

Philsoc Student Essay Prize – Michaelmas 2014: Third Prize

What is Mill's Liberty Principle? Does it correctly set out the grounds on which government interference with individual lives is justified?

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Mill's Liberty Principle states 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.*" (Mill 1991, p14)

This essay will argue that, because of contradictions that exist between utilitarianism and liberalism, and because the extent of the range of those to whom the principle is meant to apply is inadequately delineated, and because certain irrational, but strongly felt emotions need to be accommodated, and because false views attractively presented can be believed and be harmful, Mill's Principle fails to adequately delimit the grounds on which government interference into the lives of individuals is justified.

Mill believed in liberalism in an instrumental way – as a way of maximizing utility. Whilst rejecting anarchy – "all that makes existence valuable to any one depends on the enforcement of restraints upon the actions of other people" (Mill 1991, p9) – he was equally dismissive of tyranny, and also of arbitrary custom and popular morality. He considered that when a democracy had been achieved its powers must be curtailed so as to protect minorities from the tyranny of the majority. He didn't believe in natural rights, but considered that rights arose from what maximized utility. He believed that human flourishing would best occur by allowing people a private sphere, protected from state intervention, and considered freedom to be essential to originality and individuality – "the free development of individuality is one of the leading essentials of well-being" (Mill 1991, p63). Such individuality, he considered, would lead to new and creative ways of living, which would be to the benefit of all. He thus held a view of humans as progressive creatures who, given the right amount of liberty, would innovate, learn from their mistakes and gradually improve their lives and moral sense. The questions then become – does liberty always lead to happiness, how much of it is best and to what extent are humans progressive enough to benefit from it in the way he believed.

Mill was clear that interfering in the liberty of another for his own good was not justified. Hence, if an individual was bent on a path of self-harm through, for instance, alcoholism or drunkenness, provided that he was threatening no harm to others, he should be deterred from doing so only by persuasion, and never by physical force. And yet it is clear that on occasions individuals can be saved from themselves by physical restraint. An example would be the would-be suicide being pulled from the ledge and living happily thereafter. In this situation utility is increased, and it demonstrates that, though Mill justified liberty only in terms of utility, the two are not always compatible. Utility can sometimes be maximized only by curtailing liberty.

A further limitation of Mill's principle concerns the range of its applicability. Mill was very clear that there was such a limitation, but less clear about its extent and implications. His view is premised on humans being progressive creatures who learn from their mistakes. Those who fell outside these conditions, such as children and barbarians, were excluded, and were not entitled to the same freedoms, but he doesn't say just how a barbarian should be defined (Mill 1991, p14). If there are societies, or individuals within a society, who are to be deemed unworthy of liberal

freedoms, it's important that we should be able to recognize them, but Mill gives no guidance as to how to do this. Though he clearly thought that the British of his day were appropriately progressive, the proportion of them that participated in the political process was small (all

females and most males being excluded) and it's not clear what status he extended to the masses. Similarly with regard to foreign countries, though he thought that those of Western Europe were civilized, it's uncertain what he thought of the rest, though in general he was against foreign interventions, believing that "there can seldom be anything approaching to assurance that the intervention, even if successful, would be for the good of the people themselves" (Gaus & Courtland). This anti-interventionist position, though, could be regarded as excessively isolationist and did not meet the approval of later liberals such as Rawls, who believed that outlaw states should be subject to "forceful sanctions and even to intervention" (Rawls 2006 p267). To sum, if we could be clearer about the meaning of 'progressive' we would be able to better judge not only when foreign interventions were justified, but also when, within our own societies, freedoms should be best given or withheld.

Mill saw humans as progressive creatures, capable of moral improvement, which was best achieved by giving them a sphere of non-interference by the state, provided they were no threat of harm to others. And by harm he meant direct harm to the person or property of another. Mere offence, in his opinion, was no harm. He distinguished between actions that were self-regarding and other-regarding, and considered only the latter to be capable of harm. This is a distinction though that is hard to maintain in the extreme. If I choose to stay at home and read my book tonight, rather than go to the pub for a beer, it would generally be considered to be entirely my business and to be a self-regarding action, yet the landlord of the pub would surely be at least minimally harmed by the loss of my business. In the extreme we are always social creatures who cannot avoid impinging upon one another. Mill recognized this in some situations but not in others. Whilst, for instance, he was in general disdainful of mindlessly accepting arbitrary custom and popular morality, in matters of decency he accepted that acts which caused no harm to others had yet to be prohibited. And so, he would certainly not have approved of sexual intercourse taking place in the public square, but might have had some difficulty in explaining why. One must presume that what motivated him was the feeling of disgust, which in general is not susceptible to reason. It is, rather, a deep-seated emotion with probable origins in our evolutionary past, where it acted as a protective instinct – to prevent us, for instance, from consuming rotten flesh or excrement - but also gave rise to various taboos regarding sexual and religious practices. In our own times, some former taboos have lost their power, and so, for instance, we no longer feel the disgust we once did, about such things as autopsies, organ transplants and inter-racial sexual relations. Nevertheless, activities such as inter-sibling incest and cannibalism, even when entirely consensual and conducted in private, would still trigger very strong feelings of disapproval in most people, and governments can't ignore these. Taboos therefore represent an area where the Liberty Principle can't usually be applied.

Mill is strongly in favour of free-speech and gives a number of arguments why opposing views should not be suppressed. As we're not infallible, we can't be certain as to the truth of our ideas, and so other ideas should be heard. If they turn out to be true, then we have benefited. But even if they turn out to be false, we benefit from having re-examined our own position, because ideas that persist unexamined become "dead dogma, (and) not a living truth" (Mill 1991, p40). Yet false ideas can be made persuasive and are capable of swaying and deceiving masses of people. Mill is aware of this, but sets the bar for suppression very high. So the view that, for instance, corn-dealers are "starvers of the poor" should only be suppressed "when delivered orally to an

excited mob assembled before the house of a corn-dealer” (Mill 1991, p62). This is at some variance with the illiberality of his view that those convicted of a violent crime resulting from intoxication should thereafter be debarred from taking alcohol, but, more importantly, in our own

day of mass communication and social media, the danger from bad ideas is heightened and Mill’s criteria for intervention look inadequate. When civil liberties have to be balanced against national security a clearer distinction is needed between those who should and should not be granted liberal freedoms than the one Mill provides.

Mill’s liberty principle was formulated in nineteenth century Britain and was a radical idea of how personal liberties could be maximally expanded to facilitate the flourishing of the citizen. It suffers from the limitation of only applying to those at a certain level of development, but of this level being unclear. It also fails to account for happiness or utility sometimes being greater with less liberty, and also for the fact that humans have irrational motivations which can’t be negotiated away. It also remains uncertain that humans are as capable of improvement as Mill believed and it can be criticized as overemphasizing the needs of the individual at the expense of the group.

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