nature of his defense of liberty, Mill asserts, "I forgo 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 man as a progressive being" (*CW* xviii, 224 [I, II]). It is clear that Mill identifies "utility in the largest sense" with individuality, and individuality is not an ethical ideal that is separate from Mill's rich conception of happiness or pleasure. The highest pleasures are those

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acquired in the attainment of individuality, involving the exercise of the distinctive human faculties in making a choice for oneself about one's own plan of life. Sometimes Mill refers to these pleasures as the "native pleasures," and the opinions and feelings associated with them as those of "home growth" (*CW* XVIII, 265 [III, 6]). But the right to individuality is the right that *each person* has, and it is an equal right to individuality, which the greater wisdom and competence of others cannot forcibly overrule, although they can, and should, guide and persuade.

Although this right to individuality is central to Mill's defense of individual liberty, his formulation of the object of his essay does not directly invoke the notion of individuality. Instead, it identifies different types of reasons for coercive interference with individual conduct, and declares some of them as absolutely ruled out:

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. 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. (*CW* XVIII, 223–4 [I, 9])

The reasons explicitly excluded are of two types – paternalistic and moralistic. The former rules out interference on the grounds that it will be better for the person, or that "it will make him happier." Mill's anti-paternalism is opposed to intervention which overrides the person's own judgment about how he wants his life to run, for such intervention would be a violation of individuality. But Mill does not object to interventions which give effect to, or are at least consistent with, a person's considered judgments, even though they go against his or her current wishes which are encumbered in some way. Thus he thinks it permissible for a public officer, or any other person, who has insufficient time to issue a warning, forcibly to prevent a person from crossing an unsafe bridge. The assumption is that the person "does not desire to fall into the river" (*CW* XVIII, 294 [v, 5]). This is of course different from those interventions which are never going to be acknowledged as proper by the intended beneficiary.

The moralistic reasons, that intervention is judged to be "wise, or even right," would also violate the right to individuality because they give overriding effect to the opinions of the intervening party against the views of the person whose conduct is restricted. Consider the case of the legal prohibition of voluntary euthanasia by persons who are suffering from painful

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terminal illnesses. The prohibition is paternalistic if it is based on the claim that it is not in these people's best interests because cures for their conditions would soon be found. It is moralistic if the reason is, for example, that it is morally wrong to take our own lives because God alone should determine the time of death. On the other hand, if the prohibition is based on a well-established "slippery slope" empirical claim that legally permitting voluntary euthanasia would unleash psychological or sociological forces which would lead to involuntary euthanasia, then this is a non-paternalistic and non-moralistic reason, appealing to harm to others. The prohibition is not then a violation of the right to individuality.

Indeed Mill identifies the prevention of harm to others as the only legitimate ground for coercive interference with the conduct of a person. Obviously, for him an individual's conduct does not harm others simply because it is self-harming, or because it violates what they regard as correct moral standards. So a crucial part of what counts as harm is directly based on his account of the right to individuality. But not all of it is. Thus the right to individuality is the basis of Mill's anti-moralism, and he would not therefore treat the unpleasant feelings or moral distress, as such, elicited by the knowledge that others are acting perversely or wrongly by our moral standards as harm to us. In defending "liberty of tastes and pursuits," he asserts that "our fellow-creatures" should not interfere "so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong." Here harm is clearly contrasted with any unpleasant feelings associated with the thought that the conduct is "foolish, perverse, or wrong." This is one area where he disagrees with the more straightforward hedonism of Bentham, in which every form of pleasure, as such, is intrinsically good, and every form of pain, as such, is intrinsically bad in the calculation of what will maximize overall happiness.

Mill underlines his anti-Benthamite view when he rejects the claim that the outrage to the religious or other feelings of others can be treated as a kind of injury or harm to them:

There are many who consider as an injury to themselves any conduct which they have a distaste for, and resent it as an outrage to their feelings; 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. And a person's taste is as much his own peculiar concern as his opinion or his purse. (*CW* XVIII, 283 [IV, 12])