

Original citation:

Philp, Mark (2015) Introduction to John Stuart Mill, On liberty, utilitarianism and other essays. In: Philp, Mark and Rosen, Frederick, (eds.) John Stuart Mill, On liberty, utilitarianism and other essays. Oxford world's classics . Oxford: Oxford University Press, pp. 1-46.

Permanent WRAP URL:

<http://wrap.warwick.ac.uk/78790>

Copyright and reuse:

The Warwick Research Archive Portal (WRAP) makes this work by researchers of the University of Warwick available open access under the following conditions. Copyright © and all moral rights to the version of the paper presented here belong to the individual author(s) and/or other copyright owners. To the extent reasonable and practicable the material made available in WRAP has been checked for eligibility before being made available.

Copies of full items can be used for personal research or study, educational, or not-for profit purposes without prior permission or charge. Provided that the authors, title and full bibliographic details are credited, a hyperlink and/or URL is given for the original metadata page and the content is not changed in any way.

Publisher's statement:

Philp, Mark (2015) Introduction to John Stuart Mill, On liberty, utilitarianism and other essays. In: Philp, Mark and Rosen, Frederick, (eds.) John Stuart Mill, On liberty, utilitarianism and other essays. Oxford world's classics . Oxford: Oxford University Press, pp. 1-46.

Available from OUP: <https://global.oup.com/academic/product/on-liberty-utilitarianism-and-other-essays-9780199670802?cc=gb&lang=en&>

For more information, please contact the WRAP Team at: wrap@warwick.ac.uk

A note on versions:

The version presented here may differ from the published version or, version of record, if you wish to cite this item you are advised to consult the publisher's version. Please see the 'permanent WRAP url' above for details on accessing the published version and note that access may require a subscription.

<PMI><recto></PMI><FMCT:INT>INTRODUCTION</FMCT:INT>

<P>JOHN STUART MILL (1806–73) is a central figure in the canon of Western philosophy and literature. His writing engaged with a wide variety of different strands of nineteenth-century thought: utilitarianism, romanticism, scientism, historicism, political economy, sociology, and so on. He came of age in a Britain recovering from the wars with Napoleonic France and with rising popular discontent against an exclusive and elitist political system and an emerging industrial system in which men’s and women’s lives appeared dramatically exposed to the uncertainties of trade and manufactures. His expectations of the Reform Bill of 1832 were not high, and were not exceeded. His experience on the streets of Revolutionary Paris in 1830 led him to hope for more dramatic reforms than were proposed in England. Above all, he saw himself as living in a period of transition from a highly unequal society to a more egalitarian order, with an end to distinction based on rank, through the extension of literacy, and the opening of prospects for individual development across the whole population. His thinking drew liberally from European thought as well as from English and Scottish Enlightenment traditions and contemporary debates and in his lifetime he carved himself a place as Britain’s foremost intellectual. His work straddled many of the boundaries that have defined his successors’ allegiances, such as that between liberalism and socialism. Consequently, while many have claimed him as an intellectual forebear, the full breadth of his thought and the subtlety of his convictions have been captured by very few.</P>

<PI>The four essays in this collection are the most widely read of Mill’s writings. Most students read only these essays. One result is that many emerge from the experience convinced of Mill’s inconsistency, puzzled by his own failures to

recognize the tensions in his work, and doubtful as to whether he really deserves the standing in the canon that their teachers accord him. It is hard not to sympathize with them. These essays were not written to bring together Mill's central ideas for a student audience. Each essay had its particular objectives and set of concerns; moreover, they were written by a man with an extraordinary range of intellectual interests and an extraordinary life. Mill was deeply versed in ancient thought, profoundly influenced by the Enlightenment and political economy, but equally receptive to the central ideas of English romanticism, French positivism, and German historicism.¹ He was steeped in the philosophy of his father James Mill (1773–1836) and Jeremy Bentham (1748–1832), he was attracted to the study of logic, he was drawn to socialist ideas, and he shared the feminist commitments and principles of his wife Harriet Taylor (1807–58). This intellectual and political range profoundly shaped these four essays even if it is often only rarely directly expressed in them. Yet, only when read against this broader background of Mill's life, commitments, and concerns does it become possible to grasp their individual significance and to understand their relationship to each other. And only when we do that will we appreciate how fully they deserve their status as contributions to moral, political, and social philosophy of enduring importance.</PI>

<H1>Life</H1>

<P>John Stuart Mill's life was a complex one. He wrote an *Autobiography*, composed intermittently between 1851 and his death in 1873, which he always intended to be published posthumously. As with everything he wrote, it warrants

<FN>¹ He also had practical experience of administration and politics through his career in the East India Company, his journalism and debating societies, and later as MP for Westminster (1865–8).

careful reading. In a letter to Harriet Taylor he commented: ‘Of course one does not, in writing a life . . . undertake to tell everything—& it will be right to put something into *this* which shall prevent any one from being able to suppose or to pretend, that we undertake to keep nothing back.’² Mill intended his *Autobiography* to provide a case study of the impact of an intensive early education, and to make public acknowledgement of the debts that his ‘intellectual and moral development’ owed to others.³

These purposes are fulfilled. He describes his education in some detail. His father James, a close associate of Bentham, wrote several major works of philosophy, psychology, and political economy as well as the *History of India* (1817) and numerous articles on law, ethics, and politics for various journals. At the same time he supported his family by working in the East India Office and managed in person the whole of John Stuart’s education. This education began with Mill learning Greek at the age of 3, adding Latin at the age of 8: ‘my father, in all his teaching, demanded of me not only the utmost that I could do, but much that I could by no possibility have done’.⁴ He learnt Latin largely by teaching it to his younger sister and the education of his siblings increasingly became his familial task, although he cordially disliked being thought responsible for his pupils’ failures. The lesson he drew from his experience was that the attempt to impart knowledge in the higher branches of education in childhood was a success. His case placed ‘in a strong light the wretched waste of so many precious years as are spent in acquiring the modicum of Latin and Greek commonly taught to schoolboys; a waste, which has led so many educational reformers to entertain the ill-judged proposal of discarding those

² *The Collected Works of John Stuart Mill*, (hereafter *CW*), gen. ed. J. M. Robson, 33 vols. (Toronto: University of Toronto Press, and London: Routledge and Kegan Paul, 1963–91), vol. i. *Autobiography and Literary Essays*, ed. John M. Robson and Jack Stillinger (1981), p. xxi.

³ *CW* i. 5.

⁴ *CW* i. 9.

languages altogether from general education'. Mill goes on, with no apparent sense of irony: 'If I had been by nature extremely quick of apprehension, or had possessed a very accurate and retentive memory, or were of a remarkably active and energetic character, the trial would not be conclusive; but in all these natural gifts I am rather below than above par. What I could do, could assuredly be done by any boy or girl of average capacity and healthy physical constitution.'⁵ Mill's sense of his education, however, was that it did not simply cram him with information, but was designed to stimulate and expand his understanding.⁶ Moreover, he emphasized that his father's methods never led him to be arrogant—although he admits that he was trained to be disputatious and '[I] did not scruple to give direct contradictions to things which I heard said . . . My father did not correct this ill-breeding and impertinence, probably from not being aware of it, for I was always too much in awe of him to be otherwise than extremely subdued and quiet in his presence.'⁷

Mill notes a number of things he felt were missing from his education. He described himself as 'one who has, not thrown off religious belief, but never had it'.⁸ His father regarded it a matter of duty to ensure that his son did not fall into beliefs for which he himself could see no rational basis, and regarded many questions, such as 'who made me?' to be ill-formed because unanswerable. In place of theism as a ground for morality, his father adopted the principles of the ancient Greeks, in particular the Socratic virtues: 'justice, temperance, . . . veracity, perseverance, readiness to encounter pain and especially labour; regard for the public good;

⁵ *CW* i. 33.

⁶ See his letter to Thomas Carlyle, 22 Oct. 1832, in *CW* xii. 128: 'I was not *crammed*; my own thinking faculties were called into strong though partial play; & by their means I have been enabled to *remake* all my opinions.'

⁷ *CW* i. 37.

⁸ *CW* i. 45. See also Frederick Rosen, *Mill* (Oxford: Oxford University Press, 2013), ch. 12 'God and the Religion of Humanity'. In a letter to Comte (*CW* xiii. 491–2), which Rosen quotes (*Mill*, 213), Mill makes clear the dangers of being avowedly irreligious. The *Autobiography* refers to *religion* not to theism, and was almost certainly intended to disguise his atheism. Mill never became a theist but he did come to believe that a religion of humanity might have an important place in society.

estimation of persons according to their merits, and of things according to their intrinsic usefulness; life of exertion, in contradiction to one of self-indulgent sloth’.⁹ Mill describes his father’s moral principles as Epicurean, with pleasure and pain being the standards of right and wrong, but he also notes that in practice James Mill had ‘scarcely any belief in pleasure’, most forms of which he regarded as greatly overvalued. As a consequence, temperance became the chief virtue and the chief lesson in his children’s education.¹⁰ James Mill was both averse to strong passions and, according to his son, deficient in tenderness—being like ‘most Englishmen . . . ashamed of the signs of feeling, and, by the absence of demonstration, starving the feelings themselves’.¹¹ And his son describes himself more as loyally devoted to his father than as loving him tenderly.

James Mill collaborated closely with Bentham, and they often worked together in the same room as the younger Mill, who also accompanied them on travels; and for several summers the Mill family stayed with Bentham at Ford Abbey in Devonshire.¹² It is also clear that he read some of Bentham’s work (probably *Chrestomathia*) when he was 14 or 15 and spent a year in France with Bentham’s brother Sir Samuel Bentham and his nephew George Bentham.¹³ But on Mill’s own account it was not until a year or so later that he read Dumont’s edition of Bentham’s *Traité[s] de législation* and fell under Bentham’s spell: ‘The feeling rushed upon me, that all previous moralists were superseded, and that here indeed was the commencement of a new era in thought. . . . When I laid down the last volume of the *Traité[s]* I had become a different being. The “principle of utility” . . . gave unity to my conceptions

⁹ CW i. 49.

¹⁰ CW i. 49.

¹¹ CW i. 53.

¹² Now known as Forde Abbey, and now in Somerset.

¹³ F. Rosen, ‘Parallel Lives in Logic: The Bentham[s] and the Mills’, in G. Vouraxakis and P. Kelly (eds.), *John Stuart Mill—Thought and Influence: The Saint of Rationalism* (London and New York: Routledge, 2010), 69–70.

of things. I now had opinions: a creed, a doctrine, a philosophy; in one among the best senses of the word, a religion; the inculcation and diffusion of which could be made the principal outward purpose of a life.’¹⁴ Mill became convinced that in Benthamism lay not only the true foundation of a system of thought but also the prospect of radical, progressive social change.

Mill describes himself, following his conversion to Bentham’s views, as wholly committed to reform, and he established a utilitarian discussion society with several friends and acquaintance. But some five years later, in the autumn of 1826, in a ‘dull state of nerves, such as everybody is occasionally liable to . . . it occurred to me to put the question directly to myself, “Suppose that all your objects in life were realized; that all the changes in institutions and opinions which you are looking forward to, could be completely effected at this very instant: would this be a great joy and happiness to you?” And an irrepressible self-consciousness distinctly answered, “No!”’¹⁵ This answer, in Mill’s view, arises for two reasons. One is that there is pleasure and meaning in activity and in struggling to achieve one’s goals, independently from the pleasure we gain from their achievement. The other reason is that pleasure itself cannot be wholly separated from the activities of life: it is not something distinct that they bring about as an independent state of mind, so much as something that is infused in the activities in which we engage.

Mill’s reflections produced a long period of intellectual uncertainty, which he referred to as his ‘mental crisis’. We should, however, be wary of identifying his emotional with his intellectual crisis. As his *Autobiography* rather quietly shows, Mill suffered depression on many occasions in his later life, and the temptation to link his intellectual doubts and his depression has led some commentators to assume both a

¹⁴ CW i. 67–9.

¹⁵ CW i. 137–9.

close connection between the two and that this was a once-and-for-all change in his views.¹⁶ In fact, although he lost his confidence in utilitarianism as a reforming crusade, he did not break with the doctrine, although it lost its dominant and guiding role in his intellectual life. ‘I never, indeed, wavered in the conviction that happiness is the test of all rules of conduct, and the end of life. But I now thought that this end was only to be attained by not making it the direct end. Those only are happy (I thought) who have their minds fixed on some object other than their own happiness; on the happiness of others, on the improvement of mankind, even on some art or pursuit, followed not as a means, but as itself an ideal end. Aiming thus at something else, they find happiness by the way.’¹⁷ He also became concerned that the analytic tenor of his training had tended to eradicate, or had failed to cultivate, the place of feeling in his life. To address this, Mill turned—to the distress of some of his utilitarian companions—to poetry (and music), in particular to that of the now deeply conservative Wordsworth and Coleridge, not simply as a source of pleasure, but as exercises in feeling and, more crucially, as ‘aids in the formation of character’.¹⁸ Moreover, Mill found that ‘the influences of European, that is to say, Continental, thought, and especially those of the reaction of the nineteenth century against the eighteenth, were now streaming in upon me’.¹⁹ In addition to the English poets and Carlyle, Goethe, the Saint-Simonians, and—increasingly—August Comte, engaged

¹⁶ *CW* i. 143 (where he refers to a ‘later period of the same mental malady’) and 145 (where he refers to ‘several relapses’). See also his correspondence, for example, to Sterling in 1829 and Carlyle in 1833 (*CW* xii. 29, 149).

¹⁷ *CW* i. 145–7. Mill’s three major pieces on utilitarianism are the essay in this volume, the ‘Remarks on Bentham’s Philosophy’ (1833), and the essay ‘Bentham’ (1838), the companion piece to his ‘Coleridge’ (1840). The ‘Remarks’ and ‘Bentham’ are critical examinations and assessments of Bentham’s work, and Mill regretted some aspects of the latter as not having done justice to Bentham’s thought.

¹⁸ *CW* i. 155. See *CW* xii. 80–5, where he writes to John Sterling of meeting with Wordsworth and Southey, 20–2 Oct. 1831.

¹⁹ *CW* i. 169.

him.²⁰ Having had an analytically rigorous Enlightenment education emphasizing rationality and empiricism, Mill now turned to embrace elements of the Romantic reaction—not as a way of turning his back on science and rationality, to which he remained deeply committed, but so as to recognize the roles of feeling, sentiment, emotion, history, and culture in constructing human character in its full diversity and richness. His personal relationships were also profoundly affected by his new thinking: his friendship with the utilitarian radical John Roebuck dimmed,²¹ that with Frederick Maurice and John Sterling (both opponents of Benthamism) intensified; and for a time both Carlyle and Comte mistook Mill’s interest in and enthusiasm for their ideas as discipleship. But we should not conclude that he substituted another system of ideas for his old utilitarian commitments. ‘If I am asked what system of political philosophy I substituted for that which, as a philosophy, I had abandoned, I answer, no system: only a conviction, that the true system was something much more complex and many sided than I had previously had any idea of, and that its office was to supply, not a set of model institutions, but principles from which the institutions suitable to any given circumstances might be deduced.’²²

In 1830, shortly after his first crisis, at the age of 24, Mill met Harriet Taylor. She was married to John Taylor, with whom she had three children, the last born in 1831. Mill was immediately attracted to her, and she to him—they had a shared vision of social, educational, and political reform, and of the importance of equality between the sexes. Mill’s *Autobiography* acknowledges the profound impact Harriet had on him and, candidly, the oddity of their relationship, although he says little or

²⁰ He was particularly impressed by the Saint-Simonian idea that societies undergo alternate periods of transition and organic unity, which he developed in his unfinished essay ‘Spirit of the Age’ (1831), in *CW* xxii. 227–316.

²¹ Although Alan Ryan, *J. S. Mill* (London: Routledge and Kegan Paul, 1974), 50, attributes this more to Roebuck’s criticism of Mill’s relationship with Taylor.

²² *CW* i. 169.

nothing about its emotional (or physical) dimension. Harriet decided that divorcing her husband would produce too much unhappiness so they lived in an odd triangle with Mill at his parents' house, Harriet in retirement in Kent and then in Walton-on-Thames, and John Taylor in London—with Mill visiting Harriet frequently (John occasionally) and going with her on several trips on the Continent. The relationship led to strains in a number of Mill's closest relationships and friendships, with his connections with his mother and sister breaking down completely. In 1851, two years after John Taylor's death, and twenty years after they first met, they married. Harriet died seven years later in Avignon as they travelled south for her health. *On Liberty* appeared in 1859 and *On the Subjection of Women* in 1869 (having been written in 1861). These two works in particular Mill presents as immensely indebted to Harriet, both in the sense that she had a major impact on the development of his mature thought and because their relationship had a profound effect on Mill's thinking about the nature of tolerance within societies for unconventional modes of living. *On Liberty*, at least, is very much a case for a more tolerant attitude to the kind of choices that they made.</PI>

<HI>Intellectual Commitments</HI>

<P>The four essays in this collection are those that are most frequently prescribed to students and worried over in classes and seminars in ethics, political philosophy, and nineteenth-century literature and political thought. The essays are of great historical and intellectual importance, but they should not be treated as candidates for direct comparison independently of Mill's other writings. Three other major texts to which we should refer are the *Autobiography* (posthumously published in 1873 but written largely in the 1850s), *A System of Logic* (1843), and *Principles of Political Economy*

(1848). These are important in different ways. The *Autobiography* attempts a statement of the complex development of Mill's thinking, and is in itself a major study of the development of individual character—Mill's own. Having the intelligibility of the question 'who made me' denied him in his youth, we can see Mill as increasingly concerned from his early twenties with the question of what it is that makes for individuality, and under what circumstances it may be nourished and facilitated. In the 1840s this set of questions was given some substance by its inclusion as a distinctive branch of inquiry in the last book of his *System of Logic*, under the term 'ethology', or the science of character. The study of character was a development from the science of psychology and focused on what he referred to in *Utilitarianism and Representative Government* as the cultivation of 'active character' (pp. 144, 251–3); that is to say, the conditions under which people with inquiring, critical, and active intelligence emerge in different societies. One source of this interest was Mill's own crisis and his sense of the deficiencies of his emotional education. Another was his deep education in the Classics (and his attraction to the Socratic elenchus and to Aristotle's emphasis on the cultivation of an active life of the virtues as the condition for full human flourishing). A third was his concern with whether utility could adequately encompass this deeper sense of flourishing. This focus on character was further reinforced by his profound engagement with Continental social thinkers (in particular Comte) who saw society as progressively changing and shaping the formation of the individual's consciousness and will, opportunities, and choices.</P>

<PI>Finally, Mill's *Political Economy*, which went through seven editions, with frequent revisions and supplementary materials, posed a series of fundamental questions about what set of political and economic relationships might create the best

conditions for this development of human character to occur more widely, distributing the conditions for the full and free development of individuality, and limiting or eradicating the pressures for conformity and mass production of men of mediocrity. His answers, which were further developed in his posthumously published *Chapters on Socialism*, and which were projected into a distant future, included the development of a stationary state of production (which he contrasted with and saw as enabling an advancing state of ‘mental culture, and moral and social progress’ and for ‘improving the Art of Living’²³) and the integration of the processes of labour with those of self-direction and self-management. Mill effectively predicted a simultaneous integration of all into the working classes, the elevation of labour to a component of individual self-government, and the development of sufficient leisure for ‘a much larger body of persons than at present . . . with sufficient leisure, both physical and mental, from mechanical details, to cultivate freely the graces of life, and afford examples of them to the classes less favourably circumstanced for their growth’.²⁴

Set in the context of these three works, some of the traditional approaches to Mill’s essays look distinctly less attractive. For example, one hoary chestnut concerns the character of Mill’s utilitarianism. Early in *On Liberty* Mill claimed that ‘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 in the permanent interests of man as a progressive being’ (p. 15).²⁵ This idea of ‘man as a progressive being’ indicates how open-ended Mill’s conception of the development of individual character is. The ancient world saw character in terms of a set of cardinal virtues: justice, courage, moderation, and reason. Ideally, these attain a stable, mutually

²³ CW iii. 756. *Chapters on Socialism* are included in CW v. 703–53.

²⁴ CW iii. 755.

²⁵ CW xviii. 224.

reinforcing state in which to have any virtue requires wisdom, while to have wisdom it is necessary to have all the virtues, so that to have one of the virtues requires that one has all the virtues. Although Mill was attracted to this account, and especially to the idea of virtue as necessarily linked to action, he believed that the content of the developed character would itself change over time. Rather than fixing on a single, static conception of human flourishing, Mill endorsed an open-ended and progressive state of self-development and exploration. One corollary of this is that we need to read his arguments and proposals not as setting out a final vision of the conditions for human development, but as more tentatively suggesting what we might do here and now to realize the potential of people within this particular society.

At the end of his *Logic* (1843) Mill asks how we justify rules: ‘the general principle to which all rules of practice ought to conform, and the test by which they should be tried, is that of conduciveness to the happiness of mankind, or rather of all sentient beings: in other words, that the promotion of happiness is the ultimate principle of Teleology’.²⁶ But we should note that this is how we *justify* a rule—it does not necessarily mean that this is what should guide us when we act. ‘I do not mean to assert that the promotion of happiness should be itself the end of all actions, or even of all rules of action. It is the justification, and ought to be the controller, of all ends, but is not itself the sole end.’²⁷ Mill thinks that happiness cannot be the constant and immediate end because some virtuous actions will produce more pain than pleasure on a given occasion—and these occasions are acceptable and justified in so far as ‘it can be shown that on the whole more happiness will exist in the world, if feelings are cultivated which will make people, in certain cases, regardless of happiness’. Moreover, in a striking echo of Aristotle’s glossing of virtue with nobility

²⁶ CW viii. 951.
²⁷ CW viii. 952.

of character, he argues: ‘the cultivation of an ideal nobleness of will and conduct, should be to individual human beings an end, to which the specific pursuit either of their own happiness or of that of others . . . should, in any case of conflict, give way’.²⁸ But when we ask what constitutes this elevation of character, Mill says this is itself to be decided by a reference to happiness. ‘The character itself should be, to the individual, a paramount end, simply because the existence of this ideal nobleness of character, or of a near approach to it, in any abundance, would go further than all things else towards making human life happy; both in the comparatively humble sense, of pleasure and freedom from pain, and in the higher meaning of rendering life, not what it now is almost universally, puerile and insignificant—but such as human beings with highly developed faculties can care to have.’²⁹ Mill’s idea of happiness, then, has something in common with Aristotle’s eudaemonia.

We should not underestimate the importance to Mill of his science of ‘ethology’ and his associated concerns with the development of the manifold elements of human character and in understanding the components of human flourishing. This science is central to the moral and social philosophy of Mill’s *Logic* and, while it is clear that Mill’s confidence in being able to establish this on a fully scientific basis did wane over his lifetime, he retained the view that this was a crucial philosophical endeavour.³⁰ For Mill, it is vital to understand the interactions between individual psychology and the social and cultural forces and influences that promote the fuller growth and flourishing of individual capacities and abilities and, above all, which lead to the development of active character in society. For example, Mill believed that it could no longer be contended that traditions of hierarchy and deference, in which the

²⁸ CW viii. 952.

²⁹ CW viii. 952.

³⁰ He planned a separate work on it in 1843, discussing it in his letters with Auguste Comte and referring to it in notes to Alexander Bain (CW xiii. 604–11, 615–17, 696–8, and 617–18).

elite undertook the protection and guidance of the inferior orders, made sense for his contemporaries. Working men could not be expected to continue to render deference within a patriarchal or seigniorial system. They had to be recognized for the independent beings they had become, and whatever guidance they were offered had to 'be tendered to them as equals, and accepted by them with their eyes open'.³¹ Active, independent character requires a capacity for reflection, questioning, and self-examination on the part of individuals. It is the ability to make one's beliefs and commitments one's own, rather than merely inheriting or passively absorbing them (a line on the right side of which Mill laboured to place himself in relation to his own education in the *Autobiography*). In that process of active engagement we make our lives our own: we become self-directing agents rather than sheep.³² Mill's basic philosophical position, which these later essays work out more fully with particular purposes in mind, revolved around his ethology and the open-ended set of possibilities for self-direction and human flourishing, in the largest sense. It is this that animated his reflections on liberty, morality, the subjection of women, political participation, and his many other concerns.

Mill was not claiming to be in possession of a set of fixed universal truths about the right type of character formation. Character formation is the subject matter of the science of ethology, but that science will not generate a set of truths that we establish in advance and can apply directly in policy. Through the study of logic and ethology we come to a fuller and more sophisticated account of the relations between different aspects of individual psychology and character, and the wider social and

³¹ CW iii. 763.

³² See Alexis de Tocqueville, *Democracy in America*, trans. Henry Reeve (New York: Knopf, 1945), vol. ii, bk. iv, ch. 6, p. 337: 'The will of man is not shattered, but softened, bent, and guided; . . . Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is a shepherd.'

moral world. But ethology is a science of causes and effects; it cannot set the goal to be pursued. What is needed in addition to the science is an account of the appropriate end which this science can then help to secure. The ‘art of life’—the very brief final chapter of the *Logic*, makes it clear that this is something distinct. ‘The art proposes to itself an end to be attained, defines the end, and hands it over to the science. The science receives it, considers it as a phenomenon or effect to be studied, and having investigated its causes and conditions, sends it back to the art with a theorem of the combinations of circumstances by which it could be produced. Art then examines these combinations of circumstances, and according as any of them are or are not in human power, pronounces the end attainable or not. . . . Art concludes that the performance of these actions is desirable, and finding it also practicable, converts the theorem into a rule or precept.’³³ ‘Every art has one first principle, or general major premise, not borrowed from science; that which enunciates the object aimed at, and affirms it to be a desirable object.’³⁴ Mill then argues that ‘the general principle to which all rules of practice ought to conform, and the test by which they should be tried, is that of conduciveness to the happiness of mankind, or rather, of all sentient beings: in other words, that the promotion of happiness is the ultimate principle of Teleology’.³⁵

Much depends on the relationship between ‘art’ and ‘science’. But two features of Mill’s position should be emphasized: firstly that the content of happiness is not especially determinate—it is not a clear criterion that provides a fixed standard against which we can measure sets of relationships in detail. Rather, it is an end, the content of which is open to further and deeper exploration, that evolves over time and

³³ CW viii. 944–5.

³⁴ CW viii. 949.

³⁵ CW viii. 951.

changes as our understandings change. It is a horizon that extends as we approach it—much as a criterion of a full and worthwhile life does—becoming richer and more open-ended. The science of ethology has to do the work to develop generalizations about what type of relationships, arrangements, and conditions will enhance such a broad goal, just as Mill's *Political Economy* and his *Chapters on Socialism* (which remained unfinished at his death) examined the material and social conditions for ordinary working people to attain a fuller more meaningful existence. But these works were also trying to identify and articulate components of human flourishing—not as universal truths or as a static condition to be attained, but as what can be achieved, in this context, arising from these historical and social forces. Mill is a relativist: epochs and societies differ. The components of human flourishing change over time, responding to the interaction between facts of human psychology and the social and political orders in which individuals participate. We flourish within these orders, not against them, and so must learn to identify the possibilities that exist for us where we currently stand.</PI>

<H1>Liberty</H1>

<P>Mill drafted a short piece on liberty in 1854. When convalescing in Montpellier the following year he saw how the essay could be expanded to encompass a range of concerns that revolved around the tendency of society—the collective—to encroach upon the independence of the individual. The concerns were not new, being evident in his *Civilisation* (1836) written nearly twenty years earlier, but *On Liberty* addressed them systematically for the first time. The piece was completed early in 1857 but set aside for further contemplation. However, after Harriet's death, Mill would consider

no further amendments, seeing it as their joint intellectual project and as an expression of their shared commitments, and he sent it off for publication.</P>

<PI>The opening of Mill's essay *On Liberty* identifies a distinctive set of questions. He is not addressing freedom of the will; nor is he primarily concerned with the relationship between individual liberty and government authority. Rather, the new problem he identifies as emerging in his democratic age (understood largely in terms of the spread of the equality of social status) is that social opinion becomes a dominating, intrusive, and repressive force – a 'tyranny of the prevailing opinion and feeling' (p. 9). In this respect he was following in part in the footsteps of Alexis de Tocqueville whose analysis of the political culture of democratic America concluded that one major problem it faced was the stultifying conformity of opinion generated by an egalitarian society. Mill's concern, however, was not merely to diagnose this emerging condition, but to counter it by establishing principles by which to set bounds to the extent of interference it can be legitimate for society and the state to have in the lives of others. How far these concerns were meant to be generally applicable to all modern societies is less clear. Mill believed that certain basic standards of civilization needed to be met before liberty could be developed and safeguarded, and he also evinced a systematic distrust of existing custom and practice as a guide to conduct. At the same time, he recognized the distinctive character of English culture, in which the yoke of custom tended to be heavier, and that of law lighter, than in other European countries. Yet, in keeping with his concern with ethology, it is clear that while there may be things one can say in general terms about the principle of liberty, in practice these have to be thought through and given specific concrete content in relation to the distinctive problems that Britain was facing.

The liberty principle that he adduces certainly sounds generalizable. His purpose in *On Liberty* is to assert ‘one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used by physical force in the form of legal penalties, or the moral coercion of public opinion’ (pp. 13–14). 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. 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’ (p. 14).

Mill is sometimes criticized for inconsistency because he immediately says that we may have ‘good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise’ (p. 14), and it seems hard to distinguish ‘remonstrating’ from the social pressures and sanctions that he begins the essay by identifying as his central concern. The underlying distinction is that between reasoning and discussion on the one hand, which is acceptable, and the mobilization of social opprobrium on the other, which inflicts penalties and is not addressed to the agent’s intellect and judgement.

Much turns on the concept of harm. For Jonathan Riley, ‘The idea of “harm” which is most consistent with the text of *On Liberty* is a broad empirical one, to wit, any form of perceptible damage, including physical injury, financial loss, damage to reputation, loss of employment or social position, disappointment of contractual

expectations, and so forth, but excluding “mere dislike” or emotional distress without any accompanying evidence of perceptible injury.’³⁶

Mill’s category of harm to interests is, as Riley suggests, potentially a very wide one. For example, Mill raises the question of whether I harm the interests of others if I am appointed to a job that they have also applied for. In his view this *is* a harm to interests. But it is not a harm to interests that ought to be acted on because, as he says, it is, ‘by common admission, better for the general interest of mankind, that persons should pursue their objects undeterred by this sort of consequences’ (p.

105).³⁷ This means that we need to follow Mill in distinguishing four categories: First, acts that harm others and ought to be legislated against. Second, acts that harm others but where it is not optimal to legislate against the action, although social opinion might make itself felt: ‘If any one does any act hurtful to others there is a prima facie case for punishing him, by law, or, where legal penalties are not safely applicable, by general disapprobation’ (p. 15). Third, acts that harm others, but where any interference would produce sub-optimal results: harm creates a prima facie case for intervention but the circumstances are such that we should recognize that neither legal nor societal interference can in fact be justified. Fourth, acts that harm no one other than the agent (if that) and so cannot be the subject of just interference, whether by law or social censure.

This presents issues at a high level of abstraction. The devil is in the detail; and the detail was the world of Britain in 1859, which Mill saw as becoming increasingly dominated by intrusive social mores that were often the product of casual common prejudice, rather than full and careful reflection, but could also be detected

³⁶ Jonathan Riley, ‘Racism, Blasphemy, and Free Speech’, in C. L. Ten (ed.), *Mill’s On Liberty: A Critical Guide* (Cambridge: Cambridge University Press, 2008), 67.

³⁷ See Mill’s *Political Economy* and its nuanced discussion of the principle of laissez-faire and in defence of competition (bk. iv, chs. 6–7), in *CW* iii, esp. 794–6, and his *Chapters on Socialism*, in *CW* v. 703–53.

in the growing temperance movement or, more widely, in the ideas of socialist reformers or those of the French positivist Auguste Comte. In making a judgement about intervention a considerable amount of contextual information is necessarily required. It is because the system of fair competition for jobs is itself desirable from the point of view of individual development that certain harms to interests that are intrinsic to such systems are to be tolerated. In the world of the mid-nineteenth century, where the divisions between the rich and idle and the poor and industrious were reproduced through inheritance and custom, processes that distributed positions of advantage and income on the basis of merit and fair competition were clearly to be preferred. The key objective, however, remains the promotion of active character; for which liberty, competition, and free exchange are essential. Some ‘harms to interests’ should be tolerated where doing so promotes the development of active character, as in the suggestion that it is only when people pursue their own goals and actively search for meaning and value that human flourishing, and thereby happiness, will be most fully achieved.

In fact, Mill believed that the obsession with economic growth was misplaced and that scarcity could be conquered as an issue of distribution rather than by increasing production. But he also believed that we need to respect the existing system and to promote the longer-term vision without imposing it on those who have not yet come to share that vision, and who can move towards doing so only by being treated as free, self-directing agents.

Early in *On Liberty* Mill announces that he regards ‘utility as the ultimate appeal on all ethical questions’, but he goes on to insist that ‘it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being’ (p. 15). If ‘interests’ encompass those things that facilitate my development as a

progressive being, then the scope of the ‘harm principle’, understood as harm to interests, must be very extensive, and judgement about whether the harm warrants interference will involve a complex assessment of what is feasible, expedient, and optimal in this particular context.

Mill believes that at the core of the individual’s liberty is a sphere of actions that ‘affects only himself’—by which he means ‘directly, and in the first instance’ (p. 16). The sphere of liberty comprises ‘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’ (p. 16). And the liberty of expressing and publishing is of almost as much importance as liberty of thought itself. There is, then, a progression from liberty of conscience, to liberty of expression of belief (as an integral element of what it is to have liberty of conscience), and liberty of action arising from and expressive of belief. Mill also includes in the ‘sphere’, liberty of tastes and pursuits, and the framing of a plan of life to suit our own character; which is coupled with his third set of concerns, namely liberty of association and combination. ‘The only freedom which deserves the name, is 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 is the proper guardian of his own health, whether bodily, or mental and spiritual. Mankind are the 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’ (p. 17). Mill’s central concern is that neither government nor society should act in ways that impose the beliefs of some upon others who do not share them: ‘If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that

one person, than he, if he had the power, would be justified in silencing mankind' (p. 21).

Wilhelm von Humboldt's *The Spheres and Duties of Government*³⁸ provided Mill with the epigram to his essay: 'The grand, leading principle, towards which every argument unfolded in these pages directly converges, is the absolute and essential importance of human development in its richest diversity' (p. 2). The epigram and subsequent references to Humboldt underline the extent to which Mill's principal concern was to explore means of preserving the contribution that liberty makes to that development.

This line of interpretation of *On Liberty* sees the essay as concerned to protect the exercise of individual judgement in the pursuit of happiness. It does so by making a powerful case for liberty of thought and discussion, by emphasizing individuality and the central importance to be attached to allowing people to live, as far as is possible, as seems good to them, and by dealing with a whole range of cases that illustrate the proper limits of state authority. Mill emphasizes the relative incompetence of government in promoting human happiness, the importance of individuals doing this for themselves, and the dangers of conferring extensive power on the state. The ends to be pursued are, at bottom, ends that we each have to identify and pursue for ourselves (so long as doing so does not cause harm to others in *their* pursuit of happiness). It is not a standard that can be applied externally or by authority. In some cases, where some harm is inevitable and we have to make judgements about its distribution, those judgements must operate *not* by direct appeal to utility but indirectly in terms of what sets of liberties are optimal for the development of active character and thereby of happiness. The justification for

³⁸ Wilhelm von Humboldt's *The Sphere and Duties of Government* (written in 1790–1 but unpublished until 1850).

allowing as much freedom as possible in character, opinion, activities, and objectives, is the contribution that doing so makes to human flourishing. However, although these freedoms conduce to human flourishing, we cannot appeal to the ideal of flourishing to justify direct interference in liberty. People who have arrived at the maturity of their faculties must have the freedom to interpret their experiences and to decide for themselves because ‘The human faculties of perception, judgement, 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’ (p. 65).

One rarely noted corollary of this account is that truth is instrumental for the development of liberty (while the claim that liberty is conducive to the development of truth is a distinct and much-discussed claim that *On Liberty* also makes). This is an attractive insight: the way we understand the world, our capacity to distinguish truth from falsity, and our ability to evaluate different options and possibilities, helps develop our cognitive powers and enables us to exercise and expand our sphere of liberty. Mill makes the case in *On Liberty* for preserving even disproved theories to prevent their successors from becoming merely dogma. But he also clearly believes that the active pursuit of truth opens people to new ideas and influences and thereby enhances the opportunities for the development of active character and liberty while contributing directly to an atmosphere of social liberty and tolerance.</PI>

<H1>Utility</H1>

<P>Utilitarianism (1861) was Mill’s most systematic attempt to introduce the philosophical doctrine associated with Bentham to a wide public audience, to clarify

how it is to be distinguished from alternative moral philosophies, and to represent it in its most attractive light. Mill wanted to do this because he believed fundamentally in the idea that the happiness of the species is, in the final analysis, the true end of morality, and because he took some pride in the role he played in turning Bentham's often difficult and obscure writings into a more popular doctrine. He also claimed to be, if not the coiner of the term 'utilitarian', at least the person most responsible for it becoming common currency.</P>

<PI>Mill also wanted to set the record straight on a number of central aspects of utilitarianism. The essay was not a critique of alternative moral theories. He made passing reference to Kant and intuitionism but his primary purpose was to set out the attractions of utilitarianism and to disabuse those who associated the doctrine with various unattractive theses. For example, he argued that utility is not distinct from pleasure but identical with it, and that the term pleasure should be understood inclusively—capturing beauty, ornament, and amusement in so far as they are the source of pleasure. Thus pleasure is not to be understood as merely the gratification of the baser animal appetites. Utilitarianism can recognize some pleasures as more desirable and valuable than others and quality must be considered alongside quantity—we might well conclude that it is 'better to be Socrates dissatisfied than a fool satisfied' (p. 140). Indeed, rather than thinking of the doctrine as attempting to fill people's lives with pleasurable feeling, Mill thought of it as one in which pain is minimized, in which the mind is cultivated and consequently actively engaged with the world around it, and in which people's capacities are enlisted in the pursuit of various ends. Those ends may involve self-sacrifice for the public good, but we should regard that sacrifice as virtuous in so far as its end is the greater good or happiness of one's fellow men and women. Indeed, Mill insisted, against the egoism

attributed to the doctrine by its critics, that ‘As between his own happiness and that of others, utilitarianism requires him to be as strictly impartial as a disinterested and benevolent spectator. . . . To do as one would be done by, and to love one’s neighbour as oneself, constitute the ideal perfection of utilitarian morality’ (p. 148). At the same time, he was clear that utilitarianism does not make a fetish of virtue and motive—the good may be brought about in many ways for many reasons. Rather, it should be understood as responsive and sympathetic to a diversity of human emotions, sympathies, and intentions. Moreover, the precepts of utilitarian morality ‘admit of indefinite improvement’ (p. 156), as indeed do the precepts of every alternative system of morality.

Mill’s discussion of the moral sanction of utilitarianism sketches an account of a mixture of natural sentiment and ‘the social feelings of mankind’ (p. 164) that leads people to see themselves as part of a larger whole and as having a connection to other people’s interests, acknowledging their equality with others, cooperating with them, and identifying with their interests: ‘the smallest germs of the feeling are laid hold of and nourished by the contagion of sympathy and the influences of education; and a complete web of corroborative association is woven round it, by the powerful agency of the external sanctions. . . . In an improving state of the human mind, the influences are constantly on the increase, which tend to generate in each individual a feeling of unity with all the rest; which feeling, if perfect, would make him never think of, or desire, any beneficial condition for himself, in the benefits of which they are not included’ (pp. 165–6). For Mill, this feeling was tantamount to a ‘religion of humanity’ in which the self-transcending identification is with the human. At the same time, he recognized that a key danger of such a doctrine was that it might become so highly developed and dogmatic as to interfere with human freedom and

individuality. Indeed, one ground for his break with the French positivist Auguste Comte was precisely his concerns about the authoritarian and intolerant character of Comte's secular religion. As so often with Mill, the balance between the individual and the collective, and the psychological and the social, was a delicate and mutually interdependent one. Many of Mill's positions suggest a powerfully individualistic conception of the good life and morality, but his extensive engagement with French theorists, such as Tocqueville and Comte, contributed to his appreciation of the extent to which moral motivation was a function of our social feelings and our 'desire to be in unity with our fellow creatures' (p. 164).

In the final chapter, Mill addresses the question of the relationship between utility and justice, setting out the elements of our sense of justice and arguing that it is largely coincident with our sense of utility. Nonetheless the former should not be considered as wholly integrated in the latter. We retain the idea of justice to refer principally to a specific subset of moral conduct—that which is 'the most sacred and binding part' (p. 195). It is so because justice consists in sets of rules that 'concern the essentials of human well-being more nearly, and are therefore of more absolute obligation, than any other rules for the guidance of life' (p. 195). Security, stability of possessions and expectations, confidence in the protection of rights, reciprocity of expectations, and recognition of desert are absolutely essential to people's well-being and, in the broadest sense, happiness. As such, they are legitimately grouped together as rules that society is committed to defending and enforcing and they trump judgements of expedience or utility that may challenge them. Mill believed that underlying these considerations, and their centrality to the idea of justice, is the idea of impartiality which recognizes the force of the principle that each person has 'an equal claim to all the means of happiness, except in so far as the inevitable conditions

of human life, and the general interest, in which that of every individual is included, set limits to the maxim' (p. 199).

Those who teach Mill tend to encourage their students to press hard the question of whether Mill is a consistent utilitarian, and, if so, of what sort, and how that fits with his commitments in *On Liberty*. In particular, while *On Liberty* seems to support following the principle of liberty as a 'rule'—so we should never interfere in actions that do not harm others—some of the discussion suggests that protecting individual freedom in self-regarding actions would in each case (either by definition or in fact) be optimal for happiness. If that is so, the justification looks like an act-utilitarian one (in each instance, act to produce the greatest happiness for the greatest number) rather than a rule-utilitarian one (act in accordance with those rules that when followed systematically produce the greatest happiness for the greatest number). Similarly, many point to the fact that Mill seems curiously blind to philosophical issues about the maximization of happiness in *On Liberty*, whereas these have obsessed many of his critics over the last sixty years or more. In both cases, we might reply that he is silent because he never saw himself as trying to answer these questions, but was driven by a different and broader set of concerns, in which the principle of utility is simply one highly abstract, rather indeterminate, and historically developing component. In so far as we want to follow the spirit of Mill's enterprise, we should be approaching *On Liberty*, *Utilitarianism*, and his other essays as attempts to explore the causal conditions for the development of active character and the associated evolving possibilities for human flourishing in the widest possible sense. And we should recognize that he saw the social and political conditions of the West as rapidly changing, becoming more egalitarian under the influence of 'the progress of

wealth, the diffusion of reading, and the increase of the faculties of human intercourse'.³⁹

A more subtle answer to the apparent tensions between liberty and utility can be derived from the end of Mill's *Logic*. Mill's *Logic* centred on questions of science, but in his concluding book he turned to the question of the nature of moral and political knowledge. Such knowledge turns on art: 'The complete art of any matter, includes a selection of such a portion from the science, as is necessary to show on what conditions the effects, which the art aims at producing, depend.' The Art of Life is a combination of 'the laws of nature disclosed by science, and of the general principles of what has been called Teleology, or the Doctrine of Ends'.⁴⁰ Mill identifies the promotion of happiness as the ultimate principle of teleology and the essential prescription for the Art of Life. But we need knowledge of a great many other things to know how best to bring about that end, and happiness cannot itself be the end of all our actions, nor even of the rule of all our actions. Our lives are more complex and infinitely richer in part because we pursue ends and goods that are not themselves identified with happiness; and even the rules we follow (such as repaying evil with evil) may be justified by aspects of human psychology rather than directly with reference to happiness.

This interpretation,⁴¹ emphasizing the role of the *Logic*, is somewhat poor comfort to those who want to know whether Mill was an act or a rule utilitarian, or whether he subscribed to an ideal utilitarianism (distinguishing pleasures in terms of quality as well as quantity), and/or to an indirect utilitarianism (seeing the direct pursuit of pleasure as self-defeating and a by-product of the pursuit of other ideals and

³⁹ CW xviii. 126–7.

⁴⁰ CW viii. 947, 949.

⁴¹ That is, in approaching Mill's ethics through his *Logic* and in analysing *On Liberty* in that light, an interpretation first developed by Alan Ryan, *The Philosophy of John Stuart Mill* (1970; 2nd edn., Basingstoke: Macmillan, 1987), see chs. 11–13.

activities), or indeed to a perfectionist consequentialism (in which the end to be maximized is set by a standard of human development and flourishing). These distinctions are not Mill's, and they obscure his purposes in both *On Liberty* and *Utilitarianism*. That said, one clear underlying set of commitments did animate Mill's thinking across a broad range of his interests. He was a close and careful reader of ancient Greek philosophy, and was deeply in sympathy with Aristotle's account of the virtues which sees a life of the virtues as most fully expressing man's nature. In its fullest form it allows us to achieve a nobility of character that realizes eudaimonia or happiness without pursuing it directly. Where Mill departed from the Greeks was in his historicism and relativism. He was convinced that there was no single natural order or set of universal truths. There are laws and generalizations concerning the formation of character—and we can study the way in which character is shaped, constrained, or enhanced by the institutions and practices of our time. But these change, new horizons develop, and the purpose of this science is to identify these emerging possibilities and to advance proposals for their protection and defence, with a view to maintaining the active and developing character of mankind. We will be concerned that people are in the most general sense happier, but our grasp of what this involves will also be developing. Moreover, active intellectual character (pp. 248–9) should be understood as a critical enterprise in which we doubt and question our beliefs and commitments, open up our own conduct to change and experiment, and, in doing so, forestall the tendency of social conformity and the power of opinion to eradicate the independence of our thoughts and actions, *thereby* enhancing the liberty and well-being of society as a whole. We cannot say that doing so will make each one of us happier. But we can say that we can understand happiness only in terms of the development and exercise of human powers, and that we should value more highly

the society that more fully realizes such a condition, as against one that closes down inquiry, self-exploration, and development. But we start from where we are, with the society we inhabit, and the standards of evaluation are soft, not hard. We feel our way, with the help that science can give us, through experiment and activity, and, in doing so, we undertake an exploration, individually and collectively, of our character as agents and our collective character as a nation, of the flourishing (or happiness) we are capable of attaining.

Mill is not being inconsistent between *Utilitarianism* and *On Liberty*—he is looking at two different things, whose relationship is extremely complex and unfolding. So much so that we cannot reduce the principles and the complex discussion of social relations and the force of opinion in *On Liberty* to the principle of utility, any more than we can say that *On Liberty* has no reference to the standard of utility.

The complexity of Mill's understanding of the relationship between utility in the broadest sense and the application of that standard to matters of practical affairs, is exemplified in his speech in the House of Commons in 1868 on the subject of capital punishment. Mill argued in favour of retaining capital punishment for aggravated murder in cases in which 'the attendant circumstances suggest no palliation of the guilt, no hope that the culprit may even yet not be unworthy to live among mankind, [and] nothing to make it probable that the crime was an exception to his general character rather than a consequence of it'.⁴² He did so invoking the humanity of the criminal. If we want a punishment that has the same deterrent force as the death penalty, then life imprisonment must be made an appalling experience for those who are confined. If it is not appalling, then no deterrent effect could be claimed. But if it

⁴² CW xxviii. 267.

is appalling then we should also recognize that our willingness to inflict it on someone will diminish the further from the crime we are. As our willingness wanes so we will tend to moderate the conditions of the prisoner, and as we do that, so we will reduce the deterrent effect. Death, on the other hand, is a punishment whose impression on our imaginations is out of proportion to its real impact: we will all die; it is just a case of hastening that conclusion. So in seeking abolition of the death penalty we risk doing away with an instrument that, while it inspires terror (and so deters), is in fact less cruel than the alternative. Clearly the terror the penalty inspires does not deter the most hardened criminals, but they will not be deterred by anything. But it should deter the innocent. In the past, when applied across a huge range of cases, it did little to deter because people looked for the possibility of reprieve—and that became more and more common as people balked at taking the lives of others for the whole range of offences for which it was prescribed. As reprieve became more common, so it worked to destroy deterrent effects.

Mill set his analysis within a more general reflection on the character of the times and social attitudes, in particular, identifying beliefs in the sanctity of life as rendering it more and more difficult to have a rational system of deterrence based on punishment. He made absolutely clear that sentencing has to take into account the possibility of error over the guilt of the accused. Any such doubt warrants not proceeding to the death penalty; but Mill's concern was that if we remove the death penalty entirely, we either condemn those found guilty to a lifetime of hell or, more likely, we end up eliminating the deterrent effect of punishment. And the deterrent effect of punishment is one he sees as a necessary component of society.

Mill's case is not one that many liberal politicians or political theorists would promote today. But it raises deep issues about the end of punishment and about the

place that it might retain in a society in which the culture and people's associated sensibilities had changed dramatically, from the brutal penal codes of the eighteenth century to a reform of punishment that, in Mill's opinion, left judges with 'penalties so ludicrously inadequate, as to be almost an encouragement to the crime'.⁴³ The piece subtly interlinks issues concerning character and choices, the changing mores of society, and the need to ensure that the ends that we seek to achieve are not undermined by an oversentimentality in respect to life, which, if indulged, will further corrode any chance of deterrence. It is an argument that concerns utility in the broadest sense; but it sets that discussion in the frame of a concern with agency and choice, and with an understanding of the often perverse dynamics of public opinion, that draws on Mill's sophisticated understanding of the culturally and socially embedded character of modern individuality.</PI>

<H1>Representative Government</H1>

<P>Mill's *Considerations on Representative Government* (1861) is a remarkable work that challenges most treatises on politics and government by ignoring any foundational account of political society. In the *Autobiography* he refers to the *Considerations* as providing 'a connected exposition of what, by the thoughts of many years, I had come to regard as the best form of a popular constitution'.⁴⁴ This brief sentence seems to anticipate a traditional treatise on government and politics which takes its inspiration from Plato and Aristotle in their search for the best constitution, but is perhaps adapted to the modern world in attempting to depict a 'popular constitution'. In spite of the clear statement of a task on which he has focused his attention for many years, and is pursuing in this new publication, one cannot avoid

⁴³ CW xxviii. 272.

⁴⁴ CW i. 265.

feeling that he was intentionally ambiguous about his objectives. For example, in seeing his object as the discovery of ‘the best form of a popular constitution’, he seems to have lowered his sights, so to speak, from seeking to determine the best constitution, pure and simple, as did the ancient authors he admired, to finding the best of a number of popular constitutions.</P>

<PI>To this remark, he adds the following: ‘Along with as much of the general theory of government as is necessary to support this particular portion of its practice, the volume contains my matured views of the principal questions which occupy the present age, within the province of purely organic institutions, and raises by anticipation some other questions to which growing necessities will sooner or later compel the attention both of theoretical and of practical politicians.’⁴⁵ Here again, Mill seems to lower his sights. He clearly reduces the focus of the volume from providing a general theory of government to one that offers only part of such a theory—that which is sufficient to support its practice in a limited respect. Besides not explaining what this ‘particular portion of its practice’ actually is, he further confines his attention to his mature views of ‘the principal questions which occupy the present age’. These ‘principal questions’ most probably, though by no means exclusively, refer to the prospects and dangers of popular government roughly since 1848. If one examines the sources Mill refers to in the *Considerations*, besides the extensive range of ancient and modern authors, one finds an intense focus on contemporary issues of political and electoral reform and the demands of the labour movement, and reflections on recently published books and essays related to them. A good example may be found in the chapter on proportional representation (pp. 302–25).

⁴⁵ CW i. 265.

Mill further confines the subject of his study to what he calls the ‘province of purely organic institutions’, meaning actual political institutions, mainly, though not entirely, in Great Britain. At the very end of this brief passage he opens up the scope of his investigations somewhat by seeking to look into the future to anticipate ‘some other questions’ to which ‘growing necessities’ will ‘compel the attention’. This looking into the future is a familiar theme in Mill’s writings on politics and economics. It allows him to expand his horizons from the here and now (to which he has intentionally confined himself) to an anticipation of what the future might bring in the fields of socialism, representative democracy, nationalism, colonies, etc. This expansion might appear to make his study more general, even philosophical, but anticipating future developments, perhaps through a kind of prudential reckoning, is not the same as developing a general theory. The latter may well enable one to understand future developments, but the former will not provide any account of the principles that underpin such an understanding. Nor will it apply more generally to all societies.

If Mill suggests in the *Autobiography* that the *Considerations* is not an ordinary treatise on government, developed from first principles, we must attempt to discover whether or not he is working from any theoretical foundations. By lowering his sights to focus on government institutions, he need not appeal to traditional ideas of God, religion, or natural law, and he clearly does not do so. Nor does he adopt or even consider other, perhaps more recent ideas (with which he was familiar) of natural rights, the social contract, or ideas of sovereignty. When he writes of justice, liberty, equality, etc., he usually refers to the way they appear in practical contemporary discourse, and they have no foundational role in the treatise. He also

does not consider or adopt the traditional typologies and hierarchies of constitutions he found in earlier writers he admired, like Aristotle and Montesquieu.

One might expect Mill to adopt the principle of utility as a foundation for his system since Bentham used such a principle to dismiss most other foundations in chapter 2 of his *Introduction to the Principles of Morals and Legislation*, and this was an approach that Mill at some points admired. But there are no assertions to be found regarding a foundation of the utility principle, and no discussions of pleasure, pain, and the greatest happiness to this end. The connection between utility as the foundation of morals and politics, if it exists, is left undeveloped.

To understand how Mill sees the *Considerations*, we must abandon the search for foundations, and look more closely at his methodology. It is as though Mill's reduced horizons on the one hand open up possibilities of an enlarged scope for his methodology on the other. The compression of considerations of the best constitution into an inquiry into the best form of popular constitution clearly requires a different approach. For example, an analysis of the virtue and education of rulers, as one finds in Plato's *Republic*, is no longer necessary. Mill turns to a different problem of estimating the role of virtue itself in the lives of the people more generally, accepting both their diversity and the inevitable limitations on their aspirations and potential education.

Mill follows Bentham and adopts the logical classification of virtue or aptitude in terms of three categories: intellectual, moral, and active (pp. 226–7). But he appears to reject Bentham in maintaining his focus on the qualities of the people in society to support representative government rather than on similar qualities in the ruling classes. For Mill, good government depends on good people with intelligence, morality, and active character as their particular tools. The machinery of government

is also important in avoiding despotism and the destruction of whatever qualities have emerged from the people, but it is less important than the character of the people themselves.

Mill's orientation towards the future, as part of his method, manifests itself in his adoption of the idea of progress. The necessities of life demand that one moves forward to deal with life's problems. Facing the future and dealing with its problems is also like facing 'reality'. Mill begins the *Considerations* by examining two conflicting theories concerning the extent to which political institutions can be freely adopted and implemented. The first sees government as a practical art of adjusting means to ends. Institutions should be chosen to achieve such ends and the people are urged to demand the creation of the institutions. From this perspective constitutions are seen as mechanisms, like the steam plough or a threshing machine (p. 205), in this case, for producing good government. The second sees institutions of government as the product of organic growth, and a result of the 'habits, instincts, and unconscious wants and desires' to which people must adapt and adjust (p. 206). These two perspectives seem to reflect the opposing positions of the Liberals and Conservatives mentioned in the 'Preface' to the *Considerations*, whose views prevented them from making any concrete progress on parliamentary or constitutional reform, and who, as a result, had lost confidence in their beliefs. Mill believed that progress in this field had reached a stalemate. His object in the first chapters of the *Considerations* was to attempt to reconcile those holding these irreconcilable positions by persuading the Liberals to take a longer view of the task of creating institutions and adapting them to the needs and aspirations of the people, and the Conservatives to accept the importance of intelligent reform in the construction of institutions. If the Conservatives could accept intelligent reform, and if the Liberals could accept more

gradual reform, progress would become possible. Mill also criticized the false use of contraries for popular consumption, e.g. seeing ‘order’ and ‘progress’ or, in Coleridge’s language, ‘permanence’ and ‘progression’, as contraries, when they are in fact parts of the same idea. Simply put, for Mill, there can be no progress without order, and no order where societies do not progress.

By identifying these contraries, and pointing out how they might be overcome and opposing groups reconciled, Mill created a highly practical approach to showing the way to parliamentary reform in 1861. He does not claim too much for his arguments. He does not set out general principles with universal application throughout the world. The language of human or natural rights, for example, has no role to play in his account of government.

Chapters I–IV develop Mill’s ideas in relation to his methodology. When he writes that in the adjustment of institutions to those who must operate them, three conditions must be met, the conditions only make sense in relation to this method: the people must be willing to accept the institutions, they must be willing and able to do what is necessary to keep the institutions in operation, and they must be willing to do as required for the institutions to fulfil their purposes (pp. 207–8). Note that he does not refer to ‘the people’ as the sovereign power in any or every state. Not all people can operate a popular government. His task rather is to explore the conditions under which one form of government might succeed with a particular people. Neither the government nor ‘the people’ are foundational; nor do they contain general characteristics that are. Mill’s object is to point to the possibility of progress—progress towards a popular constitution that is responsive to the people as they might realistically become. Given his conception of human character, we find in the *Considerations* a distinction between active and passive character and an argument

that builds on two principles which he claims are of as much ‘universal truth and applicability as any general propositions . . . can be . . . respecting human affairs’ (p. 245). The first, called the ‘self-protecting principle’, is that ‘the rights and interests of every or any person are only secure from being disregarded, when the person interested is himself able, and habitually disposed to stand up for them’. The second, called the ‘self-dependent principle’, is that ‘the general prosperity attains a greater height, and is more widely diffused, in proportion to the amount and varieties of the personal energies enlisted in promoting it’ (p. 245).

Mill proceeds to show that the truth of these maxims helps us grasp the importance of active over passive character. His main argument for the thesis that active character in the individual and society is inherently superior to passive character is declared almost as a mathematical theorem: ‘in proportion as success in life is seen or believed to be the fruit of fatality or accident, and not of exertion, in that same ratio does envy develop itself as a point of national character’ (p. 250). He then argues that contentment, which is often admired, is not necessarily admirable if it generates a vicious and destructive envy in society, which would make that society unfit for representative government. Passivity can appear as contentment, but can generate great discontent. It is less likely to do so in more active societies than in passive ones. ‘He whose thoughts and activities are all needed for, and habitually employed in, practicable and useful enterprises, is the person of all others least likely to let his mind dwell with brooding discontent upon things either not worth attaining, or which are not so to him. Thus the active, self-helping character is not only intrinsically the best, but is likeliest to acquire all that is really excellent or desirable in the opposite type’ (pp. 251–2).

After the introductory chapters, which amply repay careful study, Mill proceeds to discuss a number of aspects of popular government. One example, Chapter X 'Of the Mode of Voting' (pp. 353–69), is important in challenging the strongly held view, particularly among radicals, that the ballot must be secret. Mill seems willing to abandon the secret ballot, the flagship of radical politics, in certain circumstances in favour of open voting. He can do so because he is also aware of the importance radicals have given to the role of public opinion and publicity as powerful tools in the struggle against ignorance and corruption. He argues that nowhere is this openness to public opinion more important than in voting itself. Mill is willing to acknowledge that in earlier oligarchical and despotic regimes, the secret ballot was an important means for resisting powerful landlords, employers, and government officials. But in modern Britain and other similar countries, he feels that 'bad voting' is less the result of external influences on the voter from which he needs to be protected and more the result of 'the sinister interests and discreditable feelings which belong to himself, either individually or as a member of a class' (p. 356). Mill thus takes the opposing doctrines, open and secret voting, and shows how they might be reconciled initially by arguing that both have claims to usefulness in relation to the avoidance of corruption and other evils in government, and that the adoption of the one in some societies need not necessarily exclude the adoption of the other elsewhere. Furthermore, open voting, he argues, is more appropriate to the evils facing modern representative government.

Another example of Mill's approach to the institutions of popular government may be found in his rejection of the idea of the popular election and dismissal of judges. Referring to the growing practice of electing and dismissing judges by popular vote in state constitutions in the United States, he writes that the practice is

‘one of the most dangerous errors ever yet committed by democracy’ and ‘the first great downward step in the degeneration of modern democratic government’ (p. 404). Mill finds popular suffrage least able to assess the qualifications, abilities, impartiality, and freedom from corruption of judges. He is even critical of Bentham’s position whereby judges are appointed on merit, but can be dismissed by petition and popular vote. He does maintain the importance of the judicial role of the people as jurors, as it takes place within a fully developed legal and judicial structure. He also admits that there must be some institutional mechanisms for the dismissal of incompetent or corrupt judges. But the popular election and dismissal of judges calls upon the people to exercise the kind of judgement that they are not capable of exercising.

One aspect of the *Considerations* deserves special attention. Mill’s title refers to ‘representative government’ and avoids the use of Bentham’s phrase ‘representative democracy’. Mill’s different emphasis follows many years of hostility to rule by the simple majority of the people through their representatives, even though most radicals favoured representative democracy with its emphasis on near-universal suffrage, the secret ballot, equal constituencies, and frequent if not annual parliaments. Mill acknowledges the influence of Tocqueville’s study of American democracy and accepts Tocqueville’s view that American democracy has led to the tyranny of the majority. Such a tyranny means mediocrity of intelligence in the representative body and in the public opinion that controls these institutions, and the additional dangers of ‘class legislation’ by the numerical majority (p. 302). Mill proceeds to distinguish between true and false democracy. The first consists of a ‘government of the whole people by the whole people, equally represented’ (‘the equality of all citizens’); the second consists of ‘the government of the whole people

by a mere majority of the people' ('the government of privilege in favour of the numerical majority, who alone possess practically any voice in the State') (pp. 302–3). Mill is led to this contrast because he cannot support the widely held view that to prevent mediocrity in the ruling class, one must restrict the franchise either by a property qualification or by other means, such as indirect voting. In addition, Mill regards the extension of the franchise to favour the working classes and to women as inevitable in the modern age. As Mill himself noted in the *Autobiography*, the evolution of his critical approach to democracy began with his reading Tocqueville's *De la démocratie en Amérique* in 1835 and 1840, and evolved in his two essays on Tocqueville ('De Tocqueville's Democracy in America' (1835) and 'De Tocqueville's Democracy in America' (1840)).⁴⁶ In the *Considerations*, however, Mill announces an important discovery in Thomas Hare's system of proportional representation.⁴⁷ For Mill, such a system, with plural voting based on educational qualifications, would enable the negative side of representative government to be replaced by the positive dimensions of representative democracy. Working towards this transformation was, for Mill, 'the path of real political improvement' (p. 337). It enabled rule by the 'men of mediocrity', chosen by a system of mediocrity, to be replaced by a system that would enable reform and serious improvement to blossom.

The importance of proportional representation based on educational qualifications, as a response to the impending adoption of universal suffrage, formed one important avenue for the achievement of political happiness. A second is the implementation of a form of socialism based on cooperative institutions and practices.⁴⁸ And there is some evidence that Mill thought that the *Considerations*

⁴⁶ CW xviii. 47–90, 153–204; see also i. 199–201.

⁴⁷ Thomas Hare, *A Treatise on the Election of Representatives, Parliamentary and Municipal* (London: Longman, Brown, Green, Longmans, and Roberts, 1859).

⁴⁸ See CW ii. 199–214; iii. 752–7, 758–96.

might stand side by side in importance for developing British political practice with the still unfinished *Chapters on Socialism*.⁴⁹

Women

Mill saw the emancipation of women as one of the great changes that would regenerate society, but he did not write on the subject until two years after Harriet's death, and then did not publish what he wrote for a further nine years. Nonetheless, it was there in a list that he and Harriet drew up in 1854, of topics on which they wished to record their thoughts, and an essay usually attributed to Harriet, 'The Enfranchisement of Women', was published in the *Westminster Review* for 1851. Various other papers exist in both hands on the topics discussed in the essay. But the occasion for the essay was the support Mill had received in June 1866 when he petitioned for the extension of suffrage to women, and in the debates to amend the Reform Bill of 1867 by deleting references to the gender of the householder. Although defeated, the signs were encouraging, and Mill and his stepdaughter, Helen Taylor, gave active support to the establishment of the National Society for Women's Suffrage. In the wake of these developments, he published the essay.

The Subjection of Women demonstrates Mill's characteristic depth of insight and his appreciation of the impact of people's social being on their psychology and behaviour. He sees the assumption of fundamental differences between the sexes as a matter of feeling, not reasoning. Indeed, on every principle of rationality it should be the responsibility of those who deny women's equality to make their case, not those arguing for it; but he recognizes that the presumption of the status quo derives from having 'too little faith in argument . . . [and] too much faith in custom and the

⁴⁹ CW i. 625; v. 703–53.

general feeling' (p. 473). Mill characterizes the time as one in which people flatter themselves that the brute forms of domination that marked earlier civilizations have been superseded, but where they fail to recognize the remnants of those older codes of conduct, by which domination was naturalized, in the continuing subordination of women.⁵⁰ Nor do they recognize the ways in which custom helps to obscure the brutality of men towards women, and to ensure they have little prospect of rebellion, despite the fact that the presumption underlying historical development is against the persistence of these inequalities. Mill's theme of the liberation of the modern world from the fixed expectations and statuses of the old underlines the fact that only women are systematically marked for exclusion from a variety of places in human society from their birth and irrespective of talents and abilities. Moreover, his emphasis on the influence on character of circumstance and society is used to argue that it is simply not possible to judge what women are capable of from the way that they are expected to behave in contemporary society. 'What is now called the nature of women is an eminently artificial thing—the result of forced repression in some directions, unnatural stimulation in others. . . . [N]o other class of dependents have had their character so entirely distorted from its natural proportions by their relation with their masters' (p. 493).

Mill points to the way that society expects women to devote themselves to marriage and rearing children, but at the same time makes the conditions under which they do so unappealing that, were any other means open to them of 'filling a conventionally honourable place in life' (p. 501), they would refuse marriage altogether. Property laws deprive wives of control of their property; and the couple are considered as one in law, so no restraint exists on what a man may do to his wife

⁵⁰ See also comments in Mill's *Political Economy*, e.g. CW iii. 765–6.

or with her property; his control over their children is absolute, both in his lifetime and beyond the grave; and should a woman leave her husband he has the right to force her to return, or to accept any conditions he chooses. Indeed, she is in many respects more disadvantaged than a chattel slave, since a slave at least has the right to deny her master access to her body. Mill was clear that he was dealing with the legal status of women—not with how most women were treated. As with benevolent despots, there is a case against despotism itself, irrespective of how it is actually exercised. Just because not all are bad, does not mean that the institution is in good shape when ‘the vilest malefactor has some wretched woman tied to him, against whom he can commit any atrocity except killing her, and, if tolerably cautious, can do that without much danger of the legal penalty’ (p. 508). While it is true that wives can retaliate, those who are most likely to be successful are those who challenge men who are among the lesser offenders.

Mill’s position is unequivocal. Equality between marriage partners is ‘the only means of rendering the daily life of mankind, in any high sense, a school of moral cultivation . . . the only school of genuine moral sentiment is society between equals’ (p. 517). And equality is a central and growing feature of modern society: ‘the true virtue of human beings is fitness to live together as equals’ (p. 518). As it stands, the family is a school of despotism and nourishes the vices of despotism. Moreover, equality in the home must be matched by the opportunity for access to all forms of employment. Mill rejects most arguments for the unsuitability of women for employment in virtue of their nature and psychology. Where he does concede for the sake of argument that women might bring a different temperament to an occupation and office, he points to the potential virtues of such variety, and to the difficulty of

establishing how far any trait should be seen as natural, rather than arising from social conventions and education.

Mill wants women to have the same freedom as men; he sees equality as allowing the cultivation of both virtues and capacities; and he holds that we all know the evils of slavery and despotism, which the legal position of married women is most proximate to. There can be no justification for such subordination in the modern world, if there ever was such a basis in the ancient. Rather, we owe it to women to ensure their equality, and to leave them to make of their lives what they will and choose. Doing so may change women as we know them and, consequently, men; but while it is true that Mill tends to assume that such changes will be for the good, and he is certainly a gradualist in his proposals, his most basic commitment is that there is no principled case for perpetuating the inequality and legal subjection of women, even if there are pragmatic considerations about the process of change.</PI>

<line#>

<P>In his *Autobiography* Mill imagines a questioner asking about what new system he has substituted for utilitarianism and responding, ‘no system: only a conviction, that the true system was something much more complex and many sided than I had previously had any idea of’.⁵¹ Subsequent generations of commentators have sought to identify Mill with a particular principle—whether liberty, utility, perfectionism, and so on. But Mill’s work, including the essays set out in this volume, is perhaps better understood as forays into this complexity, and as attempts to grasp it in its diversity, while nonetheless coming out with some rules of thumb to guide action and elucidate possibilities within the particular historical circumstances in which he found himself. This makes Mill not just a major thinker, but a paradigmatic one for the modern

⁵¹ CW i. 169.</FN>

period who is eminently worth revisiting—one who appreciates diversity, plurality, complexity, and who tries to find within these complex and dynamic social processes and positions a progressive response centred on the development of human flourishing and, in its broadest sense, human happiness.</P>