

*Introduction*  
*Mill, liberty and paternalism:*  
*context, intention and interpretation*

MILL, LIBERTY AND PATERNALISM

*Negative liberty and ideal character*

John Stuart Mill is chiefly famous today as *the* philosopher of liberty. His best-known work, *On Liberty* (1859), vigorously defends individual freedom, and powerfully condemns undue interference with it, even where the good as well as the happiness of individuals might be enhanced thereby. Seemingly radical to the core, the text preaches much greater toleration than many have found tolerable. Heretical at every turn, it appears to demand that conformity, the restraint of custom and suffocating conventionality be jettisoned in favour of ‘experiments in living’ which promote diversity of character. The overzealous enforcement of Christian morals in particular seems to have been supplanted by a secular utilitarian ethics.<sup>1</sup> By contrast, ‘paternalism’, being treated like a child, particularly by a ‘nanny-state’ or ‘big government’, seems to be described as draining, vampire-like, our moral essence as mature human beings, dooming us to become prisoners in our own society and to march like automatons to the trumpet-blast of faceless bureaucrats. Hence Mill’s great work is often referred to as the ‘classic critique of paternalism’,<sup>2</sup> and its author as ‘the greatest critic of paternalism’ of our times,<sup>3</sup> with ‘anti-paternalism’ being ‘the essence’ of his liberty principle.<sup>4</sup>

A ‘libertarian’ reading of Mill which portrays *On Liberty* as chiefly devoted to ‘negative liberty’, or the absence of constraints on pursuing

<sup>1</sup> This was the thrust of the objection of Mill’s great Victorian critic, James Fitzjames Stephen, whose *Liberty, Equality, Fraternity* (1873) stated that the ‘true centre . . . of Mr. Mill’s book upon liberty’ was simply the question, ‘Is there or not a God and a future state?’ (p. 74). Elsewhere, however, Stephen indicated that he thought Mill believed that ‘if all men are freed from restraints and put . . . on an equal footing, they will naturally treat each other as brothers’, whereas his own view was that many men were bad, and that enmity and strife were inevitable (p. 264).

<sup>2</sup> LaSelva, ‘Selling Oneself into Slavery’, 211.      <sup>3</sup> Kateb, *Human Dignity*, p. 99.

<sup>4</sup> O’Rourke, ‘Mill and the Freedom of Expression’, p. 224.

one's chosen ends, can indeed be constructed upon these assumptions.<sup>5</sup> Mill did define liberty as 'doing what one desires'.<sup>6</sup> He appears, Crusoe-like, to have 'crowned the individual as monarch of his own realm' in insisting that 'neither one person, nor any number of persons, is warranted in saying to another human creature of ripe years, that he shall not do with his life for his own benefit what he chooses to do with it'.<sup>7</sup> 'The only freedom which deserves the name', he insisted, was 'that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it.' Each person was 'the proper guardian of his own health, whether bodily, or mental and spiritual', for all were 'greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest'. Mill refused to countenance the possibility, taking the instance of the Mormons, that any modern community, within itself, had a right to 'force another to be civilized'.<sup>8</sup> *On Liberty* promoted Josiah Warren's arresting phrase, the 'sovereignty of the individual'. Elsewhere Mill spoke of an inviolable 'circle' of liberty around each person. Contemporaries did indeed consequently sometimes view his principle of liberty as 'absolute'.<sup>9</sup> And, from H. T. Buckle and David Ritchie to Isaiah Berlin, Mill's conception of liberty has thus often been associated with a concept of 'negative' liberty, the freedom to pursue our own idea of the good life, so long as we allow others to pursue theirs.<sup>10</sup> These seem to be arguments, then, for seeing placing 'autonomy', in the sense of freedom from the interference of others, as the highest intrinsically valuable good, rather than as a means of realising other

<sup>5</sup> Also construed as a 'negative opportunity' concept as opposed to a 'positive exercise' concept, though historically the two may often have coexisted quite happily. See Quentin Skinner's discussion of this definition in 'The Idea of Negative Liberty', pp. 193–224. The term 'libertarian' of course can mean different things; some use it to describe those who are strong supporters of liberty, others, strong advocates of extreme, particularly anti-statist, forms of liberty – quite a different proposition. Hamburger uses it in the former sense to describe both Mill and Tocqueville ('Mill and Tocqueville on Liberty', pp. 115–20), and also sees Mill as championing a 'libertarian utopia' (p. 120). Gray also positions Mill here ('John Stuart Mill and the Future of Liberalism', p. 140).

<sup>6</sup> *The Collected Works of John Stuart Mill* (hereafter 'CW'), vol. 18, p. 294. (All citations here from this edition have removed the textual variants noted there.)

<sup>7</sup> August, *John Stuart Mill*, p. 147; CW 18, p. 277. <sup>8</sup> CW 18, pp. 226, 291.

<sup>9</sup> E.g. Harrison, *Tennyson, Ruskin, Mill and Other Literary Estimates*, p. 274.

<sup>10</sup> Berlin, *Four Essays on Liberty*, pp. 121–39, 181–206. For support, see, e.g., Stegenga, 'Mill's Concept of Liberty and the Principle of Utility', 281–9. Buckle described Mill's position as being that 'we must vindicate the right of each man to do what he likes, and to say what he thinks, to an extent much greater than is usually supposed to be either safe or decent' (1859, reprinted in *Liberty: Contemporary Responses to John Stuart Mill*, p. 58). Ritchie asserted that 'Mill takes liberty in the merely negative sense of "being left to oneself"' (*The Principles of State Interference*, p. 83).

ends.<sup>11</sup> In this view autonomy even trumps happiness: Socrates dissatisfied, in Mill's most famous statement of the issue in *Utilitarianism*, was an autonomous, but possibly unhappy, man, and is to be preferred as an ideal type to the fool satisfied. For to Mill:

[N]o intelligent human being would consent to be a fool, no instructed person would be an ignoramus, no person of feeling and conscience would be selfish and base, even though they should be persuaded that the fool, the dunce, or the rascal is better satisfied with his lot than they are with theirs.<sup>12</sup>

Many acquainted with Mill's works will, however, query their supposed devotion to negative liberty. No man so imbued with the love of humanity and 'the superior excellence of unselfish benevolence and love of justice' as Mill was likely to leave the species to its foibles.<sup>13</sup> A leading disciple, John Morley, denied that his idea of liberty was 'that the only need of human character and of social institutions is to be let alone'.<sup>14</sup> Mill, we will see,

<sup>11</sup> Or at least as 'essential to well-being', in Talbot's terms (*Which Rights Should Be Universal?*, p. 133). See also Gray, *Mill On Liberty*, pp. 54–7, for a defence of applying this concept to describe Mill's chief principle. It is often assumed that Mill came 'very close to assigning a direct and irreducible value to autonomy in *On Liberty*' (Christman, ed., *The Inner Citadel*, p. 15). See generally Dworkin, *The Theory and Practice of Autonomy* and Young, *Personal Autonomy*, pp. 24–5, which takes Mill to value autonomy as an end in itself. Though the term itself was not used in this way in English by Mill, he did describe his system as defending 'l'autonomie de l'individu' in a letter of 1871 (CW 17, p. 1832), which is adequate to the interpretation. See Hamburger's consequent objections to it, in *John Stuart Mill on Liberty and Control*, p. xii. Beyond its association with negative liberty, the concept can describe a variety of other disparate states, attributes or possibilities. Joel Feinberg's *The Moral Limits of the Criminal Law* (vol. 3), pp. 27–97, sees autonomy as embracing four main meanings: the capacity to govern oneself; the actual condition of self-government; an ideal of character derived from these; and the sovereign authority one might possess over one's own moral boundaries (p. 28). Richard Arneson analyses these issues in 'Joel Feinberg and the Justification of Hard Paternalism'. None of these exactly overlaps, however, with late-eighteenth and early-nineteenth-century ideas of 'independence' based on property ownership and freedom from the mastery of another, which is chiefly a financial rather than a moral description, or certainly makes rational moral action depend upon not working for others and hence being under their influence.

<sup>12</sup> CW 10, pp. 211–12. But 'content', Mill stresses, is not 'happiness', and there is always the residual suspicion that the knowledge that we possess a higher freedom brings another form of happiness to counterbalance such dissatisfaction: in *Utilitarianism* Mill explicitly describes the pursuit of virtue for its own sake as being, at least for some, a pleasure (CW 10, p. 237). But the sacrifice of one's own happiness could also be justified if it aimed at promoting that of others. Hence Mill's statement that it was 'noble to be capable of resigning entirely one's own portion of happiness, or chances of it' was followed by the observation that 'this self-sacrifice must be for some end; it is not its own end; and if we are told that its end is not happiness, but virtue, which is better than happiness, I ask, would the sacrifice be made if the hero or martyr did not believe that it would earn for others immunity from similar sacrifices?' (CW 10, p. 217). On some problems in Mill's use of Socrates, and the need to cater for the happiness of fools too, see Hollis, 'J.S. Mill's Political Philosophy of Mind'.

<sup>13</sup> CW 1, p. 112.

<sup>14</sup> Morley, *On Compromise*, p. 281. Mill's method, said Morley, was rather: 'Persuade; argue; cherish virtuous example; bring up the young in habits of right opinion and right motive; shape your social arrangements so as to stimulate the best parts of character.'

believed that societies had to progress towards an optimal goal. Regression from civilisation to barbarism was not a worry (he was wrong here). But negative liberty, particularly in democracies, was distinctly unprogressive. It tended to breed ‘miserable individuality’ or individualism in the alienated, Tocquevillean sense, as well as ‘tyranny of the majority’ over opinion in particular, and a downward trend in standards of taste to the lowest common denominator.<sup>15</sup> People often lack the requisite skills and information to make the best of their lives. They often feel themselves to be mere putty in the hands of fate. But Mill wanted them to feel that they possessed a free will, particularly in crafting their own personalities, and he wanted them to have the means of improving. Owenite fatalism was paralysing. Circumstances formed character, Mill conceded, but people ‘in their turn, mould and shape the circumstances for themselves and for those who come after them’.<sup>16</sup> Mill’s ideal of character might have permitted, but it was not meant to encourage, the liberty to be stupid, to be enslaved to the baser passions, or to be satisfied with ‘ape-like’ imitation.<sup>17</sup> Only when people mastered their habits and temptations could they possess ‘moral freedom’, and thus Mill proclaimed that ‘none but a person of confirmed virtue is completely free’.<sup>18</sup> He consequently recognised many justifiable restrictions upon liberty, particularly as grounded in utility ‘in the largest sense’, defined as ‘the permanent interests of a man as a progressive being’, an ambiguous phrase we will have to unpack in due course.<sup>19</sup> Such progress was towards greater virtue: not perfection, but less brutality, less domination, less demeaning dependence, and crucially too, as we will see, more equality. In 1836 Mill used the term ‘neoradicalism’ to express his preference for virtue over mere material interest. What he now regarded as the deficiencies of his own education led him to believe that making people mere reasoning machines was mistaken. He aimed instead to redefine utilitarianism by allowing feelings to be weighed with thought, and by making poetry a condition of philosophy.<sup>20</sup> He became increasingly

<sup>15</sup> CW 10, p. 411; Tocqueville, *Democracy in America* (vol. 2), pp. 90–97.

<sup>16</sup> CW 8, p. 913 [1843]. It is in this sense that *On Liberty* is, notwithstanding Mill’s disclaimer, also emphatically a book about freedom of the will.

<sup>17</sup> See CW 2, p. 367, on the ‘epicurean indifference’ of maximising personal satisfaction even ‘without injury to any one’.

<sup>18</sup> CW 8, p. 841 [1843]. <sup>19</sup> CW 18, p. 224.

<sup>20</sup> CW 12, p. 312. This interpretation is pursued in particular by Semmel, *John Stuart Mill and the Pursuit of Virtue*. As Robson notes, Mill’s departure here from Bentham and James Mill’s consequentialism, by estimating the motive of actions as a measurement of the worth of agents, was significant (*The Improvement of Mankind*, pp. 143–4). There is also some tension here between Mill’s supposed conversion to a Romantic ideal of the ‘unique self’ (van Holthoorn, *The Road to Utopia*, p. 7) and the notion that universal principles of virtuous conduct were to be sought.

concerned with identifying a moral ideal to which most, hopefully, could subscribe. By 1843 he termed ‘nobleness of will and conduct’ as the end ‘to which the specific pursuit either of their own happiness or of that of others (except so far as included in that idea) should, in any case of conflict, give way’.<sup>21</sup> The *System of Logic* used the idea of the ‘Art of Life’ to describe how each could choose their life’s plan.<sup>22</sup> *On Liberty* reiterated that it was really ‘of importance, not only what men do, but also what manner of men they are that do it’, and described character formation in terms of an idea of ‘self-cultivation’.<sup>23</sup> This solved the crucial problem of free will versus necessity, by making self-education a conscious pursuit.<sup>24</sup> It also allowed Mill to declare that not all individuals were ‘equal in worth as human beings’ either intellectually or, even more importantly, morally: with minimal standards of dignity observed, differential treatment might be merited.<sup>25</sup> In *Utilitarianism* ‘the general cultivation of nobleness of character’ implied a preference for so-called higher over lower utilities.<sup>26</sup> Isaiah Berlin has argued that Mill was interested in diversity – at least of opinion – for its own sake.<sup>27</sup> But Mill also believed that judgements about the good life would eventually converge, at least on the definition of basic civility. This challenges the degree of his commitment to moral pluralism.<sup>28</sup>

Mill’s enthusiasm for virtue has been the focus of earlier studies.<sup>29</sup> Some have accused Mill of extreme over-exuberance in the cause. Maurice Cowling, most notably, described Mill as promoting ‘something resembling moral totalitarianism’ because he wished to ‘moralize all social activity’,

<sup>21</sup> CW 8, p. 952. One inference being that ‘nobleness of character’, as described in *Utilitarianism*, is not identical to ‘individuality’ or ‘character’ more generally, as formulated in *On Liberty*, but represents a more virtuous subset thereof, based not merely on self-government but a duty to others as well. See, e.g., Clor. ‘Mill and Millians on Liberty and Moral Character’.

<sup>22</sup> CW 8, p. 949.

<sup>23</sup> CW 18, p. 263. To this degree nobleness of character, not autonomy, as least as construed from the negative liberty perspective, thus becomes the end to which individuality and self-cultivation are the means.

<sup>24</sup> This in turn was evidently the solution of Mill’s famous ‘mental crisis’, a good part of which was generated by an obsession with the ‘incubus’ of philosophical necessity (CW 1, pp. 174–5). The emphasis on cultivating the feelings, especially through poetry, of course, owes more to Coleridge, Wordsworth, and German sources.

<sup>25</sup> CW 19, p. 323.

<sup>26</sup> CW 10, pp. 213–14, where Mill adds ‘even if each individual were only benefited by the nobleness of others, and his own, so far as happiness is concerned, were a sheer deduction from the benefit’; CW 8, p. 952.

<sup>27</sup> Berlin, *Four Essays on Liberty*, pp. 190–1.

<sup>28</sup> Gray, for instance, wishes to see Mill as a ‘paradigmatic liberal’ in aiming ‘to defend and occupy a point of moral neutrality between rival conceptions of the good life’ (*Mill On Liberty*, p. 119).

<sup>29</sup> In particular, Semmel’s *John Stuart Mill and the Pursuit of Virtue*, which portrays Mill as ‘distinctly more conservative than he has generally been depicted’ (p. ix).

and also believed that the number of contested truths would be constantly reduced as society progressed, ending in a utilitarian variation on the Religion of Humanity, overlooking, perhaps, the fact that liberty was an essential part of the consensus itself.<sup>30</sup> Joseph Hamburger, too, has seen Mill as having a well-defined moral agenda in which liberty was only one amongst several principles to be satisfied. For Hamburger we must read *On Liberty* ‘in light of Mill’s overarching purpose of bringing about . . . moral regeneration’. This might conceivably demand substantial interference with individual freedom, or at least minimally a form of moral engagement falling short of coercion, in the name of moral order.<sup>31</sup> Mill told friends to seek that freedom alone which resulted ‘from obedience to Right and Reason’.<sup>32</sup> This did not mean that only one narrow ‘end’ was ‘right’, though Mill did come to think one very broad social and economic end, to be defined later here in terms of both equality and liberty, was. But ‘what one is free for’ was not *variety* of character as such, it was character defined from an essentially moral perspective.<sup>33</sup> This meant choosing the right ends, not the right to choose any ends.<sup>34</sup> Yet such choice did not entail the constant sacrifice of one’s own desires. ‘Why is it necessary that all human life should point but to one object, and be cultivated into a system of means to a single end?’ Mill queried of Auguste Comte’s system, wondering whether it might ‘be the fact that mankind, who after all are made up of single human beings, obtain a greater sum of happiness when each pursues his own, under the rules and conditions required by the good of the rest, than when each makes the good of the rest his only object, and

<sup>30</sup> Cowling, *Mill and Liberalism*, pp. xii–xiii, 87–93. This interpretation is assessed in Rees, ‘Was Mill for Liberty?’, Halliday, ‘Some Recent Interpretations of John Stuart Mill’ and Ten, ‘Mill and Liberty’. See also Ryan, ‘Mill in a Liberal Landscape’, pp. 531–2 and Wollheim, ‘John Stuart Mill and Isaiah Berlin’, pp. 253–70. Cowling’s argument hinges on the assertion that when ‘Mill uses *happiness*, he means the happiness that *rational* reflection would approve, not *any* pleasure a man *happens* to pursue. This greatly limits the range of acceptable action’ (p. 32, emphases added). But Mill’s willingness to tolerate Mormonism would alone seem to weaken this argument fatally: because we may not approve a form of conduct does not make it ‘unacceptable’. An agreement as to what constitutes basic civility might also imply great toleration of differences in behaviour. Nor is Mill nearly so vehement as Cowling suggests about there being only one definition of happiness (p. 32) or only one ‘disinterestedly utilitarian ethic’ (p. 43), or so insistent that ‘the principle of utility and the Religion of Humanity alike induce a higher disinterestedness than any that has ever been advocated by the highest ethical doctrines in the past’ (p. 91).

<sup>31</sup> Hamburger, *John Stuart Mill On Liberty and Control*, p. xi. On the spectrum of possible forms of non-coercive engagement see my ‘Mill, Moral Suasion, and Coercion’.

<sup>32</sup> Fox, *Memories of Old Friends* (vol. 1), p. 141.

<sup>33</sup> Thilly, ‘The Individualism of John Stuart Mill’, 15; Jones, ‘John Stuart Mill as Moralist’.

<sup>34</sup> See Feinberg, *The Moral Limits of the Criminal Law* (vol. 3), pp. 32–3, for a discussion of these issues. Gray distinguishes between autarchy and autonomy to explain some of these differences (*Mill On Liberty*, pp. 74–5).

allows himself no personal pleasures not indispensable to the preservation of his faculties?' The 'regimen of a blockaded town should be cheerfully submitted to when high purposes require it', Mill thus concluded, but the 'ideal perfection of human existence' was not the morality of complete selflessness. Some middle ground was more desirable, though as Hamburger stresses, Mill's greatest anxiety respected tendencies which made a person 'a selfish egotist, devoid of every feeling or care but those which centre in his own miserable individuality', which included extravagance and excessive devotion to the lower pleasures.<sup>35</sup> This language, in *Utilitarianism*, thus offers an instructive contrast to Mill's discussion of individuality in *On Liberty*. It is clear that Mill sought a happy balance, ethically, between two extreme positions. We will see here, however, that a focus on moral ends alone does not exhaust Mill's model of interference, and indeed may lead us off course somewhat.<sup>36</sup>

As Richard Reeves has recently concluded, then, 'Mill wanted our lives to be free, but he also wanted them to be good'.<sup>37</sup> An 'equal devotion to the two cardinal points of Liberty and Duty' were what he most admired in his closest early friend, John Sterling.<sup>38</sup> Mill's plea for virtue was intended to be contrasted sharply to the general drift of identity (de)formation in modern societies. A concern for the public good was naturally declining. Commercial peoples would succumb to an 'essentially mean and slavish' spirit if this was not counterbalanced politically, in particular, 'by an extensive participation of the people in the business of government in detail'.<sup>39</sup> The trick here initially was to be content with a satisfactory, if high, level of development once this had been reached. To precipitate modernity, nations required their industrial spirit to be stimulated. But eventually Englishmen and Americans needed this spirit to be moderated so 'more numerous and better pleasures' might alleviate the 'all-engrossing torment of their industrialism', even if this reduced their overall output. Those who, Mill stressed, had 'no life but in their work', that alone standing 'between them and ennui', were 'too deficient in senses to enjoy mere existence in repose'. Obsessed with 'the desire of growing richer, and getting on in the

<sup>35</sup> CW 10, pp. 337, 216. Cf. Hamburger, *John Stuart Mill on Liberty and Control*, p. 168.

<sup>36</sup> Nor are the moral ends focussed on by Hamburger, in particular, and the role of religion played in their definition, central to the arguments of this book. The lack of an extended discussion of the scope of legitimate state interference, and of the goals of such activity, such as the promotion of equality, notably relative to the *Principles*, also weaken an otherwise illuminating argument considerably.

<sup>37</sup> Reeves, *John Stuart Mill. Victorian Firebrand*, p. 6. A similar interpretation is proposed in Jones, *Victorian Political Thought*, pp. 36–40.

<sup>38</sup> CW 1, p. 161. <sup>39</sup> CW 18, p. 169.

world', they lacked the 'higher aspirations' and 'nobler interests of humanity'. They needed thus to be taught both how to use wealth, and even more how to appreciate 'the objects of desire which wealth cannot purchase, or for attaining which it is not required'.<sup>40</sup>

People and nations, then, might progress adequately to a high stage of development and civilisation, and then degenerate into a cycle of frenzied work, vacuous consumption, and increasing selfishness. Mill clearly regarded the avoidance of such regression as one of the greater challenges of later modernity. The 'most important quality of the human intellect', he wrote in 1826, was progressiveness, which involved 'the questioning of all established opinions', the human intellect being 'only in its right state when everything that is believed is believed on evidence'.<sup>41</sup> The destination of progress, he had decided by 1843, was not only self-development, but a higher form of social unity. This was to become central to his later social theory, though Mill's account of it would remain, by later standards, lamentably thin and sometimes apparently contradictory. Hitherto the strongest propensities had tended 'to disunite mankind, not to unite them – to make them rivals, not confederates'. But social existence required disciplining 'those more powerful propensities', and 'subordinating them to a common system of opinions' which would underpin 'the moral and political state of the community'.<sup>42</sup> The degree of this subordination was 'the measure of the completeness of the social union', and 'the nature of the common opinions' determined 'its kind'. Progress, then, would not be 'in talents or strength of mind' but 'in feelings and opinions'.<sup>43</sup> And here the leadership of the educated had a vital role to play in 'the order of progression in the intellectual convictions of mankind, that is, on the law of the successive transformations of human opinions'.<sup>44</sup> Yet the opinions to be enjoined had to be broadly the right ones, or we might only substitute one form of malevolent conformity for another (to a secular mythology, for example, after shedding a religious one). A tension between liberty and consensus, and conformity, unity and sociability, thus runs throughout Mill's later writings.

*The value, rights and duties of interference: the role of* On Liberty

The gap between the desirability of considerable negative liberty, the need for autonomy, the requirement of progressive self-development and the

<sup>40</sup> CW 2, pp. 104–5.      <sup>41</sup> CW 26, p. 349.      <sup>42</sup> CW 8, p. 926 [1843].

<sup>43</sup> CW 27, p. 643 [1854].      <sup>44</sup> CW 8, p. 927 [1843].

necessary role played in progress by the intellectual elite left considerable scope for the ideal usually referred to as ‘positive liberty’, where the freedom to unfold and extend ourselves can be aided by others.<sup>45</sup> Freedom to be left alone to choose our own ends was valuable. But Mill never believed that all were equally capable of reaching a satisfactory mental condition unaided; to the contrary. ‘The uncultivated cannot be competent judges of cultivation’, he wrote, adding that those ‘who most need to be made wiser and better, usually desire it least, and, if they desire it, would be incapable of finding the way to it by their own lights.’<sup>46</sup> Such a distinction permits the possibility that we might also interfere in other areas where desirable long-term common ends might not result naturally from social progress, or be adequately understood by many people. In such cases individuals might themselves not be the best judges even of their own interests, much less those of later generations.<sup>47</sup> But how far might we be entitled to entice, persuade or cajole others into rising above their baser foolish or ignorant selves? Might we ‘interfere in people’s lives in order to educate them into autonomy’, analogous to Rousseau’s famous proclamation that citizens could be ‘forced to be free’?<sup>48</sup> And when might such interference hinder the attainment of this end? For if liberty, as an aspect of autonomy, is an important end itself, how can interference with liberty suffice as a means? Or is it perhaps permissible, even requisite, to interfere in some types of liberty in order to promote others? Might we, for instance, adjust property rights in order to promote greater collective autonomy? Mill had to confront cases where society was harmed as much by the acts of supposedly mature individuals incapable of making correct choices as the individuals themselves were. He thus faced the dilemma, which some have seen as central to his thought,<sup>49</sup> as to whether the modern state, like modern individuals, should act to protect and promote an ideal of virtue, or remain the tool of narrower sectional or class interests and lesser aspirations.

<sup>45</sup> On the problems associated with these definitions, see MacCallum, Jr., ‘Negative and Positive Freedom’, and Skinner, ‘A Third Concept of Liberty’, esp. pp. 245–7. Skinner has distinguished between negative liberty as freedom from interference, and a republican conception of liberty in which the absence of dominion, or not having a master (or broadly, ‘independence’), is central. See Skinner, *Liberty Before Liberalism*. In mid-Victorian terms, this implies that an individual’s ability to think and act freely hinged upon their financial independence or lack of servitude.

<sup>46</sup> CW 3, p. 948.

<sup>47</sup> See McCloskey, ‘Mill’s Liberalism’, for a general outline of this approach. This challenges the view that Mill consistently upheld the idea that each person was the ‘best judge’ of their own well-being. Ryan’s riposte to this approach remains useful (‘Mr. McCloskey on Mill’s Liberalism’).

<sup>48</sup> As presented by Bird (*The Myth of Liberal Individualism*, p. 133), who however dissents from this interpretation.

<sup>49</sup> E.g., Semmel, *John Stuart Mill and the Pursuit of Virtue*, p. 114.

Such interventions are normally associated with the term ‘paternalism’. Just how far Mill went down the paternalist road and whether he went too far, or not far enough, was controversial in his own life, and remains so today. Few would deny that Mill defended a ‘strong’ account of paternalism in justifying despotic rule over less ‘civilised’ peoples,<sup>50</sup> with the full-blown theory of liberty associated with *On Liberty* being applicable only to competent adults in developed societies. But most accounts of the famous ‘harm’ principle when applied domestically simply treat Mill as an opponent of ‘paternalism’ as such. They write of Mill’s ‘rejection of paternalism’ or the ‘absolute nature of Mill’s prohibitions against paternalism’.<sup>51</sup> They assert that *On Liberty* aimed to preclude paternalism from being practised,<sup>52</sup> or to deny the legitimacy of paternalist interference, even if this grated against Mill’s ‘general utilitarian commitments’.<sup>53</sup> And Mill has also been described as rejecting ‘welfare-paternalism’, despite his resolute support for the Poor Laws.<sup>54</sup>

Yet some critics have also discerned markedly paternalistic trends in Mill’s thought. He made the ‘strongest case’, as Alexander Bain termed it, respecting children’s rights in civilised societies, and of the state’s right to interfere where parents failed to uphold them. Letwin saw him as moving towards paternalism in reacting to Benthamism and in commending ‘the leadership of those who knew better’.<sup>55</sup> Himmelfarb has noted Mill’s much more interventionist strategy in relation to parental duty.<sup>56</sup> Hamburger has accused Mill of being ‘far from . . . libertarian and permissive’, and instead ‘placing quite a few limitations on liberty and many encroachments on individuality’.<sup>57</sup> Other interpreters have seen Mill’s ‘paternalist side’<sup>58</sup> as emerging in the *Principles*, in the *Considerations*, and elsewhere. Some have

<sup>50</sup> Or at least ‘temporary paternalism’, in Urbinati’s phrase (*Mill on Democracy*, p. 177).

<sup>51</sup> Monro, ‘Utilitarianism and the Individual’, p. 47; Ten, *Mill On Liberty*, p. 8; Dworkin, ‘Paternalism’. The single most exhaustive modern study, Hollander’s *The Economics of John Stuart Mill*, simply dismisses as ‘untenable’ any charge of paternalism against Mill (vol. 1, p. xvi, vol. 2, pp. 695, 724). The most wide-ranging study of the principle itself and its implications is Feinberg’s *The Moral Limits of the Criminal Law*. See vol. 1, pp. 26–7 for a summary of the exhaustive typology of ‘liberty-limiting principles’. The best general starting points for the text itself are Ten, *Mill On Liberty*, pp. 52–97, Ryan, *The Philosophy of John Stuart Mill*, pp. 233–56, Skorupski, *John Stuart Mill*, pp. 337–88, and Phillips Griffiths, *Of Liberty*.

<sup>52</sup> Bogen and Farrell, ‘Freedom and Happiness in Mill’s Defence of Liberty’, 325.

<sup>53</sup> Lively, ‘Paternalism’, pp. 163, 148. Lively assumes that the ‘paternalist principle, if consistently and extensively applied as a warrant for state intervention, would leave little or no freedom of action and virtually eliminate all individual responsibility for action’ (p. 147).

<sup>54</sup> Semmel, ‘John Stuart Mill’s Coleridgean Neoradicalism’, p. 76.

<sup>55</sup> Letwin, *The Pursuit of Certainty*, p. 306.

<sup>56</sup> Himmelfarb, *On Liberty and Liberalism*, pp. 116–20.

<sup>57</sup> Hamburger, *John Stuart Mill on Liberty and Control*, p. xi.

<sup>58</sup> Hollis’s phrase, in ‘The Social Liberty Game’, p. 33.