

**Reassessing J. S. Mill's Liberalism:
The influence of Auguste Comte, Jeremy Bentham,
and Wilhelm von Humboldt**

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Declaration

I declare the contents of this thesis to be entirely original work of my own production.

Sujith Shashi Kumar
14 June, 2006

Abstract

The thesis starts by considering the controversial claim made by Joseph Hamburger that couched within the arguments for freedom in *On Liberty* are calls for high levels of social control, which threaten the conventional reading of Mill as a paradigmatic liberal thinker. The thesis tests this argument against the claims of the revisionary secondary literature, which attempts to reconcile Mill's utilitarian and liberal writings. Examining Hamburger's main line of argumentation, the thesis shows how Mill's thought is more influenced by the thought of August Comte than Mill or the secondary literature acknowledge, while still retaining some crucial differences. The thesis next considers another influence argued to be outside of the liberal tradition, Jeremy Bentham. Even though Mill admittedly inherits utilitarianism from Bentham, he expands the psychological notion of pleasure in fundamental ways, even at the cost of internal consistency. Moreover, the thesis argues that Bentham utilises particular forms of social control in a similar manner as Comte, which is ultimately what Mill rejects in both of their doctrines. However at the same time, it is Comte's positivist philosophy of history that enables Mill to reconcile his utilitarian foundation with his liberal prescriptions. Next, the thesis argues that it is ultimately the influence the Wilhelm von Humboldt that maintains Mill's thought as recognizably liberal. Von Humboldt introduces the notion of individuality to Mill, whose expression is the highest source of pleasure, and is the concept that prevents Mill's moral and political system from collapsing back into a more Comtean and Benthamite formulation. Finally, synthesizing these influences, the thesis uses a hierarchical conception of the self, as articulated by Harry Frankfurt and Gerald Dworkin, to reconcile the high levels of social control correctly perceived by Hamburger with Mill's unambiguous protection and valuation of negative liberty. This socially embedded and highly normative conception of autonomy underpins Mill's progressive doctrine, and preserves his inclusion in the liberal tradition.

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Finally, I must give very special thanks to the person who first put me on the path to Enlightenment. Most scholars can identify one teacher who changed their perspective on the world, and inspired them to pursue knowledge in their own way. I was lucky enough to meet such a person at Lehigh University. After my first year of studying physics, when I decided that I did not want to study physics anymore, I wandered throughout the College of Arts and Sciences unsure of what to study. I enrolled in the course, Introduction to Political Thought, partly out of vague interest, partly in order to fulfil the requirements of a potential Politics degree. It was here where I met Rick Matthews, whose Socratic method enthralled me and many other slackers who signed up for the course for the same reasons. Professor Matthews was the first teacher who taught me to think really critically about the world, and his passion for political thought and literature enabled me to grasp the juncture of theory and practice for the first time in my intellectual adolescence. But most of all, Professor Matthews taught me that reason has its limits, and at the end of the day we must turn to magic and beauty to understand humanity's place in the world. I realise now that this Romantic perspective has implicitly informed much of my own interests, and so I dedicate this thesis to him.

1. Introduction:

Why Mill; Why Now

John Stuart Mill may have articulated his moral and political doctrine over 150 years ago, but the issues he addresses are very much alive, making his relevance to politics today manifest. Whether its delineating the limits of free speech, or assessing harm to others in public spaces, the only thing unusual about Mill's participation in these current debates is how well-argued his position would be, compared to the media pundits and politicians who are now the principle exponents. Applying Mill's ideas to contemporary problems is not only appropriate, but in many cases illuminating. His applicability to our time is not just because of the ubiquity of some key political and social problems, but also due to his ability to cut through the superficial and temporal trappings of a problem, and address its heart.

Mill's relevance to contemporary political debates reflects his larger relevance to political philosophy in general. He is, of course, a key figure in the history of political thought, as one of the first exponents of a modern liberal doctrine. Mill also contributes to continuing academic debates that will be going on well into the future. There are some conflicts in political philosophy that are irresolvable, or rather, can only be resolved temporarily with reference to local conceptions of the justice. The tension between the rights of the individual and the demands of the community is one such problem. There is no a priori balancing of these demands which endure over time, only temporary solutions that reflect shifting concerns. This reassessment highlights Mill's formative influences on his political thought, the upshot being to yield a new interpretation of his moral and political thought. This interpretation offers a new solution to balancing the demands of society and the individual, and so is a contribution to normative debates about how to arrange society.

What is perhaps the most salient reason to reassess Mill's thought is given by Mill himself. Chapter II of *On Liberty* offers three independent arguments for the freedom of thought and discussion, and they are epistemological in nature. There may be a broad consensus amongst Mill scholars regarding how he is best understood, but the periodic reassessment of his thought is always required, because:

“However unwilling a person who has a strong opinion may admit the possibility that his opinion may be false, he ought to be moved by the consideration that

however true it may be, if it is not fully, frequently, and fearlessly discussed, it will be held as a dead dogma, not a living truth.”¹

I am not claiming that the received interpretation of Mill is false, and that this thesis argues for the correct one. My aim is to keep the debate alive as to the best way to understand Mill by contributing a new perspective on the old issues, as Mill would have wanted.

The thesis, in a way, begins where Joseph Hamburger’s thesis ends. In his *John Stuart Mill on Liberty and Control*, Hamburger argues that couched within his arguments for freedom in *On Liberty* were intimations of the high levels of control individuals would experience. Hamburger argues that *On Liberty* was nothing more than the means to breaking down antiquated Victorian and Christian social norms and beliefs, so that a new, secular, Religion of Humanity could be introduced.² The upshot of Hamburger’s thesis is to highlight the high levels of social control individuals are to experience under Mill’s system. In this way, Hamburger’s argument supersedes Gertrude Himmelfarb’s “Two Mills” theory.³ Himmelfarb argues that throughout Mill’s writings, two incompatible pictures emerge. The one of *On Liberty* arguing for a morally relativistic freedom, and another from the majority of Mill’s other writings arguing for a more consolidated and conservative version of liberalism.⁴ Similarly, Hamburger’s claim is superior to Maurice Cowling scathing indictment of Mill because of the one-sided nature of his interpretation. Cowling argues that Mill intended to replace the dominant Christian moral outlook with one that revered a cultural elite. According to Cowling, Mill was preoccupied with protecting this elite from the democratic and homogenising mediocrity he saw on the rise.⁵ Not only does Cowling understate the role of liberty in his interpretation, he also fails to recognise the instrumental role elites play in the facilitation of individual self-development of *all* members of society mature in their faculties.⁶ These are minority readings of Mill, however I feel that the enthusiasm and reverence many scholars have for Mill obscure some of the elements of his thought. My thesis aims to resist this tendency by using Hamburger’s argument to initiate a reassessment of Mill’s moral and political thought.

¹ John Stuart Mill, “On Liberty”, in *Collected Works XVIII*, John Robson and Alexander Brady eds., (Toronto: Routledge and Kegan Paul, 1977), p. 242.

² Joseph Hamburger, *John Stuart Mill on Liberty and Control*, (Princeton: Princeton University Press, 1999).

³ Hamburger, p. 212.

⁴ Gertrude Himmelfarb, *On Liberty and Liberalism*, (New York: Alfred Knopf, 1974), p. xi-xxiii.

⁵ Maurice Cowling, *Mill and Liberalism*, (Cambridge: Cambridge University Press, 1990), p. 104.

⁶ Cowling does touch on a point that will be explored in Chapter Five of the thesis. Reading Chapter III of *On Liberty* alone yields the same conclusion the Cowling comes to. Reading Chapter IV alone come leads to the opposite conclusion. My aim is to offer an interpretation of Mill’s thought that can accommodate both.

Mill is acknowledged as one of the “Fathers” of modern liberalism, and this is a claim about his influence and reception, rather than about some Platonic ideal of liberalism emanating from his thought.⁷ There were versions of liberalism before Mill, and there have been different versions of liberalism after him. His relationship to this recognisable lineage will be discussed briefly at the conclusion of this thesis. In any event, I am not challenging his inclusion in this family of doctrines, but it is not as straight-forward as is commonly thought. Mill is an eclectic thinker; and his contribution to liberalism is combining disparate strands of contemporary European thought to form his own doctrine. This fact is acknowledged by the secondary literature, but the specifics of these influences have not been fully mapped out. This thesis addresses this gap in the literature by highlighting the influences of Auguste Comte, Jeremy Bentham, and Wilhelm von Humboldt. These, I argue, are the biggest influences on his moral and political thought, because despite what Mill and his commentators have discussed, many elements of their thought permeate his liberal-utilitarian doctrine. What is interesting about this particular grouping of thinkers, is that most of them are considered *outside* of the liberal tradition, which itself warrants a reassessment of his liberalism.

Mill has a Romantic conception of human nature. As such, he sees its expression as the best and deepest source of utility, or pleasure (I will use the two interchangeably). In order to maintain this dubiously empirical claim in the face of illiberal policies and preferences in politics, Mill maintains a forward looking and progressive dimension to his conception of human flourishing. It is this narrow and socially embedded conception of human flourishing that proves to be the biggest challenge to Mill’s inclusion in the lineage of liberalism. Underpinning Mill’s notion of individuality is a highly normative conception of autonomy. Like Immanuel Kant’s ideal of freedom, Mill’s ideal of individuality is perhaps too demanding, but is necessary to maintain the richness and diversity of the liberal tradition.

Structure of the Thesis

The dominant debate surrounding Mill’s moral and political thought has been over the success of his derivation of liberal principles from a fundamental utilitarian framework. Therefore, Chapter Two begins the thesis by surveying this debate as a means to arguing that the fullest articulation of Mill’s moral and political thought is found in the simultaneous consideration of *On Liberty* and *Utilitarianism*. This debate was initiated by a

⁷ Isaiah Berlin, “Two Concepts of Liberty”, in *The Proper Study of Mankind*, Henry Hardy and Roger Hausheer eds., (London: Pimlico, 1998), p. 232.

lecture given by Isaiah Berlin 1956 entitled, “John Stuart Mill and the Ends of Life”, where he argues that Mill fails in his attempt to ground liberal principles in more general utilitarian ones.⁸ Berlin argues that the freedom of thought and diversity argued for in Chapter II of *On Liberty* may comprise only the necessary, but not sufficient conditions for the growth of knowledge. It may empirically be the case that the growth of knowledge is best facilitated by high levels of centralised coordination or even wholly illiberal strategies. If the growth of knowledge is the goal - which is even itself only contingently compatible with utilitarianism - then Mill must be open to the best possible strategy, which may not turn out to consist of the liberal principles he advocates. Rather than deriving a liberal, morality from a prior commitment to utility, Berlin charges that Mill values both irreducibly, and pluralistically. However, since this seminal lecture, many writers have sought to reconcile the tension between Mill’s liberal and utilitarian commitments. Alan Ryan utilises the distinction between the three departments or spheres of life that Mill makes in Book X of *System of Logic*. He argues that the Principle of Liberty only applies to the moral sphere, leaving the prudential and aesthetic spheres to be governed directly by the Principle of Utility. This effort goes some distance to mitigate the potential competition between the Principle of Utility and the Principle of Liberty, but not without some problems of its own. John Gray builds on Ryan’s distinction, but highlights what he perceives as an implied Principle of Expediency. Whereas the Principle of Utility is axiological, the Principle of Expediency is action-guiding. Again, whereas this interpretation goes some distance to alleviate the conflict between the two principles, the Principle of Utility remains the ultimate standard – however indirectly – which makes the liberal principles argued for in *On Liberty* unsatisfactorily empirically contingent.

Chapter Two also introduces the controversial thesis of Joseph Hamburger. Whereas the revisionary debate surrounds Mill’s attempt to derive liberal principles from a utilitarian foundation, Hamburger argues that throughout his writings Mill subtly argued for the abandonment of outmoded Victorian social norms and beliefs, and advocated the adoption of a secular Religion of Humanity.⁹ The liberal principles argued for in *On Liberty* are nothing more than a strategy to break down the oppressive ways that these antiquated principles still have over public sentiments, and to be themselves superseded once the next organic stage of history is reached. In fact, couched within arguments for liberty, are intimations of the ways in which society would control individuals. Hamburger seeks to

⁸ Berlin, Isaiah, “John Stuart Mill and the Ends of Life”, in *J.S. Mill on Liberty in Focus*, John Gray and G.W. Smith eds., (London: Routledge, 1996).

⁹ Joseph Hamburger, *John Stuart Mill On Liberty and Control*, (Princeton: Princeton University Press, 1999).

recover Mill's actual intentions, however if we use his depiction of Mill as another interpretation, we see that it is superior to both Ryan and Gray's attempts to reconcile the tensions in Mill's thought. In Hamburger's thesis, the liberal principles are a necessary, but not a permanent, feature of society as it progresses through various stages of history.

This philosophy of history is one of several elements that Mill takes from Auguste Comte, despite heavily criticising him. Chapter Three examines the extent of this influence on Mill's thought. In various writings beyond *On Liberty* and *Utilitarianism*, it is clear that Mill shares with Comte much of the same historical-sociological outlook. The way knowledge grows and is diffused, and the power of education and religion, are both examples of their shared belief in the importance of authority. Most importantly for Mill's moral and political thought, he accepts elements of Comte's particular philosophy of history and theory of social progress. But despite these commonalities in their thought, crucial differences remain, so much so that the fully illiberal reading that Hamburger makes is unsustainable. Nonetheless, the progressive dimension to Mill's moral and political thought can be traced back to Comte's positivism that Mill was so engaged with in the earlier part of his life.

Another self-evident force in the grounding of Mill's liberal prescriptions is Jeremy Bentham.¹⁰ Chapter Four looks at Mill's inherited utilitarian framework, and the extensive ways in which Mill alters it. Like Comte, Bentham is best understood to be outside of the liberal tradition. Despite the efforts of some writers to interpret liberal principles in his writings, both liberty and equality are purely instrumental and formal in his system. Moreover, Bentham makes clear that these staples of liberalism are at any point eligible to be subordinated in the interest of security, the first condition for the pursuit of pleasure. In fact, the implicit social control that Bentham's system employs is in some ways a return to the method of Comte. And just as Mill rejects those strategies in Comte's system, so too does he reject them in Bentham's. Mill also expands the notion of pleasure to accommodate the manifold and richly diverse ways in which humans pursue happiness. The distinction between lower and higher pleasures captures better the manner in which pleasure is experienced, but the radical incommensurability that Mill insists exists between the two proves challenging to reconcile with ethical hedonism. Despite altering much of Bentham's system, Mill attempts to remain within a utilitarian framework with his liberal prescriptions. In fact, it is specifically the addition of Comte's progressive thinking that enables Mill to defend against the liberal critiques that are levelled against Bentham.

¹⁰ John Stuart Mill, "Autobiography", in *Collected Works I*, John M. Robson and Jack Stillinger eds., (Toronto: Routledge and Kegan Paul, 1981) pp. 67-73.

One of the challenges with identifying and discussing the influence of Comte and Bentham on Mill's moral and political thought is to account for the liberal principles which he ultimately creates. Chapter Five examines the third central influence on Mill's project, Wilhelm von Humboldt, and argues that it is here where the distinctly Romantic flavour of Mill's thought can be traced.¹¹ Humboldt is the only thinker praised repeatedly in *On Liberty*, and his influence is manifest in the essay. In particular, the Romantic notion of individuality comprises not only the highest source of pleasure for individuals, but also the engine of social progress, as individuals constantly conduct experiments in living. To demonstrate the centrality of individuality to Mill's expanded liberal-utilitarianism, I conclude the chapter by describing how *On Liberty* would look without the advocacy of individuality. What we see is that even though the arguments for freedom remain, it becomes merely formal as the drive to find the activity that yields the most utility causes individuals to converge on an ever shrinking range of activities. In a sense, it is a reversion to the Benthamite style of implicit control and harmony of interests.

Despite Mill's attempt to craft a unified liberal utilitarianism combining disparate strands of contemporary thought, tensions persist. Therefore, Chapter Six puts forth a new interpretation of *On Liberty* that accounts for the high levels of social control correctly identified by Hamburger, and reconciles it with Mill's unambiguous valuation of negative liberty. Individuals are susceptible to "very severe penalties at the hands of others, for faults which directly concern himself".¹² I use a hierarchical conception of the self to show how the Harm Principle applies only to first-order activity, or *character*, while society, elites in particular, exercise influence over individuals' second-order reasoning and reflection. The aim is to marginalise self-regarding character flaws like "rashness, obstinacy"¹³, and "miserable individuality"¹⁴, and induce the character ideals of "pagan self-assertion", tempered with "Christian self-denial".¹⁵ Evidence of this character ideal is a desire for the higher pleasures, and an understanding of why these pleasures are higher. For Mill, the reasons one has for holding a belief or desire are at least as important as the belief and desire themselves. Exercising of the deliberative faculties is a crucial source of utility, and the way by which we maintain 'living truths'. I argue that this deliberation occurs at a second-order level of reasoning, and is susceptible to the influence of society. The Harm Principle protects the first-order activity of acting on desires from moral and physical

¹¹ Mill, "Autobiography", pp. 260 – 261, and "On Liberty", in *Collected Works XVIII*, John M Robson and Alexander Brady eds., (Toronto: Routledge and Kegan Paul, 1977), p. 261.

¹² Mill, "On Liberty", CW XVII, p. 278.

¹³ Ibid.

¹⁴ John Stuart Mill, "Utilitarianism", in *Collected Works X*, John M. Robson ed. (Toronto: Routledge and Kegan Paul 1969), p. 214.

¹⁵ Mill, "On Liberty", p. 266.

coercion. The chapter goes on to clarify the scope of its applicability: an act must meet three criteria before it warrants interference. It must be harmful, other regarding, and (most crucially) wrongful. This clarification enables us to make sense of some of the examples Mill uses in the Essay.

Highlighting the manner in which control is influenced over the individual begs the question as to whether Mill's inclusion in a liberal lineage is appropriate. Therefore, the final chapter describes the highly normative conception of autonomy implicit in Mill's advocacy of individuality, and concludes that it *does* warrant his inclusion. Mill's conception of autonomy is in part procedural, in that individuals must ascend to a second-level of reasoning in order to fully understand their first-order manifestations of character, and in part substantive, in that the deliberative process must result in the first-order desire for a higher pleasure that best conforms to one's individuality. Though Mill by no means was the first thinker to advocate liberal principles, he was the first to introduce the Romantic notion of individuality to a recognisable lineage of liberalism. This notion, and the subsequent tension between its demands and those of society's, is replicated in the movement of New Liberals who emerge during the later years of Mill's life. Individuality, and especially the normativity of it in Mill's thought, can also be found in the liberal perfectionist theory of Joseph Raz. His notion of well-being, as defined as the achievement of socially established goals, and the reasons for holding them, parallels the logic of Mill's highly normative conception of human flourishing, but lacks the empirical grounding that sets Mill apart.

2. A Liberty upon Utility:

The Literature

Utilitarianism, widely considered to be one of Mill's great writings, is a beautifully written, compelling introduction to Mill's amended utilitarian inheritance. Published in three sequential issues of *Fraiser's Magazine* in 1861, it presents the Greatest Happiness Principle, or Principle of Utility, and then systematically sets out to prove the principle, describe its binding force or authority, and then discusses its connection with justice. Though the essay is very clear and concise, like any great doctrine, it is not without its set of contentious issues, including its apparent disharmony with *On Liberty*. Nonetheless, *Utilitarianism* remains one of the great expositions of utilitarian ethics ever written, and still warrants our close attention. When we consider the two together, we begin to see Mill's larger project of forging a new political morality. The next section of this chapter will assess some the tensions that are generated by the simultaneous consideration of the two works by surveying some the literature that has been generated since Isaiah Berlin's lecture entitled "John Staurt Mill and the Ends of Life" in 1956. Finally, to conclude my argument that both books must be considered simultaneously, I will put forth an interpretation of Mill's project, based on the controversial intellectual history of Joseph Hamburger's book, *John Stuart Mill on Liberty and Control*, one that, I will argue, goes much further than other interpretations in the revisionary literature to reconciling the two books.

The Texts

i. *Utilitarianism*

Throughout the essay, Mill stresses the non-controversy of his doctrine. He frequently attempts to pre-empt criticisms by pointing out that most attacks on utilitarianism are equally applicable to other systems of moralities. The introductory chapter, "General Remarks" sets this tone by addressing the epistemological underpinnings of any discipline attempting to describe natural and social phenomena. The particular theories and evidences that comprise a discipline are not dependent on first principles. First principles, Mill indicts, cannot be proven, "...and their relation to the science[s] is not that of a foundation to an edifice, but of roots to a tree, which perform their office equally well though they be never dug down to and exposed to

light.”¹ The art of morality, or legislation, like all arts, must choose its end first, such as utility, health, justice, or godliness, and then set out to attain such an end. The validity of the chosen ends can never be “proven” in any strict sense, and so must be self-evident. Mill takes the opportunity to lob some pot-shots at intuitive and inductive schools of ethics, whose subjective and obscure first principles have only gained widespread acceptance because of a “tacit influence of a standard not recognized.”²

Mill argues that even if denying its authority, or explicitly rejecting its official consideration, all systems of ethics take into account the happiness, or utility of its adherents, Kant’s *Metaphysics of Ethics* being a prime example. The first principle of doing only that which one would assent to being a universal law derives its binding force from the fact that no society could function with maxims that permitted the pursuit of one’s goals at the expense of everyone else’s. It is implicitly a utilitarian standard that is being appealed to because any rational being will only act in such a way that if everyone acted in a similar way would promote the well-being of the entire society. It is now clear how Mill will introduce the standard of happiness as the self-evident first principle of utilitarianism. The essay seeks to present considerations for the reader’s intellect to give or withhold assent. It is in this way alone that Mill sets out to “prove” the legitimacy of his system of morality.

The chapter, “What Utility Is,” and the whole essay for that matter, is simply a vehicle for presenting the Greatest Happiness Principle (GHP). Once stated, the rest of the essay simply offers clarifications, addresses some criticisms, and then gives some applications. This foundation for morality “holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness.”³ This principle is based on Mill’s theory of life which states that “pleasure, and freedom from pain, are the only things desirable as ends; and that all desirable things (which are as numerous in the utilitarian as in any other scheme) are desirable either for the pleasure inherent in themselves, or as a means to the promotion of pleasure and the prevention of pain.”⁴ Utilitarians were not the first to place pleasure at the heart of their doctrine. Epicureans did as well, and their critics, objecting to the positing of nothing nobler than pleasure as the sole end, charged them with peddling a doctrine worthy only of swine. The Epicureans replied that it was their critics who denigrated human nature by supposing that humans could enjoy no other pleasure than

¹ John Stuart Mill, “Utilitarianism”, in *Collected Works X*, John M. Robson ed. (Toronto: Routledge and Kegan Paul, 1969), p 205.

² Mill, “Utilitarianism”, p 207.

³ *Ibid.*, p. 210.

⁴ *Ibid.*

that of pigs. Like everything in the world, quantity and quality need to be assessed. The Epicureans held the pleasures of the intellect to be superior to those of mere sensation, and Mill does as well. It is here that Mill introduces his controversial typology of pleasure that will be looked at in greater detail in Chapter four. Quantity aside, what makes a pleasure qualitatively different, or higher, than another is the informed judgement of all those who have had experience of both. Of the two, the one that all prefer irrespective of the costs, including pain, and moral obligation, can be deemed to be higher. It is the pleasure that none would resign for any amount of the other pleasure. Of course, in order to appreciate the higher pleasures, one must first have the capacity. Anyone with the properly cultivated mind and habits will always prefer the higher, except for those who suffer from “infirmity of character.” And even though the capacity for higher pleasures is “a very tender plant” easily atrophied by neglect, Mill does think that it is a generic human ability. The addition of this new dimension was a reaction to Bentham’s cruder felicific calculus, which takes into account only the duration, intensity, propinquity, certainty, purity, and fecundity of a pleasure and pain, but not *type*. Mill found this too simplistic, and not representative of the multifarious ways in which happiness can be experienced. This added distinction brings to Mill’s doctrine some complications that will be addressed shortly. For example, what is it, other than pleasure, that makes a pleasure ‘higher’? Does Mill conceive that some activities are ‘higher’ or ‘better’ than others, and these alone yield higher pleasures, or can the higher pleasures spring from any activity that the judges deem to be higher? Whereas the former suggests an evidential distinction, one where humans can be in error, the latter is a criterial distinction whereby the judgement *itself* is the only criterion for the higher status, and thus merely a subjective judgement. Mill does not discuss this important distinction, but he does pre-emptively address some criticisms of what utilitarianism is all about, which does clarify the doctrine as a result.

Firstly, the critic charges that happiness is unattainable. Mill concedes that if it were so, happiness could not rationally be the end that all aim for. But utilitarianism is also concerned with the alleviation pain, and if happiness does not exist this element of utilitarianism would be even more important. Secondly, the critic asks what right does anyone have to be happy. This criticism actually questions the ultimate end, happiness, which Mill has conceded cannot be ‘proven.’ He does respond that the natural and social intellectual endowments are very modest to *be able* to experience happiness, certainly no more than the endowment necessary to live a solitary life focused on one’s own misery. Finally, the critic points out that many people have sacrificed happiness,

and are better off for it. Mill does grant that some people do live without happiness (that is, *his* conception of happiness), in fact, according to Mill's calculations, 19 out of 20 of the world's population live without it.⁵ As for the people that wilfully resign their happiness, they usually do it so that others need not, and so are still acting to maximize the aggregate happiness of society. This criticism raises the issue of virtue, and if it is compatible with the utilitarian framework. Maximizing virtue as a means to one's own happiness would not really seem like virtue at all. Mill claims that virtue can be habituated to become a part of happiness, so much so that its absence would be painful, and so is compatible with Mill's theory of life and the Greatest Happiness Principle while remaining virtues, as such.

Mill's next chapter in *Utilitarianism* addresses the binding force of utilitarianism. Mill begins by explaining how every morality has both external and internal sanctions to provide its authority. Religious moralities derive their external sanctions from god's word, or fear of god's wrath. For utilitarians, the external sanction comes from the social bonds that already exist in society. The solidarity and sympathy for the well-being of everyone concerned compels the individual to act only in utility-maximizing ways. The internal sanction to utilitarianism, and every other ethic, is simply the individual's own conscience. The proper upbringing and education can instil in anyone a selfless concern for the greater good, however that may be defined.

The following chapter examines the sort of proofs the principle of utility is susceptible to. Mill reiterates that first principles cannot be proven, but as matters of fact are susceptible to our senses and intellect. The 'proof' that happiness is desirable is simply that people desire it. In a similar, though an oft criticised parallel, the proof that sound is audible is that people hear it. Not only is happiness desirable, it is also the only thing desired for itself. Everything else is simply a means to happiness. Power, money, and fame are all means to happiness that through habituation become constituent parts of happiness. They are all completely compatible with the utilitarian scheme until their maximization begins to adversely affect others. Virtue too, was originally desired as a means to happiness, but then also through habituation becomes a part of happiness. But virtue is never injurious and often promotes utility and so can and should be maximized in the utilitarian framework. This short chapter does not seem to further Mill's cause very much, but provides a recap of his case to that point. The following chapter proves far more illuminating by addressing the not-so-obvious connection between utility and justice.

⁵ Ibid., p 217.

The final chapter of *Utilitarianism* is the longest chapter, and is considered by many to be the most involved. Mill begins by suggesting that justice is a natural sentiment that we all experience. His point is that there is no necessary connection between a sentiment's origin and its binding force. Moreover, like all sentiments, it needs to be controlled and enlightened. Justice has its roots in two instincts that all animals possess, self-defence and sympathy. The difference between animals and humans is that humans can extend sympathy to a wide range of creatures, and combine it with variety of other sentiments, as a result of pre-reflective intelligence. Therefore, humans can conceive of a community of interests and mobilize the instinct of self-defence when *other* people's interests are at risk. Origins aside, in order to determine what justice is, Mill examines all actions classified as just or unjust and determines there to be six. First, there are moral rights, which are prior to law. Then there are legal rights, conferred by law, like property and freedom, which must be respected. Desert is another form of justice, and is its most basic form. Breaking faith with an expectation justly produced is an injustice. Partiality is not an injustice itself, but is usually a means to other injustices. Justice demands impartiality in the courts, although one would rightly expect partiality to a friend or demonstrate partiality when choosing friends. Equality is very closely connected to impartiality, but also varies the most between different conceptions of justice. With these six examples of justice, Mill then turns to the etymology of the word. He concludes that starting with the Hebrews and up to the Romans, the meaning of the word moved from the following of actual [divine] laws, to the following of precepts that *should* be laws. His point is that some laws are unjust and so there is, regrettably, no complete overlap between justice and law. If justice as a branch of morality is not always congruent with law, what is the difference? Whereas feelings of retaliation are aroused at any moral infraction, penal action is warranted only by non-compliance with a law. The difference between morality and mere expediency is that morality invokes duty, to be exacted like a debt. Morality can be divided into both perfect and imperfect obligations. Perfect moral obligations generate a corollary right of another individual or individuals. I have a perfect moral obligation not to steal because it would violate my victim's right to be secure in his or her property. I also have an imperfect moral obligation to be charitable, but to no specific person. Mill says that this type of obligation grants scope for the use of discretion.

Like the Greatest Happiness Principle, Mill is attempting to ground justice in nature so as to minimize metaphysical claims. The naturalism that Mill employs can be used to support any conception of justice. In fact, he gives several incompatible models

and concludes that utility is the only external standard by which to choose between them. Even after the model is chosen, there will be competing conceptions of punishment that also need to be arbitrated. Again, the aggregate welfare of the community is the only standard by which to judge. The laws that prevent individuals from hurting each other or interfering with their liberty are essential to any society's well-being. Even when an injustice is committed to uphold higher moral concerns, like stealing to feed the starving, it is in the end, a larger conception of justice that is being maintained. Though Mill's first principles cannot be proven, he makes a compelling case for the explicit adoption of the utilitarian system of morality. He begins with a seemingly self-evident truth and develops an ideology that places the community's welfare at the centre, and its simplicity and elegance warrants consideration, especially in the light of another very compelling essay, *On Liberty*.

ii. *On Liberty*

Mill claimed to be a consistent utilitarian all of his life, and *Utilitarianism* is strong evidence of the truth of this claim. When one examines other writings by Mill, the strength of this assertion becomes strained, though not necessarily falsified. *On Liberty*, in particular tests this claim, despite Mill's own preface that it is entirely based on the utilitarian foundation. Before examining this claim, a brief summary of the book will be helpful. Only then can we explore some of the debates and controversies manifest in the Millian literature, all as part of a larger argument that both must be considered in order to understand Mill's larger project of crafting a political morality.

Before exerting his 'one very simple principle' for which he claims the entire essay is but a vehicle for, Mill takes a moment to describe the history of political struggle up to the present state that *On Liberty* addresses. Originally, or rather, for most of recorded history, the struggle for control was between the rulers and their subjects. A hereditary class of oligarchs and/or monarchs maintained power, while the peasantry, set opposite, struggled to utilize as much liberty as possible. Gradually, the demand for popular self-determination made it expedient for power to be handed down to the people. This arrangement pit parties and factions against each other for legislative control. Eventually, a majority, or at least the most active minority, ascended to the a level of unchecked power – tyranny of the majority. But this tyranny was not confined to just the political arena. Public opinion had an equally as powerful grip over the customs and social norms of the community. And as Mill points out, this tacit abuse of

power was more formidable because it offered “fewer means of escape.”⁶ ‘Ordinary man’ only had his own subjective standards and tastes and expected all to follow suit. There was no objective standard of right, or rationally constructed norm to compel others. This justificatory omission enabled religion – the source of the most intolerance - to take hold and entrench itself in the citizen’s psyche. This state of oppressive dogma of conformity and deference is what Mill is attacking with the exertion of his one very simple principle, the Harm Principle: “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.”⁷ Despite its simplicity, Mill famously qualifies this principle by denying its applicability to individuals not in the ‘maturity of their faculties’ or whole races that can be ‘considered in their nonage.’ The principle, not derived from any right independent of utility spawns both positive and negative demands. The former refers to the duty of every individual to help bear the cost of maintaining society, i.e. conscription, taxation, and legal testimony. The latter applies to a sphere of self-regarding activity that enjoys absolute immunity from interference and is even beyond moral appraisal altogether. And where society lacks the means to enforce such protection, it is the duty of everyone’s conscience to step in and play the role of the constable.

The first and most primary liberty to be defended is that of thought and expression. Though Mill is comfortable that freedom of the press is secure, he feels strongly that the individual is still at risk of being censored by government, or worse yet, by society. “If all of 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.”⁸ Truth is not the product of consensus, so the suppression of any opinion stands as a ‘peculiar evil.’ To illustrate this point, Mill outlines the three hypothetical situations in which suppressed opinions fall into, one concerning the fallibility of human knowledge, one regarding the consolidation of truth, and the final separating the truth from falsehood.

Firstly, the suppressed opinion might be true, in which case the suppressor is denying society and its posterity the opportunity to judge for themselves the truth of an opinion. The suppressor, in deciding for others what the truth is, is presuming his or her own infallibility. Mill’s charge is that no government or person has the authority to

⁶ John Stuart Mill, “On Liberty”, in *Collected Works XVIII*, John Robson and Alexander Brady eds., (Toronto: Routledge and Kegan Paul, 1977), p. 220.

⁷ Mill, “On Liberty”, p. 220.

⁸ *Ibid.*, p. 229.

cancel an opinion on the grounds that it is false, simply because it may be found to be true at some later point. No one can claim absolute certainty when suppressing error because of the inherent fallibility of all humans. But Mill is not saying that individuals or governments should never act on their best judgement. Preventing the propagation of error is presuming no more infallibility than the levying of taxes or the waging of war. Despite the uncertainties involved in the reasons that lead to these decisions, no one would question the legitimacy of levying taxes or waging war. Mill concludes this argument by clarifying the difference between holding an opinion as true because at every challenge it endures, and suppressing other opinions as a means to maintaining the truth of an opinion. "Complete liberty of contradiction and disproving our opinion, is the very condition which justifies us in assuming its truth for the purposes of action..."⁹ But the intended defence of truth is not the only motive for censorship. "There are, it is alleged, certain beliefs, so useful, not to say indispensable to well-being, that it is as much the duty of governments to uphold those beliefs, as to protect any other interest of society."¹⁰ Here, Mill is suggesting that there may be utilitarian arguments for the suppression of certain opinions, independent of truth. An opinion might be suppressed not because of falsity but because of its danger to the 'useful opinion.' Mill then quickly dismisses this possibility by pointing out that any judgement of the utility, or usefulness, of an opinion would require the same presumptuous infallibility as of the truth of an opinion. Moreover, it would be a very strange position to defend an opinion while conceding its falsity.

The second situation Mill considers is when the suppressed opinion is false. Some think it harmless to suppress an opinion or position that is appropriately understood as wrong or mistaken. But the suppression of false statements and opinions denies people of the only test of their own "correct" opinions. People who uncritically receive their opinions and perspectives from authority fail to understand the grounds of their position. "Truth, thus held, is but one superstition the more, accidentally clinging to the words which enunciate them."¹¹ It is not enough simply to defend one's positions, one must also be able to refute counter-positions, and to do so requires their full liberty of expression. Anyone who merely holds opinions, but doesn't grasp the arguments underpinning that position, or the counter-position, possesses nothing more than 'dead dogma.' People who passively receive their thoughts and ideas not only fail to understand their foundations, but also will begin to lose the meaning of the ideas. "The

⁹ Ibid., p. 231.

¹⁰ Ibid., p. 233.

¹¹ Ibid., p. 244.

fact, however, is, that not only the grounds of the truth are forgotten in the absence of discussion, but too often the meaning of the opinion itself.”¹² It is clear that Mill is concerned not only with the holding of correct opinions, but also in the construction of the correct opinions. Intellectual development is both a means and an end as well, and this has wide implications for the nature of the freedom and control that the individual is to experience.

To conclude his argument for complete liberty of discussion, Mill states that there is a third situation in which the majority discussants find themselves. Rather than one party holding the truth, while the other arguing from error, most opinions contain only part of the truth while the contrary opinion supplies the difference. Therefore, as the first two arguments apply, suppressing an opinion in order to advance another denies both the opportunity for others to judge themselves, and the mechanisms to test the truth. In order to illustrate this point, Mill points to a system of morality widely believed to be a doctrine containing the entire truth – Christianity. His argument is that Christian morality, as enumerated by the New Testament, not only makes reference to and incorporates elements of earlier doctrines, such as Greek, Roman and Paganism, but also has changed and evolved itself, specifically at the hands of early Catholics of the first five centuries. To consider the Gospel to be the entire articulation of the Christian ethic is to ignore a substantial portion of the Christian doctrine as it is expounded today. Mill’s argument for the complete liberty of expression fits into his larger advocacy of intellectual development. It is not simply that the stimulation of open and free discussion will discover and update our truth, it will also cultivate our minds and make us the rational, open minded citizens he endorses.

Despite the great lengths he goes to demonstrate the need for absolute freedom of thought and discussion, Mill recognizes the limits of freedom of expression. Whereas the former falls within the negative sphere of activity that enjoys complete immunity from interference, the latter can rightfully be curtailed once the limits of the Harm Principle are crossed. As Mill illustrates, to hold the opinion that corn dealers are starvers of the poor is completely legitimate when circulated in the press, but when addressing an excited mob outside of a corn dealers house, the expression runs a very high risk of transgressing the bounds of the Harm Principle. Mill is well aware that actions cannot be as free as thought and discussion because of the possible effects on other people, but he makes clear that the logic underpinning the liberty is the same:

¹² Ibid., p. 247.

“That mankind are not infallible: that their truths, for the most part, are only half truths: that unity of opinion, unless resulting from the fullest and freest comparison of opposite opinions, is not desirable, and diversity not an evil, but a good, until mankind are much more capable than at present of recognizing all sides of the truth, are principles applicable to men’s modes of action, not less their opinions.”¹³

Mill is not just arguing for the liberty of expression as an extension of the liberty of thought and discussion, but as the name of this chapter implies, he is arguing that unfettered individuality is a necessary component of well-being. Most people bow to custom, and accept the lot designated for them by circumstance and contingency. Custom and tradition do well to educate and transmit the accumulated wisdom of past generations. But to confine oneself to the narrow parameters demarcated by what has been done in the past is not to utilize those capacities that are distinctly human. “He who lets the world, or his portion of it, choose his plan of life for him, has no need of any other faculty than the ape-like one of imitation.”¹⁴ Mill is arguing that strong impulses and spontaneity need to be properly balanced with restraint and belief. There were times in the past, when impulse and will far outweighed the rules and constraints of society. Men were exerting themselves in to the detriment of others and the community. “But society has now fairly got the better of individuality; and the danger which threatens human nature is not excess, but deficiency, of personal impulses and preferences.”¹⁵ He is advocating experiments in living in order to discover a suitable life – within the confines of the Harm Principle – while building on and understanding the previous experiments and their outcomes have brought to society. Mill is not just suggesting that one should egoistically pursue one’s welfare so that the aggregate maximizes society’s welfare, Mill is arguing that new perspectives, ideas and solutions that are the products of individualistic exploration directly benefit all. A supplement to this utilitarian argument is his claim that people have different tastes and that this alone justifies the encouragement of different modes of life. No one would argue that all plants flourish in the same climate, and so too is the human condition. Diversity of life is not a luxury, but a necessity. Society ceases to progress when individuality is diminished. China, for example he notes, used to be a great civilization, but conformity and homogeneity have caused it to stagnate. Europe has avoided such individualistic atrophy because its different cultures in close proximity to each other. However Mill

¹³ Ibid., p. 260.

¹⁴ Ibid., p. 262.

¹⁵ Ibid., p. 264.

warns that writers like de Tocqueville and von Humboldt already see that the diversity of situation and freedom needed to avoid China's fate are being diminished in Europe.

The previous two chapters of *On Liberty* establish the logic of Mill's argument: freedom of thought and discussion are the central ingredients to the development and utility of society. Following from this, freedom of expression and diversity of lifestyle are the conditions of human flourishing. Mill now changes tack to discuss the legitimate use of coercion against individuals, and what forms such interference may take, a much neglected element of his thought. It is here that Mill begins to articulate the crucial distinction between self and other-regarding behaviour that he must maintain in order for his doctrine to remain intact. He begins by rejecting the model of society as being based on a social contract from which to deduce duties and obligations. Rather, the simple fact that one enjoys the protection of society itself is reason to bear both negative and positive obligations. First, one should respect certain interests of others *as if they were* rights, and second, one must contribute to the costs of defending society, presumably through conscription and taxation.¹⁶ The first of these obligations does not demand a 'selfish disinterest' from the self-regarding affairs of others, in fact far from it. Mill discusses an obligation to oneself that one must have to develop and habituate the right sort of character. Though this obligation is to oneself, it is not exempt from the concern of others.

"Humans owe to each other help to distinguish the better from the worse, and encouragement to choose the former and avoid the latter. They should be for ever stimulating each other to increased exercise of their higher faculties, and increased direction of their feelings and aims towards wise instead of foolish, elevated instead of degrading, objects of contemplation."¹⁷

For this, one is not accountable to society or one's fellow citizen. When someone displays these human ideals this person should be praised and admired. When someone grossly lacks these characteristics, or who displays 'lowness or depravation of taste,' this person should receive the opposite of admiration and praise, or be avoided as an expression of *our own* self-regarding individuality. Because the duties of self development and (proper) character formation are obligations to no one else but the self, their non-performance cannot bring about legal coercion or interference. Mill calls this type of 'social encouragement' a natural penalty and is the only punishment, or 'harm',

¹⁶ Mill does not specify here which interests it is acceptable to disrespect, but it is already understood that those non-utilitarian interests which harm others need not be protected.

¹⁷ *Ibid.*, p. 277.

one can incur as a result of a self-regarding action or non-action. It should be noted that this is no small consequence for a self-regarding flaw. Mill is clear in the Introduction that society “practices a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself.”¹⁸ Moreover, Mill is not lamenting the unfortunate consequences of individuals pursuing their own unpopular conception of the good; he is making a normative judgement regarding their rightness, which begs the question of what the difference would be from the subject’s point of view between this form of coercion and the legal form (this point will be addressed in Chapter Six). For an action to remain self-regarding, it also must not run a high risk of affecting other people’s interest, or damaging property, though Mill does clarify that the damage that society can afford to incur can still be protected, for the greater good of liberty. The distinction between self and other-regarding behaviour is one of the most contentious issues in Mill’s doctrine, although he does anticipate some of his critics, but not all.

Mill pre-emptively raises three issues one could have with his formulation of absolute liberty. Firstly, no one is completely isolated from society. A person who engages in activities that are harmful to no one but that person harm people who depend on that person for security, shelter, or support. For example, the mother who lays about drunk all day instead of caring for her children can rightly be charged with harming the interests of others, namely her children. Mill concedes that such negligence falls into the category of other-regarding behaviour and is punishable by society. But the mother who’s children are all grown up and finds her idleness alleviated by the bottle may do so with nothing more than the disdain of the community. Secondly, the person who harms no one but themselves through some action may be setting a bad example for others, who in turn may follow suit. Mill responds that the bad example set by the habitual gambler will be followed by the bad *consequences* of such risky behaviour, and so must be allowed in order to act as a deterrent to others. Finally, if it is expedient to interfere with the self-regarding behaviour of children, or others not of their full faculties, why not do so with adults who suffer from “defective” characters? Mill considers this abstinence from paternalism to be the strongest argument for the complete freedom of self-regarding actions. The accumulated wisdom of past ages has condemned universally some actions and behaviours that people today enjoy. In particular, Mill points to some religious practices as embodying some truths that have

¹⁸Ibid., p. 220.

since been discarded. To open up our behaviour to such scrutiny is to invite society to judge and alter all segments of our lives, including our tastes and preferences. Furthermore, in order to develop the proper character individuals need to wrestle with their own flaws in order to overcome them. Mill, of course, raises these issues in a way that enables him to easily defend. Later on we will see how this particular distinction causes pervasive problems for his doctrine of liberty. However, we must first examine how Mill envisions his theory to be applied.

The final chapter of *On Liberty* deals with some specific applications of the Principle of Liberty, and addresses some crucial ambiguities that linger from the previous chapter. Harm, as it turns out, is only a necessary, but not a sufficient condition for intervention. That is to say, Mill recognizes that there are some other-regarding harms that are not taken into consideration when contemplating intervention. Mere offence as a consequence of some action places it in the other-regarding sphere, but does not (in some cases) justify societal intervention. The harm involved in any competition, be it athletic or professional, also fails to warrant interference to protect the “victim.”

“Whoever succeeds in an overcrowded profession, or in a competitive examination; whoever is preferred to another in any contest for an object which both desire, reaps benefit from the loss of others, from their wasted exertion and their disappointment. But it is, but common admission, better for the general interest of mankind, that persons should pursue their objects undeterred by this sort of consequences.”¹⁹

This allowance may seem obvious at first, but as a self-described utilitarian, Mill is committed to factoring into his utilitarian calculus *all* of the consequences of some action. Another example he considers is drunkenness. As described in the above, it is completely protected by the Liberty Principle, except in the case of dependents, or if the drunkard is working at a job that precludes intoxication. Mill now turns his attention to the proprietors of drinking establishments.²⁰ Do they enjoy the same protection as the consumer of such substances? The sellers/distributors of alcohol and the proprietors of drinking houses are not disinterested facilitators of the consumer expressing his self-regarding individuality, drunkenness. They have an interest in the consumer excessively drinking to their own detriment to maximize revenue. Mill states plainly that market interaction is always other-regarding, but “that both the cheapness and good quality of

¹⁹ Ibid, p. 292.

²⁰ I speak of alcohol here, but Mill is clear the same applies to gambling and drugs.

commodities are most effectually provide for by leaving the producers and sellers perfectly free...”²¹ Furthermore, if an activity is free to be done, legal consistency demands that it should be free to make a career out of doing it. Finally, distributors and sellers are required for the legitimate use of the abused substance. The compromise that Mill comes to is to allow such operations, but to prohibit advertisements and other enticements. He further recommends that the state regulate the sale of such substances with licenses. Mill is against heavy taxation because it amounts to proportional prohibition that ultimately disadvantages the poor. He does concede that some taxation is expedient for administrative costs, again, some harms are disregarded.

Mill now addresses paternalism as another application of his Liberty Principle. One would think that there are many utilitarian reasons for interfering with people’s liberty to maximize their well-being, but Mill argues that there are powerful reasons against such interferences. Firstly, there is no one better equipped to deal with a person’s affairs than the person themselves. Legislators and civil servants lack the relevant familiarity with an individual’s affairs to effectively interfere with one’s business. Secondly, as described in the previous chapter, individuals need to exercise their own human capacities of free-choice and rational deliberation in order to strengthen them. Finally, the most cogent reason for restricting the government’s ability to interfere in people’s affairs is “the great evil of adding unnecessarily to its power.”²² A government charged with overseeing many aspects of the citizen’s life will require a large bureaucratic machinery that would employ many people in many different fields. Mill’s fear is that with so many people that “looked to the government for every rise in life”²³ the nation would be free in name only. These prudential, perfectionist, and libertarian arguments against paternalism do not simply call for a minimal state. To conclude *On Liberty*, Mill briefly discusses what the ideal balance for his liberal government would be: “the greatest possible dissemination of power consistent with efficiency; but the greatest possible centralization of information, and diffusion of it from the centre.”²⁴ Keeping this balance in mind I now turn to some of the contentious issues that arise specifically from trying to reconcile the disparate values endorsed by this essay, and its supposed origin, *Utilitarianism*. The next section will attempt to show that in order to understand Mill’s political morality, it will be necessary to consider at least both works simultaneously. Though each work can stand alone as a contributions

²¹ Ibid., p. 293.

²² Ibid., p. 306.

²³ Ibid.

²⁴ Ibid., p. 309.

to political science and moral philosophy, together they reveal a fuller and more ambitious project than the sum of its constituent parts.

The Revision Debate: attempting to defend Mill's liberal-utilitarianism

The strengths and weaknesses of Mill's work lay in the disparate values he seemingly endorses in some of his works. Looking at *On Liberty* one finds an eloquent defence of liberal practices and a beautiful exposition on the value of human diversity. The book also discretely captures a major theme in liberal thought as to the grounds for legitimate intervention into the affairs of citizens' affairs, namely, to prevent harm to others. *Utilitarianism*, on the other hand, is an introduction to (or summary of) Mill's variant of utilitarianism he inherited from his father and Jeremy Bentham. It is an essay conveying the modest observation that happiness is the only end desired by humans for itself, everything else as a means to happiness. Resting on this sole 'fact,' Mill articulates the moral foundation underpinning all of his thought, including his seemingly contradictory essay on liberty. Mill was a prolific writer. It might be the case that he never was able to reconcile his thoughts into a coherent whole, but produced many interesting and insightful essays, articles and books, based on different theories and philosophies Mill endorsed at different times, in his efforts to reform Victorian society. It might also be the case that clues to the proper understanding of the doctrine of Mill lay in various books, in need of a unifying lens needed to view his work through. This latter possibility is the one being explored by scholars who consider themselves to be amongst a revisionary tradition of Millian interpretation.²⁵ Unsatisfied with the traditional criticisms and condemnations heaped upon Mill within the 100 years following the publication of *On Liberty*, They seek to re-examine the tensions between Mill's utilitarian and liberal endorsements and possibly render them superficial. What emerges from these efforts is the fact that any full understanding of his political morality requires dual consideration of both *On Liberty* and *Utilitarianism*. Whether one concludes he is incoherent, or a subtler writer than initially thought, these two volumes are the clues to his larger doctrine.

A convenient place to begin this survey of the revisionary tradition, and one recognized by most of its numbers, is the lecture given by Isaiah Berlin for the Robert Waley Cohen Memorial Lecture series on tolerance. In this lecture, later published as part of Berlin's Seminal book, *Four Essays on Liberty*, the tension between Mill's

²⁵ This is intended to be a loose category comprising those scholars that have written on Mill's utilitarian and liberal commitments since Berlin's essay.

utilitarian commitments and his liberal inclinations are specifically articulated. He is indicted as endorsing a plurality of irreducible values, which under current jargon is called value pluralism. The first attempt to reconcile Mill's plural commitments, was made by Alan Ryan. Invoking *The Art of Life*, the last book of *System of Logic*, Ryan describes how Mill perceives three spheres of human conduct, each with its own end and logic. On this view, a distinction can begin to be made between what is moral and what is utility-maximising. Even further along these lines is John Gray's interpretation whereby Mill's utilitarianism takes a split level form. This account further separates the sphere of morality from the sphere of utility, thereby enabling us to make non-action-guiding judgements and settle disputes between secondary principles. These revisionary interpretations go far to salvage Mill from the traditional critique levelled against him, but are also not without their own problems, some of them substantial. What will be demonstrated though, is that both books need to be considered simultaneously if we are to understand Mill's morality either as liberal or as utilitarian, as he considered it throughout his entire life, or something different altogether.

Mill's upbringing was deeply steeped in the classical utilitarian epistemology, whereby the un-alterable nature of things could be known. Truth and happiness were fixed, which is why the utilitarian framework can be maintained by psychological hedonism: the desire for pleasure stimulates the will to action, and of pleasure we can only talk of its intensity and duration. Berlin notes that on this model of human agency, Bentham and his father would not be opposed to the introduction of some pill if it could be shown to produce a sufficiently pleasurable state, like Soma, the pill dispensed freely in Aldous Huxley's *Brave New World*. This of course we know, Mill would have found unacceptable. In fact, he fell into a deep depression at the young age of 20 when he realized how *unhappy* he would be if the Benthamite ideal of happiness was attained. About a year later when he recovered, Mill endorsed a different conception of happiness: rationality and contentment were replaced by vitality, activity and diversity. Mill, as an avowed empiricist, denies that truths can be beyond questioning. Truths can merely be updated as more observations are made. This fallibilism that Mill attributes to human knowledge is one of his arguments for full freedom of expression. Only through constant challenges by wrong and partially-wrong ideas can any semblance of truth be maintained. But Berlin charges that even full freedom of expression will not guarantee the approach of truth:

“Again, it may well be that without full freedom of discussion the truth cannot emerge. But this may be only a necessary, not a sufficient, condition of its discovery; the truth may, for all our efforts, remain at the bottom of a well, and in the meantime the worse cause may win, and do enormous damage to mankind.”²⁶

The social costs of permitting the proliferation of certain beliefs could be potentially quite great. Preaching sexist or racist polemics, even if not directly inciteful, may still have longer-term, more subtler, detrimental effects on society. Furthermore, Mill presupposes a truth that can be known and is fixed, namely human nature. Which principle would Mill invoke to protect people from challenging this ‘truth?’²⁷ If human nature is demonstrable, and need not be challenged, what other truths are also exempt from constant challenge? Berlin concludes that Mill is arguing for diversity for itself, a rather un-utilitarian argument to make.

Mill is essentially making a huge wager on what he believes to be the deepest interests of the human species and the conditions for its flourishing. What if he is wrong? Mill was more concerned with the oppressive nature of Victorian society than with the arrangement of political institutions. Public opinion, conformity and social hierarchy were suffocating individuals, he thought, and he endeavours to liberate them from this form of power which was more insidious and pervasive than any a government could wield. Despite his empiricism, he argues with the firm conviction of an a priori metaphysical grounding. If the prevention of harm is the only justifiable motive to coerce individuals, resisting this arrangement would cause tremendous harm.

Berlin’s essay had the affect of bringing the supposedly utilitarian arguments for liberty under rigorous scrutiny. He reminds us of Mill’s intended audience, and his stated motivation for pontificating on the value of diversity and freedom to explore existence. Berlin concludes that Mill fails to derive a principle of liberty protecting a sphere of absolute liberty of certain actions. But the fate of Mill’s legacy does not end there. Many writers have taken it upon themselves to re-evaluate Mill’s utilitarian framework to see if it can accommodate a liberal morality, and it is easy to see why: the status of his project has enormous implications for both liberals and utilitarians. To see how a successful derivation might look, Alan Ryan’s contribution to this debate will be considered next. His contribution is to evaluate Mill’s project in light of another work entitled *The System of Logic*. Though not without its own problems, it further cements the link between *On Liberty* and *Utilitarianism*.

²⁶ Isaiah Berlin, “John Stuart Mill and the Ends of Life” in *J.S. Mill on Liberty in Focus*, John Gray and G.W. Smith eds., (London: Routledge, 1996), p. 144.

²⁷ This point is examined in greater detail in Chapter Four of this thesis, see p. 104.

Ryan was the first to recruit *System of Logic* to help construct the Millian lens with which to see how *On Liberty* fits within the larger utilitarian paradigm. In 1957, the Wolfenden Committee, formed by the Home Office in 1954 to re-evaluate Legislation on homosexuality, concluded in its reports that there should be a sphere of private morality within which the law has no bearing. Ryan suggests that most people took this conclusion to be a restatement of Mill's harm principle, whereby any action that only affects the consenting parties involved should be no matter for the law. Essentially, the report states that there should be a private sphere morality that the law need not bother to persecute. No matter how 'wicked' or 'immoral' an act may be, so long as it is not harmful other people, there are no grounds for legal coercion. Ryan argues that this logic, attributed to Mill, is wrong. To see why, and to see the relationship between morality and utility, we need to look at Ryan's incorporation of the last book of *System of Logic* called 'The Art of Life.'²⁸

Life is an art. As such it has a logic and practice of its own. Like all arts, it is based on a first, or major, premise not supplied by another art or another practice, like science. To use the classic examples, the first premise of the medicinal arts is that health is good and should be desired. The first premise of the building arts is that buildings are good, and so on. The first premise of life is that happiness is good, and "By happiness is intended pleasure, and the absence of pain."²⁹ After the first premise of an art is set, then the practice of science is employed to develop the means to the designated end. Science speaks in the indicative voice, describing what is and what will be, under what conditions, whereas art speaks in the imperative voice proclaiming what should be.

Together with the causal laws of science, this teleology is called the Doctrine of Ends. All of the practices, or arts, taken collectively for the art of life and can be broken down into three distinct spheres. Mill explains:

"These general premises, together with the principle conclusions which may be deduced from them, form (or rather might form) a body of doctrine, which is properly the Art of Life, in its three departments, Morality, Prudence or Policy, and Aeshtetics; the Right, the Expedient, and the Beautiful or Noble, in human conduct and works. To this art (which, in the main, is unfortunately still to be created) all other arts are subordinate; since its principles are those which must determine whether the special aim of any particular art is worthy and desirable, and what is its place in the scale of desirable things."³⁰

²⁸ Mill calls it 'Of the Logic of Practice, of Art; Including Morality and Policy'.

²⁹ Mill, "Utilitarianism", p. 210.

³⁰ John Stuart Mill, *System of Logic*, in *Collected Works VI*, John M. Robson ed., (Toronto: Routledge and Kegan Paul, 1974) p. 949.

In each of the three departments, the principle of utility dictates that happiness should be promoted, but in different ways. Ryan clarifies, “Morality is concerned with social relations, with dealings with other people. It is concerned largely with rules directing us to abstain from conduct calculated to harm others...”³¹ So then, it is here and only here that the harm principle is applicable. Only actions that potentially affect other people rightly fall under the scrutiny of the moral appraisal. And those that actually produce harm are therefore subject to moral condemnation, in the form of self-conscious contempt, or guilt, public disapproval, or legal sanction. The logic of all three reactions is the same, with the latter option only being employed after a utilitarian cost-benefit analysis.

Ryan’s interpretation rejects the Wolfenden’s suggestion that there exists a ‘private sphere of morality,’ within which the government has no duty to police. On this view, any action that is private, or purely self-regarding, is not moral at all, and therefore not subject to this sort of appraisal. The moral sphere actually proves to be quite small, and is intended more to secure the boundaries for the flourishing of the prudential and aesthetic spheres. The activity that the Wolfenden Committee addresses, homosexual relations between consenting adults, as an entirely self-regarding activity, is therefore not an issue of ‘private morality,’ rather it is not a moral issue at all.

This categorisation does not preclude us from saying anything about the action in question. One could still argue that homosexual behaviour, or drug taking, or gambling, or riding a bicycle without a helmet was inexpedient, or silly. We could criticise on prudential grounds claiming that such behaviour does not promote private (as opposed to public) goods, or on aesthetic grounds claiming that such behaviour was ignoble, or ugly, but we absolutely could not claim that such behaviour was wicked, or evil. This distinction is crucial because Mill’s conception of justice is rooted in the utility of punishment. In other words, we consider only those actions which warrant punishment, i.e. ‘self-conscious contempt, or guilt, public disapproval, or legal sanction,’ as immoral. Any other type of condemnation we may levy does not give us grounds for any of the above forms of coercion.

The upshot of Ryan’s interpretation is to clarify the relationship between utility and morality. It is not simply that a failure to maximize utility is immoral, immoral action covers a much smaller sphere. Only actions that harm other, non-consenting, individuals can rightly be considered wrong, or evil. The Art of Life allows us to

³¹ Alan Ryan, “John Stuart Mill’s Art of Living” in *J.S. Mill on Liberty in Focus*, John Gray and G.W. Smith eds. (London: Routledge, 1996), p. 164.

consider non-utility maximising reasons when deciding between actions. In other words, we needn't be obliged to maximize utility at all opportunities. There may be other relevant reasons that outweigh any demand to maximize general utility. There may be prudential reasons at times to forgo considerations of the wider public in order to pursue some private goal. This interpretation enables us to understand how when faced with two activities, one considered a 'higher' pleasure, the other a 'lower,' we are not necessarily obliged to choose the higher, more utility-maximising option. An initial reading of *Utilitarianism* suggests that someone with the proper upbringing would never choose the lower over the higher, unless suffering from 'infirmity of character.' Ryan's interpretation enables us to see the different types of considerations that ultimately go into such a decision, only one of which is moral, and therefore make sense of someone choosing a lower pleasure. This topic will be addressed in more detail later in this thesis. Here, we only need understand that the Art of Life enables us to separate morality from utility because maximising utility does not always place a moral demand on us, and failing to do so does not always warrant moral condemnation.

Ryan's interpretation does not seal off Mill from all of the traditional critiques. We can see now how the Principle of Liberty can be maintained even at the cost of *some* utility, but the introduction of the three spheres is still susceptible to James Fitzjames Stephens original critique that the distinction between purely self and other-regarding spheres is completely fictitious.³² If society's legitimacy of coercion hinges on this distinction then it is not one to be taken lightly. But before seeing exactly what problems still remain for Mill today, we must first look at another formulation of Mill's utilitarianism. John Gray interprets Mill as an indirect utilitarian, but again this view resolves some issues while introducing others.

Gray builds on the distinction borrowed from the Art of Life, but employs the principle of utility in a slightly different manner. Responding to the traditionalist critique that the principle of utility places too high a demand on maximising utility, Gray describes how Mill implies two principles when referring to the principle of utility, one axiological, the other action-guiding. This deconstruction enables us to make utility judgements distinct from action, without violating Mill's theory of life that states that pleasure is the only desirable end. Gray's attribution of this indirect utilitarianism further clarifies the conceptual linkage between *On Liberty* and *Utilitarianism* and introduces the larger topic of Mill's conception of happiness which I will look at next.

³² James Fitzjames Stephens, *Equality, Fraternity, and Liberty*, R. J. White ed., (Cambridge: Cambridge University Press, 1967), pp.138 – 178.

The Art of Life maintains that the practitioners of art and science play distinctly different roles in the pursuit of ends and must never confuse their responsibilities. Art is critical and evaluative of ends (imperative mood), whereas science reasons the causal factors and circumstances that result in that particular end (indicative mood). Mill stresses:

“Whether the ends themselves are such as ought to be pursued, and if so, in what cases and to how great a length, it is no part of his business as a cultivator of science to decide, and science alone will never qualify him for the decision. In purely physical science, there is not much temptation to assume this ulterior office; but those who treat of human nature and society, invariably claim it; they always undertake to say, not merely what is, but what ought to be.”³³

Mill is going to great lengths to differentiate between the modes of art and science, especially when there is temptation to overstep the boundaries. Art is critical and evaluative with regards to the ends of whatever endeavour (even that of life), whereas science employs strictly means-ends reasoning to understand and bring about the conditions that expedite the production of the chosen end. If Life is understood as an art, with all its modal trappings, and if “...according to the utilitarian opinion, the end of human action, is necessarily also the standard of morality...”³⁴, then Gray is reasonable in attributing to Mill a form of indirect utilitarianism.³⁵ The principle of utility, we know, is the *Philosophia Prima* to which all first principles of art, including life, are subordinate to. The principle then, is intended to cover all aspects of human life:

“In Mill this principle ranges over all areas of practice, not only moral practice, and, indeed functions as a principle of evaluation for things apart from human practices and action. Since moral appraisal is only one sort of appraisal of conduct, and morality is only one area of practice or art, the Principle of Utility cannot be treated as if its place in Mill’s theory was simply that of a moral principle. Since the Principle of Utility in Mill is a principle for the assessment of all branches of conduct, and since it specifies what is of intrinsic value but does not itself enjoin any particular line of conduct, those writers of the traditional school in Mill criticism are in error who suppose that the utility principle must impose a moral duty of utility-maximisation on agents.”³⁶

As a standard of evaluation, then, it cannot be specifically action-guiding. Rather it is a standard that we use to judge the inherent quality, i.e. utility, of any situation or

³³ Mill, “System of Logic”, p. 950.

³⁴ Mill, “Utilitarianism”, p. 214.

³⁵ See John Gray, *Mill on Liberty: A Defence*, (London: Routledge, 1996) p. 38. Gray thanks Williams and Smart for introducing him to this species of utilitarianism.

³⁶ Gray, *Mill on Liberty: A Defense*, p. 21.

arrangement, even ones that humans play no part in. In Gray's interpretation, Mill's utilitarianism stems from two distinct features. The first is reading a second, implied, principle. "This principle, often invoked by Mill under the name expediency but nowhere named by him, which (following several recent interpreters, like D.G. Brown's) I will call the Principle of Expediency."³⁷ This implied, though logically different and independent, principle enables us to judge the utility maximising dimensions of an action, i.e. its expediency. It therefore is the principle that we use to judge science, the means to some end, and so therefore *can be* action guiding. The Principle of Utility on the other hand, we can use to judge ends, or rather the inherent utility in some end, because we know that only happiness is desired for itself. The category of moral actions then becomes rather small and is not a direct product of a utility calculus. To illustrate, it will be helpful to look at what the criteria is for right and wrong action.

In light of the Art of Life, we know that all actions that fail to maximise utility are not necessarily wrong. This begs the question then of what more is required to differentiate between right and wrong. Mill plainly states:

"We do not call anything wrong unless we mean to imply that a person ought to be punished in some way or the other for doing it; if not by law, by opinion of his fellow creatures; if not by opinion, by the reproaches of his own conscience. This seems the real turning point between morality and simple expediency."³⁸

The punitive element forms part of the criteria of right and wrong but it cannot be all because Mill recognises that there are many non/actions that we would want to punish people for, but would have no legitimate grounds for. If this was all that was required, Mill would have made no advances over the intuitionists he scoffs at. Gray interprets the implied Principle of Expediency as playing a larger role than Mill explicitly voices:

"The rightness of an act is not given by its maximal expediency alone, or even by its maximal expediency together with the maximal expediency of instituting moral or legal rule requiring that it be done, but only by its maximal expediency together with the maximal expediency of making non-compliance punishable by the whole corpus of moral convention and sentiment."³⁹

The tendency then to promote utility alone does not a right action make, as the traditionalists have criticised. Promoting utility, or being expedient, is a necessary but

³⁷ Ibid., p. 22 .

³⁸ Mill, "Utilitarianism", p. 246.

³⁹ Gray, *Mill on Liberty: A Defense*, p. 30.

not a sufficient condition for moral rightness. The added punishability criterion provides the rest of the standard. Whether intended or not, this is an increasingly smaller category of actions. This view helps defend Mill from the charge that at every choice in life, there is a moral obligation to maximise utility. We may dislike or lament a failure to maximise utility, but we cannot morally condemn it in all cases. A morally wrong action is only 'immoral' if punishment is expedient.

“It is necessary and sufficient for the moral wrongness of an act that its disfavouring by public sentiment, the inculcation of a disposition to avoid it and of a tendency to feel remorse in respect to its performance, be maximally expedient.”⁴⁰

A morally wrong act must meet the punishability criterion. Utility has no direct bearing on an act's rightness or wrongness. This is how we can maintain the principle of liberty, one of the few moral principles in Mill's doctrine, while remaining within utilitarian confines. There needn't arise the ubiquitous conflict between liberty and utility because a failure to maximise utility does not in all cases constitute a wrong action. Self-regarding actions, no matter how detrimental to the individual can be protected despite the net loss in utility. Certain other-regarding actions as well, like certain forms of expression, namely the contentious ones that unintentionally affect others, might also be protected, while maintaining within the utilitarian moral framework.

What Mill fails to address is that his two criteria of morality may conflict. An action that is maximally expedient may nonetheless arouse guilt or even social contempt. It is unclear how Mill would judge a person who sacrificed his or her own family for good of the larger community. A legislator who destroys a historic landmark for a much needed sewage treatment plant will definitely arouse the anger of citizenry, maybe even his own guilty conscience, even if failing to construct the plant would also arouse public (or psychological) disapproval. This potential conflict suggests that certain incommensurable moral options can be generated from Mill's criteria, for which no rational solutions may exist. Subsequently, we must see what challenges to both Ryan and Gray's revisionary treatments still retain their force.

The crucial addition that Ryan brings to the revisionary interpretation is the separation of spheres and the different reasoning that is appropriate for each. The effect is to reduce the applicability of moral evaluation, thereby alleviating some of the demands of utility-maximisation. If on this view (but not on Gray's), we are obligated

⁴⁰ Ibid., p. 31.

to maximise utility when concerned with ‘interpersonal goods,’ but not when we are concerned with Prudence or Aesthetics, then the categorical differences between these spheres is of crucial importance. Prudence and Morality are consequentialist in nature, whereas Aesthetics is more about a form of perception.⁴¹ Morality and Aesthetics take into consideration other people, while Prudence is purely concerned with the self. Finally, morality is the only sphere where the punishability criterion is coupled to the principle of utility to generate condemnation and supererogation, whereas with Aesthetics and Prudence only subjective preferences can operate.

Problems arise when the distinction between the spheres blur, because it confuses the ends of the spheres, or practices, thereby confusing the means, or reasoning. The problematic distinction between purely self and other-regarding actions is one example of this potential breakdown. Even when other regarding behaviour is limited to harm to others’ interests, as J.C. Rees posits, both the notions of interest and harm are not easily utilized to seal off one sphere from the other.⁴² As Joel Feinberg shows, the notion of harm is more complex and problematic than most realize.⁴³ He describes it as a setting back of interests by the self or others, but any definition of harm must be at least sensitive to moral wrongs, i.e. setbacks to immaterial interests. Any conceptualisation of interests will be at least partly normative, and slips easily into a mild “ideal-regarding formulation”, as described by Brian Barry.⁴⁴ This point will become more salient when we consider Mill’s taxonomy of pleasure in Chapter Four. Gray observes, “In according special weight to the higher pleasures, the utility principle in Mill may seem to have an ideal-regarding aspect...”⁴⁵ The risk here is slipping even further into full-on paternalism. If Mill’s ‘moral authoritarianism’ is as prevalent as Cowling argues⁴⁶ then such a transgression of the harm principle may not be as such if we interpretively equate harm with failure-to-prevent-harm, as Feinberg does.⁴⁷ A failure-to-prevent-harm might range from neglecting to educate a child, to failing to develop a child’s palate to appreciate fine wine. If the *philosophia prima*, the Principle of Utility, is directly appealed to in all three spheres, but only in the moral sphere do we

⁴¹ Ryan, “John Stuart Mill’s Art of Living”, p. 164.

⁴² J. C. Rees., “A Re-Reading of Mill on Liberty”, in *J.S. Mill on Liberty in Focus*, John Gray and G.W. Smith eds., (London: Routledge, 1996), p. 174.

⁴³ Joel Feinberg, *The Moral Limits of the Law: Vol. 1, Harm to Others*, (New York: Oxford University Press, 1984).

⁴⁴ Brian Barry, *Political Argument*, (Hemel Hempstead: Harvester Wheatsheaf, 1990), p. 40. In fact, Barry attributes this interpretation to Mill.

⁴⁵ Gray, *Mill on Liberty: A defense*, p. 46.

⁴⁶ Maurice Cowling, *Mill and Liberalism*, (Cambridge: Cambridge University Press, 1963), especially Chapter 6.

⁴⁷ Feinberg, *The Moral Limits of the Law: Vol. 1 Harm to Others*, Chapter 4.

employ the sentiment of punishment, then the blurring of the distinction between the moral sphere and the other two is a highly problematic grey area of confused reasoning. Since the legitimacy of punishment is at stake – as minor as berating someone for breaking a promise, or as great as incarcerating someone for murder – a breakdown of the distinction between the three spheres can be a crippling possibility. The recent literature seems to have marginalized the issue somewhat, but there are still other challenges that need to be addressed when we consider the revisionary treatment of Mill’s political morality.

John Gray’s interpretation goes some distance to alleviate some of the controversy over the role of the principle of utility. The indirect utilitarianism attributed to Mill does reduce the utility-maximisation demands, the ubiquitous bane of classical utilitarianism, and shrink the domain of moral reasoning, but still does not protect the moral sphere from being infected with highly illiberal, though yet still expedient, legislative content. The classic critique that Mill’s project breaks down into a competition between liberty and utility, and that utilitarians are yet coherently to put forward arguments for liberty re-emerges even in Gray’s indirect formulation. On an “ideal-regarding” utilitarianism formulation, it would be easy for Mill to posit that maintaining liberty should be, or *ideally*, would be in one’s interest, but Mill specifically rejects the paternalism that would be required to maintain the Principle of Liberty on this interpretation. If we confine ourselves to a more “want regarding” formulation of utilitarianism, then we must consider how to deal with non-liberal preferences.

Returning to Gray’s formulation of right and wrong action, we are limited to only other-regarding action. Gray claims that direct appeals to utility are only to be made in “...those cases of extremity where the maxims of the various departments [of the Art of Life] conflict with one another...” because the principle of utility is not *merely* a moral principle.⁴⁸ It is not until the Principle of Utility is taken with the implied principle of expediency that action-guidance is born, as described above. But even with punishability attached to the criterion of moral wrongness, there is no privileged place for liberal principles, like the Harm Principle. If the *expediency* of punishing an action is what constitutes its moral wrongness, then it seems to me that utility is still the ultimate standard, albeit indirectly. Without any reference to a distributive theory of justice, or some Kantian concern for the human being completely independent of utility, it seems implausible to guarantee protection of the individual

⁴⁸ Gray, *Mill on Liberty: A Defense*, p. 27.

from becoming an instrument for some other end. Even the practical, ‘side-constraining,’ Principle of Liberty holds no privileged place if expediency is its only justification.

On this interpretation, the need for such constraints rests on empirical facts that through continued observation may fade. Gray stresses that it is *because* of a unique failure of humans, direct appeals to the principle of utility are self-defeating:

“Mill’s argument, rather, is that principles for the appraisal of policies adopted such as his Principle of Liberty are public and practical principles for the appraisal of policies adopted by men aware that their continuing partiality to their own interests subverts any direct appeal to Utility as a principle capable of sustaining a stable social union.”⁴⁹

Gray’s attention to Mill’s concern for the shortcomings of human nature is I think well founded. Ruthlessly maximising general utility might involve the betrayal of friends, families, and other social institutions. This strategy of maximisation would be very destabilising, and most definitely self-defeating. Moreover, the epistemological demands of the consequentialism involved in direct appeals to the Principle of Utility are too great for an effective calculus. But this fact of human nature, our ‘continuing partiality,’ seems no more fixed than the facts of those societies, “in which the race itself may be considered in its nonage.” Whatever those facts that require that, “Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement,” presumably will fade when “mankind have become capable of being improved by free equal discussion.”⁵⁰ This developmental - almost perfectionist - model of human progress has been reflected in some of the revisionary treatments of Mill, like Richard Wollheim’s complex utilitarianism.⁵¹ Mill recognises the progressive and developmental nature of humans, and clearly feels that the practical Principle of Liberty is only appropriate at a certain stage of development. It is totally feasible that there may come a time when humans outgrow, the principle of liberty for some other principle, or none at all, and defer directly to the Principle of Utility. Historical contingencies that qualify a society for the Principle of Liberty may someday *disqualify* it. It is only because of the particular failure of human reasoning that the

⁴⁹ Ibid., p 66.

⁵⁰ Mill, “On Liberty”, p. 224.

⁵¹ Richard Wollheim interprets Mill to be articulating a three stage ‘complex utilitarianism.’ The first stage of this formulation is where utility is monistic, the second utility is pluralistic and hierarchical, finally, utility is pluralistic and un-hierarchical. Wollheim calls it a two stage shift, which is a bit misleading because he actually envisages *two shifts*, which yields then three stages. See Wollheim, Richard, ‘John Stuart Mill and Isaiah Berlin,’ in *John Stuart Mill On Liberty in Focus*, John Gray and G.W. Smith eds. (London: Routledge, 1996), p. 275.

Principle of Liberty is expedient to mitigate the effects of each individual's egoistic orientation. As unlikely as this sounds, humans may one day be able to balance private interests with public interests, thereby no longer needing to be constrained by the Principle of Liberty because transgressions of it will be expedient for everyone. If within Mill's utilitarian framework we read certain action-guiding secondary principles that he designs to suit human nature, then we must be open to the possibility of that nature changing, and thus necessitating different principles, or non at all, i.e. direct appeals to the Principle of Utility. Without grounding these principles on something other than utility (or expediency, rather) they are only *contingently* expedient, and not to be followed for themselves, as they would have to be on any liberal formulation. This calculation is a problem for anyone who attempts to derive liberal principles from a prior commitment to utilitarianism, but as will be shown in Chapter Four, is one that can be made with a liberal outcome.

This reading of Gray is only critical because it suggests that Mill might be willing to sacrifice the liberties he argues so forcefully for some larger end, like utility. Such a conclusion would make it very difficult for us to consider Mill the paragon of liberalism that he is commonly received as. All of the revisionary interpretations of Mill are burdened by the presupposition that Mill's sole end was to justify liberal society. Even if his utilitarian beliefs share a confused primacy with liberty, there are few who would deny that for Mill free society is the last, best arrangement for human beings. One scholar who denies this is Joseph Hamburger.

In his book, *John Stuart Mill on Liberty and Control*, Hamburger argues that the society argued for in *On Liberty* was one step in a larger project of moving away from a society based on pesky liberties. Such an interpretation, I will argue, coheres better with Mill's utilitarianism.

From Liberty to Control

As anyone who has read Mill will agree, he has the ability to be quite ambiguous at crucial moments in his arguments. Like Scripture, Mill's writings have prompted scores of different interpretations. From Cowling, to Berlin, to Himmelfarb, to Ryan, we have four (at least) different portraits of Mill, based on four different readings of the same material. But all four, and most other interpretations, agree that whether confusedly, inconsistently, or even ironically, Mill held that something like liberal society was the best arrangement to accommodate the human condition. Joseph Hamburger, on the other hand, argues exactly the opposite. Based on an impressively

thorough mining of Mill's private letters and posthumously published articles now available thanks to the efforts of John Robson et al., Hamburger forcefully argues that Mill cannot be considered the liberal that is standard to the new revisionary orthodoxy, but rather should be understood to be more of an illiberal perfectionist. Hamburger never uses this word, but I think it the best characterisation of *this* Mill. He argues that Mill intended liberal society to be merely a means to a more intellectually refined and altruistic society where certain liberties would be obsolete. Hamburger maintains that despite heavily criticising French Positivism via Auguste Comte, he nonetheless was deeply influenced by its philosophy of history. Mill envisioned the "renovation" and "regeneration" culminating in a new "Religion of Humanity."⁵² This utopian ideal was the final stage for which a liberal society was only a means. Arguing that Mill was no lover of liberty, and considered it merely as an instrumental arrangement for overcoming Christian and Victorian social norms, is truly a controversial claim. But whereas Hamburger seeks to determine Mill's actual *intentions*, I am simply positing this as yet another interpretation of Mill, one based largely on Hamburger's historical efforts. This interpretation, I will argue, goes further than other revisionary interpretations in reconciling Mill's liberal prescriptions in *On Liberty* with his utilitarianism. He is, on this account, not a liberal, but a type of perfectionist. The first step in this attempt will be to show how such an interpretation fits with what appear to be contradictory statements regarding freedom in *On Liberty*. To this end, I will briefly summarise some of the passages Hamburger cites in his attempt to determine Mill's true project. Next, I will describe this project, based on the wider context of Mill's other writings, to see what role liberty plays. Again, I am not attempting to defend Hamburger's historical account of Mill's intentions, but simply adding Hamburger's interpretation to the revisionary debate in order to help understand the nature and potential of utilitarianism and liberalism. Although ultimately unsustainable, as I discuss in Chapter Six, I think we will find that this non-liberal perfectionist reading, coheres much better than with Mill's supposed liberal-utilitarianism.

Most of the scepticism directed towards Hamburger is not be aimed at the comprehensiveness of his scholarship, but at the simple fact that what he is arguing flies directly in the face of the conventional reception of Mill's classic, *On Liberty*. Hamburger's thesis is that *On Liberty* does call for an open, liberal society, but that this was never intended to be the last, best arrangement for human beings. It is

⁵² Joseph, Hamburger, *John Stuart Mill On Liberty and Control*, (Princeton: Princeton University Press, 1999), p 167.

uncontroversial to say that Mill was attempting to liberate individuals from oppressive, homogenising Victorian social norms. Hamburger goes further in saying that Mill was also attempting to liberate individuals from selfish Christian ethics, and intended to replace it with a more altruistic, enlightened, system of regenerated morality. Hamburger states flatly, “Regeneration was to be preceded by destruction. Beliefs surviving from the past that were obstacles to the emergence of a new moral order were to be eliminated”, echoing Mill:

“The old opinions in religion, morals, and politics are so much discredited in the more intellectual minds”; however, “they have still life enough in them to be a powerful obstacle to the growing up of any better opinions on those subjects”⁵³

On Liberty was to play this role of destroyer of old beliefs, but nothing more. Though Mill’s attack on Victorian society was not subtle, his attack on Christianity was. James Mill and Bentham, two thinkers who also viewed Christianity as a hindrance to moral progress, had to contend with blasphemy laws still enforced at the time. They, along with other noted atheists amongst Mill’s friends, like George Grote, understood the importance of public candour.⁵⁴ Alexander Bain writes of Mill, “He did not publicly avow his dissent from the orthodoxy of the country; but it was well enough known in a very wide private circle.”⁵⁵ These are some of the reasons why Hamburger ascribes to Mill a concealed anti-Christian dimension to his project.⁵⁶ To overtly attack Christianity might have aroused the anger and suspicion of the general public, and therefore blind them to the merits of his arguments.

Mill similarly was not straightforward about the role of liberty in the evolution of human culture. An initial reading of *On Liberty* paints a very Romantic picture of the human spontaneously expressing his diverse talents and interests in a free and stimulating society. It is understandable that the reader take this to be the end, and not a means, as is argued. Hamburger points out though, that even in the text we find intimations of what the post-liberal society would consist of. The now well-known argument for freedom of expression is to determine the truth. In the same chapter he foreshadows the “consolidation of opinion.” he writes:

⁵³ Ibid., p. 42.

⁵⁴ Ibid., p 63

⁵⁵ Ibid., p 62

⁵⁶ For more on Mill’s hostility towards Christianity, see Linda C Raeder, *John Stuart Mill and the Religion of Humanity*, (Columbia, MI: University of Missouri Press, 2002).

“As Mankind improve, the number of doctrines which are no longer disputed or doubted will be constantly on the increase: and the well-being of Mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested.”⁵⁷

Mill does go on to say that in the process we lose the means to an “intelligent and living apprehension of the truth,” i.e. the wrestling with false or semi-false truths, and so must invent counter arguments to the truth in order to retain its grounds.⁵⁸ But inventing a devil’s advocate is not the same as freedom of expression. If the truth that freedom of thought and expression are the means for become established, then the absoluteness of this freedom begins to wane, especially when we consider the many utilitarian reasons against freedom of thought and expression. Perhaps a much more obvious reason why Mill was silent on his larger project of moral regeneration in *On Liberty* was that it is a polemic. As such, speculating about the next phase of social evolution only would have distracted readers from the arguments for liberty. Whether it was candour or concealment, as Chapter Four asks in Hamburger’s book, we needn’t ascertain here. Mill had plenty of reasons for not being explicit about his larger project, if in fact this is the case. Our concern is that such an interpretation of Mill, as some type of perfectionist, is not *prima facie* implausible because of what’s written in *On Liberty*.

The overcoming of Victorian society, as called for in *On Liberty*, is premised by the observation that societies change, evolve, and develop. Mill famously qualifies the appropriateness of liberal society by limiting it only to those societies that have moved past their own ‘nonage.’ Underpinning Mill’s attempts to reform is a very particular theory of history, which Hamburger attributes to the influence of French Positivism, in the forms of Auguste Comte, and St. Simon. Articulated in *Spirit of the Age*, Mill distinguishes between organic or natural, and critical or transitional states in history.⁵⁹ The organic state is characterised by stability, and harmony of opinion, whereas the critical state experiences disagreement, conflict, and restlessness for change. The background of *On Liberty* is that Mill considered himself to be living during a critical period in history, and so sought to elevate society to the next organic state. The openness that Mill calls for is specifically to challenge and test the beliefs prevalent at the time so that their obsolescence would be exposed. Specifically, he endeavoured to replace the selfishness he felt underpinned mass culture, and replace it with a more altruistic, secular religion of humanity, the next organic period of history. A common

⁵⁷ Mill, “On Liberty”, p. 250.

⁵⁸ Mill, “Utilitarianism”, p. 251.

⁵⁹ Hamburger, *John Stuart Mill On Liberty and Control*, p. 109.

belief amongst Mill's intellectual circles was that despite being false, theologically-grounded religion served the utilitarian purpose of instilling a system of morality. Henry Sidgwick believed that the hope for salvation compelled Christians to behave in a moral way that they would not have attempted without such hope.⁶⁰ Mill denied this claim, and held that morality was actually the product of authority, education and public opinion, a position we will examine in the next chapter.⁶¹ The effect of the theological grounding was to protect Christian ethics from criticism. Mill took particular issue with the selfishness he perceived underlying Christianity. A proper system of ethics would be based on an impartiality between one's own interests and those of one's neighbours. But:

“The religions which deal in promises and threats regarding a future life, do exactly the contrary: they fasten down the thoughts to the person's own posthumous interests; they tempt him to regard the performance of his duties to others mainly as a means to his personal salvation; and are one of the most serious obstacles to *the great purpose of moral culture, the strengthening of the unselfish and the weakening of the selfish element in our nature.*” (Emphasis added).⁶²

Selfishness had proved self-defeating according to Mill and so needed to be replaced. Only in a free and open society where experimenting with different modes of life was possible could this failure be realised by the people. During this critical period of history, enough challenges to the once established norms of Christian and Victorian society would eventually lead to the rejection of them. Mill, a priest in the new Religion of Humanity, was leading the revolutionary charge with *On Liberty*.

Up to this point in our depiction of Mill, nothing runs terribly counter to the traditional understanding of Mill as the paragon of the late modern, Western European liberalism. Hamburger's claim, and the one I want to argue that makes for a more coherent reading of Mill, is that destroying the oppressive cultural norms of the time was only half of the challenge. He was not simply 'liberating' the individual; he was trying to replace the old system of morality for a new one, one where social control would have prominence over the liberties that characterised the previous critical periods. Denying the pedagogical monopoly on morality that it was commonly held religion possessed, Mill charges educational institutions with the task of regenerating morality. The education required was not only aimed at the intellect, but at the feelings as well. It

⁶⁰ Ibid., p 52.

⁶¹ Ibid., p. 53.

⁶² Mill, in Hamburger, p. 43.

wasn't the case that one should simply understand virtue, one must desire virtue.⁶³ This orientation is consistent with Mill's well known psychological associationism underscoring his utilitarianism, whereby anything paired enough times with a pleasurable stimulus would eventually become pleasurable itself. Altruism lies at the centre of Mill's new religion, and meant replacing the "deep-rooted selfishness which the whole course of existing institutions tends to generate."⁶⁴ This condemnation of institutional arrangements was only of current ones. He realized that earlier organic periods were characterized by the same sort of altruistic feelings and harmony of social outlook he was arguing for, like ancient Greece.⁶⁵ It also represents one of the core departures from the classical utilitarian framework of Jeremy Bentham. Bentham held that individuals were rational, pleasure-seeking animals whose social institutions make sure that one's pleasure-seeking does not impair someone else's pleasure seeking. Only the individual knows what is best for itself, and so the element of choice is crucial feature of utility.⁶⁶ Choice plays a key role on Mill's account because of the distinction he introduces between types of pleasures. It isn't merely choosing thoughtfully, one must also choose *correctly*. The higher pleasures, which Mill had a clear preference for, yielded more utility, and were categorically higher, so much so that one "would not resign it for any quantity of the other pleasure which their nature is capable of."⁶⁷ Michael Oakeshott claims that the introduction of this categorical hierarchy of pleasures led to the recognition that some people are more valuable than others.⁶⁸ It wasn't simply that any rational agent *should* opt for the higher pleasures, the preference itself was evidence of one who possessed refined capacities and regenerated morals:

"Whereas the person who sought the higher pleasures was capable of subordinating selfish desires and cultivating a "fellow-felling with the collective interests of mankind," his opposite was characterised by selfishness, which was the principle cause of an unsatisfactory life. Such a person was "a selfish egoist, devoid of every feeling or care but those which centre in his own miserable individuality."⁶⁹

⁶³ Hamburger, p. 137.

⁶⁴ Mill, in Hamburger, p. 132.

⁶⁵ Hamburger, p. 133.

⁶⁶ Michael Oakeshott, *Morality and Politics in Europe*, Shirley Robin Letwin ed., (New Haven: Yale University Press, 1993), p. 74.

⁶⁷ Mill, "Utilitarianism", p. 210.

⁶⁸ Oakeshott, *Morality and Politics in Europe*, p. 81. Oakeshott has an even simpler interpretation that Mill is not as interested in liberty as is commonly thought.

⁶⁹ Mill, in Hamburger, *John Stuart Mill On Liberty and Control*, p. 133.

Elements of this elitism can be found in several of Mill's writings, and suggest a particular teleology that he perceives individuals, and collectively society, moving through. Because these advanced individuals are the harbingers of the next organic period, Mill saw in them a source of morality. In *Utilitarianism*, Mill makes reference to "experienced judges," people whose authority is such that "From the verdict of the only competent judges, I apprehend there can be no appeal."⁷⁰ In Chapter III of *On Liberty*, as Mill is romantically painting a picture of free and creative individuals spontaneously exerting their individuality, he implicitly distinguishes between them and people who unreflectively bow to the yoke of custom, and makes his contempt for the latter explicit. The role of elites were to play a key role in the transformation of society. Because of their elevated tastes and cultivated intellects, these elites have a moral responsibility to educate their languishing compatriots resigned to their low and "pig-like" preferences.⁷¹ Their influence would seem to challenge the conventional understanding of the scope and longevity of the Harm Principle, for "a person may suffer very severe penalties at the hands of others, for faults which directly concern only himself."⁷² This emphasis on the authority of elites as the vanguard of the next organic period is yet another example of Comte's influence on Mill. Though he and Comte disagreed as to the extent of their responsibilities and duties, the unequal authority Mill attached to those people he considered to be more refined, runs counter to those readings of Mill that place autonomy as a central feature of his thought.

What's so compelling about Hamburger's attempt to determine Mill's actual intentions is that it coheres much better with Mill's professed utilitarian grounding. Hamburger does not explore this coherence, but inserting this Mill into the revisionary debate yields a much more consistent reading of his doctrine. Mill's anticipation of the next organic period of history is based on particular positivistic philosophy of history, a dimension to Mill's thought scantily examined by the revisionary debate, but one I will examine in detail in the next chapter. We needn't look further than the introduction to *On Liberty* where Mill reminds us that his principle of liberty, like all ethical principles, is based on "utility in the largest sense, grounded on the permanent interests of man as a progressive being"⁷³ This progressive orientation introduces a transience to the principle of liberty implicitly recognised by writers such as Gray and Wollheim. Gray's contention that the Principle of Liberty is consistent with the utilitarian framework is

⁷⁰ Mill, "On Liberty", p. 213.

⁷¹ Hamburger, *John Stuart Mill On Liberty and Control*, p. 191.

⁷² Mill, "On Liberty", p. 278.

⁷³ *Ibid.*, p. 224.

based on a unique 'failure' or condition of human beings, one that makes direct appeals to the principle of utility, even in the largest possible sense, self-defeating. The implication, though maybe not intentional, is that there may come a time when it is rather expedient to appeal directly to the principle of utility i.e. the next organic period of regenerated morality. In other words, appealing to the practical action-guiding principle of liberty is most expedient during this turbulent, critical period of history constituted by the decline of hegemonic Victorian (and Christian) social norms and the beginning of the next organic period in history characterised by the Religion of Humanity. Richard Wollheim's interprets Mill's utilitarianism to move from a hierarchical to a non-hierarchical, plural conception of the good which mirrors nicely the historical oscillations between different periods of history. The critical period is when mankind "have outgrown old institutions and old doctrines, and have not yet acquired new ones."⁷⁴ It makes sense then to allow for a plurality of goods and beliefs, i.e. experiments in living, in order to determine the best ones to replace the old. What Wollheim does not consider is a return to a hierarchical form of utilitarianism. Mill was primarily concerned with instilling in individuals the correct desires and proper moral beliefs, and arguing for liberty was only a means to this end. Hamburger points out that Mill envisions liberty to be curbed in two substantial ways, which clearly have utilitarian and teleological grounding.⁷⁵ Firstly, He advocates extensive application of the Harm Principle without ever defining harm. Any definition of harm entails normative prescriptions as to some baseline level of normality. Mill does not explicitly articulate such a baseline, but in Chapter IV of *On Liberty*, he indicates his willingness to punish harmful acts and the "anti-social" *dispositions* that lead up to them.⁷⁶ Secondly, Mill acknowledges and even endorses social pressure to curb "lowness or deprivation of taste."⁷⁷ Even though the government cannot interfere with certain actions that fall within the problematic self-regarding sphere, public opinion:

"Practises a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaves the soul itself."⁷⁸

⁷⁴Mill, in Hamburger, *John Stuart Mill On Liberty and Control*. p. 109.

⁷⁵ Hamburger, *John Stuart Mill On Liberty and Control*, p. 166.

⁷⁶ Mill, "On Liberty", p. 279

⁷⁷ Ibid., p. 278.

⁷⁸ Ibid., p. 220.

If Mill was more concerned about liberty as an absolutely fundamental value rather than the proper role of government, he would have at least spoken against this informal, yet highly pervasive, form of social coercion. Instead, it appears Mill intends a specific role for public opinion to play in the regeneration of morality. An individual displaying “rashness, obstinacy, self-conceit – who cannot live within moderate means – who cannot restrain himself from hurtful indulgences – who pursues the animal pleasures at the expense of those of feeling and intellect” is eligible for “very severe penalties.”⁷⁹ Such penalties are “natural” and are “the spontaneous consequences of the faults themselves.”⁸⁰ Mill elaborates, “The spirit of improvement is not always a spirit of liberty, for it may aim at forcing improvements on an unwilling people.”⁸¹ Though the government may not concern itself with these prudential and aesthetic spheres of conduct, refined individuals, the vanguard of the next period of history, may exercise their social influence to help reform the crude individual. Keeping in mind that Mill has “utility in the largest sense, grounded on the permanent interests of man as a progressive being” in mind, we can make sense of Hamburger’s claim that this struggle of the refined over the crude is no less than a moral one.⁸² As mankind progressed, the liberties once required to fully discredit older forms of life would shrink:

“Through this principle the domain of moral duty, in an improving society, is always widening. When what was once uncommon virtue becomes common virtue, it comes to be numbered among obligations, while a degree exceeding what has grown common, remains simply meritorious.”⁸³

It is clear that Mill has a very particular conception of human flourishing. He grants disproportionate authority to “experienced judges” in *Utilitarianism*, and we can now make sense of this rather elitist element. The experienced judges are those refined individuals charged with helping the rest of society transform themselves and embrace Mill’s Religion of Humanity. Much more needs to be said about this religion, and this is the topic of the next chapter of this thesis. If we consider *On Liberty* as Hamburger argues, as a polemical tool to liberate society from the oppressive and discredited Victorian/Christian ethic, then we needn’t try to explain away those illiberal elements of Mill’s writings. Though Mill is ambiguous about some of the more pivotal moments of his arguments, he is very clear and un-ambiguous about utilitarianism lying at the heart

⁷⁸ Ibid., p. 278.

⁸⁰ Ibid.

⁸¹ Ibid., p. 272.

⁸² Hamburger, *John Stuart Mill On Liberty and Control*, p. 191.

⁸³ Ibid., p. 192.

of this thinking. If we consider man as a progressive being, and take seriously the positivist philosophy of history, then I think it reasonable to question the absolute status of liberty that it is commonly thought to possess in Mill's thought, in favour of "utility in the widest sense."

Conclusion

During the last fifty years, our understanding of the nature and potential of utilitarianism and liberalism has been forwarded by interpretative research conducted on Mill. Trying to reconcile Mill's disparate commitments has revealed a lot about the logic of these philosophical doctrines, specifically as manifested in his thought. *On Liberty* and *Utilitarianism*, each eloquently representing a conflicting strain of his thought, have proved problematic when attempting to harmonise. The liberal values espoused in the former seem not to be supported by the framework of the latter, as is the claim. Though separately each forcefully argues its case, considered simultaneously, one must yield to the other. Either crucial liberties are protected even at a net utility loss, or liberty is merely instrumental for the promotion of utility. Revisionary scholars have put forth some very compelling interpretations that salvage Mill's project, culminating in works such as Alan Ryan and John Gray. But even on Gray's account of Mill's indirect utilitarianism, whereby the implied principle of expediency is action-guiding, the principle of liberty is only *contingently* expedient, and in this sense not absolute.

However, this outcome is only problematic for those who wish to read Mill as the paragon of modern liberal thought. Joseph Hamburger, on the other hand, claims to have discovered a larger project of which *On Liberty* is merely the first part. Hamburger's claim is that Mill intended to replace outdated Victorian and Christian social norms and moral beliefs with a new regenerated system of morality, one with altruism at its heart. To this end, Hamburger argues that *On liberty* was simply a tool to help overcome the homogenising affects of the prevailing social order. There are hints of Mill's perfectionist leanings in *On Liberty* and *Utilitarianism*, the same hints that have plagued the revisionary scholars, and Hamburger combines them with scores of post-humously published writings and private letters to paint a very different, and rather illiberal picture of Mill. Whereas Hamburger seeks to uncover Mill's actual intentions, I simply put forth his version of Mill – whether intended or not – as *an* interpretation cohering better with Mill's own claims about his utilitarian commitments than other revisionary interpretations. Now, this possibly illiberal depiction of Mill's moral and political thought needs to be fully scrutinized. Hamburger is right to highlight and

discuss the high levels of social control correctly identified in Mill's thought. The issue at stake is to what extent this control constitutes a violation of the liberal principles normally attributed to Mill. This judgement largely turns on how one cashes out the concept of liberty. Before making this judgment, I will examine some of the self-evident influences on Mill's social and political thought, starting with one who was unambiguously critical of liberalism, Auguste Comte. Hamburger makes much of the influence of his positivism, and so ascertaining the extent of the commonality of their thought will help understand its nature. Here, a case has been made that in order fully to understand Mill's political morality, it is necessary to simultaneously consider *On Liberty* and *Utilitarianism*. Only by considering these texts simultaneously will it be possible to fully understand the relationship between the individual and society.

3. The Comte of Mill's Thought:

On Progress

There are few people Mill Mentions in *On Liberty*, and only one he explicitly criticises. Auguste Comte, widely considered to be the creator of modern sociology, was a strange fellow. Receiving equal measure admiration and contempt, he attempted to create a post-theological religion based the principles of science. His social thought and philosophy of science achieved a high measure of success during his lifetime, even impressing himself upon Mill. In fact, they maintained a seven year correspondence. And even though it ended bitterly - Mill thinking Comte had gone too far in his maniacal application of the 'religion', and Comte thinking he was owed money - they had a fruitful exchange of ideas. Mill expressly praises several of Comte's ideas, and even takes several on board. He also, not surprisingly, is very critical of some of Comte's other, more controversial ideas, even to the point of writing an essay attacking Comte's person, no less than his work. Despite what Mill explicitly accepts and rejects of Comte's writings, other similarities persist, while crucial differences remain. This chapter firstly surveys Comte's social and political thought, isolating what I deem to be the three fundamental ideas that animate his philosophy of progress, and then describes their relation to his religious conversion. This exposition will be in part biographical because much of his thought is directly related to actual occurrences in his life. It secondly compares his theory with Mill's, going beyond what Mill himself credits Comte with contributing. Not being a work of intellectual history, this chapter *does not* attempt to ascribe causality to the correlations of their thought, as the influence is self-evident. Mill himself acknowledges many debts to Comte and this chapter attempts to clarify that influence. What will be shown is that more of Comte's thought can be found in Mill's thinking than Mill acknowledges, which is especially interesting in light of Comte's infamous hostility towards liberal democracy. However, the wholly illiberal reading that Hamburger makes and attributes to Comte influence cannot be sustained.

Isidore Auguste Marie François Xavier Comte

Auguste Comte was born in 1798 to a Catholic, Royalist family in Montpellier, southern France. He began his studies at the local lycée at the age of nine, where despite his small size, vulnerability to many illnesses and rebelliousness, he maintained a strong commitment to his work. Arguably, it was during this time that the seeds of Comte's thought were first germinated, because it was here where he started studying

mathematics and gave up his faith, albeit to embrace temporarily a “fervent republican faith in liberty”.¹ In 1814, Comte moved to Paris to enter the highly competitive *Ecole Polytechnique*, but only studied there for two years. More significantly, it was 1817 when Comte was first introduced to his positivist master, Henri Saint-Simon.

Count Claude Henri de Rouvroy de Saint-Simon was an eccentric, retired nobleman, and the director of the periodical, *Industrie*. Comte began as his irregularly paid secretary, however Comte quickly became a disciple, eventually collaborating on many articles and papers. The combination of the elder’s ambitious thought with the disciple’s ability to systematise at first seemed like a perfect complement, but the alliance would prove to be a fleeting one, ultimately dissolving in a bitter dispute in 1824.² It’s doubtful whether Saint-Simon can be labelled a social reformer, because he was interested in nothing short of the total reorganisation of society. He was one of the first writers to describe the current industrialisation of European economies, and comment on its effects on society.³ Saint-Simon called for a new science of society, one organised along the lines of modern natural science. This new science would enable an elite group of scientists, with the backing wealthy industrialists to re-organise society along more cooperative lines.⁴

It is difficult to ascertain exactly who influenced who during their seven year collaboration because their writings were published under the Master’s name, however one can note that during this time Comte dropped his egalitarian underpinning for a more elitist approach that would remain with him throughout his subsequent thought.⁵ Nonetheless, over the years as their collaborative efforts persisted, the disciple grew tired of being treated like a subordinate. He began to feel like he had fully matured as a thinker, and was now being held back by the narrow confines of the Master’s rigid supervision. Comte had been content to allow Saint-Simon to claim authorship of all of their writings, in part out of respect, and in part to hide from his parents his involvement in “subversive politics”.⁶ By 1824, this tension came to a threshold over the accreditation of Comte’s *Système de politique positive*, which was supposed to be published as a part of Saint-Simon’s *Catéchisme des industriels*. The Master ‘resolved’ the dispute by giving 100 copies of the *Système* to Comte under his own name, but

¹ Lewis A. Coser, *Masters in Sociological Thought*, (Fort Worth, TX: Harcourt Brace and Company, 1977), p. 4.

² Coser, *Masters in Sociological Thought*, p 16.

³ Gonçalo L. Fonseca, <http://cepa.newschool.edu/het/profiles/saintsimon.htm>. Although Saint-Simon was less concerned about the plight of the labouring classes, unlike most socialist thinkers.

⁴ Ibid.

⁵ Coser, *Masters in Sociological Thought*, p 16.

⁶ Frank E. Manuel, *The Prophets of Paris*, (Cambridge, MA: Harvard University Press, 1962), p. 253.

turned around and published 1000 copies of the *Catéchisme* not only with the *Système*, but also including an anonymous preface criticizing its author. The source of the intellectual tension between the two turned on the relationship between theory and practice.⁷ Saint-Simon was eager to mobilize the bankers and industrialists to press for reform, guided by the scientists who trailed after them. Comte, on the other hand, found such calls to action far too premature. It was only after the full articulation of a new politics, based on positive science, and subsequently a positive philosophy, could action be taken. Once such a point was reached, the undeniable power of scientific truth itself would compel individuals to act. Ironically, Comte also objected to the religious manner with which Saint-Simon began to articulate his thought. Despite their differences, much of their writings foreshadowed Comte's later works, including what is widely considered his best work, *Cours de philosophie positive*.⁸

The six volumes of the *Cours* was written between 1830 and 1842, a time when Comte's personal and academic life was frustrated. Having been disowned by his former Master six years ago, and therefore cut-off from the circle of Parisian intellectuals that were only just starting to appreciate his own identity as a thinker, Comte was relegated to the margins of academia.⁹ His attempts to secure a chair at his alma mater, the *Ecole Polytechnique*, resulted only the peripheral position of *répétiteur d'analyse et de mécanique*. Despite being wed to Caroline Massin in 1825, this period saw them separate many times until she finally left him shortly after the publication of the *Cours*. However depressed Comte was during this period, having only slightly recovered from a mental breakdown in 1826, this was a time of intense, isolated concentration. However, as volumes of the *Cours* were being published, Comte slowly began regain some of the notoriety he was on the verge of amassing when with Saint-Simon. In particular, in 1837, Comte caught the attention of Mill, who was attracted to his methodology of science.¹⁰

i. Three Fundamental Ideas

The *Cours*, despite being one of Comte's highest regarded works, merely contributes to the larger system of his thought articulated in several of his key writings. At the heart of Comte's system, three fundamental ideas can be identified that animate his positive philosophy: the concept of social statics and social dynamics, the Law of

⁷ Manuel, *The Prophets of Paris*, p. 252.

⁸ Coser, *Masters in Sociological Thought*, p.16. Andrew Wernick, *Auguste Comte and the Religion of Humanity*, (Cambridge: Cambridge University Press, 2001), p. 28.

⁹ Wernick, *Auguste Comte and the Religion of Humanity*, p.17.

¹⁰ Manuel, *The Prophets of Paris*, p. 265.

Three Stages, and the Hierarchy of Sciences. It is somewhat misleading to isolate these three ideas as discrete aspects of his thought because as will be shown, they are intricately interrelated.

Following on from the Saint-Simonian project, Comte acknowledged that all natural phenomena were governed by laws. What scientists and philosophers once thought were uncontrollably random events, or the whims of divine intervention, now were recognized as ordered events caused by their natural antecedents. Therefore, it would be possible to construct a positive science - that is, one with all of the methodological and epistemological trappings of the natural sciences - whose object of study was society. Armed with this faith in the synthesising potentialities of science, Comte set out to understand the evolution of society, and chart its future development.¹¹ In particular, Comte was interested in the conditions of stability, and those of change, hence his twin approach of social statics, and social dynamics. This oscillating conception of social evolution is captured by the positivist's motto "order and progress".¹² Stability is characterised by a consensus of opinion and mode of thinking. It wasn't simply unanimity of values and belief, it was also of the origin and sanction of such values, as will be discussed below. This period of history is called "organic", and eventually evolves into the next "critical" period.¹³ Here, we find a lack of the social and intellectual equilibrium that characterises the organic state, and this tumultuous disharmony reigns until a new system of values (and their origins) ascends to a new consensus, and society enters the next organic period. Though crucial to his project of positivising all thought, it should be noted that Saint-Simon was prior to Comte in conceiving history in such stages.¹⁴

The second fundamental idea to Comte's system is exactly what these organic periods consist of, and is called the Law of Three Stages, or the Law of Human Progress. All human knowledge passes through three stages: theological, metaphysical and finally positive.¹⁵ Each stage describes the way in which humans connect facts to each other, and subsequently is a milestone of human progress. Each stage does not pass neatly from one to the next, but is interspersed with critical periods where the beliefs and

¹¹ Coser, *Masters of Sociological Thought*, p. 3.

¹² The Brazilian flag has written on it "Ordem and Progresso" which is a tribute to the nation's positivistic roots.

¹³ Coser, *Masters of Sociological Thought*, p. 8.

¹⁴ Thomas Whittaker, *Comte and Mill*, (London: Archibald Constable & CO Ltd, 1908), p. 11.

¹⁵ Auguste Comte, "Plan of the Scientific Work Necessary for the Reorganisation of Society", in *Early Writings*, H.S. Jones (ed.), (Cambridge: Cambridge University Press, 1998), p. 81.

scientific explanations conflict with one another until a new consensus is reached at the next organic stage.

In the first stage, the small number of observed facts are 'explained' by reference to supernatural forces, and hence are a priori. This first stage is characterised by the dominance of imagination over observation. With regards to politics, this stage was defined by the Doctrine of Kings, which established the divine right of kings to rule without Earthly accountability.¹⁶

The second stage is very similar to the first stage, but varies only in nuance.¹⁷ It is also characterized by the dominance of imagination over observation, but substitutes reference to a supernatural entity for "personified abstraction".¹⁸ Politics is preceded by the presumption of a social contract guaranteeing natural rights to all men equally. Whereas this belief was once critical, and a reaction to the theological mode of reasoning, it became organic, commanding the full consent of modern Europe. Comte cites Rousseau as the principle exponent of this belief.¹⁹

The third and final stage of progress is achieved when enough challenges to the metaphysical outlook demand its abandonment. At this positive stage of history, facts are related and explained only in terms of general laws which are themselves the products of, and verified by the facts. Politics itself then conforms to this positive methodology, and rather than regulating the pursuit of temporal or material power, coordinates itself for the pursuit of the common good.²⁰ Comte, recognising himself to be a harbinger during this critical stage at the end of the metaphysical period of history, states the positivisation of politics and the reorganisation of society as his explicit aim.²¹

Positive politics, like human knowledge itself, differs from theological and metaphysical belief in that it discovers laws, rather than invents them. Methodologically, it is characterised by the dominance of observation over imagination. What this entails is the recognition that "the course of civilisation to be subject to an invariable law founded on the nature of things", and subsequently that the specific organisation of society is determined by the state of civilisation.²²

There is a correlate to the Law of Three Stages as it applies to human knowledge. Specifically, the maturation of the individual human mind parallels the evolution of

¹⁶ Comte, "Plan of the Scientific Work Necessary for the Reorganisation of Society", p. 83.

¹⁷ Ibid., p. 86.

¹⁸ Ibid., p. 81.

¹⁹ Ibid., p. 83.

²⁰ Ibid.

²¹ Ibid., p. 49, 82.

²² Ibid., p. 90.

human knowledge through the three stages.²³ A child uncritically believes in the supernatural causes of things, whereas an adolescent seeks metaphysical explanations for the relationship between facts. It is not until adulthood that an individual employs scientific reasoning to explain the natural world.

The third fundamental idea of Comte's system is that the sciences also pass through the same three stages as human knowledge, ultimately becoming positive. Moreover, the sciences themselves are placed in a hierarchy based on the level of specificity each is capable of. Starting with astronomy, the most general science, the ascending order is physics, chemistry, and biology.²⁴ In the *Cours*, Comte approaches each science historically describing a "process of cumulative development", out of which he distills an underlining conception of scientificity, or *positivité*. The key elements of this conception are methodological. In addition to observation, experimentation, and comparison, Comte adds historical analysis.²⁵ In order to understand human progress and order, it is crucial to understand the influence of one generation on the next. He then uses this conception to create the last science, the one employing and relying on all of the previous sciences, which he calls "social physics", or sociology. Like biology, sociology is concerned with organic wholes, whereas chemistry, physics and the other basic sciences abstract natural phenomenon from the whole as their object of study. Finally, sociology is used as the theoretical basis for its corresponding practice, politics.²⁶ With these three fundamental ideas, as developed between 1822 and 1842, we can now turn to the crisis that necessitated the Religion of Humanity. Like many of Comte's ideas, it is amusing, if not helpful to understand the historical and personal developments surrounding the genesis of his thought.

ii. *Love and Religion*

Comte may have enjoyed a modicum of recognition with the publication of the *Cours*, but the years he spent writing them were not happy ones. Comte's finances were not secure, his relationship with his wife was growing more erratic, and despite the acquisition of disciples such as Mill, he was still relegated to the margins of the French intelligentsia. Mme Massin eventually left Comte for good shortly after publication of the *Cours*, and in 1844 he lost his appointment at the *Ecole Polytechnique*. As his most

²³ Coser, *Masters of Sociological Thought*, p. 7.

²⁴ Ibid., p. 9. Wernick, *Auguste Comte and the Religion of Humanity*, p. 27.

²⁵ Coser, *Masters of Sociological Thought*, p. 6.

²⁶ Wernick, *Auguste Comte and the Religion of Humanity*, p. 27.

legitimising role in life, this was a “public humiliation”.²⁷ However this was also the year when Comte met the greatest love of his life, the person who would change the face of his system, Clothilde de Vaux. Their ‘romance’ may have only lasted a year, but upon her death Comte devoted the rest of his life to worshipping her image.²⁸ The preface to *Politique Positive* is an emotional dedication to his lost love, and an indication of Comte’s full religious conversion.²⁹

However, it wasn’t simply Comte’s troubled personal life that caused the reformulation of the “crisis of industrialisation” into an explicitly religious one. By 1847, Post-Revolutionary France had seen a “dizzying parade of republican, monarchical, and dictatorial regimes” in power. Comte viewed this as symptomatic of the spiritual and epistemological turmoil resulting from the conflict between theological and metaphysical ontologies.³⁰ Comte frequently described humanity as an organic whole, and hence such critical periods of history were likened to physical ailments of an organism. The difference however was that whereas organisms were confined to the boundaries of their skin or cellular walls, humanity was formless and limitless. It required something else to maintain its temporal and spatial integrity. Language was the first requirement for a stable social order. Language allows accumulated knowledge and wisdom to be passed down to subsequent generations, thereby ensuring continuity. Also like an organism, humanity needs a division of labour. This not only allowed individuals and groups to specialise and develop expertises, but also instilled in everyone a sense of dependency. However, beyond language and organisation, something more was needed. Something needed to steer individuals away from their own egoistic concerns, and orient them towards the good of the whole species. Comte’s historical analysis of the Medieval Catholic Church revealed that only *religion* could inform human sentiments consistently with positive politics.³¹

The Law of Three Stages states that the transition from one stage to another was not discrete, but gradual and therefore of great intellectual turmoil. The problem of conceiving history in grand stages that in turn dictate the organising principles of society is that it relativises morality.³² As society moves from the metaphysical to the positive stage of history, one without a God, it is difficult to see how one derives the normative force of any morality. Moreover, despite the Law of Three Stages implying

²⁷ Coser, *Masters of Sociological Thought*, p.19.

²⁸ Manuel, *Prophets of Paris*, p.265.

²⁹ Wernick, *Auguste Comte and the Religion of Humanity*, p. 99.

³⁰ *Ibid.*, p. 86-88.

³¹ Coser, *Masters of Sociological Thought*, p. 11.

³² Wernick, *Auguste Comte and the Religion of Humanity*, p.59.

the inevitability of the progress, Comte is clear that the speed at which humanity develops could be altered.³³ In fact most regimes have arranged their politics to maintain a certain concentration of temporal power, thereby temporarily halting progress altogether.³⁴ Without religion, the crisis of industrialism was likely to persist.

Comte's historical analysis of Catholicism revealed that it played a crucial role for the development of western civilization. The Romans had created a vast empire, but required an "internal bond of unity to consolidate their conquests". Civic virtues were on the decline, as idleness, corruption, and religious hypocrisy were rising.³⁵ This critical period stimulated the need for a new universal morality which Catholicism satisfied.³⁶ Not only was it egalitarian, whose ethics were equally binding on the poor as well as the elites, but it was also the first time that temporal or political power was separated from spiritual power. The *Cours* describes this as one of the greatest achievements of the species, and a huge step towards the positivisation of politics. Catholicism may not have specifically demanded altruism, but the worshipping of saints certainly encouraged it. Moreover, the idea of the son of God being mortal brought a clear "dignity" to the human race in a way that previous theologies did not.³⁷ Yet, despite these achievements, Medieval Catholicism was still a flawed system of social organisation that would eventually be superseded.

Like all theologies, Catholicism would need to be discarded once it outlived its appropriateness. In fact, the critique of Catholicism was a central theme of Comte's writings spanning from the *Cours* (1830-1842) through to the *Système de Philosophie Positive*. The church may have celebrated saints as objects of admiration, but it also instilled in believers a distinct selfishness.³⁸ The individual concern for salvation and immortality focused each on their future lot, which instilled an individualistic and antisocial incentive for the Christian ethic.³⁹ Moreover, while celebrating saints, the church ignored other great contributors to society, like scientists, artists, and statesmen.⁴⁰ Worst of all, Catholicism went so far as to suppress certain scientific discoveries and innovations that might erode its own authority. As will be discussed,

³³ Comte, "Plan of the Scientific Work Necessary for the Reorganisation of Society", p. 97.

³⁴ Ibid., p.122. Comte says this is "pardonable" because there were no positive means of verifying the disharmony between the organisation of society with the state of civilisation.

³⁵ T.R. Wright, *The Religion of Humanity*, (Cambridge: Cambridge University Press, 1986) p. 26.

³⁶ Although this period of history remains with the theological state of knowledge. It is critical because society moves from a polytheistic to a monotheistic theology, a subdivision of the first period.

³⁷ Wright, *The Religion of Humanity*, p. 27.

³⁸ Ibid., p. 27.

³⁹ Wernick, *Auguste Comte and the Religion of Humanity*, p. 111.

⁴⁰ Ibid., p. 112.

Comte does retain and modify many elements of Catholicism, but ultimately rejects it for the more rational and positive Religion of Humanity.

Having moved beyond theological and metaphysical stages of knowledge, it was no longer possible to derive a unifying force from the fictive being of God, and this was the first and most important function the Religion was supposed to play.⁴¹ Therefore, it was necessary to turn to a 'God' that was more consistent with the state of human knowledge. Comte placed at the centre of his system of social organisation, adoration, and inspiration, the most positively-verifiable unit of moral significance: not the individual, not the nation, but the "Great Being", *Humanity*.⁴²

The religion devoted to Humanity was created to guide the sentiments and inform action. It was to have a unifying affect on the social and political body.⁴³ The central ethic of this unification was the suppression of egoism, and the encouragement of altruism, both innate affections.⁴⁴ The education of the sentiments and affections begins in the family, the first community the child experiences. Upon puberty, the child participates in systematic lectures on the positive sciences thereby repeating the evolution of the human species, moving from theological to positive states of knowledge.⁴⁵ From childhood onwards, in addition to the rigorous moral and academic education demanded by the system, public opinion would reinforce, and guarantee the positive morality. Every individual was to live openly thereby ensuring the scrutiny of every action.⁴⁶ Such publicity, of course, would preclude any distinction between a public or private sphere altogether. The Religion was a systematic totality, permeating every facet of the individual's life. Everything was to be regulated, including daily prayers.

The movement to a fully fledged religion, with all its ritualistic trappings was a shift in emphasis from progress to order.⁴⁷ As the last stage of human knowledge, the move to positivism in some ways signified the end of the epistemological evolution. This attainment alleviated the need for a "full freedom of conscience", which would only stand in the way of establishing a new system.⁴⁸ Liberty would become "anarchic"

⁴¹ *Ibid.*, p. 103.

⁴² *Ibid.*, p. 188.

⁴³ *Ibid.*, p. 103.

⁴⁴ *Ibid.*, p. 31. Wernick, p. 60. Whittaker, p. 53. In fact, Comte identified ten "affective motors" in the brain that "activate feelings when passive. They are, from least to most altruistic, preservation, sexual, maternal, destructive, constructive, pride, vanity, attachment, veneration, benevolence, or universal love. See Wright, *The Religion of Humanity*, p. 33.

⁴⁵ *Ibid.*, p. 31, 36.

⁴⁶ *Ibid.*, p. 30.

⁴⁷ Manuel, *Prophets of Paris*, p. 268.

⁴⁸ Comte, "Plan of the Scientific Work Necessary for the Reorganisation of Society", p. 55.

if not superimposed with the positive spirit to guide it, and prevent it from being abused by the ever-present egoistic tendencies.⁴⁹ Liberty itself only possesses instrumental value, to be utilised during critical periods to challenge the established theological and metaphysical beliefs.⁵⁰ During organic periods, a rigid hierarchy of political power would be maintained. At the top would be industrialists, then merchants, followed by manufacturers and agriculturalists.⁵¹ However, like Medieval Catholicism, there would be a strict separation of powers. Industrialists and the like were to be responsible for providing for the material needs of society, and so would have control over the production and distribution of goods. The planning, sanctioning, and general direction of society however, was strictly in the hands of a group of scientist-priests.⁵² Their spiritual guidance was to be the highest sovereign, because left unchecked the spirit of the industrialists would lead to a “despotism of the wealthy”.⁵³ Only the priests, with their encyclopaedic knowledge and training could be trusted to maintain positivist order.

Comte’s Religion of Humanity is an incredibly detailed and fascinating utopian vision. It offers a particular interpretation of history, which in turn provides an explanation and justification of the present crisis. Comte prophesizes about the next and final stage in history, therefore making his the penultimate epoch. It is for this reason that Wernick identifies Comte to be in the same utopian tradition stretching as far back as the Old Testament, one which he labels “penultamist”.⁵⁴ Despite what Comte may or may not have taught us about the current crisis of industrialism, and about the conditions of human progress, there is little doubt surrounding his contribution to French thought and as one of the founders of the modern science of sociology.⁵⁵ However, such achievements need to be understood in the context of, and separated from, the ritualistic demands of his Religion. Because despite rendering the totality of his system complete and thoroughly consistent, it also soured the admiration of his most loyal followers, “Mill, Lewis, Carlyle & Co.”.⁵⁶ Comte paid a heavy price for the casting of his utopian vision in religious terms, despite viewing the establishment of a Church as the natural culmination of his earlier work.⁵⁷ It is therefore important to understand the extent of ritual involved in his doctrine.

⁴⁹ Wernick, p. 95.

⁵⁰ Comte, “Plan of the Scientific Work Necessary for the Reorganisation of Society”, p. 55.

⁵¹ Wright, *The Religion of Humanity*, p. 29.

⁵² Whittaker, p. 29.

⁵³ Wright, p. 29.

⁵⁴ Wernick, *Auguste Comte and the Religion of Humanity*, p. 117.

⁵⁵ *Ibid.*, p. 1.

⁵⁶ Manual, *The Prophets of Paris*, p. 266.

⁵⁷ *Ibid.*, p. 265.

Individual prayer was to be made an hour upon waking, upon sleeping, and a 15 minutes at noon.⁵⁸ This was in addition to the many holidays of the new positivist calendar, to be celebrated in rituals of the “public cult”.⁵⁹ Furthermore, each individual would also celebrate the Sacraments of the Life-course, which took place at seven year intervals. *Presentation* was at birth where the child is given two patron [positivist] saints. Initiation, at 14, was when the child leaves the home and begins his or her positivist education at the hands of the scientist-priests. *Admission*, at 21, was when the individual officially becomes a servant of humanity, which was followed by *Destination* at 28, when the choice of career was made. Marriage, at 28 for women, 35 for men, was required by all, and binding for life, thereby denying the possibility of divorce and remarriage. *Maturity* took place at 42, and *Retirement* at 63. The final duty was *Transformation*, when the individual chooses a successor to continue his or her lifelong work. Most significantly, seven years after the individual’s death, the *Sacrament of Incorporation* took place, when the public would determine the worthiness of the individual to be buried in the sacred cemetery at the Temple of Humanity, thereby attaining subjective immortality.⁶⁰

The most striking thing is the similarity between the Religion and Comte’s own personal experiences dealing with the death of Clothilde de Vaux. Women came to represent humanity, and so became objects of worship and adoration. By doing so, individuals (men) strengthened the three sympathetic instincts: Attachment between equals (man and wife), veneration of superiors (mother), and kindness to inferiors (daughter). Finally, as if a textbook example of Freudian psycho-dynamics, Comte institutionalised his frustrated sexual ambitions with Clothilde into the un-sullied, pure, worship of the symbolic woman.⁶¹ Frank P. Manuel nicely sums up the complete mania that consumed Comte’s life after the death of Clothilde:

“There is something pathetic if not ridiculous about a forty six year old man on his knees before an empty red plush chair – his altar – holding a medallion in which a lock of hair was preserved, a relic which awakened in him what he named the primitive fetishistic emotion. When a middle aged philosopher calls his beloved an angel and protests in volume after volume the purity of their relationship, despite his numerous unsuccessful attempts to render their union physical, it is difficult to restrain a smirk”⁶²

⁵⁸ Wright, *The Religion of Humanity*, p. 36.

⁵⁹ Wernick, *Auguste Comte and the Religion of Humanity*, p. 146.

⁶⁰ Wright, *The Religion of Humanity*, p. 37.

⁶¹ See Wernick, *Auguste Comte and the Religion of Humanity*, especially Chapter 5 for a discussion of Comte’s sexual sublimation.

⁶² Manuel, *The Prophets of Paris*, p. 289,

The ritual indicated the extent to which the religion was an all-encompassing, life systematising affair. It also unsurprisingly was a lightning rod for criticism and ridicule amongst Comte's contemporaries. Nonetheless, his contribution to the discourse of the social sciences is underestimated. Moreover, Comte seems to have impressed himself onto the thinking of Mill in ways not always acknowledged. True, Comte is the only thinker Mill criticises in *On Liberty*, and his essay on positivism seems no less directed at Comte's personality than at his system, but nonetheless some striking similarities persist in their writings. Comte was explicitly employing his twin methodologies of statics and dynamics to describe and chart the evolution of human society. It will be illuminating to examine what elements of Comte's system precede Mill's implicit theory of progress, and how they differ.

The Commonalities between Mill and Comte

Mill credits Comte with putting forward some very novel ideas about the philosophy of science, and about the general moral reform of society that he openly takes on board. However, Mill's *Auguste Comte and Positivism* is an attempt to distance himself from the French positivist, and highlight exactly where he thinks Comte's efforts have failed. Beyond Mill's discussion of their philosophical relationship, other similarities remain, along with some crucial differences. With regards to Mill's implicit theory of human progress, some key elements are prefigured in Comte's works. This section isolates three such elements, and attempts to analyse their common features, while delineating their disparities. First, the common elements of their religions of humanity are assessed. Such a philosophy is important because it explains the current state that their society, which in turn is justified by the future state(s). Next, the trade-off between freedom and societal controls is explored. Volumes have been written dissecting Mill's thought as a liberal, and only a small minority question whether he can be thought of as such, at least in the classical sense.⁶³ Moreover, Comte is infamous for his antipathy towards liberalism, and so it will be interesting to see how social freedoms fit into his theory of human progress. Finally, their philosophies of history are examined. Comte went to great lengths to codify every ritualistic minutia of his system, whereas Mill merely sought to uncouple morality from its theological roots and create the conditions under which individuals could develop their generic capacities. Comte

⁶³ Most notably, Joseph Hamburger, *John Stuart Mill On Liberty and Control*, (Princeton: Princeton University Press, 1999).

precedes large portions of Mill's thought with respect to progress. This section attempts to show that more of Mill's thought can be traced back to Comte than he otherwise acknowledges, which is particularly noteworthy in light of Comte's hostility towards liberal democracy.

i. The Religions of Humanity

Perhaps the most interesting commonality between Comte and Mill is that both of them recognise the importance of religion for the functioning of society, and both create their own versions to fill the intellectual vacuum that Christianity left. Religion, and particular Medieval Catholicism, served a crucial function guiding individual sentiments, even though it became "intellectually unsustainable".⁶⁴ It should be noted though that Comte uses a very inclusive conception of religion. In addition to referring to a set of beliefs regarding a theological entity, it also includes philosophy. In fact, all belief structures ranging from theological to positive states of knowledge are included in Comte's conception of religion, which meant the attainment of positivism did not render religion obsolete. Religion was everything that bound a community, intellectually or spiritually.⁶⁵ Mill also recognises religion's unifying power. Religion could turn individual sentiments away from egoistic concerns, and towards the greater good of humanity or utility.

"To call these sentiments by the name morality, exclusively of any other title, is claiming too little for them. They are a real religion; of which, as of other religions, outward good works (the utmost meaning usually suggested by the word morality) are only a part, and are indeed rather the fruits of the religion than the religion itself. The essence of religion is the strong and earnest direction of the emotions and desires towards an ideal object, recognized as of the highest excellence, and as rightfully paramount over all selfish objects of desire. This condition is fulfilled by the Religion of Humanity in as eminent a degree, and in as high a sense, as by the supernatural religions even in their best manifestations, and far more so than in any of their others."⁶⁶

Both Comte and Mill endorse religion because it is the strongest internal sanction against the selfish pursuit of lowly desires, not conducive to the greater good. However, they both also recognise the need for external sanctions as well.

In addition to the weight of public opinion reinforcing sentiments, individuals were to defer to those more knowledgeable than themselves, namely, authority. In

⁶⁴ Mill, "Utility of Religion", p. 405.

⁶⁵ Wernick, *Auguste Comte and the Religion of Humanity*, p. 101.

⁶⁶ Mill, "Utility of Religion", p. 422.

Comte's next organic stage, it would be the scientist-priests who wielded supreme discretion with regards to all matters spiritual, moral, and theoretical. Only scientists possess the necessary expertise to deduce the proper course for society.

“They alone exercise the an uncontested authority in such matters of theory. Thus, independently alone from the fact that they are alone competent to form the new organic doctrine, they are exclusively invested with the necessary moral force to secure its acceptance.”⁶⁷

Comte thus reduces all matters of politics to scientific phenomena, deducible from the laws produced by the historical methodology of statics and dynamics. Not only were scientists the only ones capable of discovering the laws, they also possess the moral authority to secure assent to the new organic doctrine. Comte is not saying that we *should* defer to scientists as much as we already *do* defer to them, and so should merely formalise that hierarchy. Mill, at his most Comtean in *Spirit of the Age*, also stresses the importance of relying on the knowledge of those who have chosen its pursuit as their primary occupation of their time, because “As long as the day consists of twenty four hours...the great majority of mankind will need the far greater part of their time and exertions for procuring bread.” Mill continues,

“It is, therefore, one of the necessary conditions of humanity, that the majority must either have wrong opinions, or no fixed opinions, or must place the degree of reliance warranted by reason, in the authority of those who have made moral and social philosophy their peculiar study.”⁶⁸

In this way, individuals remain largely concerned with the affairs of their own lives and so would be best served by relying on the “more cultivated minds” for guidance on how best to live.⁶⁹ This is a strategy confirmed in *Utilitarianism* where Mill advocates deference to the knowledge of “experienced judges” to determine which of two pleasures is the higher one. It also forms part of Mill's overall theory of individual progress, to submit to the second-order influence of society in order to acculturate to the higher forms of life that Mill's Religion consists of. Both Mill and Comte view progress as a natural linear, and rational process that would quite obviously be spear-headed by learned elites. They subsequently place great deal of reliance in them for the direction and content of social evolution.

⁶⁷ Comte, “Plan of the Scientific Work Necessary for the Reorganisation of Society”, p. 77.

⁶⁸ Mill, “Spirit of the Age”, p. 241.

⁶⁹ Ibid, p. 244.

For Mill, however, this deference was only to go so far. Mill wants individuals to follow the lead of learned elites and experienced judges, but wants us to do so wilfully. His Religion of Humanity is a subtle and imperfect blend of influence, control, individuality and freedom. It is crucial that individuals adopt altruism and a desire for the higher pleasures, but only for the right reasons, i.e. they understand and accept the utility-producing properties of these attributes. These are the minimal substantive goals for Mill, and his Religion provides the framework for their pursuit. Indeed, others who have failed to recognise this implicit theory of progress have nonetheless concluded that the for Mill utilitarianism *is* his Religion of Humanity.⁷⁰ Whereas Comte tried to revolutionise society once and for all, Mill's system was the institutionalisation of progress.

ii. Freedom and Control

The rigidity of Comte's system, coupled with the all-pervasive spirit of positivism that accompanies the Religion of Humanity leave little room for free expression. The seeds of the spirit of positivism are to be instilled in the child as part of its early education at the hands of the mother. The ever-present impulses of vanity, egoism and for sex were to be suppressed, while the impulse of altruism was to be nurtured, as part of the spontaneous cultivation of the affective and aesthetic instincts. Then at age 14, the Sacrament of *Initiation* takes place whereby, the child leaves home and begins his or her systematic education of the sciences at the hands of the High Priests. Throughout education, the child repeats the evolution of human knowledge moving from theological to metaphysical, and finally to the positive state of knowledge.⁷¹ The whole system is designed to replicate itself by turning individuals into cogs for the larger machinery of society. Free choice had little to do with one's final destination because natures were set, and aptitudes could be tested.⁷² Mill also places great importance on the power of education to shape character. He too recognises that education could play a more substantial role in development of an individual than defence to elites in adulthood, although that was also very important. In Mill's critical assessment of the utility of religion, he claims that much of what is credited to religion, actually belongs to education, as the Spartans exemplify:

⁷⁰ Whittaker, *Comte and Mill*, p. 70. Or see Raeder, especially Chapter 7.

⁷¹ Wright, *The Religion of Humanity*, p. 37.

⁷² Mueller, *John Stuart Mill and French Thought*, p. 125.

“The power of education is almost boundless: there is not one natural inclination which it is not strong enough to coerce, and, if needful, to destroy by disuse. In the greatest recorded victory which education has ever achieved over the whole host of natural inclinations in an entire people – the maintenance through the centuries of the institutions of Lycurgus”⁷³

Therefore, such power cannot be trusted to be wielded spontaneously by families. Government must set standards and place expectations on families that they provide for the education of their children. Mill even goes so far as to declare it criminal to neglect the education of a child, equivalent to neglecting to feed it:

It still remains unrecognised, that to bring a child into existence without a fair prospect of being able, not only to provide food for its body, but instruction and training for its mind, is a moral crime, both against the unfortunate offspring and against society; and that the parent does not fulfil this obligation, the State ought to see it fulfilled, at the charge of the parent.”⁷⁴

By calling the neglect of education a “moral crime”, Mill is implying that such a neglect constitutes harm, and is thusly covered by the harm principle. It is doubly so, because not only is it a harm to the child, whereby some claim to family sovereignty indirectly promoting utility might trump the invocation of the Harm Principle, but also against society. Such a move is yet another ambitious empirical claim just shy of being a fully normative one. Mill is almost making a normative claim about what *should* constitute harm, rather than leaving it to be determined by society empirically. Regardless, it is clear that as in Comte’s utopia, education is instrumental to the maintenance and propagation of Mill’s next organic stage of history.

The import of education may be the same, but Comte is far more authoritarian in its application. Whereas Mill merely wants to provide “instruction and training” for the mind, i.e. develop its capacities, Comte wants to instil substantive values, like love for the great being, humanity. He also wants education to be centralised and administered by the High Priests of the Religion. Mill is explicit that such an arrangement serves not the greater good of society, but partial interests:

“A General State education is more contrivance for moulding people to be exactly like one another: and as the mould in which it casts them is that which pleases the predominant power in government, whether it be a monarch, a priesthood, an aristocracy, or the majority of the existing generation, in

⁷³ Mill, “Utility of Religion”, p. 409.

⁷⁴ Mill, “On Liberty”, in *Collected Works XVIII*, John M. Robson ed., (Toronto: Routledge Kegan Paul, 1977), p. 302.

proportion as it is efficient and successful, it establishes a despotism over the mind, leading by natural tendency to one over the body.”⁷⁵

Of course, this was the exact reason why Comte places education at the heart of his Religion, and why he makes it the exclusive domain of the Priests. He wants to exercise the influence of religion specifically to homogenise the psychology of each generation. Both recognise and employ the power of religion, but Comte goes further in its application thereby exercising much more extensive control over the individual than Mill’s system.

Freedom does play a crucial role in the evolution of society for both Comte and Mill, albeit in different ways. Comte recognises that freedom aided the transition from one organic period to the next. Organic periods, which enjoy a consensus of opinions do not need to protect freedoms. It is only during the transitional periods when liberties, like freedom of expression, enable critical opinions to counter balance the reactionary opinions that arise as the former beliefs are slowly eroded by scientific evidence. It is from the synthesis of these competing views that the new beliefs emerge. Free and open discussion expedites the discrediting of outmoded beliefs, and enables the dissemination of the new dialectical beliefs.⁷⁶ Once the next organic stage is reached, the same freedoms that helped elevate society, then become a threat to it. Without a guiding “social outlook”, freedom will eventually allow the ever-present, egoistic tendencies to re-emerge, thereby undermining the prevailing ethos of the particular stage of history – the altruistic spirit of Religion of Humanity.⁷⁷ It is not government charged with censoring dissent, but public opinion. People are to live openly, permanently under the scrutiny of the each other.⁷⁸ Under such a system, any distinction between public and private realms would evaporate. The totality of Comte’s Religion, ensure by the mutual vigilance of citizen, is the only logical formulation because of the perfection of the system. Once his utopian vision is realised, the historico-philosophical concept of progress would itself become obsolete. Comte does not forecast another stage of history, or state of knowledge, so the prospects of institutionalised liberties re-emerging are nil.

Before discussing how freedom and public opinion fit into Mill’s framework, one needs to note an element of relativism inherent in both systems. A particular liberal morality in one era becomes a threat in another, only to re-emerge again during the

⁷⁵ Ibid, p. 302.

⁷⁶ Comte, “Plan of the Scientific Work Necessary for the Reorganisation of Society” , p. 61.

⁷⁷ Wernick, *Auguste Comte and the Religion of Humanity*, p. 95.

⁷⁸ Wright, *The Religion of Humanity*, p. 29.

following transitional stage. Aware of this, Comte attempts to tie the appropriateness of the system to an *objective* notion of his historico-philosophical concept of progress:

“The political regime must be and is necessarily relative to the state of civilisation; the best, for each era, is that which best conforms to that state. There is not, therefore, and cannot be a political regime absolutely preferable to all others; there are only states of civilisation of which some are more perfected than others. Institutions that are good for one era can be, and even most often are, bad for another, and the other way round.”⁷⁹

The potential difficulty is with evaluating the appropriateness of a political regime for a given state of civilisation. Do the reforms called for by civil unrest reflect critical, reactionary, or synthesised opinions? Ultimately, the sovereign must know when to yield to the winds of change. Is it merely a question of power - political, military, or otherwise? Even in hindsight, Comte’s methodology of dynamics, studying the conditions of change, can be blind to external factors, like historical contingency. A transition that might seem to be the natural result of a growing trend in science may have much more mundane, or even sinister causes. This is a failing of not only Comte’s methodology, but of historiography in general, making it impossible to rely on indicators internal to Comte’s system to determine the appropriateness of a political regime and morality. Mill too, interjects a dose of relativism into his political morality of progress as well. The infamous caveat to his “one very simple principle” that it should only apply to people in the “maturity of their faculties”, and not to “backward” civilisations still in their “nonage”. For them, benevolent despotism is the most appropriate regime, until their society reaches a stage whereby it can guide its own improvement by free and equal discussion.⁸⁰ Mill does state parenthetically that this period has long since been reached by most countries we are concerned with here. However, I think one needn’t underestimate the development of current moral capacities to consider Mill’s claim to be not uncontroversial. It could be argued that late modern Western European society is *not* improving, despite the degree of free and equal discussion it enjoys. The same problem exists for Mill, which is to decide when a liberal political morality is more utility-producing than a benign despot. Again, there may be nothing internal to the system that can determine the answer, especially in light of the low levels of propinquity of moral regeneration.

⁷⁹ Comte, “Plan of the Scientific Work Necessary for the Reorganisation of Society”, p. 106.

⁸⁰ Mill, “On Liberty”, p. 224

Mill also recognises himself to be writing during a transitional stage of history, and crafts his normative claims accordingly. However, his moral prescriptions are permanent, to persist even during the next organic stage of history. He, in a sense, attempts to institutionalise progress. The freedoms that constitute experiments in living are an instrumental element of his theory of progress. In particular, the Harm Principle, as it applies to only first-order desires, protects a sphere around the individual within which he chooses for himself to adopt the utility maximising ethic of Mill's version of the Religion of Humanity. Physically or morally coercing an individual's first-order choices for the higher pleasures is not adequate because the grounds of the decision would not be known. It is crucial that individuals are free to err, and then – with the help of society, need be – learn from the mistakes.⁸¹ This knowledge could then be spread throughout society helping others to learn from their experiments as well. The crucial departure from Comte is that these freedoms form a constituent part of Mill's Religion of Humanity, whereas they are antithetical to Comte's version. Even after society entered its next organic stage of history, individuals would still need to wilfully choose the higher pleasures and altruistic forms of the good, rather than simply be coerced into doing so from a young age. This particular psychology of moral development is one of the key factors in retaining Mill's liberal credentials, or at least precluding the fully illiberal elements of Comte's thought.

Mill has a more ambivalent concern for public opinion. Whereas in Comte's Religion, the public was the primary enforcer of morality, Mill cautiously relies on society to assist personal development. As he states in the Introduction to *On Liberty*, public opinion has the potential to practise “a social tyranny more formidable than many kinds of political oppression” because of the all-pervasive, unregulated and spontaneous manner of its influence (exactly *why* Comte charges the public with this duty).⁸² However, public opinion could also aid in the regeneration of morality during the critical period, and in its continuing propagation during the next organic stage. Chapter IV of *On Liberty* speaks extensively of society attaching “natural penalties” to behaviour emanating from “lowness or deprivation of taste”, characteristics that do not violate the harm principle. The progressive nature of public opinion turns on whether a majority of the population have already embraced Mill's ‘Religion’ and their influence is intended to help the remaining few selfish individuals, as Chapter IV presumes, or if the majority still cling to the outmoded beliefs of the previous organic stage, and are

⁸¹ See Chapter Six, and Mueller, *John Stuart Mill and French Thought*, p. 128.

⁸² Mill, “On Liberty”, p. 220.

resisting the new morality exemplified by the regenerated minority, as Chapter III presumes. This tension will be examined in detail in Chapter Six of this thesis. Either way, the Harm Principle protects everyone's ability to pursue their own conceptions of the good, and allows for society to influence the way individuals feel *about* these first order pursuits. If during the next organic stage when the majority were reformed, their influence would eventually lead the remaining few unreformed individuals to re-evaluate the utility assessment of their pursuits, and eventually adopt the more enlightened ethic of the Religion. However, even during the [current] critical stage when older forms and beliefs are still exercising a significant hold over society, enlightened individuals would be immune to society's attempts to suppress their higher natures because - like the higher pleasures - people who have chosen to embrace the superior form of life associated with the Religion would never regress back to the lower forms.⁸³ Public opinion is a powerful force in society that was neither inherently progressive nor conservative. Limited by the Harm Principle though, public opinion could be harnessed to disseminate the virtues of adopting Mill's Religion of Humanity without impeding "liberty of action".

One final clarification needs to be discussed regarding the extent to which Comte and Mill regarded freedom as desirable. The discussion thus far has exclusively used the term freedom in the negative sense, referring to the sanctions on behaviour either by government, education, or public opinion. We must now consider the value placed on some notion of autonomy that can be extrapolated from what we know about their systems. To begin with, as discussed above, we can say that both thinkers place a great deal of value on education. Neither are content to allow individuals to be shrouded in ignorance of the basic workings of the natural world, however we are on less certain ground when claiming that either considered this to contribute to the overall freedom of the individual. Neither use the term "autonomy" in their writings, but Nicholas Capaldi claims that Comte's system "ignores the role that (autonomous) individuals play in the social process. That is, it violated Mill's inherent belief in the dignity of the individual."⁸⁴ I would agree with Capaldi's conclusion, but in a qualified way. The thoroughly selfless altruism demanded by Comte in complete prostration before the Great Being, humanity, does eclipse the moral significance of the individual. However, it would be slightly misleading to say that it was the violation of *autonomy* in particular that put Mill off, because his own mechanism of progress involves influences that

⁸³ See Mill's discussion of the higher pleasures in "Utilitarianism", p. 211.

⁸⁴ Nicholas Capaldi, *John Stuart Mill*, (Cambridge: CUP, 2004), p. 170.

would question the application of such a modern concept. In addition to the capacity of rational self-direction, John Gray for example posits that “an autonomous agent must also have distanced himself from the conventions of his social environment and from influence of the persons surrounding him. His actions express principles and policies which he has himself ratified by a process of critical reflection.”⁸⁵ As will be discussed in Chapter Six of the thesis, the crucial feature of Mill’s theory of progress, whereby the Harm Principle only applies to lower level reasoning and desires, is that it *allows* for second order forms of influence. The penalties attached to discredited behaviours (and beliefs) by society are not intended to physically or morally coerce individuals into adopting the Religion of Humanity, but are intended to change the way people reflect on their beliefs, so that people would choose to adopt the Religion for and by themselves. Mill is clear about the power of public opinion, so we can be sure that the level of influence it wields, even at the second level, could potentially be quite extensive. For this reason, I think it inappropriate to ascribe to Mill a notion of autonomy, as used in contemporary philosophical discourse. However, his argument in Chapter Two of *On Liberty* for freedom of thought and discussion from knowing the grounds of truths, his insistence of the importance of individuality in Chapter Three, and his prohibition of state paternalism in Chapter Five, all suggest that he does hold the exercise of human capacities of choice and rational understanding in high regard.⁸⁶ Whether this concern constitutes a conception of autonomy will be explored further in Chapter Six and Seven of the thesis. What is certain is that because of the high levels of social influence in Mill’s system, if he holds a conception of autonomy to be a necessary precondition to progress, then it is a highly normative and constrained conception, possibly unrecognizable by contemporary liberal theorists. Comte, attaching little to no weight to the exercise of those capacities typically associated with a common-place notion of autonomy, certainly does not consider it to be a necessary ingredient for evolution to the next organic stage of history.

iii. Philosophies of History

What animates Comte’s philosophy of history is the notion that humans are forever evolving towards an unrealizable telos of perfection. The study of progress is not only half of his entire methodological approach to the study of mankind, but also the underlying presumption of his system. All human knowledge passes through three semi-

⁸⁵ John Gray, *Mill on Liberty: A Defence*, (London: Routledge, 1996), p. 74. On this interpretation, one could say Mill held a conception of autarchy as requisite for individual progress.

⁸⁶ See Chapters Five and Six.

distinct stages as the ubiquitous advance of scientific discovery continues. Starting theologically, explanations of the material world gradually become more metaphysical, thereby shedding reference to deities and other supernatural beings. Eventually, scientific evidence would challenge metaphysical explanations of the world in favour of more positivistic ones. It is during this time, at the brink of the full assent to the positive system, that Comte considers himself to be writing. Mill, despite *not* describing the human race moving through such an epistemological narrative, does posit the conditions necessary for advance of human growth. Most famously, in *On Liberty*, Chapter Two, Mill gives his famous three arguments for the freedom of thought and discussion. Suppressing an opinion that may be true denies society of a potential truth. Suppressing an opinion that is false, denies society the practice of challenging and defeating the false opinion, which would have served to strengthen our grasp of the foundation of true opinions. Finally, suppressing an opinion that contains part of the truth, which Mill contends is how most opinions are, denies society of the benefits described in the previous two cases. Mill also affirms the conditions of progress in *Spirit of the Age*:

“The progress which we have made, is precisely that sort of progress which increase in discussion suffices to produce...To discuss, and to question established opinions, are merely two phrases for the same thing. When all opinions are questioned it is in time found out what of those will not bear close examination. Ancient doctrines are then put upon their proofs; and those which were originally errors, or have become so by change of circumstances are thrown aside.”⁸⁷

Moreover, “It is by discussion, also, that true opinions are discovered and diffused.” Whereas Comte views the separation of temporal from spiritual power as one of the greatest achievements of civilisation, Mill considers the diffusion of superficial knowledge to be the “grand achievement of our age”.⁸⁸ As the dispersion of knowledge spreads, individuals are less beholden to powerful and learned individuals who they may rely upon for opinions, and the significance of discourse within and between groups raises.⁸⁹ In fact, a measure of society is its level of cooperation. Mill points to the examples of trade unions and newspapers as two recent forms of cooperation that combine the disparate efforts of individuals to create a powerful and unifying force.⁹⁰ Comte too, considers the division of labour to be an integral part of his Religion of

⁸⁷ John Stuart Mill, “Spirit of the Age”, in *Collected Works XII*, Fancis Mineka ed., (Toronto: Routledge and Kegan Paul, 1963), p. 233.

⁸⁸ Mill, “Spirit of the Age”, p. 232.

⁸⁹ John Stuart Mill, “Civilisation”, p. 212.

⁹⁰ *Ibid.*, p. 125.

Humanity. Most importantly, spiritual and intellectual power would be separated from the controls of the minimal state. Bankers and industrialists would coordinate the provision for the material needs of society, while the priests of humanity would be charged with the theoretical guidance of society - including the theoretical counterparts to all practices of the temporal power – and, most importantly, education. The differentiation was not only lateral. There would also be a rigid hierarchical division as well, based on the abilities of the individual natures of people. Though capable of development, human natures were otherwise fixed. For this reason, the labouring classes would be under the greatest influence of the “*pouvoir spirituel*” as commanded by the priests.⁹¹ For Mill, progress entails the ability of individuals to develop themselves in bounded, but indefinite ways which Comte found impossible, and moreover undesirable. And herein lies one of the crucial differences between Mill and Comte. Despite both being motivated to describe and facilitate social evolution, Mill starts with the individual and works up, whereas Comte is strictly interested in humanity as the only unit of moral significance, and deduces the laws that govern individual behaviour.

What underlies Comte’s philosophy of history, is the notion that history unfolds in cycles of two oscillating periods of stability and conflict.⁹² Organic periods are characterised by a consensus of opinions and modes of thought. Critical periods contained a range of opinions about the world all competing with one another until scientific evidence showed one to be most correct. Public opinion would gradually gravitate towards that which the evidence pointed towards, and another organic period would be inaugurated. These were not discrete changes, for Comte is quite clear that periods would overlap conflictingly, and progress would be slow. Comte claims to be writing during a transitional, dynamic stage of history, slowly moving beyond the metaphysical state of knowledge and at the verge of the next organic state, the positive state of knowledge.⁹³ Mill as well, identifies his time to be one of transition, claiming that older beliefs and institutions have been rightly discredited.⁹⁴ The implication being an anticipation of the *next* organic state, one that contains appropriate institutions for civilisation’s level of progress. Mill even describes the framework of the next organic period. Firstly, material needs would be provided for by a temporal power elite for which no other rival exists. This would be so, because power would be exercised by the

⁹¹ Iris Wessel Mueller, *John Stuart Mill and French Thought*, (Urbana: University of Illinois Press, 1956) p. 125.

⁹² Coser, *Masters in Sociological Thought*, p. 8.

⁹³ Comte, “Plan of the Scientific Work Necessary for the Reorganisation of Society”, p. 50.

⁹⁴ Mill, “Spirit of the Age”, p. 231.

“fittest persons” who commanded the full obedience of the masses.⁹⁵ Secondly, society would enjoy a predominance of “received opinions”. Mill identifies three sources of moral influence: wisdom, religion, and [temporal] power. He states plainly that an opinion that enjoys the sanction of all three becomes part of a larger “received doctrine”.⁹⁶ Comte and Mill both agree upon what the latest period of stability was in history, and perhaps ironically, they both claim it was during the reign of medieval Catholicism.

Despite Comte’s explicit calls to reject the traditional Christian theology, and Mill’s implicit movement away from it, both look back onto Medieval Catholicism as one of stability and harmony of consensus. “The Catholics received the priest from God, and their religion from the priest.” In addition, they aligned themselves closely with the Monarch, and together, were able to “retard their own downfall.”⁹⁷ The Church was able to draw upon the three sources of moral influence to maintain their received doctrine thereby sustaining that organic stage of history, which was the most appropriate at the time. Eventually, the spirit of the age became too strong, and society moved into the next critical, or transitional stage of history. Comte’s endorsement of the period is stronger because he holds that Catholicism actually *contributed* to the course of human progress. Not only was Christian morality binding on everyone, regardless of class or wealth, but it also was officially separate from the exercise of material power, which Comte contends is “the greatest advance ever made in the general theory of social organism”.⁹⁸ Now, however, both thinkers view the influence of the Church to be detrimental to the advance of civilisation to the next positive stage. Not only has the theological source of its ethic been largely eroded by the growth of scientific knowledge, but the content is also contrary to the spirit of the Religion of Humanity. Comte fully articulates his disdain for the selfish ethic imbibed in Christianity in his *Système de politique positive*.⁹⁹ Building on this, as part of Mill’s assessment of the utility of religion, in the essay by the same name, he states – though not naming Christianity in particular - that

⁹⁵ Ibid, p. 252.

⁹⁶ Ibid, p. 290. Note that these are slightly different than the three sources of morality discussed in *Utility of Religion*: religion, via early education, authority, and public opinion. See John Stuart Mill, “Utility of Religion”, in *Collected Works X*, John M. Robson ed., (Toronto: Routledge, Kegan and Paul, 1969), p. 407.

⁹⁷ Ibid, p. 312.

⁹⁸ Wright, *The Religion of Humanity*, p. 27.

⁹⁹ Ibid, p. 27.

“The religions which deal in promises and threats regarding a future life...fasten down the thoughts to the person’s own posthumous interests; they tempt him to regard the performance of his duties to others as a means to his own personal salvation; and are one of the most serious obstacles to the great purpose of moral culture”.¹⁰⁰

Such a moral sanction was not only too individualistic for the more socially-minded Comte and Mill, but also destroyed the deontological nature of moral duty. Ironically, if scientific evidence confirmed the reality of an after-life, Mill’s consequentialism would demand factoring it into any utilitarian calculus. Despite this and other failings of the Church, it played an important role in the progress of civilization that both thinkers acknowledge, despite advocating its fundamental rejection.

On the idea of progress and how exactly it unfolds, there seems to be wide agreement on between Comte and Mill. They both endorse Medieval Catholicism as the last organic period of history. They also both regard themselves as writing during a critical period, and subsequently view themselves as somehow catalytic for the ascent to the next stage of history. However, what needs to be examined next is how exactly these philosophies of history differ, and then see what the implications are for their political moralities. The largest divergence between Comte and Mill has to do with characterisation of the next organic stage of history. Despite being ‘organic’, what we see is Mill institutionalising the conditions for individual and social progress, while Comte’s Religion attempts to freeze the system of organisation in such a way that betrays one of the central tenants of his positive philosophy - the idea of progress.

As described above, human knowledge had already moved from the theological to the metaphysical stage of knowledge, and Comte was experiencing the critical stage of history, just at the brink of the positive stage. All that was needed was for the principles of positivism to be synthesised and articulated, and then they would naturally command the obedience of society. The vehicle Comte chose to disseminate and instil the principles in everyone, namely his Religion of Humanity, was probably not the most expedient method of proselytization. Moreover, in hindsight, we may actually attribute the totalitarian ritualisation of the religion to a historical contingency, the death of his beloved Clothilde de Vaux. Regardless of the reasons, it is true that Comte’s disciples, and those who actually did adopt the Religion were largely put off by the minutia and totality of the ritual involved. As Manuel puts it, “his cult suffered the ridicule of all fabricated ceremonials that fail of acceptance by a sufficient body of believers to

¹⁰⁰ Mill, *Utility of Religion*, p. 422.

become sanctioned vehicles for the expression of religious emotion.”¹⁰¹ More interestingly for our purposes here, when one examines the ritual involved it becomes clear that a shift in emphasis is made from *progress* to *stability*. True, human knowledge would become positive, but Comte made no attempt to speculate about any future states of knowledge, or further sub-divisions within the positive state.¹⁰² All purely theoretical research was to be ceased as it was a useless distraction. The research that was sanctioned was purely either for the advance of providing for the material needs of society, or for the benefit of the subsequent science, the moral (human) science being the ultimate one.¹⁰³ Personally, the rigid distinctions both laterally between labourers and hierarchically between the classes all but precluded any individual growth or expansion. In order to maintain the Religion of Humanity with Clothilde as the symbolic embodiment of it, as the only means of propagating the spirit of the positive system, Comte arranged its educational structures to preclude the development of any critical perspectives. So despite “Order and Progress” being the positivist’s motto, Comte abandons the pursuit of progress in order to cement humanity’s positivism for all of eternity. It is for this reason, that Comte can be considered a “penultamist”, one who markets the next and *final* stage of evolution, thereby justifying every event – regardless of how seemingly *unjust* – in history, and explaining the present ‘crisis’.¹⁰⁴

Mill does describe history as oscillating between two poles of stability and disorder, but he lacks the utopian vision that defined Comte’s Religion of humanity. For Mill, the next stage of social development would be one whereby the conditions for individual growth would be institutionalised, which would in turn drive society through the never-ending progressions of consensus and dissent. The Harm Principle, sanctioned by the Principle of Utility would ensure that society would never encroach upon an individual’s ability to improve oneself. In fact, society was instrumental for such growth. Like Comte, Mill recognises that elites would always command a leading role in the process of improvement. Via public opinion, elites would see to it that certain outcomes of experiments in living would be encouraged while other discouraged. As will be discussed in Chapter Six, such forms of influence would only be applicable to higher, or second order, reasoning with regards to lower or first order desires. Mill does not specifically articulate a hierarchical conception of the self, but to employ one renders the disparate claims of *On Liberty* coherent. Mill’s system is structural, in that he makes

¹⁰¹ Manual, “*The Prophets of Paris*”, p. 268.

¹⁰² Mueller, *John Stuart Mill and French Thought*, p. 128.

¹⁰³ John Stuart Mill, “Auguste Comte and Positivism”, *Collected Works X*, John M. Robson ed., (Toronto: Routledge, Kegan and Paul, 1969), p. 355.

¹⁰⁴ Wernick, p. 117.

few claims as to the content of the good life, leaving that largely an empirical question. Comte, on the hand, makes as strong a substantive claim as is philosophically possible about form and content of human flourishing. His Religion of Humanity is not only the next step in human progress, it is also the *last*. This progressive dimension that Mill brings to his system is crucial, because it is the only way to reconcile the disparate demands of liberalism and utilitarianism. As will be discussed in the next chapter, the progressive element of his thought enables Mill to defend liberal principles on utilitarian grounds, something Bentham could not do.

Conclusion

Auguste Comte's place in the history of social thought and philosophy of science is beyond doubt. Existing mostly in the margins of academic thought at the time, he gradually accumulated a modicum of recognition for his work in France. His thought then took on a highly spiritual dimension after the death of his lost love Clothilde. He viewed his new positivist religion as the only cure for an ailing civilisation, and this remedy required the complete revolution of every facet of human existence, down to the smallest detail. Mill, during a several year correspondence, professes his sympathy for establishing a new humanitarian religion in many of his writings, but in the end parted on philosophical and methodological grounds. This relationship culminated in the 1865 essay, *Auguste Comte and Positivism*, where Mill seems no less critical of Comte's personality than he does of his writings. However, in light of, or rather, despite what Mill explicitly rejects, much of their work contain striking similarities. This Chapter sought to analyse the commonalities in their theories of progress while making clear their differences. What we have found is that much of Mill's theory of progress can be traced back to Comte, and despite both endorsing a humanitarian religion, the content of each is very different. Comte's is an authoritarian utopia for which society moved through stages before arriving at. Mill's Religion of Humanity is the permanent institutionalisation of the conditions of moral and scientific progress. These conditions include a sphere of negative liberty as prescribed by the Harm Principle, and so cannot be understood to have the eventual obsolescence that Hamburger argues. However, as will be shown in the next chapter, it is possible to argue for negative liberty in a formal sense, and still be outside of the liberal tradition, and so we must determine to what extent Mill is guilty of this charge.

4. Beyond Bentham:

A liberal-utilitarianism

It might seem strange to consider that one of the influences on Mill's liberal doctrine is a thinker whose antipathy to liberalism is well documented. Comte may have considered liberalism to be a necessary step in the evolution towards his Religion of Humanity, but he thought civilisation had moved beyond it, and necessitated more social control in order to consolidate the new moral outlook. It must be then even more striking to consider that a second, and possibly the biggest, influence on Mill's thinking is also outside of the liberal tradition that Mill supposedly sits squarely within. Jeremy Bentham, Mill's Godfather, and one of his home school teachers, is best known for his advocacy of a classical form of utilitarianism. To be a liberal, roughly speaking, means to value freedom and or equality in some meaningfully political sense. This chapter argues that Bentham, although valuing freedom and equality, does not do so sufficiently for his thought to be considered truly liberal. Secondary liberal principles may be generated from an over-arching utilitarian commitment, as some scholars attempt to do, but such principles are only contingently expedient. Secondly, and moreover, the control Bentham's system exerts over the individual is similar in scope to that of Comte's system, albeit for different reasons. Comte relies on an unflinching altruism to restrain egoistic tendencies, whereas Bentham employs institutional arrangements to alter individual incentive structures. Finally, despite inheriting much of Bentham's philosophical framework, this chapter argues that it is specifically the notion of progress that Mill takes from Comte that enables him to defend against some of the liberal criticisms of *his* utilitarian commitment, unlike Bentham. Mill's departure from Bentham's classical formulation is not without its problems, but we are beginning to see how Mill's moral and political thought is more subtle and complex than has previously been acknowledged.

Bentham: the primacy of security and the subtlety of control

It is generally thought that liberalism refers not to any specific political ideology, or doctrine, but to a family of them. The label "liberal" however uncontroversially refers to a system of thought that values liberty and equality in some form or another, but these terms themselves are meaningless unless given content. Liberty can be given positive, negative, or even republican formulations, while equality could be of race, gender, opportunity, welfare, etc. It would be misleading to say that Jeremy Bentham is

opposed to liberty and equality as such in his system, and yet it would be even more incorrect to describe his thought as broadly speaking, liberal. Bentham, a utilitarian, states that pleasure and pain are both empirically what governs human behaviour, and normatively the moral standard of all action.¹ His endorsement of liberty and equality are certainly undeniable, but as will be shown, his valuation of these staples of liberalism are purely instrumental. The issue at stake is not whether Bentham is a liberal, for he himself would have denied such a label. The question more interestingly is how Bentham makes trade-offs between secondary values such as liberty, equality and his *summum bonum*, pleasure. I will examine each value separately, and then consider one of the best known critiques of classical utilitarianism, that of John Rawls.

Although individuals could wrongly underestimate their interest in security, the normative force of utilitarianism is derived from human nature itself. The two sovereign masters of pain and pleasure would eventually, and *naturally* guide individuals to arrange themselves along utilitarian principles.² Despite attacking contractarian theories of government, Bentham posits his moral and political framework as a hypothetical “trade-off”: anyone would give up the condition of unlimited freedom, which for Bentham is a condition of uncertainty and risk, for one of limited yet secure freedom, within which one could reasonably hold expectations of certain outcomes. Moreover, it is not culture or identity that binds a community, but this sense of common security that provides the social bonds of a society³

For sure, Bentham values freedom and considers at great length its role in his utilitarian system. However, liberty is not an object or possession, like a right. In fact, it is not even an abstraction, as others had considered at the time. For this reason, Bentham considers it a ‘fictitious entity’, a word that has no specific idea attached to it, apart from the value-free condition of being ‘un-coerced’.⁴ Liberties are not created by law, and distributed like goods or benefit; in fact, it is in most cases consumed by law. The aim of the legislator is to promote the greatest happiness for the greatest numbers, as dictated by the Greatest Happiness Principle, and Bentham gives four specific means to this end. Security, subsistence, abundance and equality are the subsidiary ends of the utilitarian legislator.⁵ The four ends could, of course, conflict, but in all cases security

¹ Jeremy Bentham, *Introduction to the Principles of Morals and Legislation*, J. H. Burns and H. L. A. Hart eds., (London: The Athlone Press, 1970), p. 11

² *Ibid.*, p. 102.

³ *Ibid.*, p. 170.

⁴ Douglas G. Long, *Bentham on Liberty: Jeremy Bentham's idea of liberty in relation to his utilitarianism*, (Toronto: University of Toronto Press, 1977), p. 68.

⁵ Jeremy Bentham, “The Civil Code”, in *The Works of Jeremy Bentham Volume I*, J. Bowring ed., (Edinburgh: William Tait, 1843), p. 302.

would always take priority over the other three - it being the first condition of the pursuit of happiness, or survival for that matter. Anything that could be done to promote any of these ends can only be done at the expense of liberty.⁶ The only way a law could create liberty, is indirectly, by replacing or overturning a more restrictive law. Because of its incorporeal nature, maximising liberty for liberty's sake was mistaken and anarchical.

Bentham is surely correct on this point. A freedom is only secure and therefore valuable if it is circumscribed by law to prevent others or the state from interfering with its exercise. After security, it is the necessary, but not sufficient, condition for the pursuit of happiness. In this regard, Bentham concludes that liberty is actually a branch of security.⁷ Put a different way, liberty is the pre-social substrate that surrounds all of us, as in the anarchical state of nature. Law, in a sense, consumes the substrate thereby creating secure islands and channels of liberties within which individuals pursue our own particular pleasures. One can only perform some action if one is secure from others, and the state, from interfering in that activity, hence the primacy of security, and the import of a legal system in every society. D.G. Long concludes, "Only thus can men's frequently misguided desire for liberty be reconciled with their overarching desire and need for happiness."⁸ There is no doubt that Bentham recognises the indispensability of liberty for the pursuit of happiness, but it is by no means the characteristic feature of such condition. Security is the first and indispensable condition for the pursuit of happiness, and is punctuated by protected spheres of liberty, as opposed to comprising the defining commitment of the whole ideology.

Bentham may not make liberty an explicit goal, like contemporary liberals, but equality is one of his stated subsidiary ends of legislation. Bearing in mind that utilitarianism is a consequentialist morality, its aim of maximising happiness on balance requires that it be done so by the best way possible. Maximisation does not entail any specific pattern of distribution. Moreover, it is not the case that all people respond in the same way to the same stimuli. People have different tastes, sensibilities, and even capacities to feel pain and pleasure. Someone with refined tastes might require expensive pleasures, like pre-phylloxera claret, to experience the same amount of pleasure as a much more easy-going, accommodating individual.⁹ Surely, this would be

⁶ Long, *Bentham on Liberty*, p. 169.

⁷ *Ibid.*, p. 101.

⁸ *Ibid.*, p. 96.

⁹ Ronald Dworkin, *Sovereign Virtue*, (Cambridge MA: Harvard University Press, 2000), p. 49. This brilliant example of expensive tastes is actually taken from Kenneth J. Arrow, "Some Ordinalist Utilitarian Notes on Rawls's Theory of Justice", *Journal of Philosophy*, Vol. 20, No. 9, 1973, p. 254.

a threat to security as people would rightfully object to the discrepancy of resources committed to pleasing those few individuals with cultivated tastes for expensive pleasures. Of course, this presumes that such interpersonal utility comparisons are possible. If it is possible, then human beings are reduced to nothing more than units of pain and pleasure, and would subsequently require differential treatment to maximise the happiness of the greatest numbers.¹⁰ Furthermore, this aggregation may not even entail equality *at all* as some may have a greater capacity to experience happiness, and thusly have a claim to more resources.

Bentham attempts to avert these problems by relying on the trans-valuative nature of money.¹¹ Individuals may have different tastes, sensitivities, etc, but with money each can reveal their own conceptions of happiness, and the strength of their commitments. The question is, to what extent does this require the redistribution of wealth? Bentham is aware of the effects of diminishing marginal utility with regards to money, and so one might think that this alone would demand the redistribution of wealth in order to ensure that everybody has at least the minimum means to pursue their conceptions of happiness, if not at least the equal means to do so.¹² However, despite equality being a stated legislative aim, Bentham also recognises that the extensive and repeated forced redistribution would not only cause pain to the wealthy, but also spread alarm throughout society.¹³ A distribution of equal wealth *may* theoretically be the condition that maximises happiness, however moving to it from the current unequal distribution might require a prohibitive amount of redistributive coercion.¹⁴ Furthermore, maintaining the distribution of equal wealth may require a sustained policy of such forced redistribution, as Robert Nozick points out.¹⁵ However, as Bentham and Nozick both fail to consider, there is a symmetry with regards to redistribution, as the pain of one losing money, is the pleasure of someone else receiving it. The insecurity the wealthy might experience living with the fear that the state may place a heavy tax on them might be mirrored by the security the poor would experience knowing that their

¹⁰ Bikhu Parekh, "Bentham's Theory of Equality", *Political Studies*, Vol. XVIII, no. 4, 1970, p. 482.

¹¹ *Ibid.*, p. 482.

¹² Parekh, "Bentham's Theory of Equality", p.484.

¹³ *Ibid.*, p. 486.

¹⁴ Fred Rosen concludes that Bentham differentiates between the equality of wealth and power on the one hand, and the means to achieve it on the others. Equality is the goal that "can never fully be realised". See Frederick Rosen, *Jeremy Bentham and Representative Democracy*, (Oxford: Oxford University Press, 1983), p. 220.

¹⁵ Robert Nozick, *Anarchy, State and Utopia*, (Oxford: Blackwell Publishing, 1973), p. 163.

needs would be provided for if they fail in the market economy.¹⁶ Much of this turns on empirical evidence about the utility of equality. The question is how far, in theory, is Bentham willing to redistribute in order to alleviate the plight of the poor. In light of the extensive effort put into the creation of the National Charity company, Bentham's Panoptic, in-house poor relief, I think we can safely conclude that his bias is towards the security of property rights, rather than the potential utility of redistribution. However, this alone does not disqualify Bentham's inclusion in the liberal tradition. Libertarians such as Nozick and Hayek also conspicuously lack a substantive commitment to equality, but are uncontroversially placed within the liberal camp. As will be shown in the next section, Bentham's instrumental valuation of liberty enables him to arrange institutions so as to limit the scope of freedom individuals actually can in practice exercise. But first, I will show how the consequentialist nature of his doctrine makes it impossible to sustain liberal readings of his political thought.

One of the best known critiques of classical utilitarianism is given by John Rawls in his *A Theory of Justice*.¹⁷ He begins by specifying that any ethical theory needs to articulate both what is good and what is right. It then needs to specify the relationship between these two concepts. A good can be any social value or condition, like honour, liberty, money, or opportunity, for example. The right specifies the dictates of distribution for the good, or goods, like equality, meritocracy, or the free market. One way to think about this distinction is to consider a football match. Goals are the goods that are distributed, and the right are the rules of the game that dictate how to distribute goals, namely by scoring them. Rawls begins his critique by pointing out that utilitarianism firstly defines the good, as pleasure, welfare, happiness, etc, and then defines the right or system of distribution, which is maximisation.¹⁸ In other words, in utilitarianism, after the good of pleasure (for example) is specified, then the right thing to do is to maximise it, by *any* means. Moreover, the goodness of an action or condition is determined without any reference to the right, or how it came to be. In this respect, utilitarianism is a consequentialist doctrine, in that the strategies that can be employed to maximise the good are limited only by the balance of pain and pleasure produced, not by anything inherent in the strategy. Consequently, utilitarianism cannot provide a pattern of distribution based on anything other than maximisation. Even if secondary

¹⁶ Diminishing marginal returns might demand some redistribution of wealth, and hence be an asymmetry, but here I am speaking of the distribution of security, which is difficult to conceive as diminishing within the range I am speaking of.

¹⁷ Rawls' target is "utilitarianism generally", but he mentions Bentham as one of its principle exponents. See John Rawls, *A theory of Justice*, (Cambridge, MA: Harvard University Press, 2000), pp. 20, 26.

¹⁸ Rawls, *A theory of Justice*, p. 22.

principles seem to deliver a particular pattern of distribution, like say equality, it could only do so *contingently*. If maximisation necessitated the marginalisation of a small minority of the population in order to serve the majority, then we would have no way of criticising it on utilitarian grounds. The interesting thing about all consequentialist doctrines is that it is very dependent on empirical facts and historical contingencies. As described above, Bentham is aware of the diminishing returns of marginal utility, and so endorses some forms of redistribution of wealth, in order to maximise happiness. But again, this strategy only holds for as long as the phenomenon of diminishing returns does, which it may not at all places, times and for certain types of utility.¹⁹

A second critique of utilitarianism stems from its consequentialist nature. However utility might be defined, i.e. as pleasure, preference-satisfaction, or welfare, its maximisation cannot be internally criticised. For example, if we take utility as pleasure, as Bentham does, there are no grounds for criticising the sources of pleasure. One cannot argue on utilitarian grounds that one should take pleasure from books, opera, fine wine, and other higher pleasures, because to do so would be appealing to something other than pleasure to give them their superior designation.²⁰ If one takes pleasure from less intellectual activities, or even irrational ones, then we must accept these sources, as we have no grounds with which to rank them, apart from the amount of pleasure they produce in each person. In fact, if pleasure is maximised by the administration of some drug, or being plugged into Nozick's "experience machine", then that would be the right course of action.²¹ Even if the source of someone's pleasure involves the expense of others, we must factor both the pleasure *and* pain into the overall calculus. There are no means by which to disallow them outright. For consequentialism, it is only the end state, or net utility that comprises the standards of evaluating the strategies of maximisation. Hedonistic utilitarianism is necessarily silent on the sources of pleasure and pain.

The final, but related, critique is that "utilitarianism does not take seriously the distinction between persons"²² As described above, it is only the end state, or maximisation that is the only relevant criterion for judging the rightness of some

¹⁹ Parekh says that despite happiness is related to money, it does not necessarily diminish in the same way. See Parekh, "Bentham's Theory of Equality", p. 492.

²⁰ Of course, this is exactly what Mill does by claiming that higher pleasures are categorically superior. I will examine this claim later in the chapter to show that he does violate ethical hedonism in the process.

²¹ Nozick intends this as a critique of mental state utilitarianism. His intention is to show how if utilitarians seeks nothing more than to maximise pleasure, once technology could generate machines that enable us to experience anything we want for the rest of our lives. We could live out our days as a rock star, race car driver, or anything else one wanted. This scenario is supposed to be monstrously inhuman, like the premise of the Matrix films, however, it could only be so from third person perspective. From the perspective of the inhabitants, life would be very happy, because there would be no reason to question the authenticity of that reality.

²² Rawls, *A Theory of Justice*, p. 24.

strategy or legislative policy. This is analogous to how an individual distributes the pleasures and burdens of one's own life. One may neglect certain sources of pleasures to pursue others, or endure burdens now to experience less later, but the goal for the individual is the same for the legislator: maximisation of utility. One cannot simply reflect upon the range of options at any given time, but must step back and take an external perspective on one's life to consider future option-sets as well. Similarly, the legislator must remove himself from the particular biases he may have and become an "impartial spectator" sympathising with all in order to determine the strength of everyone's desire to satisfy accordingly in order to maximise the utility of the entire polis. How the legislator distributes the means to achieving utility (again, however defined) can only be judged on how a particular distribution maximises utility. An equal distribution of the means to utility, i.e. rights, liberties, wealth, may be the strategy that maximises overall utility, but it may not be. If a different distribution of these means can provide a greater net balance, like concentrating wealth in the hands of an aristocracy, which produces an overall greater sum, then that is the right distribution. Because it is the net utility that is the concern, then there is no reason why increased utility of some cannot compensate for the disutility of others. The impartial spectator must conflate every individual into a single person, and legislate as if one would for oneself.

Despite these critiques of utilitarianism's ability to generate and sustain principles compatible with liberalism, there is a section of the secondary literature concerned with a revisionary interpretation of Bentham's thought.²³ Although the principle of utility may demand the maximisation of utility, the best strategy for this, because of the nature of human social interaction, is a certain distribution of rights, namely, an equal one. This claim is still an empirical one, but one that is so rooted in the very nature of humanity that it is considered a permanent feature. Ross Harrison describes the horror of a utilitarian transplant hospital snatching unsuspecting pedestrians as they pass by for their vital organs. Harrison says that the utility of the endless supply of organs would need to be balanced against the "secondary mischief" of alarm and danger.²⁴ Alarm is the disutility that the public would experience upon hearing of such a practice. Danger is the actual risk pedestrians would be in when walking near the hospital. Harrison says, such practices on balance *could not* maximise

²³ Ross Harrison, *Bentham*, (London: Routledge & Kegan Paul plc, 1983); Paul Kelly, *Utilitarianism and Distributive Justice*, (Oxford: Clarendon Press, 1990); Frederick Rosen, *Jeremy Bentham and Representative Democracy*, (Oxford: Oxford University Press, 1983).

²⁴ Ross Harrison, *Bentham*, (London: Routledge & Kegan Paul plc, 1983), p. 238.

utility because of their inevitable secondary effects. Harrison must consider, however, that there might be ways to contain the alarm and danger in such a way as to make such strategies utilitarianly maximal. The hospital, for example, might limit their organ snatching to certain segments of the population, like some ethnic, religious, or racial minority. They could also place limitations on the numbers or timing of their snatching, thereby creating regular and predictable periods of insecurity and security around the hospital. Harrison might be right that the brute fact of human nature precludes certain utilitarian strategies, but that doesn't mean that a sufficiently contoured policy, perhaps one regulating the secondary effects, cannot produce more utility than liberal practices.

A variation of this liberal recasting of utilitarianism is made by Paul Kelly, who says that Bentham uses the 'disappointing preventing principle' and the 'security providing principle' simultaneously as the expression of his substantive theory of justice.²⁵ The 'security providing principle' is necessary for individuals to plan execute and revise their conception of the good life. It is necessary to have a stable system of expectations in order to maintain an "enduring conception of the self".²⁶ Because it is impossible to know the particular strengths of everyone's desires, and the corresponding level of satisfaction, the utilitarian legislator needs to allow the widest possible area for each to pursue their goals. Kelly says this amounts to equal and inviolable spheres of non-interference, similar to Mill's harm principle.²⁷ The 'security providing principle' only specified the formal conditions of equal freedom, and Bentham also recognises that in order to pursue one's conception of the good life, material conditions would need to be secured as well. Kelly argues that Bentham acknowledges that an equal distribution of wealth satisfies those conditions, however the utilitarian legislator must first respect the existing distribution of wealth.²⁸ To move directly to a pattern of equal wealth would prove a catastrophic shock to the political and economic fabric of society. The 'disappointing preventing principle' limits the legislator as to what can be done to reform governmental offices, and to redistribute wealth. It obliges him to compensate individuals for their loss of office, status, or wealth, thereby maintaining the security demanded by the first principle. Some examples of policies governed by this "gentle equalisation" are compensating sacked employees holding redundant offices, placing narrow constraints on bequeathments, and compensating slave-owners for the forced emancipation of their property. The last example may not seem consistent with the

²⁵ Paul Kelly, *Utilitarianism and Distributive Justice*, (Oxford: Clarendon Press, 1990), p. 171.

²⁶ Kelly, *Utilitarianism and Distributive Justice*, p. 208.

²⁷ *Ibid.*, p 143.

²⁸ *Ibid.*, p 181.

liberal flavour of Kelly's reading, and even he concedes that this is where Bentham's theory of justice is at its weakest.²⁹ It is however consistent with Bentham's main concern, namely to maintain security, and moreover to disregard the property rights of slave-owners *prima facie*, would require an appeal to a metaphysical theory of human worth, beyond the calculus of pain and pleasure, which Bentham goes to great lengths to condemn. Nonetheless, Kelly's rule-based version of utilitarianism attributed to Bentham is a laudable attempt at a defence of his liberal credentials.

The crux of Kelly's defence turns on the claim that the principle of utility does not demand a "global utility calculus" at every turn.³⁰ Rather, the utilitarian legislator promotes utility by means of indirect strategies, such as ones governed by the aforementioned principles.³¹ The epistemological constraints and interpersonal comparisons required for direct strategies prove unfeasible, and possibly even self-defeating. The problem with this reasoning is that it presupposes that liberal practices *always* maximise utility wherever adopted. Proponents of this line argue that liberal policies are the only indirect way to maximise utility. They fail to consider other indirect strategies that might also indirectly maximise utility. Such indirect strategies might include semi- or even totally illiberal policies. It is conceivable that a legislator can maintain security and prevent disappointment, while still unequally distributing the material means and the opportunities to succeed in the world, however defined. For example, if a certain subgroup of the population [statistically] lacks an aptitude for a certain job, or are simply underrepresented in a certain profession for whatever reason, it might actually *prevent* disappointment by closing off the subgroup's access to that profession altogether. Or if a certain crime is disproportionately committed by a certain subgroup of the population, the police might actually be *providing* security by denying their claim to equal civil liberties. As long as divisions of any kind exist amongst the population, the utilitarian legislator can always exploit people's biases and prejudices to mitigate the disutility of such illiberal policies. These biases and prejudices are just as much facts of human nature as those that the proponents of this line of argument appeal to in order to justify the utilitarian grounding for their liberal principles. Such policies do not rely upon interpersonal comparisons or knowing the strength of individuals' desires. They are as much indirect strategies that can maximise utility as their liberal

²⁹ *Ibid.*, p 213.

³⁰ *Ibid.*, p 133.

³¹ John Gray attributes an indirect utilitarianism to Mill in order to ground his Principle of Liberty. See John Gray, *Mill on Liberty: A defence*, London: Routledge, 1996), p. 22.

counterparts. There is nothing inherent in humans (let alone Western European humans) to preclude such policies outright.

These liberal principles do play a part in the maximisation of pleasure in Bentham's system. Yet, at the same time his concern for security, and its over-arching primacy, make it difficult to sustain the liberal reading of Bentham's political and moral thought. Furthermore, Bentham's system entails high levels of social control. Like Comte, he creates a system that suppresses natural and social differences between individuals, albeit for totally different reasons. The striking fact of this similarity is that despite Mill's efforts to distance himself from Comte and Bentham, he retains much of their thinking in his unique political morality.

A Return to Comte

Like Comte, Bentham is also one of Mill's biggest influences, as he himself admits repeatedly.³² The irony of this truth is that it would be misleading to describe these influences as, broadly speaking, liberal, and yet elements of both thinkers underpin Mill's seminal work on liberty. Both recognise the instrumental value of negative liberty, but subordinate it to other values, such as security in Bentham's case, and social harmony in Comte's. Both Comte and Bentham hold completely different visions of society, and yet there are some striking similarities that warrant our attention. In fact, as some have observed, turning to Comte was in some ways a return to the method of Bentham.³³ This section examines the method of Comte and Bentham, and argues that both try to arrange society in such a way as to harmonise the interests of individuals as part of their larger visions of society. The techniques range from subtle institutional arrangements to outright coercion, but both seek to draw upon their own conceptions of human nature to justify their conceptions of the just society. This fact then becomes particularly interesting when we consider that Mill seeks to institutionalise *disharmony* as a means of social progress in his own vision.

As Enlightenment thinkers, both Bentham and Comte maintain unshakable faith in science as the saving grace of mankind. Science is simultaneously the method of their thought, and a good to be promoted like other ethical values. For Bentham, science is

³² John Stuart Mill, *Autobiography*, in *Collected Works I*, John M. Robson and Jack Stillinger eds., (Toronto: Routledge Kegan and Paul, 1981), pp. 173, 231. John Stuart Mill, "Auguste Comte and Positivism", in *Collected Works X*, John M. Robson ed. (Toronto: Routledge and Kegan Paul, 1969), pp. 261-368.

³³ Iris Wessel Mueller, *John Stuart Mill and French Thought*, (Urbana: University of Illinois Press, 1956), p. 98.

the only source of knowledge; other sources only bring obscurity.³⁴ His love of the natural sciences was the precondition of his scientific approach to jurisprudence, and eventually to politics.³⁵ Comte, trained as a mathematician, considers science to be the driving force of civilisation throughout history. He identifies periods of stasis and progression that civilisation oscillates between as it gradually moves to the ultimate stage of history, the positivist Religion of Humanity. The Religion is Comte's secular utopian vision, which employs all of the trappings of a full-blown religion, but dispenses with the theological (and metaphysical) underpinnings, in favour of a rationalistic approach to social organisation. Bentham, the "modest utopian", seeks merely to arrange institutions and laws in such a way as to negate the influence of individual personality on governance.³⁶ Their aims are to generalise the scientific methodology beyond its narrow academic/research confines.

Bentham and Comte both attempt to turn politics into a science, albeit with opposite approaches. One of the three fundamental ideas of Comte's positive philosophy identified in the previous chapter is the hierarchy of the sciences.³⁷ Comte examines historically the positivisation of all the sciences to show how the more general sciences gradually give birth to the more specific ones. Astronomy, the most general of the sciences, becomes positive first, followed by physics, then chemistry, biology, and finally the most complex of them all, the social sciences.³⁸ Once the social sciences are fully positivised, they then became the theoretical foundation for their corresponding practice, politics.³⁹ This top-down approach is to be contrasted with Bentham (and Mill's) more inductive, bottom-up approach to the construction of a science of man. Bentham's attempts to reform law is an attempt to connect the duties and obligations of the law to the innate motivations that exist in all people.⁴⁰ His entire system is inductively constructed upon his conception of human nature, whereas Comte's is deductively reasoned from ever more general sciences.

The entirety of Bentham's system turns on a simple observation regarding the motivational forces driving all humans, "Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*." These masters not only determine what it is each person will do, but also are the standards of judgement for

³⁴ Shirley Letwin, *The Pursuit of Certainty*, (Indianapolis, IN: Liberty Fund, 1988), p. 197.

³⁵ Long, *Bentham on Liberty*, p.17.

³⁶ Letwin, *The Pursuit of Certainty*, p. 199.

³⁷ Chapter Three, p. 8.

³⁸ Lewis A. Coser, *Masters of Sociological Thought*, (Fort Worth, TX: Harcourt Brace and Company, 1977), p. 9.

³⁹ Andrew Wernick, *Auguste Comte and the Religion of Humanity*, (Cambridge: CUP, 2001), p. 27.

⁴⁰ Long, *Bentham on Liberty*, p. 208.

what is right and wrong, “It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne.” Moreover, to cement the brute empiricism of this claim, Bentham claims that it can be verified endlessly because “every effort we can make to throw off our subjugation, will only serve but to demonstrate and confirm it.”⁴¹ This double role that pleasure and pain play, as both sources of motivation and criteria of right and wrong has been the source of much controversy. Put simply, how is it possible for the individual to promote the greatest pleasure for the greatest number concerned, when he can only act to promote *his own* pleasure? It is a tension between the ethical hedonism demanded by the Principle of Utility, and the psychological egoism of Bentham’s conception of human nature. The debate boils down to the extent to which the interests of the individual conflict, if at all, with the interests of the community.

David Lyons attempts to reconcile the two parts of Bentham’s Principle of Utility by means of a strictly textual interpretation of *An Introduction to the Principles of Morals Legislation*. Lyons employs a “dual standard” interpretation, where insofar as the individual is concerned, it is right that he promote and maximise his own pleasure (and this is in fact what he will do).⁴² The legislator, on the other hand, responsible for the welfare of the entire society, should maximise the interests of all people concerned. This, however, begs the question how is it possible, if the legislator is a person, for him to maximise the happiness of the entire community over his own? Lyons argues that there is no necessarily logical contradiction between the statements “that the general interest ought always to be maximised” and “that everyone always tries to maximise his own interests”. The two only conflict under certain factual premises, or “criterial properties”. Rather than being inconsistent, the two parts of the principle of utility are “non-equivalent”, in that the criterial properties for one do not entail the criterial properties of the other, thereby rendering the extent to which they conflict or harmonise logically an “open question”.⁴³

The question may be logically open, but in practice it’s quite obvious that the criterial properties of both parts of the principle are met quite regularly. The insufficiency of this interpretation becomes clear when we consider that in order for it to cohere, Lyons must attribute to Bentham the belief that the community’s and the

⁴¹ Bentham, *An Introduction to the Principles of Morals and Legislation*, p. 11.

⁴² David Lyons, *In the Interest of the Governed*, (Oxford: Clarendon Press, 1990), Chapters 3, 4.

⁴³ Lyons, *In the Interest of the Governed*, p 40.

individual's interests naturally converge, at least in the long run, which he does.⁴⁴ A more plausible reading is given by John Dinwiddy, who expands his textual analysis to include some of Bentham's later writings, such as the *Deontology*. Dinwiddy also reads a type of dual role for the principle of utility, but one that entails only one standard – the Principle of Utility, and does not presupposes a natural convergence of interests.⁴⁵ From the standpoint of the individual, it is wrong to argue that a person must do that which they are not capable, namely, promoting the interests of the community at the expense of their own. From this perspective, the only judgement to be made is to what extent the pursuits that the individual makes will actually promote their own personal happiness. It is a judgement on the correctness of one's stated interests. From the standpoint of society (or all persons to be considered), a person's actions can be judged by the extent to which they actually promote the general happiness. Dinwiddy gets to the heart of the matter:

“In so far as his behaviour, judged from this point of view, was in conflict with the dictates of utility, the principle implication for Bentham was not, one imagines, that the individual himself should be held personally responsible and culpable, but that the social arrangements and other factors that had conditioned his behaviour were at fault, and should as far as possible be adjusted so as to supply him with the proper motives.”⁴⁶

The issue at stake is not what Bentham believes would naturally happen, but what his system is designed to do. I intend to show that he endeavours to arrange institutions so that the personal interests *would* converge with the general (which suggests that interests would not otherwise do). Even those who read the principle as a species of psychological hedonism, so as opposed to psychological egoism, like Lyons, nonetheless acknowledge a “significant tendency towards egoism in his thought.”⁴⁷ It is this attempt to mould the individual's interests in such a way as to harmonise with the interests of the larger group that Bentham shares with Comte, as will be discussed below. First, we must examine how Comte conceives of the fundamental drives that motivate human action.

Like Bentham, Comte seeks to catalogue an exhaustive list of the fundamental drives of all human action, or the “affective motors” as he calls them. Bentham, in his

⁴⁴ Ibid., 54. Lyons later says that the belief in the convergence of interest was common belief amongst moral and political writers of Bentham's time. See p. 55.

⁴⁵ John Dinwiddy, *Selected Writings*, William Twining ed., (Stanford: Stanford University Press, 2004), p. 150.

⁴⁶ Dinwiddy, *Selected Writings*, p. 150.

⁴⁷ Kelly, *Utilitarianism and Distributive Justice*, p. 27.

“A Table of the Springs of Action”, identifies different motives, but clarifies that they are all fundamentally and irreducibly manifestations of either pain or pleasure.⁴⁸ Comte, on the other hand, identifies ten affective motors that he classifies as ranging from egoistic to altruistic. In ascending order of altruism from purely egoistic, the motors are self-preservative, sexual, maternal, destructive (or militant), and constructive (or industrial). Next are the two ambitious motors, ones that are egoistic, but require the others for gratification; they are pride (or the desire power), and vanity (or the desire for approbation). Finally, are the three altruistic motors: attachment, veneration, and benevolence, or universal love.⁴⁹

Both Comte and Bentham attempt to create a science of human behaviour, and identifying the generic motivational forces is the first step in such a science. The goal of Bentham and Comte are the same, in that they aim to create a harmonious society whereby science would liberate individuals from the selfish and sinister influences on individual behaviour. In a bid to rid society of selfish and antisocial tendencies, they both turn to techniques of control and influence to harmonise individuals’ lives, albeit in different ways.

The egoistic and altruistic motives in individuals are ever-present. Therefore, the basis of Comte’s ethic is the encouragement of the altruistic drives, and the suppression of the egoistic ones.⁵⁰ Individuals could be trained to behave ethically, and the full systemisation of his Religion of Humanity is designed to do just that. From birth, the child is to be inculcated into expressing love for the family, the first community of concern. Love for the siblings developed a sense of solidarity, while love for the parents instils a concern for the future.⁵¹ At the age of 14, the child leaves home in order to begin its positive education at the hands of the scientist-priests (of whom Comte was the High Priest). Every aspect of daily life is designed to reinforce the positivistic sentiments. Even prayer is designed to be an invocative outpouring of pure love and devotion concentrated on a specific symbol, a woman of one’s choosing, in order to make the expression of such emotions habitual.⁵² Moreover, any such distinction between public and private life is rendered obsolete, as individuals are to live openly thereby allowing fellow citizens to act as the guarantors of morality.⁵³ The totality of the

⁴⁸ Jeremy Bentham, “A Table of Springs of Action”, in *The Works of Jeremy Bentham Volume I*, J. Bowring ed., (Edinburgh: William Tait, 1843), p. 205.

⁴⁹ T.R. Wright, *The Religion of Humanity*, (Cambridge: Cambridge University Press, 1986), p. 31.

⁵⁰ Andrew Wernick, *Auguste Comte and the Religion of Humanity*, (Cambridge: CUP, 2001), pp. 31, 60.

⁵¹ Wright, *The Religion of Humanity*, p. 31.

⁵² *Ibid.*, p 35.

⁵³ *Ibid.*, p 30.

systemisation of Comte's Religion of Humanity is, in part, an expression of his faith in the strength of education and indoctrination. Rather than create a system of formal and political equality, whereby the egoistic desires and competitiveness might naturally wither away, such as in Marx's vision, Comte's Religion is the institutionalisation of a rigid hierarchy. For sure, the scientist-priests maintained exclusive coercive powers over the citizenry, but to exercise it would tacitly be an admission of the weakness of the system. It is totally dependant on the individual's love for the Great Being, Humanity, to restrain the egoistic impulses. Everyone from the Highest Priest, Comte, to the lowest proletariat is to revel in his toil, accepting the meagre rewards as piling in comparison to the selfless devotion to the species. Comte and Mill are correct in recognising the extent to which education and religion can shape character, but there is an air of naivety to Comte's system relying solely on a continual and unfailing altruism to propagate its entire existence.

Bentham, on the other hand, maintains no such faith in individuals restraining their own desires for the greater good of society. On the contrary, he holds that behaviour could be shaped by direct and indirect means so that the desires that would benefit society *become* the egoistic desires. Bentham maps the sources of intentional activity in his Table of Springs of Action, but these springs, being nothing more than manifestations of the desire for pleasure and avoidance of pain, could be elicited from external stimuli.⁵⁴ These external sources, or sanction, that trigger the springs are classified as either physical, political, moral, or religious.⁵⁵ The physical sanction refers to the natural world that exerts its own behaviour-shaping influence on individuals, independent of any human agency. These include effects like, boiling water burning us, a beautiful sunset pleasing us, or hungry bears eating us. They are the mundane pains and pleasures of certain actions that reinforce certain behaviours within our surroundings. The political sanctions are the pains and pleasures individuals experience resulting from the law. These sanctions are created by legislators and controlled by the courts, and the most direct means the government has to influencing behaviour. The moral, or public sanction, is exercised by society in general and expresses their value system(s) or moral outlooks. Even though it is not under direct control of the government, the moral sanction could still be massaged in order to exert an indirect control over the citizenry. Finally, there is the religious sanction which has the unique

⁵⁴ Bentham, "A Table of Springs of Action", p. 205.

⁵⁵ Bentham, *An Introduction to the Principles of Morals and Legislation*, p. 34. There is a fifth sanction of sympathy, but only discussed in Jeremy Bentham, "Deontology", in *Deontology ; together with A table of the springs of action ; and The article on utilitarianism*, Amnon Goldworth ed., (Oxford: Oxford University Press, 1982), p. 182.

ability to offer rewards and punishments in the after-life, as well as in the here and now. This sanction can also be manipulated in indirect ways, like legislative sanctioning, or funding, to exert a form of control over individuals.⁵⁶ These sanctions are the means to controlling behaviour in any organised society, and Bentham employs all four in order to minimise the conflict between different interests in society. Comte employs only the religious sanction (or at least subordinates the other two social sanctions to it) to force individuals to behave in certain ways, which may be contrary to their own economic and political interests. The religiosity of his system enables him to claim that the interests of Humanity's simply *are* the individual's interests, and so no such disharmony exists. Bentham, on the other hand, uses a more subtle application of the sanctions, which alleviates the need to appeal to anything other than individuals' interests. To see how Bentham arranges institutions, and bends circumstances to enable a convergence of interests, it will be helpful to look at his best known example of social control, the Panopticon.

The panopticon is Bentham's infamous design for a prison that is ingenious for its creation of power relations by mere architecture.⁵⁷ It consists of a circular arrangement of prison cells stacked several levels high, with a guard's tower in the centre. The observation room at the top of the tower is enclosed behind Venetian blinds making it impossible for the inmates of the cells to know if the guard is inside or not. The inmates, uncertain as to whether they are being observed or not, are forced to police their own behaviour, lest they be witnessed misbehaving. Part of the novelty of the panopticon is its efficiency; only one guard is required to manage a large number of prisoners, and his presence is not even required all of the time. The real ingenuity of the design, however, is the way it subtly exerts total control over the inmates. As Foucault explains,

“it makes it possible to perfect the exercise of power. It does this in several ways: because it can reduce the number of those who exercise it, while increasing the number of those whom it is exercised. Because it is possible to intervene at any moment and because the constant pressure acts even before the offences, mistakes or crimes have been committed. Because, in these conditions, its strength is that it never intervenes, it is exercised spontaneously and without noise, it constitutes a mechanism whose effects follow from one another.

⁵⁶ Charles F. Bahmueller, *The National Charity Company*, (Berkeley: University of California Press, 1981), p. 204.

⁵⁷ Jeremy Bentham, “Panopticon, or The Inspection House”, in *The Works of Jeremy Bentham Volume IV*, J. Bowring ed., (Edinburgh: William Tait, 1843), p. 44.

Because, without any physical instrument other than architecture and geometry, it acts directly on individuals; it gives 'power of minds over minds'.⁵⁸

The panopticon was not merely a plan for a prison system, as Bentham spent several years trying to sell the design as a work-house (or, in-house relief) alternative to the welfare system of the time.⁵⁹ The possible applications of the panopticon are manifold. Any practice that involves the creation, correction, or regulation of behaviour, be it penal, medical, pedagogical, or even productive could be institutionalised in the panoptic design. The panopticon is an ingenious, horrifying device in the totality and subtlety of its control. How is one to reconcile the implications of its design with Bentham's principle aim of promoting happiness? Is the panopticon a model solution to the problems of governance, as Halévy and Himmelfarb suggest, or is it merely one of several digressions from the main thread of his thought, as Harrison argues?⁶⁰

The extent to which the panopticon serves as a model for Bentham's ideal society is a difficult question that would require extensive research into published and unpublished manuscripts in order to fully ascertain, and is beyond the scope of this project. Bahmueller is correct therefore in stopping just short of attributing the panopticon this status, as the embodiment of his philosophy.⁶¹ What is certain is that the panopticon is very representative of the way Bentham thinks about governance. The inmate of a conventional prison has the short term interest in immediate gratification, be it by participating in some forbidden activity, or the enjoyment of contraband. He simultaneously has the long-term interest in good behaviour, which will be conducive to being in good favour with the Warden, or even a curtailed sentence. This second interest is considerably weaker than the first, as it is only applicable while under surveillance. Not only can one receive credit for the good behaviour only when it is noted or recorded, but in the absence of surveillance, the first interest in flouting the rules of the prison becomes pressing, as the fulfilment of the desires becomes possible. The panopticon renders the first interest null as it is dependant on a degree of privacy which cannot be secured while in one of the cells. Furthermore, the fact that the guard *might* be watching the prisoner – with the prisoner never certain – the second interest becomes the one of primary concern. Having always to police his own behaviour, the prisoner is forced to internalise the prison guard. With no possible opportunity of indulging in the taboo

⁵⁸ Michel Foucault, *Discipline and Punish*, Alan Sheridan trans., (London: Penguin Books, 1991), p. 206.

⁵⁹ See Charles F. Bahmueller, *The National Charity Company*, (Berkeley: University of California Press, 1981). And, Janet Semple, *Bentham's Prison*, (Oxford: Oxford University Press, 1993).

⁶⁰ Semple, *Bentham's Prison*, pp. 3, 7.

⁶¹ Bahmeuller, *The National Charity Company*, p. 211.

behaviour, and forever correcting one's actions, the prisoner reforms himself. It is neither by force nor extensive conditioning that the prisoner changes his behaviour, it is by simple architecture. Analogously, the Benthamite social engineer need not resort to coercion in order to get individuals to behave in mutually beneficial ways; institutions can be arranged so that individuals do so of their own accord.

A similar logic can be found in Bentham's defence of the sovereignty of the people as embodied in representative democracy. The sovereign monarch has the power to maximise his own interests on a scale unrivalled by anyone else in society. On its face, this may not seem like a problem, provided the monarch recognises that his own interests are in fact completely harmonious with those of everyone concerned in the long run (as Lyons argues Bentham holds). However, if the interests diverge, due to sinister influence, or simple *akrasia* on the monarch's part, then the potential for real exploitation is very high. A democratically elected legislator on the other hand, while in a similar position to the monarch with respect to the power to unfairly maximise his own utility, would be institutionally restrained from doing so. For even though he may have a seemingly primary interest in maximising his own utility, even at the expense of others, his longer term interest in securing enough votes for re-election gives him the "moral aptitude" to promote the greatest happiness of the greatest numbers.⁶² Like the panopticon, we see how institutional arrangements render the purely egoistic interests null, thereby enabling a longer term interest to ascend to the primary consideration.

Examples abound of this sort of institutional tinkering. The National Charity Company, Bentham's scheme for in-house relief (which also relied on the panoptic design), tied the salary of wardens to the overall profitability of the workhouses. Wardens could no longer allow their workhouses to be the neglected dens of wretchedness that Bentham found them to be.⁶³ Another example of manipulating interests is the procedure for appointing positions in the civil service. Rather than simply choosing the most qualified candidates, a group of qualified candidates are asked to bid deductions in their annual salary. The candidate who is willing to take the lowest salary for the position is appointed.⁶⁴ Every candidate of course has an interest in a generous salary, but the entire polis has an interest in fiscal austerity. Bentham, expecting no one to act out of love for humanity, or even a mild altruism, manipulates

⁶² Frederick Rosen, *Jeremy Bentham and Representative Democracy*, (Oxford: Clarendon Press, 1983), p. 51.

⁶³ Bahmeuller, *The National Charity Company*, p. 116.

⁶⁴ Harrison, *Bentham*, p. 121.

people's options such that acting upon their own egoistic desires simultaneously promotes the happiness of the community.

These institutional arrangements are illustrative of Bentham's attempt to tie long term interests to shorter term ones, or render them void. It can be argued that everyone in society do actually share the same long term interests, and in this sense Lyons might be correct in attributing this belief to Bentham. Everyone shares an interest prisoners behaving well, legislators legislating impartially, and the state maintaining sufficient coffers (e.g. by having self-sufficient, or even profitable workhouses, or by not paying its civil servants too much). In fact, these long term interests that everyone possesses might even be described as *duties*. Hence Bentham coins the duty-interest junction principle.⁶⁵

“No means to be omitted that can contribute to strengthen the junction between *interest* and *duty*, in the instance of the person entrusted with the management: - i.e. to make it each man's *interest* to observe on every occasion that conduct which it is his *duty* to observe”⁶⁶

Duties are nothing more than long-term interests that all people share. A duty would not be levied on someone unless it contributed to the overall net utility of society, and so to neglect it would be in violation of the normative aspect of the principle of utility. The problem, with regards to the dual standard reading, is that the long term, shared interests - duties, can lose their efficacy when compared (or sometimes contrasted) with more immediate interests. Evidently recognising this, Bentham arranges institutions so that the any competition between competing interests is neutralised by either rendering an egoistic interest un-fulfilable, or by harmonising the interests. The individual then fulfils the empirical aspect of the principle of utility, its psychological egoism.

Whereas Bentham relies on institutional arrangements and direct and indirect pieces of legislation to mould people's behaviour, Comte relies entirely on the adoption of his Religion of Humanity. The strict pedagogical regiment beginning in the home is the start of a life-long practice of ritualistic worship designed to suppress the egoistic tendencies in the mind and nurture the altruism. This altruism finds its fullest expression in the devotion one has to the species. Comte's system employs education, law, public opinion, and, of course, religious sentiments in order to shape individuals to fit the needs of the species. Their projects are entirely different – Bentham's being one of

⁶⁵ Jeremy Bentham, “Pauper Management Improved”, in *The Works of Jeremy Bentham Volume VIII*, J. Bowring ed., (Edinburgh: William Tait, 1843), p. 380.

⁶⁶ Harrison, *Bentham*, p. 118. Taken from “Preliminary Sketches Taken from the Poor and Pauper Management Improved”.

social and political reform, Comtes' one of utopian revolution, but where they share common ground is in their efforts to move beyond mere coercion in order to shape behaviour. They both turn to science in order to understand human motivation, in an attempt to regulate it. Science would reveal the truth about human behaviour, and in a sense, liberate it.⁶⁷

A Progressive Utilitarianism

As should be clear by now, Bentham, like Comte, though valuing liberty to a certain extent, does so only instrumentally, as high levels of implicit social control are to be at work simultaneously. Therefore, it would be a stretch to label Bentham 'liberal', and out-right misleading to label Comte as such. This peculiar fact begs the question how is it that despite these acknowledged influences on Mill's thinking, he crafts a political morality that places liberty at its heart. However, as will be discussed shortly, it remains unclear what species of liberalism Mill belongs to, if at all. For despite the seemingly unambiguous simplicity of the harm principle, I will argue that Mill's system retains substantial levels of social control and influence, albeit in a very different manner than Bentham and Comte. Before moving on to examine the recognisably liberal influence of Wilhelm von Humboldt, it is important to explore some key elements of Mill's movement away from Bentham. As with Comte, Mill acknowledges his debts to Bentham, but does not fully articulate the commonalities of their thinking, and the extent of the differences. This section addresses some of these omissions by looking at three key areas of their thought. Firstly, I will describe how Mill opposes Bentham's attempts to tie duty to interest, based on his progressive conception of utilitarianism. Secondly, I will discuss how Mill expands Bentham's conception of pleasure, as a key departure from his version of utilitarianism. His expansion is sometimes thought to be a violation of hedonism, and I will explain how on the standard reading of Mill it is. I will then explain how a progressive interpretation of Mill enables him to retain more – but not complete – internal consistency. Finally, I will make a more general comment on the distinction between consequentialist and deontological arguments, and how this distinction can be blurred. This point is important because by remaining within the utilitarian framework, Mill is limited to the nature of his claims.

For Bentham, the convergence of interests between the legislator and the majority provides a handy justification for popular sovereignty, based on the principle of utility. Universal suffrage would ensure that every minority interest has, at the least,

⁶⁷ Both thinkers would object to characterising the effect of science this way.

access to the legislator's consideration. Moreover, application of the duty-interest junction principle wherever possible would ensure that egoistic, or rather individualistic interests would never diverge from those of society. For Bentham, these were ingenious solutions to ubiquitous problems plaguing the monarchies of the *ancien regime*. However, for Mill, Bentham was not so much replacing a bad form of government with a good, so much as with *another* bad form of government. The prospect of a majority of people wielding unrivalled political power threatened the entire progress of civilisation.

“Where there is identity of position and pursuits, there also will be identity of partialities, passions and prejudices; and to give to any one set of partialities, passions and prejudices, absolute power, without counter-balance from partialities, passions and prejudices of a different sort, is the way to render the correction of any of those imperfections hopeless; to make one narrow, mean type of human nature universal and perpetual, and to crush every influence which tends to further improvement of man's intellectual and moral nature.”⁶⁸

Mill is a democrat, but he is also acutely aware of the despotic power of public opinion.⁶⁹ Not only is Mill keen to protect the welfare of minorities, but he is also protecting the enlightening influence of social elites. Majoritarian rule is not just in itself, it is “less unjust” than the aristocratic and monarchical alternatives. The majority could wield its power legitimately, provided “its exertion is tempered by respect for the personality of the individual, and deference to the superiority of cultivated intelligence.”⁷⁰

Mill's solution to the potential tyranny of the majority is the institutionalisation of an official opposition.⁷¹ Bentham finds representative democracy to be the only way to maximise the welfare of the greatest numbers, while Mill finds it potentially tyrannical. The majority would always be beholden to one interest or set of interests, and would marginalise the rest. Only sufficiently diverse, competing interests could counter-balance the domination of the majority interest. For Bentham, the arrangement of harmony of interest is the prudential way to get individuals to behave in ways that are mutually beneficial. Mill fears that the total victory of one idea over another ends deliberation on a matter, which tends society towards “Chinese stationariness”. For Mill,

⁶⁸ John Stuart Mill, “Bentham”, in *Collected Works X*, John M. Robson ed., (London: Routledge and Kegan Paul, 1969), p. 107.

⁶⁹ John Stuart Mill, “On Liberty”, in *Collected Works XVIII*, John M. Robson ed., (London: Routledge and Kegan Paul, 1977), p. 220.

⁷⁰ Mill, “Bentham”, p. 108.

⁷¹ *Ibid.*, p. 108.

progress can only be ensured by the guaranteeing a sufficient level of disharmony in moral and political matters.

A fuller articulation of Mill's thinking on the conditions of social progress are given in Chapter II of *On Liberty*. In Mill's second argument for the freedom of thought and discussion, he stresses the importance of our deepest and firmest held truths constantly being vigorously debated to maintain them as "living truths", instead of degenerating into "dead dogma".⁷² Only by periodically engaging with attacks on these truths can we cement our understanding as to their groundings. So important is this threat to our understanding that in the absence of such challenges, society is obliged to create them.⁷³ This argument is one more example of Mill's particular philosophy of history that holds social diversity to be a key condition of human progress. Even if such diversity does not occur 'naturally', it must be maintained by society. Mill's fear is that the growing conformity and social homogenisation he perceives in his time will lead to "Chinese stationariness" and an end to progress altogether.

Bentham maintains no such philosophy of history. Human nature is fixed, and society should be organised to tap into and guide the basic motivations of human action. For Bentham, this entails harmonising the interests of as many people as possible, in order to make their fulfilment as mutually beneficial as possible. This strategy is dictated by the descriptive and normative elements of the Principle of Utility. It is not, however, the only interpretation. Mill takes a more developmental approach to maximising utility. Rather than gratify individuals' given desires, society should instil an ethic of self-improvement, whereby qualitatively *better* desires will yield more utility when fulfilled. This interpretation, coupled with Mill's philosophy of history makes the idea of progress pivotal in his theory. The most important element is to maintain the conditions of human progress and improvement, which as we will see in Chapter Six, is embodied by the principle articulated in *On Liberty*. This strategy of maximisation is universally recognised as a departure from the classical Benthamite version of utilitarianism, however there is less consensus as to whether this expansion constitutes a violation of the Principle of Utility.

Another major departure from Bentham is Mill's taxonomy of pleasure. Bentham is not merely pontificating on the experiential properties of pleasure, he is quantifying the dimensions of pleasure so as to weigh them. Pleasure and pain vary in intensity, duration, certainty, propinquity (or remoteness), fecundity (or the possibility

⁷² Mill, "On Liberty", p. 243.

⁷³ Ibid., pp. 245, 251.

of leading to more pleasure/pain), purity (or the extent to which pain/pleasure is mixed with its opposite), and the extent that other people share in the sensation.⁷⁴ The source of the pleasure is irrelevant to its value, unless of course it is derived from an offence against another person. While claiming to adhere to the Principle of Utility all of his life, Mill nonetheless radically departs from Bentham's felicific calculus. For Mill, "It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasure should be supposed to depend on quantity alone."⁷⁵ Pleasure is not merely a question of its sensual properties; pleasures also differ in kind. Mill states unequivocally that it is totally consistent with the principle of utility that some pleasures be more desirable than others, apart from being of greater quantity.⁷⁶ The *higher* pleasures are ones that excite the higher faculties of human beings, as opposed to the more sensual, or animal-like ones. The higher pleasures do not merely yield more pleasure, they produce pleasure of a categorically higher kind. In fact, so superior are the higher pleasures that no amount of the lower would ever be preferable to any amount of the higher. How to identify a pleasure is by comparison:

"Of two pleasures, if there be one to which all or almost all who have experience of both give a decided preference, irrespective of any feeling of moral obligation to prefer it, that is the more desirable pleasure. If one of the two is, by those who are competently acquainted with both, placed so far above the other that they prefer it, even knowing it to be attended with a greater amount of discontent, and would not resign it for any quantity of the other pleasure which their nature is capable of, we are justified in ascribing to the preferred enjoyment a superiority in quality so far outweighing quantity as to render it, in comparison, in small amount."⁷⁷

On its face, this seems not only a departure from the classical Benthamite calculus of pleasure, but from ethical hedonism altogether. If no amount of the lower pleasure can outweigh a given amount of the higher pleasure, then what is it other than pleasure that confers its higher status? It would appear this question cannot be answered without importing values from outside of hedonism. Mill appeals to "higher" faculties to justify the superior quality of the higher pleasures, however the Principle of Utility cannot allow for the excitement of these faculties alone – pleasure aside - to be valuable in themselves. Bentham makes no normative claims about the desirability of pleasure, beyond what his felicific calculus demands. He does maintain a degree of flexibility, or

⁷⁴ Bentham, *Introduction to the Principles of Morals and Legislation*, p. 39.

⁷⁵ John Stuart Mill, "Utilitarianism", in *Collected Works X*, John M. Robson ed. (Toronto: Routledge and Kegan Paul, 1969), p. 211.

⁷⁶ *Ibid.*, p. 212.

⁷⁷ *Ibid.*, p. 211.

imprecision, when he defines utility as “that property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness”, but he nonetheless maintains that pleasures can be estimated and ranked cardinally.⁷⁸ Mill is unsatisfied with this narrow picture of human psychology, and so seeks to expand it - but at what price?

Mill’s expansion of pleasure to include hierarchical distinctions has been met with general approval in much of the secondary literature.⁷⁹ There is nothing inconsistent with hedonism to posit a class (or classes) of pleasures to be categorically higher than others. The pleasures yielded by these higher activities are superior – by which I mean productive of more utility - because of some specific feature inherent to them, like exercising certain capacities of the brain. However, where Mill does appear to violate hedonism, and subsequently the Principle of Utility, is with his insistence that the superior nature of the higher pleasures is such that it would not be resigned for *any amount* of the lower pleasure. Mill is not saying that the higher pleasures are such merely with respect to magnitude, because then at some point a very large amount of lower pleasure would eventually be preferable to some amount of the higher; rather, he is saying that there is something that renders them *infinitely* superior.

Roger Crisp defends Mill’s hedonistic credentials by describing the higher/lower distinction as yet another property of pleasure, like its duration, intensity, etc.⁸⁰ As pleasure of 8 minutes is preferable to one of 3 minutes, so too is a mental pleasure preferable to bodily one. It is still only pleasure that we are describing, and so safely within the confines of hedonism. The nature (whether it is higher or lower) of a pleasure may be yet another dimension of it, but Crisp does not account for its uniquely *incommensurating* effect. Whereas the duration of a pleasure may compensate for its lack of intensity, nothing can compensate for it being lower. The nature of the pleasure sets it apart in a way that its other properties do not, and it is unclear how hedonism can accommodate this transformative dimension. Similarly, John Plamenatz analogises with colour.⁸¹ If colour is the only good, and a person were to then rank the colours in order of beauty, he would not be importing any new value to do so. To rank colours is not to admit any other good, apart from colour because that is the only manner in which they vary. Similarly, to rank pleasure is to do so only with respect to pleasure and nothing

⁷⁸ Bentham, *An Introduction to the Principles of Morals and Legislation*, p. 39.

⁷⁹ John Plamenatz, *The English Utilitarians*, (Oxford: Basil Blackwell, 1966), p. 137. John Skorupski, *John Stuart Mill*, (London: Routledge, 1989), p. 304. Roger Crisp, *Mill on Utilitarianism*, (London: Routledge, 1997), p. 34. Jonathan Riley, “Is Qualitative Hedonism Incoherent?”, *Utilitas*, Vol 11, No 3, 1999.

⁸⁰ Crisp, *Mill on Utilitarianism*, p. 34.

⁸¹ Plamenatz, *The English Utilitarians*, p. 137.

else. However, it is one thing to rank colours, or pleasures, with respect to their desirability, it is another to declare that some colours are inherently and categorically superior. Whereas the former is an expression of the person's subjective preference, the latter is a normative claim regarding what every rational person's ranking *should be*, and therefore must be justified with reference to some criterion - duration, intensity, etc aside. Remember, Mill's claim is that no amount of the lower can ever rival the higher, i.e. no incremental increases can be made to make the lower pleasure more attractive. Whereas colour can gradually shift from one to another, and pleasure can shift from one length to another, the nature of a pleasure cannot, according to Mill. The analogies that these writers use fail to capture the radical incommensurability of his qualitative hedonism.

Mill's problematic revision of hedonism is not limited to his taxonomy of pleasure. Generalising from this distinction, and its supposed psychological underpinnings, Mill famously asserts that "It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied."⁸² In other words, a life with the capacity to enjoy the higher pleasures, but not have them exercised, is still superior to a life of solely lower pleasures. (Of course, a life of developed capacities and their exercise is best.) Even if we grant that the higher pleasures yield not only more, but also categorically *superior* pleasure, I still do not see how we can admit that a life of frustration and dissatisfaction can be preferable to a life of simple contentment, sensual gratification, or even ignorant bliss, without fatally violating hedonism. It may be true that "Few human creatures would consent to be changed into any of the lower animals, for a promise of the fullest allowance of the beast's pleasures", but that is because of a fallacy of counterfactual reasoning. Humans know what is like to be a human, and even might think to know what it is like to live the life of an animal, and may therefore judge the life of a human to be superior. What humans don't know, and in fact cannot know, is what it is like *not* to be a human. Humans can observe the lives of animals and come to reasoned judgements about the relative welfare of the animal life, but they do so from a human perspective. Humans cannot know what it is actually like to live as an animal without reasoning, thinking, abstracting, etc, and then compare that to their own condition. Humans can imagine what it might be like, but can never know for sure. For that matter, intelligent humans cannot know what it is like to be a fool, or persons of feeling and conscience to be selfish and base. Such argumentation cannot be used to justify the hierarchical

⁸² Mill, "Utilitarianism", p. 212.

distinctions between existences. If it can be shown that the animal experiences *relatively* more pleasure than humans, then ethical hedonism must deem it to be superior.

This conclusion, however, is not the end of the story for Mill and hedonism. My intention in the above paragraph was only to show that Mill makes a crucial departure from Benthamism, and from ethical hedonism as it has typically been formulated. What I now must show is how Mill maintains internal consistency by adding a progressive dimension to his hedonism (more or less). I still maintain that the incommensurability aspect of Mill's qualitative hedonism is untenable, but I now want to show how this progressive dimension enables Mill to avoid some of the illiberal implications that utilitarianism holds for Bentham, and for utilitarianism in general. In particular, I will show how Mill can maintain his self-regarding sphere, and its equal distribution, and what Don Habibi call's Mill's Growth Ethic.⁸³ I will then conclude this section and the chapter by a more general point about progressive consequentialist theories.

The key to Mill's Religion of Humanity, or the system that entails his utilitarian and liberal thought is its progressivism. Mill is not merely concerned with the present social and political situation, like Bentham, he is more concerned with institutionalising the conditions to facilitate the advance of human civilisation. Mill can therefore make utility trade-offs that Bentham cannot make. For example, as argued above, the trade-off between security and equality falls clearly on the side of security. For him the immediate utility loss of insecurity of property rights outweighs the potential long-term gains from less socio-economic disparity. In other words, the propinquity and certainty of pleasures to be had from redistribution on balance render it legislatively inexpedient. It is not that Bentham is totally unconcerned with the future, it is that as a legal reformer, he is obliged to limit the extent of his longitudinal thinking. Mill, on the other hand, at the outset of *On Liberty* states that the utilitarianism upon which he bases all ethical questions is "grounded on the permanent interests of man as a progressive being."⁸⁴ He can therefore attach more weight to the utility gains of future generations with more internal consistency.

Sir Isaiah Berlin in his seminal lecture on Mill fails to note this progressive dimension. Arguing that Mill fails to protect the freedom of thought and discussion by grounding it on a prior principle of utility, he charges:

⁸³ Don Habibi, *John Stuart Mill and the Ethic of Human Growth*, (Dordrecht, NL: Kluwer Academic Publishers, 2001).

⁸⁴ Mill, "On Liberty", p. 224.

“Again, it may well be that without full freedom of discussion the truth cannot emerge. But this may be only a necessary, not a sufficient, condition of its discovery; the truth may, for all our efforts, remain at the bottom of a well, and in the meantime the worse cause may win, and do enormous damage to mankind.”⁸⁵

Berlin here is expressing a legitimate concern. Hate speech or the propagation of erroneous or dangerous thought may certainly do great harm to society.⁸⁶ However, in order to fully discredit such thought, pernicious ideas must be confronted and challenged, repeatedly. For one of the measures of human progress Mill mentions is the “consolidation of opinion”:

“As Mankind improve, the number of doctrines which are no longer disputed or doubted will be constantly on the increase: and the well-being of Mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested.”⁸⁷

Incontestability may be an asymptotic limit never attained, but forever approached. Chapter II of *On Liberty* clearly obliges people to find a devil’s advocate to construct the strongest counter arguments possible.⁸⁸ Mill can claim that in order for progress to be sustained thereby enjoying maximal utility in the future, society must endure the potential harm of free (but, non-inciteful) speech. In other words, the propinquity of [the utility of] expanded knowledge may be low, but its certainty is high.

More generally, the Principle of Utility has come under criticism that finds its fullest expression in C.L. Ten.⁸⁹ Expanding on Berlin’s critique, Ten says that the Principle of Liberty cannot be grounded on a prior Principle of Utility. Whether one interprets Mill to be employing a hedonistic form of utilitarianism (which I do), or a preference-satisfaction based form, the Principle of Liberty cannot be sustained without substantial utility costs.⁹⁰ There will always be people for whom the maximisation of utility would require the interference with other people’s supposed self-regarding activities. Mill gives the examples of Muslims or Sabbatarians. He concedes that they would feel great offence at the sight of someone eating pork, or celebrating on a Sunday, but that we would nonetheless not be justified in prohibiting these activities. Mill claims

⁸⁵ Isaiah Berlin, “John Stuart Mill and the Ends of Life” in *J. S. Mill on Liberty in Focus*, John Gray and G. W. Smith eds., (London: Routledge, 1996), p. 144.

⁸⁶ Mill does not discuss the possibility of speech being harmful, but this topic will be covered in Chapter Six of the thesis.

⁸⁷ Mill, “On Liberty”, p. 250.

⁸⁸ Mill, “On Liberty”, p. 245.

⁸⁹ C.L. Ten, “Mill’s Defence of Liberty”, in *John Stuart Mill on Liberty in Focus*, John Gray, and G.W. Smith eds., (London: Routledge, 1996); Also Gray, *Mill on Liberty: A Defence*, Postscript.

⁹⁰ Ten, “Mill’s Defence of Liberty”, p. 214.

that these are questions of taste and therefore self-regarding, and so the Principle of Liberty actually protects these activities. However, Ten argues that there is no good utilitarian reason for excluding the consideration of such people when calculating the utility of interference. The “offence” they experience may actually constitute harm, and so would require the prohibition of consuming pork and Sunday celebrations. There are no good reasons to disregard these “morally dependant harms”.⁹¹ To take everyone’s preferences into account, or even their conceptions of happiness, may require the protection of religious or cultural sensitivities, and the interference of other people’s supposed sinful activities.

I agree with Ten that to maintain equally distributed self-regarding spheres would require some immediate utility costs, unless we acknowledge the progressive perspective that I am interpreting in Mill. With this perspective, we can see how Mill thinks the long term utility pay-offs justify the short term utility costs of enduring such offences. Like I said, the propinquity may be high, but so too is the certainty that an equal distribution of self-regarding spheres is the necessary condition to facilitate the moral regeneration described in Chapter Three. For although Mill attaches great weight to cultural and intellectual elites, their role is primarily instructive. Even though the ability to appreciate the higher pleasures requires cultivation, it is generic. As will be described in Chapter Six, the condition of negative liberty is required in order for individuals to develop these capacities, because of a particular conception of human psychology Mill holds. For now, my point is merely that to consider man as a “progressive being” enables him to justify immediate utility costs of maintaining these conditions.

The progressivist reading of Mill also makes it understandable why he claims that the life of a Socrates dissatisfied is preferable to that of the contented pig. I maintain that on the more static reading of Mill, such a claim is incompatible with hedonism. Regardless of how pleasure is cashed out, or even which version of hedonism is in question, I do not see how any life of dissatisfaction can be preferable to a life of contentment, without importing some foreign value criterion. The life of Socrates might be more noble, beautiful, or Romantic, but these are values external to hedonism. However, with the progressive interpretation, we are not merely concerned with the temporal locality. To consider the future of these lives, we must realise that there is always the possibility that frustrated Socrates may attain the happiness that his

⁹¹ Ted Honderich tries to do just that. See Ted Honderich, “On Liberty and morality dependant harms”, *Political Studies*, No. 30, 1982.

elevated capacities are capable of, thereby experiencing categorically higher, and more pleasures. As long as the possibility exists to develop the capacities to enjoy the higher pleasures, then it is a preferable state of affairs when compared to the life with no such possibility. Dissatisfied Socrates not only has the capacities developed and so may one day be able to enjoy the higher pleasures, he may also be instrumental to helping others develop their capacities to appreciate the higher pleasures. On this view then, we can understand how Socrates' life might be superior to that of the pig; Socrates' dissatisfaction may only be temporary, whereas the pig's lowly pleasures are permanent.

The Achilles heel of this progressive project is its epistemological grounding. Despite Mill's commitment to the ubiquitous fallibility of human knowledge, he must maintain total certainty with regards to his method of facilitating individual moral regeneration if he is to justify the utility costs of maintaining the conditions of progress, the equal distribution of spheres of self-regarding activity in particular. Evaluating Mill's supposed empiricism is beyond the scope of this thesis, but it is important to note that his entire project rests upon a theory of human psychology which cannot be challenged like other theories. The 'evidence' supporting Mill theory is far removed from the practices his project demands. The condition of negative liberty a person experiences may not lead to the prescribed character development until possibly many years in the future. Furthermore, it might be difficult to separate the conditions Mill posits with other confounding variables. This complication is especially probable when Mill is generalising across an entire society. Mill describes the generic capacities of all rational humans that can be cultivated under the right conditions. However, his theory may not be sufficiently sensitive to local differences in human pedagogy or psychology. The central dilemma is that challenging this model of human development prevents the whole project from being fully realizable. Supporters of Mill must either accept his empirical grounding for his principle of liberty, take his project on faith, or both. Fully assessing Mill's scientific methodology is a vast project. It is nonetheless important when considering his political project to recognise the contestability of the theory of human psychology upon which it rests.

The faith required for Mill's project illustrates a larger point about utilitarian theories in general. Utilitarianism is committed to maximising utility however defined, and as Rawls points out, it matters only indirectly how the sum total of utility is distributed.⁹² There is nonetheless a commitment to the best available practices available for maximising utility, and these may vary with the growth of knowledge, or

⁹² Rawls, *A Theory of Justice*, p. 23.

other historical contingencies. Direct appeals to the standard of utility are straightforward, simplistic, and ultimately un-workable. The utility costs of attempting to calculate all of the consequences of every action would be too high as the decision maker would be paralyzed by deliberation. Furthermore, the epistemological impossibility of knowing all of the consequences of an action further makes this approach self-defeating. Mill comes roughly to this conclusion when he judges “utility, or happiness much too complex and indefinite an end to be sought except through the medium of secondary ends”.⁹³ Alternatively, utilitarian theories that introduce secondary principles or rules, such as indirect utilitarianism, or rule utilitarianism attempt to institutionalise best practices as a means to maximisation. Every such theory needs to take an empirical stand on 1) the nature of human psychology, 2) the conditions of social coordination, or 3) take a longitudinal perspective and make a claim about the conditions of social progress, as I argue Mill does, if they are to avoid collapsing back into a form of act-utilitarianism. In other words, from a liberal point of view, the Harm Principle can only be meaningful, by which I mean ultimately utility maximising, if it trumps all utilitarian reasons for overriding it. This may seem paradoxical at first, but maintaining such a principle can only be justified on utilitarian grounds if there are weightier indirect reasons for respecting the Harm Principle in the face of direct reasons to override it, or greater utility gains in the long-run. For example, if one were to consider two societies, one that respected the Harm Principle as a rule, and one that abided by act-utilitarianism, in order to claim that the first society would experience more utility, it would be necessary to make at least one of the following claims. Some fact about human nature might make direct appeals to the Principle of Utility self-defeating. To do so might require one to sacrifice his her own interests in order to maximise the aggregate’s, and the possibility of having to do so at any point, might prove too psychologically taxing for individuals to securely frame and execute their own life-plans. Another type of claim might say that the conditions of productive human coordination require such a principle in order to maximise utility. Directly appealing to the Principle of Utility might require the mass redistribution of goods, thereby upsetting the existing patterns of expectations upon which people have already based their life-plans. In both cases, the Principle of Liberty provides the necessary security for individuals to plan their goals and then reason about how to achieve them.⁹⁴ Whereas it can be admitted that direct appeals to the Principle of Utility are self-

⁹³ Mill, “Utilitarianism”, p. 210.

⁹⁴ John Gray makes this point regarding secondary principles in his version Mill’s indirect utilitarianism. See John Gray, *Mill on Liberty: a Defence*, pp. 46-47, 65-67.

defeating, it is not necessarily the case that the Principle of Liberty is *the only* intermediary principle that maximises utility. It might be the case that a different principle, or even an altogether illiberal principle is empirically the most expedient to maximising utility. Therefore, taking the longitudinal perspective, and claiming that the utility pay-off of respecting the Principle of Liberty, despite the short term utility losses, ultimately will be maximal remains as the best interpretation. By empirically appealing to a particular fact about human psychology, and the conditions for individual development, and social progress, Mill can justify the short term utility losses of maintaining the Harm Principle, for the greater good of long-term, wide-spread reformation of people's characters. This justification may enable Mill to ground his liberal principles on a utilitarian foundation, but at the cost of advancing questionable empirical claims. It is only in this way, I argue, that Mill can maintain status both as a liberal and a utilitarian.

If a practice is adopted that promises to maximise utility in the distant future, and has utility costs in the short run, the practice may gradually become disassociated from the alleged utility. The practices would remain to be followed seemingly *for themselves*, without the consequentialist grounding they once had. In other words, if for consequentialist doctrines, the right is defined as maximising the good, and the resultant good is maximised gradually over time, or even altogether in the distant future, then the two might become disassociated from each other over time. The means to the end of utility maximisation – the Harm Principle – might become separated from the ultimate goal that justifies it. It is in this way that a consequentialist doctrine can appear to be more like a deontological one. The consequences may be so far off, or removed, that the emphasis shifts to the best practice, or means, as the right thing to do. The imperative nature of the practice is emphasised when the short term costs, be they utility or other goods, seem unduly high. The doctrine may stress that these costs will eventually be outweighed by the benefits, but if they are far off, distant, or even uncertain, then the practices seem to be followed for themselves. Christianity and other religions of salvation appear to have this dual character. Utopian, apocalyptic or even some perfectionist doctrines may fit this model as well. They are essentially consequentialist doctrines, but appear to take on a deontological air in practice.

Conclusion

Mill may not be as influenced by Comte as Hamburger argues, but he is certainly more so than he, or much of the secondary literature acknowledges. Bentham's

influence on Mill is well documented, as are those specific elements he rejects, such as Bentham's simplistic hedonistic calculus. Another aspect of Bentham's thought that Mill rejects is the subtle way in which Bentham attempts to manipulate individuals by institutional arrangement. In this way, it is for very similar reasons that Mill rejects elements of both Comte and Bentham's systems. Both aim to control behaviour – Comte directly, and Bentham indirectly – albeit for completely different reasons. Comte is articulating a utopian vision that is the end-state of an unfolding historical narrative; while Bentham is merely interested in securing the conditions for the harmonious and simultaneous pursuit of individual sources of utility. Perhaps ironically, it is this philosophy of history that enables Mill to defend against some of the liberal criticism made against Bentham's hedonistic utilitarianism. This progressive dimension that Mill brings to his system enables him to retain coherence, against the claims of Berlin and Ten, but weakens the strength of his empirical grounding. Mill's system isn't about maintaining as much liberty as possible, because his system calls for a different kind of control than the forms advocated by Comte and Bentham. But before we examine the exact mix of liberty and control in Mill's system, one more influence must be assessed, that of Wilhelm von Humboldt.

5. Wilhelm von Humboldt as the *savant* of *On Liberty*:

Individuality as the new *summum bonum*

As I have described in the previous chapters, more of Mill's thought can be traced back to Comte's writings than Mill acknowledges, but the full illiberal reading put forward becomes unsustainable upon closer inspection, especially in light of the influence of the thought of Wilhelm von Humboldt and German Romanticism. Von Humboldt's influence on Mill's moral and political thought is evident, as he is the only thinker Mill credits and quotes, repeatedly, in *On Liberty*. However, despite this fact being widely acknowledged by the secondary literature, the full extent of this influence have not been fully explored. This chapter seeks to remedy this lacuna by firstly giving a brief background to the currents of political thinking during the time *The Limits of State Action* was conceived. Secondly, it will explore the commonalities between Mill and von Humboldt's thought by isolating what I deem to be the key similarities in their thinking. Finally, I will show how it is specifically these influences on Mill's thought, which precludes it from being fully Comtean, as Hamburger and others have argued.¹ Mill is unique in his eclectic blending of rationalistic positivism and Romantic thought to create a version of liberal utilitarianism. His project is worth dissecting because many of its elements still resonate in contemporary forms of liberalism.

Behind The Limits of State Action

Before this exegesis of German Romantic political thought begins, I must clarify that my focus will be on the early years, approximately during the last decade of the 18th century. Later Romantic political thought in the middle of the 19th century was widely derided by the left as a religious reaction to the Enlightenment, and by the right as an apolitical aesthetic movement.² Moreover, this broad categorisation will necessarily overlook the finer distinctions between its proponents. Nonetheless, German Romanticism started out as a literary group of well-known intellectuals in Jena around 1797 where political thinkers such as Friedrich Schlegel, Friedrich Hölderlin, Ernst Daniel Schleiermacher, and Friedrich von Hardenberg, who wrote under the name of Novalis, attempted to combine elements of conservative and liberal thought. I focus on the early years because von Humboldt's *Limits of State Action* was conceived between

¹ See Linda C. Raeder, *John Stuart Mill and the Religion of Humanity*, (Columbia MI: University of Missouri Press, 2002).

² Frederick C. Beiser, *Enlightenment, Revolution, and Romanticism*, (Cambridge, MA: Harvard University Press, 1992), p. 225.

1791-1792, and so probably reflects the currents of political thinking of this time.³ The early German Romantics (“Romantics” from now on) were concerned with the extremes of both liberalism and conservatism, and attempted to forge a middle ground. Conservatism did not have adequate regard for the negative freedoms demanded by human flourishing, and liberalism with its hyper-concern for individualism destroyed communities. Like all political thinking of the late 18th century, the French Revolution was the biggest influence of the time. In particular, the Romantics believed that the only true community could be created by the ideals of liberty equality and fraternity in a republic. In addition to, and prior to the Revolution, the Enlightenment played a formative role in the evolution of political thought, however the Romantics had a much more ambivalent attitude towards it than the unambiguous attitudes of the liberals and the conservatives.

German Enlightenment thinking was confident in its ability to understand human nature by reason alone. And following from this the Romantics agreed with Kant and Fichte that pure reason could generate moral rules.⁴ They endorsed the revolutionary values of liberty, equality and fraternity, and saw these as being products of Enlightenment reasoning. Their faith in the Revolutionary project began to falter though, as the Jacobin Terror emerged. The Romantics began to feel that something more than reason was required to prevent the ideals of liberty, equality and fraternity becoming corrupted into egoism and materialism.⁵ Reason was negatively powerful; it destroyed many beliefs and traditional commitments to community. The violence and destruction following the Revolution illustrated to the romantics that the Enlightenment may have liberated individuals and made them rational, but it also made them “rootless” without faith. Nothing could escape the scrutiny of rationalism. The central dilemma for the Romantics was how to replace the void created by reason, without violating it.⁶ The Romantics were neither revolutionaries nor reactionaries. They wanted to bring the republican ideal to Germany, but realized that society needed to be educated in a deep sense in order to overcome this crisis of the Enlightenment.⁷ This reconciliation of

³ The distinctions between romanticism, conservatism and liberalism are not so clear, and as will be shown share elements with each other. In fact, Beiser, in *Enlightenment, Revolution, and Romanticism* categories von Humboldt as an early liberal, but as my discussion progresses, it will become evident that his thought shares much with Romanticism and can only be considered as such when contrasted with the contemporary Rawlsian formulation of liberalism.

⁴ Beiser, *Enlightenment, Revolution, and Romanticism*, p. xv.

⁵ Ibid., p. 228.

⁶ Ibid., p. xvii.

⁷ Ibid., p. 229.

opposites would come to form one of the defining elements of romanticism, and it took three forms.

The three approaches to the crisis of the Enlightenment were artistic, religious, and organic. Each has been advocated at different times by different thinkers, and some by several. I shall treat them a-historically as they are, for the most part, three aspects of the same approach.

The Romantics central critique focussed on modern civil society. They were not critical of private property as such, but of the effects of the market economy, as they saw it destroying culture.⁸ All relationships between people were reduced to crude utilitarian calculations of costs and benefits. The advanced division of labour that accompanied modernity differentiated individuals into narrower and narrower cogs of a machine. Philistinism was the result. This compression of expertise and activity was the exact antithesis of the central animating notion of the romantics (and some liberals): *Bildung*. Simplistically, *Bildung* translates to “education” or “self-development”, but as the discussion below will show, it is much more subtle concept than that. Following from Schiller’s *Aesthetic Briefe*, art was the central instrument of *Bildung*.⁹ It was to unify the people and excite the imagination. Whereas reason was negative and critical, art was productive. For Schlegel, art was to restore a sense of community to humans. It restored magic and beauty to the world so humans can feel at one with it again.¹⁰ At the end of the day, the Romantics were concerned with Man’s separation and alienation from a natural and integrated community and endeavoured to facilitate a restoration of this superior state. To that end, art was one method, but religion was also another.

By 1800, the Romantics had seen a significant shift towards religion amongst themselves.¹¹ Schleiermacher in his *Reden* argued that religion should be the central vehicle of *Bildung*, because only it could enable Man to realise his powers. However, he and Scheller both thought art and religion were very similar. Both regarded the universe as an organic whole, and both the expression of an individual’s highest spiritual powers as a human being.¹² Novalis went even further with the claim that art and religion were the same activity. By bringing mystery and magic back to the mundane, the artist was performing the role of the priest. Apart from Schlegel and Tieck converting to Roman Catholicism, most Romantics practised a form of pantheism. Pantheism is the worshipping of God as the universe and, vice versa. It denies the transcendent,

⁸ Ibid., p. 232.

⁹ Ibid., p. 229.

¹⁰ Ibid., p. 231.

¹¹ Ibid., p. xviii

¹² Ibid., p. 240.

anthropomorphised conception of the supreme being. Pantheism is also egalitarian, cosmopolitan, and humanist. As such, it formed the ideal foundation from which to critique the alienating effects of modernity. The Romantics still valued the Revolutionary values of liberty, equality and fraternity, but religion, like art, was a means to countering the corrupting affects egoism and materialism.¹³

Not so much a method as a model, another way of reconciling the crisis of reason was within the organic society. Articulated by Schlegel, Novalis, and Schleiermacher, it was intended to contrast the machine state of monarchical absolutism that reigned throughout Europe for so long.¹⁴ The machine state consisted of various isolated parts, a la modernity's division of labour, and it had an external controller, the Monarch. It was also held together by force, by way of the laws and coercion exercised over the unwilling people. And finally, the machine state was the product of a blueprint or plan. By contradistinction, the organic society was a community of cooperating individuals motivated by development of each other's individuality, rather than self-interest. Each person's identity was derived from the group, and the goals were not utilitarian, but spiritual. It consisted of citizens actively participating in democratic institutions as means of political self-expression. Subsequently, the organic society was held together by a common culture and sense of belonging, not externally imposed laws. Finally, the organic society was the result of gradual historical evolution, adapting to the changing circumstances, and not the product of a utopian blueprint.¹⁵ The use of the metaphor gradually became associated with conservative thought in Germany with the publication of Adam Mueller's 1808 *Elemente der Staatskunst*, but during the early years of the Romantics, it was an ideal by which to measure the current political trends of Germany and Europe itself.

Though not inherently reactionary, Romanticism is best understood as a response to first the Enlightenment, and then to the French Revolution. Like the other dominant ideologies of the time, Romanticism varied between exponents, and then evolved over time. The romantics tried to forge a middle ground between the extremes of liberalism and conservatism. It therefore shares elements of each. Before examining how von Humboldt's thought figures in Mill's *On Liberty*, it will be helpful to distinguish Romanticism from its two main ideological competitors. The liberalism and conservatism I describe now are not ascribed to any particular thinker, but should be understood as a sketch of the most common elements of each, or as stereotypes.

¹³ Ibid, 241.

¹⁴ Ibid, p 237.

¹⁵ Ibid, p 237.

At the heart of Romanticism was the metaphysical claim that Man needed a culture and a community in order to thrive. This claim the Romantics shared with conservatives, but not with liberals. However, despite this embedded conception of man Romantics simultaneously thought individuals needed to be sufficiently separate from society in order to be free of its potentially corrupting influence. This tension between the sociableness of Man and the need to develop one's capacities beyond the established norms will be replicated in Mill's thought. Opposite the conservatives, the liberal conception of human nature was a-historical and individualist. Man's desires were entirely his own, and reflect nothing other than his or her own will. Liberals were therefore motivated purely by self-interest, whereas the Romantics and conservatives were disdainful of this selfish motive.¹⁶ For conservatives, sentiment was the motivating force of individuals, which must coincide with obligation. For the Romantics, love was the most powerful drive in the human psyche. It was the desire to give and receive affection which motivated individuals to develop themselves within groups.¹⁷ Humans were in essence social animals, but this needed to be balanced with the private and semi-private need to be creative and unique.¹⁸

Conservatives also maintained that humans were social animals, situated in both a historical and physical context. This outlook was dominant amongst the absolutist monarchies that reigned throughout Europe during the middle ages. There was not much of a liberal tradition in Germany by the late 18th century, but one grew as a reaction to this tradition, largely inspired by the events in France.¹⁹ The primary liberal concern was for the protection of rights, which enabled the private pursuit of happiness. Unlike the conservatives, the Romantics also advocated a system of rights, but this was to facilitate the development of individual capacities, like creativity and spontaneity. The Romantics were trying to reconcile the obligations of freedom *and* community.

Institutionally, this reconciliation of seeming opposites would be accomplished by a plurality of intermediary groups between the individual and the sovereign. Associations like churches, and labour guilds would provided the requisite networks within which each would develop his or own capacities as a creative being. Following this reasoning, the Romantics claimed the direct relationships between the sovereign and the people under liberal and conservative states was problematic.²⁰ Whereas the

¹⁶ Nancy Rosenblum, *Another Liberalism*, (Cambridge, MA: Harvard University Press, 1987), p. 41.

¹⁷ Beiser, *Enlightenment, Revolution, and Romanticism*, p. xxvii.

¹⁸ Rosenblum, *Another Liberalism*, p. 59.

¹⁹ Beiser, *Enlightenment, Revolution, and Romanticism*, p. xxii.

²⁰ *Ibid.*, p. xxv.

liberal's laissez faire approach to welfare caused anomie, the conservative's centralised state and adherence to custom proved tyrannical.

Amongst the liberals at this time, the protection of rights was the central element of their thought. They varied however as to the best way to protect those rights. On the right, von Humboldt advocated a constitutional monarch with no popular participation. Only a strong king or queen could protect individual rights, because any form of popular sovereignty could easily turn into mob rule.²¹ In the middle were Kant, Jacobi, and Schiller who were also concerned about the potential for ochlocracy, but also recognised the need for some popular participation. They advocated a constitutional monarch coupled with a parliament. On the left was Forster who called for an abolition of the monarchy and aristocracy and advocated a fully democratic republic.²² Forster, in this respect, shared a similar vision as the Romantics.

The political manifestation of the crisis of reason for the Romantics was the reconciliation of the demands of freedom and community. The liberals underestimated the value of communities and have focused too much on the individual pursuit of personal goals. Conservatives, on the other hand, placed too much emphasis on community sacrificing any notion of a right to individual liberty. For Romantics, the state was not an umpire regulating individual endeavours, but more like a schoolmaster maintaining the conditions for the individual exploration and development of the self. Generally speaking, this was the organic state. It's main features being the plurality of intermediary groups like guilds and religious associations, and the evolutionary nature of its progress.²³ Stemming from man's social nature, individuals could best develop their capacities and cultivate their individuality within communities. This cultivation comprised the central animating value of the Romantics, *Bildung*. More specifically, *Bildung* was the "fullest, richest, and most harmonious development of the potentialities of the individual, the community, or the human race."²⁴ The notion of *Bildung* was superior to Enlightenment reasoning because it reconciled opposites that were ubiquitous to the human experience, rather than proceeding in a linear progression.

²¹ Beiser, *Enlightenment, Revolution, and Romanticism*, pp. 20, 111. Beiser classifies von Humboldt as a liberal because of his commitment to libertarian institutional arrangements. However his conception of human flourishing is not based on utility, welfare, or liberty but on the Romantic notion of *Bildung*, diversity and spontaneity. These are the values we see re-emerging in *On Liberty*, and so why I discuss von Humboldt as a Romantic and not liberal.

²² *Ibid.*, p. 20.

²³ *Ibid.*, p. xxiv. Von Humboldt does not subscribe to the organic metaphor of the state. To do so is to grant it extensive powers that he argues impairs individual self development. See J. W. Burrow, "Introduction" in Wilhelm von Humboldt, "Limits of State Action", J.W. Burrow ed., (Cambridge: CUP, 1969), p. xvii.

²⁴ Burrow, "Introduction", p. xviii.

Liberal and conservative regimes were too one-sided in their conception of the individual, and subsequently in their political outlook, only Romantics captured the unique contradictions that comprised the human experience.

Romanticism may not have been a clearly defined political ideology with clear boundaries and a consistent doctrine, but it certainly was distinctive in its endorsement of certain values, like creativity and spontaneity. Wilhelm von Humboldt's thought may have consisted of some conservative and liberal political prescriptions, but his conception of human nature is thoroughly romantic. By our standards his thought would be considered libertarian, however his book conveys much more than a sketch of his minimalist state. It also gives a very romantic picture of human needs, and it is this that touches Mill.

On Liberty and Limits of State Action: A lineage

Perhaps it would not be controversial to say that Mill is von Humboldt's biggest publicist, at least in the English speaking world. In addition to the epigraph to *On Liberty*, where Mill quotes one of von Humboldt's more eloquent lines, he is also the only writer that Mill speaks favourably of repeatedly throughout the whole essay. For this reason von Humboldt's influence on Mill's writings is self-evident, and for sure most of the Mill scholarship acknowledges this truism. However, despite the approving nod to German Romanticism scholars make, there is little examination of the specific commonalities between the two works.²⁵ This section aims to address this gap in the literature by highlighting what I deem to be three key similarities between the two works, namely their conceptions of human flourishing as stemming from their conceptions of human nature, the means of development, and finally, their identification of the distinctly human capacity of choice. This section seeks to show that Mill borrows generously from von Humboldt in the construction of his own liberal theory, more so than is commonly acknowledged.

i. Human Nature

Like Mill's one very simple principle, von Humboldt's thesis can be distilled down to two straight-forward sentences:

²⁵ Notable exceptions are Nancy Rosenblum, *Another Liberalism*, (Cambridge, MA: Harvard University Press, 1987), and J.W. Burrow "Introduction" in Wilhelm von Humboldt, *Limits of State Action*, J.W. Burrow ed., (Cambridge: CUP, 1969).

“The true end of Man, or that which is prescribed by the eternal and immutable dictates of reason, and not suggested by vague and transient desires, is the highest and most harmonious development of his powers to a complete and consistent whole. Freedom is the first and indispensable condition which the possibility of such a development presupposes; but there is besides another essential – intimately connected with freedom, it is true – a variety of situations.”²⁶

The first thing to note is that for von Humboldt, this principle is the product of pure reason, and so is a priori.²⁷ Mill, on the other hand, grounds his conception of human flourishing on a supposed empiricism. For von Humboldt, the development of human powers is merely a deontological duty, and not for the maximisation of utility, liberty, or to promote some larger end like that of the state or nation. In fact, “the highest ideal, therefore, of the co-existence of human beings, seems to me to consist in a union in which each strives to develop himself from his own inmost nature, and for his own sake.”²⁸ Mill makes a similar claim about the rightness of self development in Chapter Three of *On Liberty*, “among the works of man, which human life is rightly employed in perfecting and beautifying, the first in importance is man himself.”²⁹ Furthermore, this development for both is not open-ended or even socially determined, but is governed by “inward forces”, or in von Humboldt’s case, “inmost nature”.³⁰

Whereas for von Humboldt, self-development is an a priori duty, for Mill it is demanded by the Principle of Utility. To see how will necessitate the consideration of *On Liberty* and *Utilitarianism* simultaneously, as previously discussed in Chapter Two. Mill’s argument takes two forms. Firstly, because of distinctly human powers and capacities, only the development and exercise of them can yield the highest amounts of pleasure, of the relevantly ‘higher’ kind, as spelled out in *Utilitarianism*. Secondly, one’s development, or individuality, which Mill equates in Chapter III, can also assist other peoples’ development as well. As Don Habibi points out, Mill ascribes both intrinsic and extrinsic value to development.³¹

²⁶ Wilhelm von Humboldt, *Limits of State Action*, J.W. Burrow ed., (Cambridge: CUP, 1969), p. 16. Mill quotes this passage John Stuart Mill, “On Liberty”, in *Collected Works XVIII*, John M. Robson ed., (Toronto: University of Toronto Press, 1977), p. 261.

²⁷ Burrow argues that von Humboldt intended to make this point more empirically in a later writing entitled Plan for Comparative Anthropology. See Burrow, “Introduction”, p. xxiv.

²⁸ Von Humboldt, *The Limits of State Action*, p. 19.

²⁹ John Stuart Mill, “On Liberty”, in *Collected Works XVIII*, John M. Robson ed., (Toronto: Routledge and Kegan Paul, 1977) p. 263.

³⁰ Mill, “On Liberty”, p. 263.

³¹ Don Habibi, *John Stuart Mill and the Ethic of Human Growth*, (Dordrecht: Kluwer Academic Publishers, 2001), p. 27. This is one of the best books written about Mill and self-development. Following Habibi, I will use terms such as development, self-development, improvement, betterment, edification, and self-realisation interchangeably.

To begin with, human beings have certain capacities that separate us from other animals. Such “faculties” are not merely different, but “elevated” from those of the animal kingdom.³² Once one has discovered these generic human capacities, they will comprise a central element to one’s happiness. This line of empirical reasoning is how Mill posits the distinction between higher and lower pleasures. The higher pleasures are those that excite the intellect, imagination and moral sense, and are to be contrasted with the lower pleasures, which are purely sensual and so more animal by nature. However, as discussed in the previous chapter, Mill runs into trouble with such a distinction because the claim is not that the activities that excite the higher capacities yield more pleasure than the lower ones, but that they yield pleasure of a incommensurably *higher* kind. Moreover, he says that anyone experienced in both pleasures would not resign the higher pleasure for any amount of the lower. Mill considers the excitement of such capacities a necessary ingredient of human flourishing because of their utility-producing properties, and that such capacities need to be nurtured, lest they atrophy.

In addition to experiencing more utility, individuals who have developed their capacities or individuality are of instrumental value to others as well. Self development is not a natural tendency, but is a product of the social conditions.

“It will not be denied by anybody, that originality is a valuable element in human affairs. There is always need of persons not only to discover new truths, and point out what were once truths are no longer, but also to commence new practices, and set the example of more enlightened conduct, and better taste and sense in human life.”³³

Mill recognises that even in advanced civilizations, the best practises and beliefs can become mechanical and dogmatic. There is an enduring need of society to have individuals that posses genius and spontaneity to stimulate each other’s self-development, which in turn drives human progress. The implication is that anybody can potentially play this leading role in society thereby maximising not only their own utility, but society’s in general. All that is required is the *desire* to flourish in this way, because everyone has the ability to a certain extent.

For both von Humboldt and Mill, individuals are active authors of their own lives and create themselves. Inmost nature and inward forces are not to be confused with human essence, either generic or unique. There is not a ‘true self’ at the core of each individual struggling to manifest itself in the world, either given free play to be

³² Mill, “Utilitarianism”, in *Collected Works X*, (Toronto: Routlegde and Kegan Paul, 1969), p. 210.

³³ Mill, “On Liberty”, p. 267.

expressed, or suppressed at the hands of society or the individual. Rather, there is something that is best described as ‘potential’ within each individual that is acted upon by personality or character to create a life. Von Humboldt speaks of “powers” (p. 16), “creative powers” (p. 35), “energy” (p. 80), and “form and Substance”. Form is idea; and substance is sensuous perception. “Form springs from the combinations of substance. The richer and more various the substance that is combined, the more sublime the resulting form”³⁴ Similarly, Mill speaks of “inward forces” (p. 263), “energy” (p. 263), “Pagan self-assertion” (p. 266), and “personal impulse” (p. 264).

“A person whose desires and impulses are his own – are the expression of his own nature, *as it has been developed and modified by his own culture* – is said to have character...If, in addition to being his own character, his impulses are strong, and are under the government of a strong will, he has an energetic character”(emphasis added).³⁵

Human beings are essentially creative beings, however how that essence is reified will vary depending on the circumstances and character of each person. Not only do von Humboldt and Mill both extol the virtue of creativeness, but they also see it as a socially embedded activity.

For both Mill and von Humboldt, human flourishing is a social endeavour, however there is one key difference in their communal projects. Mill, concerned about the self-inflicted levelling down of society, and the “present low state of the human mind”, appeals to enlightened elites to lead the masses to a more evolved state.³⁶ Whereas for von Humboldt, individuals come together to appreciate each other’s differences as a means to enhancing their own uniqueness. No such role is articulated for elites in von Humboldt’s system.

“Hence the principle of the true art of social intercourse consists in a ceaseless endeavour to grasp the innermost individuality of another, to avail oneself of it, and, with the deepest respect for it as the individuality of another, to act upon it.”³⁷

Von Humboldt does not articulate a specific theory of higher goods or pleasures, and so flourishing is a much more open ended ideal than Mill’s. Merely interacting with other individuals uninhibited by the state facilitates self development. In fact, any peasant or craftsmen who lovingly labours for its own sake is able to “ennoble their character, and

³⁴ Von Humboldt, p 18.

³⁵ Mill, “On Liberty”, p. 264.

³⁶ Ibid., p 269.

³⁷ Von Humboldt, *The Limits of State Action*, p. 32.

exalt and refine their pleasures”.³⁸ On the other hand, because of Mill’s theory of the higher pleasures, he is committed to a more normative notion of human flourishing, one that is revealed by elites, who are the experienced judges from Chapter II of *Utilitarianism*.³⁹ True, what actually stimulates the higher capacities may be different for everyone, but any flourishing life must entail their exercise. The only constraint on von Humboldt’s conception of human flourishing is that one develops one’s powers *harmoniously*, and to do so within the confines of Kantian ethics.⁴⁰ However, von Humboldt does not clarify this claim, for at one point he posits that goods worthy of human pursuit can never conflict, while at another point he states that “each individual can achieve only one of those perfections, which represent the possible features of human character.”⁴¹ Again, this attempt to reconcile opposites is captured by the Romantic notion of *Bildung*. In von Humboldt’s case, individuals are to unify as many different experiences into a coherent whole. It is therefore not inappropriate that Burrow concludes that the attempt to combine this Faustianism with Kantianism can only be judged on aesthetic grounds, as opposed to moral, or hedonistic grounds, as in the case of Mill. Despite human flourishing being essentially a social endeavour for both Mill and von Humboldt, the role of elites as facilitators would seem to limit the range of valuable lives down from von Humboldt’s more subjective conception of flourishing.

ii. The means to flourishing: A principle of liberty

One of the ironies of Mill’s repeated praise of von Humboldt is that as the most liberal among Mill’s major influences, he nonetheless rejects von Humboldt’s rights-based libertarian project. Liberty is at the heart of both of their systems, but the philosophies upon which their systems are drawn from divergent theories of knowledge – Mill’s is an empirical conception of harm, von Humboldt’s an a priori system of rights. Moreover, the extent to which morality and law overlap is quite different as well. As Burrow points out, the two systems perform the same function, namely, to govern the terms of interaction between individuals,⁴² however with a more progressive perspective, two key differences emerge. Mill’s system of ‘rights’ evolves along with society’s understanding of harm, whereas von Humboldt’s is fixed, and the extent to which rights and morality correspond differs between them as well.

³⁸ *Ibid.*, p. 27.

³⁹ Mill, “Utilitarianism”, p. 211.

⁴⁰ Burrow, “Introduction”, p. xxxi.

⁴¹ Von Humboldt, *The Limits of State Action*, p. 17. See p. 32 for his statement on the non-conflicting nature of goods.

⁴² Burrow, “Introduction”, p. xxxix.

Mill states in the introduction to *On Liberty*, that the entire essay is nothing but a vehicle for one very simple principle, “That the only purpose for which power can be rightfully exercised over any member of the civilised community, against his will, is to prevent harm to others.”⁴³ This statement introduces two central elements of Mill’s thesis, the dichotomy between self and other-regarding behaviour, and the notion of harm. A person’s own good is not a reason to coerce someone. With regards to others, a person’s action must be harmful in order to be eligible for legal coercion. Moreover, as I will discuss in Chapter Six, harm only constitutes the necessary condition because the harmful action must also be *wrongful*. Despite articulating his thesis in the language of harm, Mill creates a area of absolute non-interference, frequently referred to as the self-regarding sphere. This sphere is the ‘area’ within which a person’s actions do not effect others, and so are not morally evaluable. The key feature of this ‘territory’ is that its boundaries are fluid. In other words, what actually constitutes harm may change, as our understanding of the natural world grows. Something that may have traditionally seemed harmless to others, i.e. a self-regarding activity, like smoking, is now understood to have harmful affects on other people. Whereas smoking was once tolerated by most non-smokers and the law, the growth of knowledge on the subject now suggests that it should not be. Conversely, something that may have traditionally been considered harmful, like certain recreational drugs, or homosexuality, might become tolerated as our expanding understanding of these activities gradually overcomes prejudice and myth.

Having stated unequivocally that an individual’s welfare is not a legitimate reason for policy, von Humboldt must state under what conditions the state can act to restrict freedom, if at all, or what are the *limits of state action*. Von Humboldt, in fact, isolates only two purposes for which the state may act, and that is to maintain security for itself and for its individuals. Like Mill, von Humboldt recognises that “without security, it is impossible for man either to develop his powers, or to enjoy the fruits of so doing; for without security, there is no freedom”⁴⁴ However, unlike Mill, von Humboldt explicitly employs a system of rights to protect the freedoms of the state and the individual.

“According to the principles we have already determined, the State ought not to interfere with these simple human relations, except where there are grounds for fearing some violation of its own rights, or those of its citizens.”⁴⁵

⁴³ Mill, “On Liberty”, p. 223.

⁴⁴ Von Humboldt, *The Limits of State Action*, p. 43.

⁴⁵ *Ibid.*, p. 86.

But like Mill, von Humboldt is willing to tolerate some amount of interference between individuals, that is, other regarding activity, provided such interference does not violate one's rights.

“...it is not enough to justify such restrictions, that an action should imply damage to another person; it must, at the same time, encroach upon his rights...Right, then, is never infringed except when some one is deprived of a part of what properly belongs to him, or of his personal freedom, without his consent or against his will.”

Von Humboldt's definition of a right is the property that *properly* belongs to one, and one's personal freedom. A violation only incurs if one is deprived of either. A person may even incur some level of damage, provided it does not constitute an infringement. Like the permanent interests that need to be protected from harm, a person's rights demarcate the sphere that *others* may act within, and vice versa. Even though von Humboldt's system defines the space within which individuals operate and governs the terms by which people interact with each other, much like Mill's system, the key difference is that it is fixed. The 'space' defined by Mill's system changes as society's understanding of harm evolves. This can either shrink or enlarge the sphere of self-regarding activity. The area of activity defined by von Humboldt's rights is determined by reason and so is an a priori claim. Disagreement may exist over what constitutes possession and personal freedom, but once determined, there would be no new grounds for altering the rights. For sure, Mill's notion of harm is as contentious, if not more so than von Humboldt's notion of rights, but whereas this disagreement stimulates the evolution of Mill's notion, von Humboldt's remains static.

The second key difference that exists between their systems is between the extent to which law covers morality. For Mill, there is a perfect overlap, because an action that is a wrongful harm to another constitutes the necessary and sufficient condition for the legitimacy of interference. As will be discussed in Chapter Six, the category of harmful actions is larger than the one that triggers state intervention, because according to the Principle of Utility, there are good reasons to tolerate some harmful, other-regarding actions, like competition in the free market. Wrongful, other-regarding, harmful actions, on the other hand, are simultaneously a moral offence and the grounds for the state to interfere in the action, either to regulate it or to prohibit it altogether. There is a perfect overlap between the categories of legally and morally prohibited activity. For von Humboldt, morality covers a larger category of behaviour than rights protect, as he explains in this application of his principle:

“He who utters or does something to wound the conscience and moral sense of others, may indeed act immorally; but, so long as he is not guilty of being importunate, he violates no right.”

Von Humboldt is acknowledging that his minimalist theory of state action does not protect against the full range of moral wrongs or offences. Von Humboldt’s definition of rights as protection of property and personal freedom is sufficiently vague to extend the coverage to a more inclusive extent, even to the extent of Mill’s harm principle. However, von Humboldt’s illustrative example of his principle reveals that there can always be a category of actions – either small or large – that may be morally wrong, but not prohibited by the state.

Despite these differences, the fact remains that both von Humboldt and Mill are trying to create the conditions for people to develop their capacities and express their particular individualities. They both appeal to the same fact of human diversity, but come from different epistemological and moral groundings. For Mill, the content of harm changes as human knowledge progresses, which subsequently alters the boundaries of the sphere within which individuals pursue their conceptions of the good. Von Humboldt’s conception of rights, on the other hand, are determined by reason, and are therefore immune to historical and empirical contingences.

iii. The Distinctly Human Capacity of Choice

The second, and more powerful, reason for demanding liberal principles is that both von Humboldt and Mill recognise that humans possess a unique capacity that separates us from animals, or machines. This capacity is free choice and in order to exercise it, individuals must be free from physical and moral coercion either from the state or other individuals. I want to stress however that with regards to Mill I am not speaking about free will in a metaphysical sense. Furthermore, the concept of autonomy in Mill is a highly normative one, because as I will argue in Chapter Six, individuals will experience quite a bit of higher order influence on their decision making processes that I think challenges the notion, as most people have employed it. Nonetheless, both thinkers appeal to such capacity to make their claims about liberal society, and their arguments become particularly forceful when they argue against any kind of paternalism.

As a self-proclaimed utilitarian advocating thoroughly liberal principles, Mill has an obvious challenge to address, namely the possibility that in some cases non-liberal principles might promote utility better than liberal ones. As will be discussed in

greater detail in Chapter Six, Mill's system actually employs a subtle blend of negative liberty and higher order influence (whether this constitutes illiberal practices is debatable), but he does confront this challenge by appealing to the more utility-producing capacity of choice. Even though it may seem more expedient to have the state conduct some administrative business on behalf of the individual,

“it is nevertheless desirable that it should be done by them, rather than the government, as a means to their own mental education – a mode of strengthening their active faculties, exercising their judgement, and giving them a familiar knowledge of the subjects with which they are left to deal.”⁴⁶

Bearing in mind that humans are “progressive beings”, Mill takes the long-term view of the utility gains of self-development. It will be more utility-producing to have independent, self-reliant individuals freely pursuing their goals, rather than a population dependent on the state for making the most of their lives. In fact, this ability to choose one's own life is actually a combination of several features of being human, and so of central importance to human flourishing.

“He who lets the world, or his own portion of it, choose his plan of life for him, has no need of any other faculty than the ape-like one of imitation. He who chooses his plan for himself, employs all of his faculties.”⁴⁷

The exercising of such capacities in the choosing of one's life constitutes a necessary ingredient for human flourishing. For, “if a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is best in itself, but because it is his own mode.”⁴⁸ Only a situation of negative liberty can guarantee the ability to utilise such capacities. However, it is not the case that *any* life would constitute flourishing, provided the human capacities were employed to choose it. Chapter Four of *On Liberty* is an extensive catalogue of behaviours and character types that although self-regarding may rightly incur the hostility of society. Provided such “natural” penalties do not amount to harm, Mill envisions society influencing individuals in their efforts to develop their powers. Society is to help individuals discriminate between lower and higher forms of the good, thereby steering individuals away from those lifestyles that past experiments in living have shown to be suboptimal. This influence, I will argue, precludes the ascription of a purely procedural conception of autonomy in Mill's normative theory, and bounds

⁴⁶ Mill, “On Liberty”, p. 305.

⁴⁷ Ibid., p. 262.

⁴⁸ Ibid., p. 270.

flourishing within certain limits. Despite being bounded, flourishing can still take infinite forms, but this is to be contrasted with the more subjective and unbounded conception of human flourishing articulated by von Humboldt.

Like Mill, von Humboldt also recognises that the distinctly human capacity of free choice is a necessary ingredient to human flourishing. They both even acknowledge the situated-ness of individuals developing themselves. This fact necessitates the cooperation of other individuals in the pursuit of this goal. Where they differ is that von Humboldt does not articulate a theory of higher pleasures, and so flourishing would appear to be more open ended.

When von Humboldt and Mill speak of free choice, they refer partly to the external conditions of negative liberty whereby a decision is made free of moral or physical coercion, and partly to a more positive deliberative process of decision making.

“Whatever does not spring from a man’s free choice or is only the result of instruction and guidance, does not enter his very being, but still remains alien to his true nature; he does not perform it with truly human energies, but merely with mechanical exactness.”⁴⁹

The condition of negative liberty, then, is necessary to reflect one’s “true nature”. However, von Humboldt also recognises that individuals are closely enmeshed with their surroundings, which also exert forces on the individual’s will. These “external purposes” are distinct from “internal sensations”, and can constitute an impetus to act, apart from inner spontaneity. The truly evolved individual does not resist or attempt to overcome these external influences, but harmonises them with one’s own will.

“The more unity a man possesses, the more freely does his choice of these external matters spring from his inner being, and the more frequent and intimate is the cooperation of these two sources of motive, even when he has not freely selected these external objects.”⁵⁰

Even though human flourishing may require a reconciliation of one’s will with one’s immediate surroundings, it is not clear to what extent this limits the content of flourishing. In fact, von Humboldt explicitly states that this higher form of existence is even open to the peasant or craftsman, provided they “love their labour for its own sake”.⁵¹ Without a theory of higher goods to limit the content of flourishing, it is a much more subjective ideal than in Mill’s system. If anything, von Humboldt’s insistence of a

⁴⁹ Von Humboldt, *The Limits of State Action*, p. 28.

⁵⁰ *Ibid.*, p. 27.

⁵¹ *Ibid.*, p 27.

harmony of internal and external forces, and the correct attitude towards one's life limits the *form* of flourishing, but there is little that suggests its content. He does say that "the highest ideal...of the co-existence of human beings is, seems to me to consist in a union in which each strives to develop himself from his own inmost nature, and for his own sake", and this social interaction might have the same regulating effect as it does in Mill's system, but again, there is little textual evidence to suggest that there is anything beyond a system of rights to limit the trajectory of self development, and the content of human flourishing. Both von Humboldt and Mill demand negative liberty in order to utilise certain human capacities, and both require a social framework for this, but whereas Mill expects a convergence of the content of the good life, von Humboldt's procedure leaves it much more open.

There are several common elements to Mill and von Humboldt's thought, but I have isolated and discussed what I deem to be three most important commonalities. The three elements I discuss here are actually aspects of a greater concept that Mill and von Humboldt employ, namely individuality. Not only does the conception comprise the main argument of Chapter III of *On Liberty*, it also is the crucial addition to Mill's thought that prevents it from having a much more Comtean or Benthamite air. Without it, much more of Mill and Comte's thought would be compatible, which is problematic for those who hold Mill as a paragon of liberal thought.

Comte vs. von Humboldt in On Liberty

To recap the thesis so far, Joseph Hamburger argues that the controversial thesis that couched within the arguments for liberalism in *On Liberty*, are intimations that Mill actually intended to bring about a new Religion of Humanity, one that entailed high levels of social control. Along with Linda Raeder, Hamburger's main argument is that Mill's thinking is deeply influenced by the writings of Auguste Comte.⁵² As I have shown in Chapter Three, Mill's thinking does have a lot in common with Comte's system, more so than he admits, and than the secondary literature acknowledges. However, at the same time, crucial differences remain between their thinking, which precludes the illiberal reading of Mill that Hamburger puts forward. For example, Mill's concern for the distinctly human capacity of deliberative choice requires at the least, a sphere of negative liberty within which to deliberate. If we take *On Liberty* along with *Utilitarianism* to be the ultimate articulation of Mill's moral and political thought, what I now want to show is that it is specifically those elements of von Humboldt's thought

⁵² See Raeder, *John Stuart Mill and Religion of Humanity*, Chapter 2.

which preclude Mill's vision of society from being fully Comtean. What I propose is that it is specifically von Humboldt's concern for individuality that prevents Mill's normative claims about society from being compatible with Comte's utopian vision.

As was described above, Mill's system is geared towards the development and refinement of human sensitivities and capacities. Society, and elites in particular, would assist individuals in their efforts to discriminate between higher and lower forms of activity. Pursuits that require intellectual and aesthetic sensibilities like poetry, Mill has a clear preference for. Individuals would thusly experience more utility from such refined enlightened existences than those who passively revelled in pleasures of the body. Any form of human flourishing on Mill's account would have to include the exercise of such capacities, which bounds the range of possibilities. However, within this range can still exist an infinite number of possibilities. Mill is unequivocal: self development simply *is* individuality.⁵³ People should not merely cultivate an appreciation for a handful of haut-activities established by cultural norms, but should also cultivate the natural differences that exist between individuals. People are inherently different, and rather than suppress these differences to conform to the sway of custom - as most people do, Mill argues - individuals will experience more utility by allowing their spontaneous characters to express themselves. Moreover, unique individuals constitute part of the conditions necessary for others to explore and develop their own individuality, and possibly even genius.

“In proportion to the development of his individuality, each person becomes more valuable to himself, and is therefore capable of being more valuable to others.”⁵⁴

There are both direct and indirect utilitarian reasons for developing one's individuality. A diverse and dynamic population thrives, unlike China, according to Mill, which seems an ironic counter-example these days.

Mill scarcely makes mention of the virtue of individuality prior to *On Liberty*, and it plays a central role in the articulation of his moral and political thought. The call to develop one's individuality is also the central claim of *The Limit of State Action*. Arguing against a nationally centralised education, von Humboldt states, “the grand, leading principle, towards which every argument hitherto unfolded in these pages directly converges, is the absolute and essential importance of human development.” As to whether von Humboldt actually influenced Mill's thought, I think evident in this aspect: Mill quotes the exact same passage in the epigraph to *On Liberty*. However, the

⁵³ Mill, “On Liberty”, p. 267.

⁵⁴ *Ibid.*, p. 266.

sanction of von Humboldt's principle could not be more different – Mill's being empirical, von Humboldt's being a priori – but his passion is matched. He observes that “men have now reached a pitch of civilisation, beyond which it seems they cannot ascend except through the development of individuals” because the “greatness of mankind” ultimately depends on individuals never losing sight of the import of “individuality of power and self-development”.⁵⁵ As described above, some of von Humboldt's methods of facilitating self-development vary slightly, but Mill's extolment of individuality can clearly be traced back to his work.

As Chapter Three argues there are more commonalities between Mill and Comte's work than is typically acknowledged. What is important about individuality is that it is the key feature of Mill's thesis that precludes it from being compatible with Comte's Religion of Humanity. Individuality does play a role in Comte's philosophy of history, but it would pose an undermining threat to his utopian vision of the religion of humanity. This point is particularly salient when one considers the similarities between Comte and Bentham's methods of facilitating social harmony, as discussed in the previous chapter.

To be sure, freedom is a crucial element in both the philosophies of history of Comte and Mill. Both perceive history to be oscillating between two periods of stability and progressive turbulence. Organic periods, characterised by a harmony of moral and scientific beliefs, consist of relative political stability. Both Comte and Mill cite the age of Medieval Catholicism as the last organic period in history. During such periods, the unity of belief and practices rendered freedom at best irrelevant, and at worst, subversive. However science would eventually mount enough challenges to the status quo to discredit the old regime, thus ushering the next period of competing and conflicting norms and beliefs. During this next critical period, liberty of thought and expression would be crucial. Critical opinions would counter reactionary ones, thereby allowing another consensus dialectically to emerge - the next organic period. What becomes clear from von Humboldt and Mill's discussion of liberty is that it is merely a means to larger ends. To have the freedom of thought and expression is one thing, to make use of it another. Individuals easily, and very often, squander their liberties engaging in conventional activities that are established, non-productive, or both. In order to challenge existing norms, and push the boundaries of knowledge, it is essential that individuals experiment with and explore their own lives. Different experiences would yield new perspectives on the world, which produce new knowledge and

⁵⁵ Von Humboldt, *The Limits of State Action*, pp. 51, 17.

practices. This is the instrumental value of individuality and both Mill and von Humboldt recognise it. Comte also acknowledges the productive dimension of freedom and its utilisation, but fears its subversive potential.

Comte's instrumental valuation of freedom resulted in an ambivalence towards it. Freedom of thought and discussion and individuality fuels the progression of civilisation, but it also disrupts the harmony of organic periods. As argued in the Chapter Three, Comte betrays his own philosophy of history with his static vision of the Religion of Humanity, the ultimate organic period. The system he creates entails the ritualisation of every minute aspect of life into a perfect harmony and stability. The totality of systemisation left no room for the negative liberties enjoyed during the previous critical periods. Comte is certain that the positivisation of all thought and politics would be the final stage in the evolution of civilisation. As such, Comte holds that no other critical periods are to follow, and so the instrumental value of liberty would evaporate. Aptitudes could be tested and natures could be revealed, so the most appropriate role in society for every individual could be determined. Furthermore, unlike Mill and von Humboldt, Comte attaches no weight to the human capacity of deliberative choice, and so does not provide for a sphere of negative liberty within which to deliberate. Comte is not concerned with the grounds or reasons for people's decisions, provided they make the right decision, as determined by positivistic thinking. Whereas Mill is concerned with individuals knowing *why* one must hold a certain belief or participate in a certain activity, Comte forecasts all actions to be motivated by love for the Great Being, humanity. Under these conditions, moral conflict would evaporate thereby making all disputes resolvable by science, as practised by the scientist-priests, the clergy of Religion of Humanity. They alone would be charged with the direction of society, and their power and authority is absolute. Any system of rights granted to citizens would only infringe upon their ability to govern effectively. The real threat however comes not from merely possessing any particular set of liberties, as the family, education and society all work to integrate and harmonise the individual into the Great Being, thereby making nonconformity unlikely. The real threat comes from the spontaneous outbreak of individuality, which could produce critical or even subversive ideas about Comte's utopian vision.

Mill's valuation of individuality, derived in part from von Humboldt, is the key difference between Comte and Mill's systems. It not only is the crucial aspect of Mill's system that precludes it from being very Comtean, but also makes it a much more progressive doctrine than other varieties of liberalism. Upon initial inspection, it may

appear that the crucial difference between their systems is Mill's institutionalisation of liberty, as opposed to Comte's selective application of it, but as I will show it is not so much the possession of freedom, as its use. Both Mill and Comte have highly situated conceptions of the individual who experience influence and guidance from society. Both also recognise the homogenising and harmonising effect this has on society in general. Whereas Comte celebrates this social harmony once the final stage of history is achieved, his religion of humanity, Mill is alone in adding the Romantic notion of individuality to counter the integrative – but necessary – influence of society. To make this point more clear, I will now briefly describe how *On Liberty* would look without Mill's valuation of individuality. Despite the liberties argued for in the essay remaining, there would be a gradual convergence on a small handful of forms of human flourishing. Progress would halt and a static equilibrium would be reached, much like in Comte and Bentham's system.

In order to conduct this hypothetical experiment, we simply need to remove Chapter III, "Of Individuality, as One of the elements of Well-Being". As such, individuality loses its direct and indirect utilitarian value. The upshot of this is the fact that the natural differences that exist between individuals no longer need to be cultivated. Chapter III makes much of the fact that society currently has the tendency to force individual desires and interests to conform to customary forms. No longer being the social harm this once was, we lose one of the arguments for liberty, namely the need to accommodate the innate differences between individuals. The Essay, however, rests on several arguments for liberty that remain despite the loss of individuality as utilitarian virtue.

Even without the Romantic concern for the individual authorship of self-created lives, the freedom of thought and discussion would remain, as argued in Chapter II. The arguments are threefold, but can be put under two broad headings: the infallibility of human knowledge, and the grounds of human knowledge. The arguments regarding the harm of suppressing certain opinions. In the first case, the suppressed opinion might be true, in which case its censure would reinforce a status quo of ignorance.⁵⁶ In the second case, the suppressed opinion might contain part of the truth, in which case only by openly confronting the opinion in discussion can the truth of the opinion be separated from the falsity of it.⁵⁷ These arguments have a clear utilitarian logic to them that even Comte would have endorsed. The examples Mill cites in the chapter exemplify the

⁵⁶ Mill, "On Liberty", p. 229.

⁵⁷ *Ibid.*, p. 252.

critical periods, for which Comte says freedom of thought is instrumental. This particular argument for liberty gives *On Liberty* a Comtean air to it. Finally, the most powerful of the three arguments for freedom of thought and discussion is that even though the suppressed opinion is well known to be false, repeatedly affirming our true opinions prevents them from becoming “dead dogma”.⁵⁸ This argument is one of several interspersed within the essay that illustrates Mill’s concern for deliberative choice. Mill is not only concerned with individuals holding the correct beliefs, but is clear that he wants individuals to also understand the grounds for those beliefs. Similarly, as he argues in Chapter V, state paternalism prevents individuals from exercising and fully developing their reasoning and choice-making capacities. Mill wants individuals to understand the grounds for their choices as well, like for the higher pleasures. The arguments for freedom are manifold in *On Liberty*, and so removing Mill’s concern for individuality does not detract from the overall thrust of the book. However, Mill does much more than justify liberal principles in *On Liberty*; his arguments demonstrate the Romantic potential of individuals to create themselves in indefinitely different ways, and it is this progressive dimension to Mill’s thesis that is lost with the subtraction of individuality.

To see how progress would all but stop in Mill’s system without the call for individuality, one must bear in mind the extensive influence society has over individuals’ development. Society, and elites in particular, are to help individuals discriminate between higher and lower forms of the good or pleasure, so that they may develop their capacities in order to experience more utility. This is the main argument of Chapter IV, “Of the Limit to the Authority of Society over the Individual”. Here, Mill discusses the “the severe penalties at the hands of others, for faults which directly concern only himself”. Of course the harm principle limits the actions of individuals conducting experiments in living, but so too do the sentiments of the already-enlightened individuals. Such people would exercise second order influence that would not morally or physically infringe upon one’s freedom of action, but on one’s character, the higher-order self that attaches weight to the outcomes of different experiments. An example of this might be people ostracising or excluding an individual who flirts with heavy drinking, or some dangerous drug. Others could not interfere with the individuals’ act of becoming intoxicated, but could respond negatively - and perhaps severely so – in a bid to discourage the antisocial behaviour. The same group might also take steps to incentivise other activities, like those that utilise distinctly human

⁵⁸ Ibid., p. 243.

capacities – the higher pleasures. Ultimately, the individual must decide how to live his or her life, society may only exercise this second-order influence. This point will be discussed at length in the next chapter.

Mill envisions an indefinite range of different forms of human flourishing in this enlightened way. The matter may not be as subjective as von Humboldt's, but provided the chosen life is the self-creation of the individual, and involves the exercise of the elevated human capacities, there could be as many possibilities as there are people. However, without the encouragement of individuality, individuals would converge on a shrinking number of lifestyles. The call for individuality is in part for individuals to realise their own unique potentials, but also to share new experiences and ideas with other people so they can realise theirs. Without individuality, progress would cease altogether as society encourages individuals to take up lives that have been established and proven. Furthermore, the number of proven lifestyles would shrink, as society gradually ranked some as being superior to others. Some would be deemed to exercise the human capacities *more* than others, and since diversity no longer is a virtue of society, there would be no reason to tolerate the less-utility producing lifestyles.⁵⁹ Society would become static as individuals would become socialised into a handful of different lifestyles and activities. The few lifestyles would not represent the “inward forces” of everyone, but since individuality is not an element of well-being, there would be no harm in forcing oneself into one of the proven lifestyles. In short, individuality is the key to progress in Mill's system. The duty to explore oneself and one's life is the never-ending source of new perspectives and practices. Mill argues that the way individuals experienced the most utility is by creating their own lives in accordance to their own natures. This active conception of human flourishing is in stark contrast to Bentham's more passive human psychology, and is traceable back to von Humboldt's Romantic thought, to whom he is indebted.

One final point needs to be made about what *On Liberty* would look like without the concern for individuality. Mill makes several arguments for liberty in the essay, the need to stimulate and accommodate individuality being only one, albeit a central one. Even though all progress would cease as society honed in on a small handful of maximally-utility producing lifestyles, the Harm Principle would still function as it does without individuality. Bearing mind that Mill maintains a deep concern for deliberative choice in humans, that is individuals must fully understand the grounds for their choices

⁵⁹ Of course all of the forms of human flourishing excite the human capacities, as opposed to the lower forms of existence characterised exclusively by the lower pleasures. Nonetheless, it might be possible to further rank the higher forms of life and their corresponding pleasures.

and beliefs, it would still be necessary to understand the reasons for adopting one of the few forms of human flourishing. Whether there are indefinite possible lifestyles, or just a few, knowing the reasons why the approved lives are better than the lower forms would still be crucial for their full appreciation, even if this entails experimenting with other, less utility-producing lives. Despite it appearing more expedient to coerce people into these maximally utility-producing lifestyles, the deliberative capacities would wither, along with those that enable the highest and most amount of utility. To a certain extent, even Bentham recognised this fact, which is why he arranges institutions so as to harmonise people's interests. Even though society would settle on a static equilibrium, like one of Comte's organic stages or Bentham's 'institutional uopia', negative freedoms would remain, but would be hardly utilised, which is only just slightly better than not having them at all.

Conclusion

It is impossible to deny the connection between von Humboldt and Mill's thought. Von Humboldt's influence is self evident from the many endorsements of it Mill makes throughout *On Liberty*. My purpose here is not to argue this point, but to explore the many commonalities between their works neglected by the secondary literature. As Chapter Three argues, there are more commonalities between Mill and Comte's thought than he or most commentators have noted, which is potentially problematic considering the anti-liberal vision of society Comte constructs. Similarly, Chapter Four argues that Bentham shares the same concern for social harmony that Comte does, and seeks to achieve it by employing subtle forms of control. Since Bentham's influence on Mill's thought is well documented, this commonality further strains the conventional reading of Mill. The point of this chapter is to show how among the many commonalities between Mill and von Humboldt's theories, it is specifically the Romantic notion of individuality Mill takes from von Humboldt that gives Mill's thought a permanently progressive twist that precludes Mill's vision from evolving into a static positivistic 'harmony'. Mill is unique in blending antithetical stands of thought into his version of liberalism. This eclecticism can be found in intuitive notions of self-fulfilment and authenticity found in contemporary strands of liberal thought. The question that remains however, is how to reconcile the control rightly perceived by Hamburger with Mill's unambiguous valuation of negative liberty, to which I now turn.

6. Freedom and Control in *On Liberty*:

Introducing the hierarchical conception of the self

It should now be clear that Mill's moral and political thought synthesizes diverse doctrines into a single project. What is striking about this feature is that two of three major self-evident influences on his thought are decidedly non-liberal. At this stage in my analysis, I can conclude that Mill shares much of Comte's thinking about society and history, but does not share his particular vision of the Religion of Humanity. Mill is a utilitarian, but he does not hold Bentham's narrow conception of human psychology, and subsequently is immune to some of the classic liberal challenges to Bentham's utilitarianism. Finally, Mill takes on board von Humboldt's concern for individuality and authenticity, but does not share his rights-based conception of social organisation. Mill's moral and political thought combines these seemingly disparate doctrines into a coherent project that is widely considered to be paradigmatic of a recognisable lineage of liberal thought. Before challenging this orthodoxy, I will propose a new interpretation of Mill's moral and political doctrine, as articulated in *On Liberty* and *Utilitarianism*. This interpretation goes further than others before it in accommodating the forms of influence Hamburger correctly reads in Mill's thought, while maintaining a principle of negative liberty at its heart. To that extent, this chapter firstly looks at the forms of behaviour Mill seeks to correct and the way in which he differentiates between forms of influence. Mill places too much emphasis on the reasons for intervention, rather than the effect the different forms of influence would have on the individual, thereby leaving the possibility of coercion very real, even for self-regarding flaws. Secondly, I will show that Mill's conception of liberty is best understood to entail both positive and negative elements. Thirdly, the chapter will use a hierarchical conception of the self in order to show how Mill applies the Harm Principle only to first-order reasoning and action-taking, while leaving second-order reasoning open to explicit influence. Finally, I will clarify Mill's conception of harm and the scope of the Harm Principle. Harm alone does not satisfy the necessary and sufficient conditions for application of the Harm Principle; the harm must be other-regarding, and most importantly, wrongful. This chapter is intended to show that despite negative liberty being the key condition to social progress, there remains a very positive element to Mill's conception of freedom. This positive element sanctions a form of control that any advocate of liberty should be at least suspicious of. The final judgement as to what kind of liberal Mill is, if at all, will be reserved for the final chapter of the thesis. Much turns

on the extent to which one considers the influence of people's thoughts and beliefs to actually be forms of coercion. What this chapter will show is that Mill's system simultaneously contains high levels of influence along with provisions for a particular yet absolute sphere of non-interference.

The Non-Neutrality of Mill

One of the big distinctions between Mill and contemporary liberals like Rawls, is Mill's partiality towards certain conceptions of the good, or ways of life (I will use the two interchangeably), which supposedly produce more utility. Chapter IV contains a litany of behaviours and dispositions disfavoured by Mill. He goes to great lengths to articulate the consequences of certain actions as meted out by the law, or spontaneously by society. Mill begins, "I do not mean that the feelings with which a person is regarded by others ought not to be in any way affected by his self-regarding qualities or deficiencies. This is neither possible nor desirable."¹ He then goes on to say that people who are successful with their own pursuits deserve praise, while those who do not "a sentiment the opposite of admiration will follow."² Mill continues, "lowness or deprivation of taste" renders the individual "necessarily and properly a subject of distaste, or, in extreme cases, even of contempt". This evaluation of preferences goes beyond *On Liberty*, for even in the contemporaneously conceived *Utilitarianism*, Mill makes similar claims about the disvalue of certain forms of life. His infamous classification of higher and lower pleasures reinforces his partiality for the more intellectual and elevated pursuits.

"No intelligent being would consent to be a fool, no instructed person would be an ignoramus, no person of feeling and conscience would be selfish and base, even though they should be persuaded that the fool, the dunce, or the rascal is better satisfied with his lot than they are with theirs."³

Apart from the unsustainability of this claim as discussed in Chapter Four, Mill makes clear *his* preferences with regards to conceptions of the good. What is important about these well-trodden passages is Mill's endorsement of penalties for individuals who display these character types. He is not lamenting the unfortunate consequences that some people will experience as they pursue their own conceptions of the good; he is

¹ John Stuart Mill, "On Liberty", in *Collected Works XVII*, John M. Robson ed., (Toronto: Routledge and Kegan Paul, 1977), p. 278.

² John Stuart Mill, "On Liberty", p. 278.

³ John Stuart Mill, "Utilitarianism", in *Collected Works X*, John M. Robson ed., (Toronto: Routledge and Kegan Paul, 1969), p. 211.

employing public sentiment and disapproval in order to shape behaviour in ways that would be inexpedient to do by law. Underpinning Mill's endorsement of this particular conception of the good, is a philosophy of history largely taken from Comte, yielding a theory of progress based on his conception of human psychology that will be discussed shortly. Placing individuals within the conditions prescribed by the Harm Principle will enable this gradual convergence on a particular range of conceptions of the good, namely those that comprise the higher pleasures, or his Religion of Humanity.

Mill does go to great lengths to distinguish between these natural consequences that result from displays of poor character, and those forms of interference that result from 'prejudiciously affecting or harming others' interests. He consistently differentiates between penalties, which are the spontaneous and natural consequences of one's imprudence, and punishments, which are the moral retributions emanating from our resentment, but dispensed and embodied by law.⁴

"The distinction between the loss of consideration which a person may rightly incur by defect of prudence or of personal dignity, and the reprobation which is due to him for an offence against the rights of others, is not a merely nominal distinction. It makes a vast difference both in our feelings and in our conduct towards him, whether he displeases us in things in which we think we have right to control him, or in things in which we know we have not."⁵

Mill makes his well-known distinction between the part of a person's life that concerns others, and the part that concerns only oneself. As will be discussed shortly, this distinction comprises part of the three criteria of the Harm Principle. Imprudence and indignity, though not violations of the principle, still are to incur certain reactions. These reactions, or the aforementioned "natural penalties" can only be those "inconveniences which are strictly inseparable from the unfavourable judgements of others".⁶ Violations of rights to others, on the other hand, are categorically different. Transgressions of the Harm Principle demand that society inflict some punishment on the agent.⁷ The punishment, as opposed to penalty, necessarily must involve some curtailment of liberty of action, even if by indirect means.⁸ Penalties cannot take the form of direct interference because they express public disapproval of certain

⁴ Joseph Hamburger, *John Stuart Mill On Liberty and Control*, (Princeton: Princeton University Press, 1999), p. 190.

⁵ Mill, "On Liberty", p. 279.

⁶ *Ibid.*, p. 278.

⁷ Rights here refer to everyone's obligation to each other not to infringe upon the conditions for the pursuit of utility.

⁸ A fine or duty might be an example of this.

characteristics. Mill singles out “rashness”, “obstinacy”, “self-conceit”, those “who cannot live within moderate means”, and those “who pursue[s] the animal pleasures at the expense of those of feeling and intellect” as fit for moral reprobation. These defects of character warrant a different response because they are not violations of any specific obligation (except, arguably to oneself). *Why* Mill goes to such lengths to articulate two distinct types of control society wields is an issue to be taken up shortly. For now, it suffices that Mill does conceive of two necessary responses to different kinds of failings: one for social obligations, and the other for character traits that do not concern others.

Before analysing the way in which Mill’s system employs both control and freedom of action, it will be helpful to briefly look at some challenges to Hamburger’s thesis. Defending Hamburger’s thesis will demonstrate the need for a more nuanced interpretation of Mill’s thought. In the article entitled, “Was Mill a Liberal?”, C.L. Ten directly challenges Hamburger’s thesis.⁹ He argues that Hamburger distorts and misrepresents key passages to support his claim that Mill deliberately *mised* the readers of *On Liberty*.¹⁰ Hamburger highlights the fact that Mill devotes much ink to the condemnation of ‘selfishness’ and ‘self-indulgence’ and considers them key obstacles to the realisation of the Religion of Humanity. Ten retorts that “selfishness affects others and is not a self-regarding fault. So the controls here do not support Hamburger’s thesis.”¹¹ Two responses can be made to this claim. First, if we confine ourselves to J.C. Rees’s definition of other-regarding actions as being only, “cases where the interests of others are either threatened or actually affected”, it’s not clear to me that selfish actions do meet this criterion.¹² Leaving aside the issues of what ‘threat’ and ‘affect’ actually constitute, I don’t see how a failure to be generous can in any way be a frustration of someone’s interests. It may not *forward* their interests, but it certainly does not make lower one’s interest-satisfaction than it otherwise would have been. If one were contractually or legally bound to redistribute one’s own resources, then the harm of failing to oblige would be plain. But in this case we would not describe the person as ‘selfish’, but rather ‘delinquent’ or maybe even ‘criminal’. A selfish person is one who parts with the absolute minimum of one’s own resources or considerations, not one who violates agreements, or actively thwarts others people’s interests. Selfish people don’t deserve moral praise, but neither do they deserve moral condemnation, at least not in the

⁹ C.L. Ten, “Was Mill a Liberal?”, *Politics, Philosophy, & Economics*, Vo.I., No.3, 2002.

¹⁰ Ten, “Was Mill a Liberal?”, p. 367.

¹¹ *Ibid.*, p. 357.

¹² J.C. Rees, “A Re-Reading of Mill on Liberty”, in *J. S. Mill On Liberty in Focus*, John Gray and G.W. Smith eds., (London: Routledge, 1991), p. 180.

same way as liars, scoundrels and criminals. With regards to moral regeneration, Mill is not so concerned with people violating contracts and laws as he is with the disposition of not considering *other* people's interests as primary, a wholly self-regarding characteristic, I would argue. The second reason I think Hamburger's thesis retains its force is that (quite simply) if selfishness is the other regarding flaw that Ten argues it is, then there would be no contradiction in Mill's principle if the government or society coerced individuals displaying such qualities, and this is clearly not in line with the traditional or revisionary interpretations that Ten argues from. Mill explicitly denounces legislative paternalism, but he does allow for – and even requires – individuals displaying miserable individuality and other self-regarding faults to be moulded into refinement.

Ten also denies that the scorn and loss of consideration experienced are truly coercive because they are “natural”, “spontaneous”, and not “purposely inflicted on him for the sake of punishment.”¹³ Ten states plainly, “Control of self-regarding conduct is to be achieved through non-coercive means.”¹⁴ Like Mill, Ten here seems to focus too much on the reasons for intervention, rather than the affects. He joins Jonathan Riley in reasoning that if a consequence is “inseparable” from some self-regarding behaviour or disposition, then society cannot be held responsible for any of the consequences incurred by the agent, be they harmful or not. Riley illustrates, “my liberty to avoid what displeases me, and to advise others to avoid it, deprives you of my company and support. But that is a direct consequence of your action, not of any prior design on my part to inflict perceptible hurt on you against your will.”¹⁵ This strikes me as dangerously apologetic for dominant social prejudices and antiquated norms. If my racism or homophobia is the cause of your loss of consideration in my eyes (to put it mildly), then it hardly seems reasonable to consider that a “natural”, “inseparable”, or even a spontaneous consequence for which I have no responsibility. Bankruptcy may be the natural consequence of financial recklessness, but Mill has much more than prudence in mind. Reviewing his litany of character traits rightly to cause public disapproval, it is clear Mill's system promotes a very particular conceptions of the good, as described above. The *reason* may be to inculcate prudence into one's fellow man so they may enjoy more utility, but the affect may be received in a far different light. Indeed, Ten concedes the difficulty in demarcating legitimate and illegitimate forms of interference, “when the penalties suffered for the condemned conduct are severe enough,

¹³ Mill, “On Liberty”, p. 278.

¹⁴ Ten, “Was Mill a Liberal?”, p. 361.

¹⁵ Jonathan Riley, *Mill on Liberty*, (London: Routledge, 1998), p.161.

individual liberty is also threatened, even if not intended as forms of punishment, and are not the products of a coordinated and organised campaign.”¹⁶ He rightly distances himself from Mill’s reliance on intention because of the ambiguity of affect on the agent, and attempts to demarcate the legitimacy of influence by form. Mill explicitly endorses the spontaneous reactions of individuals, provided we “not treat him like an enemy of the society.”¹⁷ Part of Mill’s self-proclaimed reasons for writing *On Liberty* is because he is acutely aware of the all-pervasive influence society can have over an individual. Society may not *intend* to punish an individual for some supposed defect of prudence, or display of contra-social behaviour, but the aggregate expression of everyone’s ‘individuality’ may amount to a serious inhibition to one’s pursuit of his or her particular source of utility, and indeed, Mill recognises this.¹⁸ Ten is sensitive to this distinction between the form and reason of interference, but there is little in chapter IV to protect against the potentially coercive forms he and Riley presume the penalties will not take. Again, Ten concedes that:

“Mill seems to attach too much weight to the intention behind the interference as opposed to the effect. If the interference is to be legitimate, it must, for him, be designed not merely to change the victim’s conduct, but also to change his beliefs about the normative status of the conduct.”¹⁹

Ten does not believe that the penalties endorsed for certain beliefs and forms of behaviour violate any conventional reading of the harm principle. However, Mill distinguishes between forms of influence by the nature of the offence, not by effect, which leaves open the possibility that the severe penalties may appear to be quite coercive. Much of this debate turns on the conceptions of freedom and coercion we understand Mill to be employing, to which we now must address.

Mill’s Conception of Freedom

As noted above, the most controversial element of Hamburger’s thesis is the extent to which he attributes illiberal strategies and goals to Mill’s project. Taking the individual’s point of view, Hamburger stresses that the penalties incurred for displays of certain character types could be coercive, thereby threatening Mill’s status as a paradigmatic liberal. Hamburger claims that Mill is intentionally obscure about his goal

¹⁶ Ten, “Was Mill a Liberal?”, p. 361.

¹⁷ Mill, “On Liberty”, p. 280.

¹⁸ Mill’s language is unambiguous: a person “may suffer severe penalties”, “must expect to be lowered in the opinion of others”, and “he has no right to complain”, Mill, “On Liberty”, p. 278.

¹⁹ Ten, “Was Mill a Liberal?”, p. 361.

of moral regeneration, but he also states plainly that Mill never *misleads*, or lies about his thesis in *On Liberty*.²⁰ For this reason, in order to make our post-Hamburger interpretation powerful enough to accommodate the seemingly disparate claims made in Mill's work, we must take very seriously the *unambiguous* passages in the text. The biggest challenge to Hamburger's thesis, and one not adequately addressed in his provocative book, is Mill's 'one very famous principle' itself. He is explicit: "that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their numbers, is self-protection."²¹ This sentence fragment (no less) affords very little room for interpretative movement, but at this stage I think it fruitful to look at and consider how "liberty of action" fits into Mill's larger thesis. With the help of some contemporary theories of the self, I will attempt to show how in order to reconcile the control Hamburger correctly identifies in Mill's system with the explicit endorsement of negative liberty correctly identified by both traditional and revisionary readings of Mill, it will be necessary to employ a *hierarchical conception of the self*. Mill does not explicitly articulate such a conception, but one emerges from the synthesis of Mill's theory of human progress from Comte, his post-Bentham psychology and epistemology, and is animated by his concern for individuality. I will argue that the lowest level of choice-making-cum-action-taking must remain completely free of moral and physical coercion, but that higher levels of the self remain open to influence, conditioning, and even indoctrination. The novelty of this interpretation then turns on the extent to which one considers these forms of influence to be actual restrictions on one's liberty, which will be discussed in the final chapter of this thesis.

A good way to begin is to determine what conception of liberty Mill uses in the arguments of *On Liberty*. If we take Mill to be employing a purely negative conception of liberty, it would be difficult to understand how Mill's defence of individuality from the oppressive effects of society fits into the larger thesis of *On Liberty*.²² The whole of Chapter III is dedicated, as its name clearly states, to individuality as one of the elements of well-being, and the impediments to it are mainly internal defects of character stemming from an unsupportive social environment. On the other hand, a purely positive conception of liberty would force us to radically reconsider the Principle

²⁰ Hamburger, *John Stuart Mill on Liberty and Control*, p. 217.

²¹ Mill, "On Liberty", p. 223.

²² For interpretations of Mill as holding purely a negative conception, see Roger Crisp, *Mill on Utilitarianism*, (London: Routledge, 1997), pp. 198-199; Wendy Donner, *The Liberal Self: John Stuart Mill's moral and political philosophy*, (Ithica, NY: Cornell University Press, 1991), p. 162; Gerald F. Gaus, *The Modern Liberal Theory of Man*, (London: Croom Helm, 1983), p.164-165.

of Liberty and what constitutes harm. Such a reading would sanction coercion and other infringements on individuals' ability to act as a means to promoting 'utility in the widest sense'. Therefore, it would be one-sided to attribute to Mill only one formulation of freedom. *On Liberty* endorses a very particular notion of freedom, one that contains both positive and negative elements. G. W. Smith reads Mill's conception of freedom as the product of three factors:

1. Possession of the capacity to alter one's character, if one wishes.
2. Absence of the impediments upon the exercise of this capacity when one does wish to exercise it.
3. Absence of conditions inhibiting the occurrence of the desire.²³

Point 2 is plain from the outset of the essay. The first sentence of *On Liberty* states unequivocally that the subject is not "Liberty of the Will", but "Civil, or Social Liberty: the nature and limits of the power which can legitimately exercised over the individual".²⁴ Clearly, there is the element of un-coerced action involved. Once the *limit* of this power is located, what remains is the sphere of activity within which individuals are free to pursue their goals in accordance with their life-plans. However, the same passage makes reference to the *nature* of this power as well. The aptly named Chapter IV, "Of the Limits to the Authority of Society over the Individual" spells out exactly how this power operates and for what ends. As Hamburger highlights, society is to play a substantial role in inducing certain forms of behaviour. As discussed in the previous section, Mill is not neutral between different forms of the good, but rather is trying to turn people away from what he identifies as the largest obstacle to moral and social reform – the selfish, unsophisticated pursuit of lowly pleasures by the masses. Reform, or regeneration, necessitates the positive element described by point 1. The implication of Chapter IV is that only with the help of society, and elites in particular, can individuals hope to discriminate the highly from the lowly, or the prudent from the imprudent. It is society's natural penalties that manifest themselves as the consequences of such defects of judgement, and so the community's role cannot be underestimated. However, Chapter III of *On Liberty* argues from the opposite direction. "'Pagan self-assertion" is one of the elements of human worth, as well as "Christian self-denial."²⁵ Here Mill argues that diversity of inclination and disposition are matters of fact, and that the conformity demonised in *On Liberty* is the unnatural superimposition by the

²³ G. W. Smith, "Social Liberty and Free Agency", in *J. S. Mill On Liberty in Focus*, John Gray and G. W. Smith eds., (London: Routledge, 1991), p. 250.

²⁴ Mill, "On Liberty", p. 217.

²⁵ *Ibid.*, p. 266.

Victorian ethos of the time. To that end, I think it more appropriate to word Smith's point 1 in the affirmative, rather than the negative. Full freedom is not merely an absence of the impediments to the occurrence of the desire to alter one's character, because such a desire is positively *induced* by society. In this characterisation, point 3 is subsumed by point 1, because there is little to suggest that Mill concerned himself with the origins of the desire to alter one's character – either the individual has met this necessary but insufficient condition independently, or requires the assistance of those regenerated members of society, i.e. elites, to achieve it. Clearly, Mill's conception of full freedom argued for in *On Liberty* has both positive and negative elements, and as such requires us to take seriously some of Hamburger's claims regarding the extent to which Mill envisions a convergence of individuals' behaviour, if not control of it.

Before proceeding, two tensions need to be addressed, namely, that Chapter IV seems to conflict with the two preceding chapters, albeit in different ways. As we have discussed above, and as Hamburger points out, Chapter IV is where Mill seems to diverge from the previous chapters.²⁶ It is where Mill writes at great lengths about the legitimate and illegitimate influences of society over the individual. As described above, Mill is not lamenting the unfortunate consequences of some individuals' pursuit of utility, but is employing public sentiment to guide and curb certain behaviour. This chapter, if given full consideration may seem antithetical to the preceding chapters, Chapter II in particular where the importance of full freedom of thought and expression is given its most forceful articulation. However, Hamburger neglects another tension that arises from paying close attention to the implications of Chapter IV. Employing public sentiment to help individuals regenerate their moral outlooks would only be effective if it were a small minority of individuals still stuck in their selfish and lowly ways. The argument of Chapter IV is that the majority would help the unreformed few see the imprudence of their ways, and assist them in turning their desires to higher, more utility-providing conceptions of the good. The presumption is that it is merely a small *minority* that need assistance inducing the ability to alter one's character, whereas a majority have either already reformed their moralities, or have been born with the correct character disposition Mill endorses. The second tension becomes manifest when we compare this argument to those made in Chapter III. Here, Mill pontificates eloquently on the diverse nature of human beings:

²⁶ Hamburger, *John Stuart Mill on Liberty and Control*, p.180. Not only does Hamburger say that Chapter IV pulls in the opposite direction of Chapter III, he also says it is frequently neglected by interpreters of Mill.

“Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of inward forces which make it a living thing.”²⁷

If human nature is as such, then Mill needs to account for those who are yet to reform their moral outlooks. His judgement that “despotism of custom is everywhere the standing hindrance to human advancement”²⁸ is the central thesis of Chapter III, and the presupposition is that the majority of people are still under this “yoke”. If this is the case, then the natural penalties which result from expressions of lowly taste would not have the force required to assist individual efforts to regenerate themselves, and herein lies the tension. Chapter IV is coherent only if there is a small minority of individuals yet to be regenerated, whereas chapter III argues that the natural order of things – that humans are innately creative, diverse beings – is being artificially suppressed, i.e. the sway of custom is getting the better of society. Unfortunately, Mill cannot have it both ways. Either an endangered minority of independent elites are resisting the homogenising effects of custom and tradition, in which case it is difficult to see how the natural penalties would come about from people who display the same lowly behaviour, or only a few un-reformed troglodytes still remain entrenched in their ways, scarcely holding back the inevitable progression towards the entire moral regeneration of society. Unfortunately, we will have to turn to other writings to ascertain the extent of Mill’s “strategic optimism”.²⁹ However, we needn’t determine that in order to tease out an interpretation of Mill’s thesis in *On Liberty* that can accommodate both positions. This interpretation is where we now must turn.

The Hierarchical Conception of the Self

In order to reconcile the seemingly disparate and conflicting claims regarding individual freedom versus control, we must understand Mill’s conception of the self. Only by interpreting a particular conception of the self, namely a hierarchical one, can we integrate the arguments made in Chapters II and IV.³⁰ This conception enables us to accept the influence society is to have over the individual, while maintaining a sphere of negative, first order, liberty. There is nothing contradictory about this claim, because for Mill, “truth, in the great practical concerns of life, is so much a question of the

²⁷ Mill, “On Liberty”, p. 263.

²⁸ Ibid., p. 272.

²⁹ Smith, “Social Liberty and Free Agency”, p. 251.

³⁰ This interpretation will not necessitate our taking a position on the conflict between Chapters III and IV.

reconciling of opposites”.³¹ As will be shown, this sphere is the necessary condition within which individuals must *choose* to alter their characters towards higher, and therefore more utility-providing goods. Conceived this way, the societal influence exercised over the individual’s second-order desires and reasoning in no way betrays the Harm Principle, or adversely affects freedom in the more positive sense that Mill implies. In fact, it promotes freedom in this sense. Before mapping this conception onto Mill’s thought, it will be helpful to fully articulate the hierarchical self.

A helpful way to think about how it might be possible to reconcile the influence individuals experience with the Harm Principle is given to us by Harry Frankfurt’s conception of a person.³² A wide range of creatures, both human and animal, experience desires. Lots of creatures experience competing desires as well, and a simple weighing of desires produces the one that moves the creature to action. Person G may desire both x and y, but if his desire for y is stronger, then it will stimulate his will to action. A smaller range of creatures not only have desires, but have desires *about desires* as well, or second-order desires. The existence of such desires signifies the conscious capacity for reflective awareness, and precludes the inclusion of the animal species, as far as humans know. Such desires can be about the presence or absence of first-order desires, or more strongly, about a first-order desire constituting one’s will. This latter case Frankfurt calls second-order volitions, and he states plainly that possession of them are “essential” to be considered a person.³³ One who merely has second-order desires, but who is indifferent as to whether any of his first-order desires constitute his will, Frankfurt calls a wanton individual. An individual who not only has second-order volitions, but who can realize them by having the first-order desires in question actually move the individual to action enjoys freedom of the will.³⁴ Because the wanton fails to have any second-order volitions, only second-order desires, freedom of the will is not possible for such an individual.

Another version of the hierarchical self is given by Gerald Dworkin. Dworkin also conceives of lower and higher-order desires along the same lines as Frankfurt, but adds that one must identify with the motivations that move one to act on one’s lower order desires. Furthermore, this process of identification must not be influenced by

³¹ Mill, “On Liberty”, p. 254.

³² Harry Frankfurt, “Freedom of the Will and the Concept of a Person”, *The Inner Citadel*, John Christman ed., (Oxford: OUP, 1989), p. 63.

³³ Frankfurt, “Freedom of the Will and the Concept of a Person”, p. 67.

³⁴ *Ibid.*, p. 69.

external forces; it must enjoy what Dworkin calls “procedural independence”.³⁵ A person held at gunpoint may be freely giving her money over to the robber, but is not doing so wilfully. The motivational factor of having to hand over one’s money in order *to keep one’s life* is clearly not one that the person identifies with as her own. Dworkin’s account of autonomy as authenticity plus identification of desires differs to Frankfurt’s account in one striking way.³⁶ Frankfurt gives the example of a willing drug addict, one who desires to have a first-order desire to consume some drug, and subsequently allows that desire to stimulate the will to consume it. Frankfurt then points out that this person is not truly free because his first-order desire to consume the drug will remain effective, even if his second-order desire about the drug changes. Dworkin, on the other hand, maintains that so long as the addict identifies the desire to consume the drug as authentically his own, he is autonomous, and subsequently morally responsible for his actions. Interestingly, Frankfurt says that despite being unfree, because it is *more* than the addict’s first-order desire, or addiction, that moves him to action, he is morally responsible for his actions as well.

With these two conceptions in mind, we can now see how society wields influence over individuals without violating the Harm Principle. Mill can be frustratingly ambiguous at crucial places in his writings, which is why we must take very seriously his *unambiguous* passages. The very first line of *On Liberty* gives the scope of the principle, and a clue as to Mill’s conception of liberty in the book.

“The subject of this essay is not the so-called Liberty of the Will, so unfortunately opposed to the misnamed doctrine of Philosophical Necessity; but Civil, or Social Liberty: the nature and limits of the power which can be legitimately exercised by society over the individual.”³⁷

The emphasis on “Civil” or “Social” liberty does seem to imply a purely negative conception of liberty being articulated by the essay. Not only can there be positive elements to social liberty, but as our analysis above reveals, Mill’s normative claims in the essay definitely employ both positive and negative aspects of his conception of liberty. However, he states plainly that he is not describing a deeper, metaphysical “Liberty of the Will,” the antithesis of the “doctrine of Philosophical Necessity,” or determinism. Furthermore, Mill’s one very simple principle is equally modest in its

³⁵ Gerald Dworkin, “The Concept of Autonomy”, *The Inner Citadel*, John Christman ed., (Oxford: Oxford University Press, 1989), p. 61.

³⁶ Dworkin uses the word “authenticity”, but it does not suggest some essentialist quiddity being expressed by the desire; it merely refers to one identifying a desire as an expression of who the person is, or rather, wants to be.

³⁷ Mill, “On Liberty”, p. 217.

object, “that the sole end for which mankind is warranted, individually or collectively, in interfering with the *liberty of action* of any of their numbers, is self-protection” (Emphasis added).³⁸ I therefore posit that the Harm Principle elucidated in Mill’s seminal work only to applies to the lowest order of decision-making cum action-taking, or first order activity, as I will refer to this process as. This level is analogous to Frankfurt and Dworkin’s lower order desires, but includes both the reasoning and the physical attempt to fulfil the desire. This level of activity however differs from their two models in that it does include some reflective processes regarding desires, and how to fulfil them. In short, it is *character*, as described by Mill, and G. W. Smith. Therefore, individuals who only display my first-order activity would still be ‘persons’ on the Frankfurt model. Some individuals might also possess higher, or second-order desires regarding their first-order activity, or character. This realm of reasoning I will call second-order activity, and is analogous to Smith’s first factor for full freedom, as described above. It includes all reflective desires about one’s character, a capacity to reason about one’s character, and most importantly, the *ability to change* one’s characters, i.e. freedom of the will on Frankfurt’s model. However, I am reluctant to employ Frankfurt’s label, or even to refer to the exercise of this capacity as “autonomy” because I fear it will confuse my aims here. The introduction of this type of interpretation will enable us to reconcile the higher-level influence society is to have over individuals, because the natural penalties incurred by individuals displaying lowly characters are those that affect only second-order activity. Provided the first-order of decision-making cum action-taking is protected from interference, elites or society can influence individuals without violating the Harm Principle. For example, elites may do anything from encouraging to indoctrinating new forms of behaviour. They may also ostracise, or deny opportunities to those displaying lowly characters, as part of the “natural” consequences to their character defects. The influence of the elites may even take on a much more subtler and pervasive form as described by thinkers such as Foucault or B. F. Skinner. This is one of the dangers overlooked by negative liberty advocates, such as Berlin, but not by some recent feminist writers who rightly see influences on preference formation and conditioning as obstacles to truly ‘free’ choice.³⁹ This danger is not the irrational fear of radical critics of liberalism, for Mill himself acknowledges the potential authoritarianism of the ‘public pedagogy’. Society

³⁸ Ibid., p 223.

³⁹ For example, see Janet Radcliffe Richards, *The Sceptical Feminist*, (London: Penguin, 1994).

“practices a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself.”⁴⁰

Presumably, this is a perversion of the influence society possesses over the individual. It is important to keep in mind that this formulation of the Harm Principle is compatible with this extreme form of second-order control.

On this interpretation, such influence could not be considered harmful or morally coercive, because it actually contributes to the personal development of the individual. This strategy is to be contrasted with paternalistically coercing individuals to choose the higher forms of the good at the first-order, because it denies individuals the ability to exercise their deliberative capacities, and so would be considered harmful. As described in the previous chapter, deliberative choice is how a person’s individuality is actualised, and is the source of the highest utility. However, it is not merely the procedure that yields the highest utility, the content of the choice is just as important. If upon deliberating, one chooses the lower pleasures, then this would be evidential of defective reasoning skills. One must choose the higher forms in order to experience the fullest utility possible, and be ‘free’.⁴¹ Read this way, society induces the emergence of the ability to alter one’s character towards higher conceptions of the good, while protecting first-order activity by application of the Harm Principle. Bearing in mind that moral regeneration is the goal to which Mill aims, the principle maintains the conditions for the equal pursuit of individual utility, regardless of how lowly. What I am suggesting is that the Harm Principle is part of a larger strategy to facilitate individual development, or progress.

This strategy consists of arguments put forward in Chapter IV for the prohibition of paternalism, Chapter II for the freedom of thought, and finally Chapter III for the promotion of individuality. Mill’s strategy is based on his empirical epistemology, and privileges certain reflective choices, namely those for the higher goods, over the ability to choose in itself. This concern for a socialised procedure and content of choice makes for a highly normative conception of autonomy in Mill’s thought, possibly one at odds with contemporary conceptions.⁴² Although he is promoting the development of a

⁴⁰ Mill, “On Liberty”, p. 220.

⁴¹ This point on freedom will be taken up more fully in the concluding chapter.

⁴² “an autonomous agent must...have distanced himself in some measure from the conventions of his social environment and from the influence of the persons surrounding him.” John Gray, *Mill on Liberty: A Defence*, (London: Routledge, 1996), p. 74.

reflective capacity to choose, this capacity is only a means for the proper appreciation of the higher forms of the good, which yield more utility.

Mill's theory of progress is the bridge on which we move from the freedom protected by the Harm Principle in Chapter II to the penalties sanctioned in Chapter IV. The clearest exposition of this theory is found in Chapter V, in the form of his argument against paternalism. This argument can be viewed as the key to Mill's theory because any such theory would have to account for the unambiguous freedom demanded by the Harm Principle, *especially* in light of Hamburger's thesis that Mill intended a high level of control. The last things Mill considers in *On Liberty* are not applications of the Harm Principle, but reasons extraneous to the arguments of the main thesis prohibiting government involvement in the affairs of individuals. Following from his first objection to governmental involvement, where he claims that regarding the affairs of the individual the individual is the most suited and knowledgeable to deal with such affairs, he considers those cases where the government may in fact be better suited to deal with certain affairs of the individual. Mill says:

“it is nevertheless desirable that it should be done by them, rather than by the government, as a means to their own mental education – a mode of strengthening their active faculties, exercising their judgement, and giving them a familiar knowledge of the subjects with which they are thus left to deal.”⁴³

Moral or physical coercion might initially seem a more efficient means to facilitating moral regeneration if coercive – by which I mean interference with liberty of action, but the price would be individuals with deficient faculties of reasoning and choice-making of the second-order kind. This is Bentham's problem discussed in Chapter Four of the thesis: that it's simply not evident that maintaining equal spheres of non-intervention would maximise utility, unless one has a concern for the capacities one develops within that sphere in the long run. The case against paternalism rests not on moral claims about the inherent evil of government interference, but on the expediency of allowing individuals free reign to tend to their own matters in order to stimulate these crucial faculties. Mill continues:

“These are not questions of liberty, and are connected with that subject by remote tendencies; but they are questions of development. It belongs to a different occasion from the present to dwell on these things as part of a national education; as being, in truth, the peculiar training of citizens, the practical part of the political education of a free people, taking them out of the narrow circle of

⁴³ Mill, “On Liberty”, p. 305.

personal and family selfishness, and accustoming them to the comprehension of joint interests, the management of joint concerns – habituating them to act from public or semi-public motives, and guide their conduct by aims which unite instead of isolating them from one another.”⁴⁴

With the fullest possible legal and social freedom for experiments in living, and with more successful and morally regenerated individuals ‘helping’ to promote certain outcomes via penalties, namely those that yield more utility, individuals will gradually develop the character that will desire and can appreciate the higher forms of the good.

A similar argument can be derived from Chapter II, where Mill makes his most forceful arguments for freedom of thought and expression, which also contributes to his larger theory of progress and personal development. In particular, the second case Mill considers – where the suppressed opinion is false – illustrates the point that Mill is not only concerned with ends, but *means* as well. In this particular example, the end is knowledge. Mill laments the fact that:

“There is a class of persons...who think it enough if a person assents undoubtingly to what they think true, though he has no knowledge whatever of the grounds of the opinion, and could not make a tenable defence of it against the most superficial objections. Such persons, if they can at once get their creed taught from authority, naturally think that no good, and some harm, comes of its being allowed to be questioned.”⁴⁵

Such people infamously only hold “dead dogma”. Without knowing the grounds of a certain truth, the truth’s instrumental value is diminished. In other words, there are sound utilitarian reasons for not just holding a position, but for knowing *why* one holds that position as well. Merely surrendering to the truth is insufficient because of the tenuous, unreflective grasp the holder will have on it. One must have knowledge of one’s knowledge, thereby ascending to a reflective, secondary level perspective on the first-order activity of truth-exercising. Not only can we map a hierarchical conception of the self onto Mill’s epistemology, but this particular epistemology will, in turn, support the thesis that choice, albeit in the qualified way described above, is a crucial ingredient to appreciating the higher forms of the good. Individuals should know why they must choose the higher pleasures, and wilfully assent to their inherent superiority. Coercing individuals to choose the higher pleasures denies them the understanding why they must do so. Therefore, the Harm Principle prohibits coercing people into behaving in morally regenerated ways because individuals need to know the *grounds* of their choices. Mill

⁴⁴ Ibid., p. 305.

⁴⁵ Ibid., p. 242.

presumes that with the help of society via the sanctioning of very severe penalties individuals will naturally converge on a fixed range of conceptions of the good. Despite the range being fixed, spontaneous expressions of individuality would ensure infinite manifestations of higher pleasures. There is an analogous relationship between one knowing the grounds for a certain truth, and knowing the grounds for a certain choice. Both involve the exercise of second-order reflection in order to claim a comprehensive understanding.

Let us consider who a person who as expressions of his character exhibits the first-order desire to drink beer excessively, holds the belief that racism is bad, and is committed to stay home and raise children, rather than enter the workforce. Let us say that this person has not reflected on these desires/beliefs/commitments, but simply has come to hold them through social osmosis. The Harm Principle protects this person's ability to act on all of these elements of his character, but society has an interest in inducing second-order reflection on this first-order activity, in order to weed out those suboptimal desires and beliefs, and cement the optimal ones. Drinking beer excessively is clearly not utility-maximising, but prohibiting the consumption of beer will do nothing to convey the reasons why drinking excessively is bad, and therefore extinguish the desire. Society must reason with the individual that drinking excessively is unhealthy, undignified, dangerous, and expensive, especially pre-phylloxera Claret. Failing that, society can employ more forceful, yet subtle measures, like creating a general ethos of uncongeniality towards this sort of behaviour. Society may even go so far as to indoctrinate the individual using whatever means available at the time to influence the individual's second-order reasoning about this particular character manifestation. Once the individual's reasoning processes on this matter harmonises with society's, he will be on his way to rationally extinguishing his desire to drink excessively. Similarly, if this person holds the first order belief that racism is bad, society would still have an interest in getting the individual to understand *why* racism is bad. Employing all of the measures previously described, society should make the individual understand the irrationality of all prejudice, thereby maintaining the belief that racism is bad as a "living truth".

The final example about the individual committing himself to staying home and raising children is a slightly different example. Here, it is not the first-order commitment itself which needs to be re-evaluated, but the *reasons* one has for such a commitment. There is nothing inherently good or bad about forgoing a career for the sake of raising a family. The crucial element, that which determines whether this

commitment is an expression of individuality or not, is the reason why one chooses to stay at home. If the individual stays at home because it is conventional for him to do so, or even worse, the individual has not reflected at all on this commitment, then it is not an expression of individuality, and subsequently, not utility maximising. However, if the individual confers with his life partner, reflects on the commitment, and then decides to stick to it, then it is an expression of individuality. Again, the commitment itself is neutral with regards to individuality, it is the *reasons* why he holds it or not which determines the utility of this expression of character. Mill presumes that with the help of society via the sanctioning of very severe penalties individuals will naturally converge on a fixed range of conceptions of the good. Despite the range being fixed, spontaneous expressions of individuality would ensure indefinitely many manifestations of higher pleasures. There is an analogous relationship between one's knowing the grounds for a certain truth, and knowing the grounds for a certain choice. Both involve the exercise of second-order reflection in order to be fully utility-maximising.

The influence exercised by elites in society are not done monolithically. Elites may disagree, and indeed as Mill discusses in Chapter II, they *must* disagree in order to facilitate the growth of knowledge. Their disagreement happens at the second-order where reasons for holding beliefs are pitted against each other. The best conclusions of these debates are then actualised at the first-order. As Mill states in *On Liberty*, acknowledging the fallibility of our beliefs does not deny the legitimacy of acting at all, for "there is no such thing as absolute certainty, but there is assurance sufficient for the purpose of human life."⁴⁶ All may participate in the debate, but a natural power differential will arise between the experts and the laymen with regard to the ability to influence others. Elites will rightly be better at disseminating their conclusions to the wider public.

With this interpretation, we can now re-examine some of the tensions raised above between the chapters of *On Liberty*. As Hamburger points out, Chapter IV is where Mill articulates the influence society is to have over individuals, even within the self-regarding sphere. Whereas this chapter once seemed in stark contrast to the other chapters of *On Liberty*, we can see now that it is part of a complex theory of individual development that attaches weight to the *reasons* for choice. To use Dworkin's terminology, one must identify with the reasons for procedural independence. Social progress will only happen under conditions that entail negative liberty combined with second-order influence. The tension that Hamburger fails to address is the

⁴⁶ Ibid., p. 231.

proportionality of regenerated people in society. Chapter IV is only coherent if a majority of people in society have already adopted higher conceptions of the good, with only a few selfish and lowly individuals remaining. Chapter III, on the other hand, describes how the natural tendency of human nature is to express its diverse nature, but that the homogenising influence of society is forcing a vast majority into a narrow range of lowly forms of life. Whichever the case may be, our interpretation needn't be affected. If a majority of society consists of regenerated individuals, then the few remaining people yet to change their characters will eventually develop the desire and ability to do so, as described above. However, even if during this critical period, Victorian and Christian attitudes remain firmly entrenched within a majority of people, the Harm Principle still protects the enlightened forms of life of the reformed elites. The conforming masses may attempt to assimilate the reformed elites by influencing their second-order reasoning via *their own* severe penalties, but any abandonment of the higher pleasures would never have procedural independence and so would not be a genuine expression of one's individuality. Mill is clear in *Utilitarianism* that the higher pleasures are categorically more utility producing, and one would not resign them for any amount of the lower.

“no intelligent human being would consent to be a fool, no instructed person would be an ignoramus, no person of feeling and conscience would be selfish and base, even though they should be persuaded that the fool, the dunce, or the rascal is better satisfied with his lot than any of theirs.”⁴⁷

Mill's claim is that once one has sufficient experience of the higher pleasures, and therefore regenerated their character, one would never choose to return to the selfish pursuit of the lower pleasures, regardless of the influence unreformed people may attempt to exercise. I don't deny that this inconsistency exists in *On Liberty*, I am simply pointing out that this interpretation of Mill can accommodate either presumption.

Hamburger is right to draw attention to the various writings by Mill that would seem to call into question his inclusion into any familiar variety of liberalism. Chapter IV of *On Liberty* alone demands a re-evaluation of the exact mixture of control and liberty Mill's theory entails. In order to reconcile this control with the unambiguity of the Harm Principle, it is necessary to read a hierarchical conception of the self. Mill holds the moral and intellectual capacities in high regard, and so demands that individuals must exercise such capacities with choosing, and analogously with regards

⁴⁷ Mill, “Utilitarianism”, p. 211.

to knowing the grounds of truths. It is for this reason that Comtian-like elites cannot command truths, nor can they coerce certain conceptions of the good, hence Mill's argument for the full freedom of thought and the Harm Principle. However, this interpretation suggests that the Harm Principle only applies to the lowest level reasoning about choices (cum action-taking), or character, and that desires about one's character and reasoning *could* be influenced explicitly. The final question before ending this thesis, is to what extent this influence is a form of coercion, and does it challenge the liberal status of Mill's thought. First, Mill's notion of harm must be examined in order to determine its full scope. Its application to only first-order action is the first limitation; the necessary and sufficient conditions must now be determined.

Harm and the Harm principle

Unlike Bentham, Mill never explicitly defines harm. Instead, commentators are forced to tease out his conceptualisation by ascertaining the role and limits of the harm principle. A very narrow reading of the applicability of the principle might suggest a very narrow conception of harm, thereby allowing a wide range of injurious and hurtful activities that any liberal theory should prevent. There is little textual support for such a reading, although Mill recognises certain 'harms' that do not warrant prohibition by the principle. For example, "Whoever succeeds in an overcrowded profession, or in a competitive examination...reaps benefit from the loss of others, from their wasted exertion and their disappointment."⁴⁸ A few lines later Mill explains that it is "by common admission, better for the general interest of mankind, that persons should pursue objects undeterred by this sort of consequences."⁴⁹ Unfortunately, these passages offer little assistance to our attempt to understand harm. It might be the case that failure in the market is not a harm as such, and so not covered by the principle. Such a reading would cohere better with most people's intuitive understanding of harm, but there is another possibility. The fact that it is in mankind's "interest" to disregard such "consequences" suggests that Mill does consider such failures in the marketplace as harms, but that they are not protected by the principle for utilitarian reasons. I think any concept of harm must be sensitive to the potentially debilitating effects of failure in the marketplace. However one may define harm, the decline in mobility, health and access to resources that usually accompany economic destitution should, I argue, be subsumed by any definition.

⁴⁸ Mill, "On Liberty", p. 292.

⁴⁹ Ibid., p. 293.

It would be difficult to interpret Mill holding such a narrow concept of harm when he was elucidating the arguments in *On Liberty*, for later on in the essay he introduces a third category of acts, actions indirectly “harmful” to others, but directly so if done publicly.⁵⁰

“Again, there are many acts, which, being directly injurious only to the agents themselves... but which, if done publicly, are a violation of good manners, and coming thus within the category of offences against others, may rightly be prohibited. Of this kind are offences against decency”.⁵¹

Scholars have been struggling with this passage for some time. The crucial feature of this third category is the fact of publicity. The same actions when performed in private are immune to prohibition, and in fact not even indecent. It is difficult to see how this policy is the logical extension of the Harm Principle as presented in the first chapter. It is not the actions themselves which cause the indirect harm, and/or offence, but their mere fact of publicity. In other words, the knowledge of an offensive action is harmless, whereas the visual experience of the action in public spaces is harmful. Publicity, then, seems to be a criterion of harm with regards to offensive actions. This is a puzzling position to hold, especially in light of Chapter V where Mill specifies that even in a country whose majority was Muslim, it would be wrong to ban the eating of pork,⁵² despite the widespread offence caused. This passage might suggest that Mill holds a wider conception of harm, one that includes [certain] offences against common decency. However, if we wish to maintain this linear relationship between harm and the legitimacy of coercion, we need to ascertain what it is about indecency that makes it ‘harmful’ in public but not in private, while the moral offence a Muslim may experience or the financial destitution one may experience remain ‘harmless’.

Jonathan Wolff has taken this issue up and attempts to give a utilitarian justification of what he calls the “indecent policy”.⁵³ Wolff does not take society’s perspective and tries to explain the harm that certain public offences cause; rather, he takes the offensive individual’s perspective and focuses on the “consequences of prohibiting the actions which cause offence.”⁵⁴ Wolff argues that the offence or upset caused by private behaviour is always outweighed by the utility loss of prohibiting

⁵⁰ The first category being actions that don’t concern others and so don’t warrant interference, and second being actions that do harm others and could (but not necessarily) be interfered with.

⁵¹ *Ibid.*, p. 295.

⁵² Mill does not specify whether he is referring to the public or private consumption of pork.

⁵³ Jonathan Wolff, “Mill, Indecency, and the Liberty Principle”, in *Mill’s Moral, Political and Legal Philosophy*, C.L. Ten ed., Aldershot: Ashgate, 1999), p. 153.

⁵⁴ Wolff, “Mill, Indecency, and the Liberty Principle”, p. 155

certain experiments in living, and so must be allowed. However, the same acts when performed in public are susceptible to prohibition because those same acts could just as well be performed in private.⁵⁵ With regards to eating pork in Muslim countries, Mill does not specify that the freedom to eat pork should only cover private consumption, or both public and private.⁵⁶ On this reading, it would be reasonable that Mill would allow the prohibition of public consumption.

Wolff adequately provides the utilitarian grounding for the offence policy, but then points out that there remains the central problem of inconsistency with the Harm Principle. He concludes that there is only one interpretation regarding the content of the principle, and only one possible explanation regarding its scope.⁵⁷ The interpretation requires us to deduce a properly, “contoured” concept of harm, one that includes public offence, but excludes market failure. Harm then becomes the necessary *and* sufficient condition to legitimately coerce, and the indecency principle is subsumed by the harm principle. The explanation (as opposed to interpretation) for the contradiction is that Mill had a rough conception of harm, and thought it the necessary and/or sufficient condition for legitimate coercion, but recognised that there were exceptions to its applicability. Here it is the scope of the principle that needs to be interpreted more so than the conception of harm. Wolff attributes this view, “broadly speaking”, to John Skorupski.⁵⁸ Joseph Hamburger argues that Mill holds a very inclusive conception of harm, including failure to properly educate one’s children, and seeks to apply the Harm Principle extensively.⁵⁹ Hamburger, however, fails to consider the “harm” of economic failure, but in light of his broader thesis regarding the function of *On Liberty*, I think it reasonable to attribute this “selective-applicability” explanation to him as well.

Neither of the ‘solutions’ are convincing alone. The text provides [just enough] passages to construct a notion of harm for our purposes, and the logic of the principle contains within it the selectivity of its application. To deduce Mill’s conception of harm, we must build on a tradition of interpretation within the revisionary treatment of Mill. J.C. Rees is influential in distinguishing between actions that merely affect others, and those than affect people’s *interests*.⁶⁰ However, one could be said to have an interest in

⁵⁵ Wolff clarifies that the indecency policy only covers those potentially offensive actions that just as well could be performed in private. Certain forms of expression, artistic, protestive, or even educational that by their *raison d’etat* must be performed publicly would not be covered by this policy.

⁵⁶ Mill, “On Liberty”, p. 285.

⁵⁷ Wolff, “Mill, Indecency, and the Liberty Principle”, p. 161.

⁵⁸ *Ibid.*, p. 153

⁵⁹ Hamburger, *John Stuart Mill on Liberty and Control*, p. 10-12.

⁶⁰ J. C. Rees, “A Re-Reading of Mill On Liberty”, in *J. S. Mill On Liberty in Focus*, John Gray and G.W. Smith eds., (London: Routledge, 1996), p. 174.

market success just as one could have an interest in not being morally offended. This move merely shifts the interpretive burden from one ambiguous term to another, and so further clarification is needed. Richard Wollheim rightly perceives Rees's conception of harm as too "conservative" and "relativistic".⁶¹ A Christian might have an interest in forgoing all business and leisure activities on Sunday in order to properly observe the *Sabbath* (and, in fact, may have an interest in others doing the same), and could, on Rees's account, claim to be harmed when compelled to engage in some such activity. The Muslim example that Mill cites in Chapter V clearly indicates that he was aware of such relativism, and wanted to exclude such interests derived from particular moral outlooks. Indeed, Wollheim specifically crafts his notion of harm to exclude such "morally-dependant-harms",⁶² which is intended to reduce the legitimate sphere of interests (with regards to the Harm Principle) to those that are a brute fact of being human in society, as opposed to those which are derived from a particular moral or political outlook. Is this sufficient? First of all, it should be noted that even if this is the best interpretation the text affords, it remains quite a departure from the classical utilitarian framework from which Mill hails. This reading essentially disregards much of the 'harm' experienced by Christian, Jewish, Hindu and Muslim fundamentalists, so prevalent in modern society. Furthermore, it presupposes an "unencumbered self", one who can differentiate between those harms that occur from damaged human interest, and those that originate from a specific moral belief about the world.⁶³ Clearly, a more refined concept is needed.

John Gray goes further in specifying only two "vital interests" with regards to the Harm Principle, namely, security and autonomy.⁶⁴ Whereas I think he is on firm ground in ascribing the former, the latter interest of autonomy seems difficult to reconcile with the explicit influence Mill intends regenerated individuals to exercise. To begin with, Mill reminds us that the sole derivation of the principles expounded in *On Liberty* are based on "utility in the largest sense, grounded the permanent interests of man as a progressive being."⁶⁵ Individuals surely possess a wide range of different interests as members of society, but it is only those interests "which, either by express

⁶¹ Richard Wollheim, "The Limits of State Action", in *Mill's Moral, Political and Legal Philosophy*, C.L.Ten ed., (Aldershot: Ashgate, 1999), p. 96.

⁶² Wollheim, "The Limits of State Action", p. 102. The term "morally-dependant-harm" comes from Ted Honderich, "'On Liberty' and Morality-Dependant Harms", in *Mill's Moral, Political and Legal Philosophy*, C.L.Ten ed., (Aldershot: Ashgate, 1999).

⁶³ For the full utilization of the "unencumbered self" to critique Rawls, see Michael Sandel, "The Procedural Republic and the Unencumbered Self", in *Communitarianism and Individualism*, Shlomo Avineri and Avner de-Shalit eds., (Oxford: Oxford University Press, 1992).

⁶⁴ Gray, John, *Mill on Liberty: A Defence*, (London: Routledge, 1996), p. 52.

⁶⁵ Mill, "On Liberty", p. 224.

legal provision or by tacit understanding, ought to be considered rights” that are properly protected by the Harm Principle.⁶⁶ Mill is explicit with regards to the central importance of security for the pursuit of utility (in the largest sense), “security no human being can possibly do without; on it we depend for all our immunity from evil, and for the whole value of all and every good, beyond the passing moment”.⁶⁷ The concept of autonomy as a purely procedural capacity is slightly harder to ascribe to Mill’s thinking. Even if we conclude that security is a vital interest, or of primary importance amongst many interests, it still might not be the case that every instance where security is threatened or actually harmed warrants intervention or coercion. For even though “the sole end, for which mankind are warranted” is to prevent harm to others, this does not necessarily mean that *every instance of harm to others* necessarily invokes protection by the principle. There is not a direct correlation between harm and legitimate coercion as Wolff has argued,⁶⁸ rather there are three criteria that must be met before legitimate power can be exercised. Once the three steps have been articulated, we can then make sense of Mill’s supposed selective application of the harm principle.

The first criterion is that the action must be harmful. Despite using the word “harm” only once in Mill’s exposition of this principle, I think we are justified in using the word to denote the particular effect Mill has in mind. He writes of “self-protection” (p. 223), “injuring the interests of” (p. 276), “damage, or probability of damage, to the interests of” (p. 292), and “actions as are prejudicial to the interests of” (p. 292), so I think it reasonable ascribe to Mill a loose notion of harm, as described by the previous statements, which seem well-established in the literature.⁶⁹ This particular effect constitutes the first criterion that must be met for the invocation of the principle. An act must firstly be deemed to be harmful to someone’s interest, be it security, or some other interest. At this level, we can rule out actions that are merely annoying, or inconvenient, whatever might empirically be included in such categories.

The second criterion that must be met is that of the harm being other-regarding. That is to say, the interest that is being harmed must belong to someone other than the agent. On this level, we can see why with regards to offence, publicity is the crucial element to its prohibition. It is not that offensive acts are tolerably harmful, but when performed in public makes it so much more harmful as to tip the scales in favour of

⁶⁶ Ibid., p. 276.

⁶⁷ Mill, “Utilitarianism”, p. 251.

⁶⁸ Wolff, “Mill, Indecency, and the Liberty Principle”, p. 161.

⁶⁹ Despite not knowing who first coined the phrase “Harm Principle”, it is used by some synonymously with the Principle of Liberty. See John Gray and G. W. Smith, “Introduction”, in *J. S. Mill On Liberty in Focus*, John Gray and G. W. Smith eds., (London: Routledge, 1996), p. 2.

prohibition. Rather, it is that acts done in private – *by definition* - cannot be offensive or harmful to anyone other than the agent.⁷⁰ It is for this reason that Alan Ryan can deny that the reasoning of the Wolfden Report of 1954 is “Millian”.⁷¹ The Report concludes that there should be a private sphere morality that the law need not bother to persecute. No matter how ‘wicked’ or ‘immoral’ an act may be, so long as it is not harmful to other people, there are no grounds for legal coercion. Ryan argues that because an action performed in private is [by definition] harmless [to others], it is completely beyond to scope of moral appraisal. Private or self-regarding immorality is not tolerable; private *anything* is simply not morally appraisable at all.

There is one ambiguity that perhaps need not be resolved for our purposes here, but is worth noting. The way the second criterion is framed, it might be satisfied by the mere introduction of a second person, even if it is a consenting second person. Mill does not speak of consent with regards to the Harm Principle, so it is unclear if two (or more) people were involved in some mutually self-harmful activity would meet this criterion. It would not be difficult to think of a common example of such a case. There are lots of people involved in reciprocally harmful emotional relationships. Perhaps each person even recognises the harm, but carries on for other reasons. A better example would be two people involved in a brawl. It could be argued that the fight was *consensual*, in that both sides persist in aggressing, rather than one on the defensive, or even retreat. Of course, it would be easy to employ arguments about secondary harms to others, like alarm, but only if done in public. To extend this example, consider one of the several underground, bare-knuckled boxing leagues. These are totally private, by which I mean they are not open to the public, are well hidden from strays, and the people involved are well aware of the dangers involved. Nonetheless, the participants consent. Such leagues are currently illegal, however it is difficult to see how Mill would view them with regards to the second criterion. There is for sure harm, but can we consider it other-regarding when the people involved are all willing participants? It remains unclear.

The third and final criterion that must be met in order for legitimate coercion to be employed is normative. The other regarding harm must in the end be also *wrongful*. The Harm Principle here cannot alone determine its own scope without appeal to the higher Principle of Utility. As Chapter IV of *Utilitarianism* spells out, an action is

⁷⁰ Here, I use the term “private” not merely to mean “behind closed doors”, but to imply no effect on anyone other than the agent in any way.

⁷¹ Alan Ryan, “John Stuart Mill’s Art of Living” in *J. S. Mill On Liberty in Focus*, John Gray and G. W. Smith eds., (London: Routledge, 1996), p. 164.

wrong if and only if it violates some “right”, as generated by a perfect utilitarian obligation to society.⁷² And of course, such obligations stem from maintaining the conditions of everyone’s equal ability to develop their capacities to appreciate the higher conceptions of the good. That is to say, the punishment of an offence promotes utility in the long-term, progressivist perspective.

Following Comte, Mill is calling for the conditions to facilitate social progress. It is only at this level that we can make sense of some of the more puzzling cases discussed above that do and do not warrant protection by the Harm Principle. Competition in the market place does produce harm, which is the only way to describe the effects of economic destitution. Furthermore, interaction in the market is certainly other-regarding. Finally, however, the harm that competition produces cannot be said to be wrongful because society maintains no such “right” to be protected from market harms.⁷³ Not only is failure (or rather, fear of failure) an important motivator and stimulant of the market, but there would also be huge utilitarian costs to protecting such a right.⁷⁴ We can also see why the principle prohibits public indecency, but not the eating of pork in Muslim countries. Indecent behaviour in public, whatever that behaviour may consist of (Mill does not prescribe what *should* be indecent, he simply argues from whatever empirically *is* indecent), causes shock and dismay and can constitute a harm. This indecency is also other-regarding because it is done in public. Finally, because society has an interest in preventing individuals from experiencing shock and dismay as a part of maintaining security, we can conclude that the action is therefore wrongful. Now, if the content of the indecent behaviour did (empirically) consist of the consumption of pork, then on this formulation of the Harm Principle, we would be justified in banning only its *public* consumption. The passage where Mill discusses a Muslim majority society illustrates how even in a country where there was near unanimity of disgust and disdain of some activity, like eating pork, we would still be unjustified in its outright prohibition.⁷⁵ The passage is supposed to illustrate the sanctity of the self-regarding sphere, no matter how small in practice, and this raises another ambiguity on this reading. My interpretation here is sensitive to the harm experienced by public acts of indecency, but is necessarily insensitive to the potential harm of the mere knowledge of such behaviour being performed in private. Wolff asks

⁷² Mill, “Utilitarianism”, pp. 246, 259.

⁷³ Although the utilitarian reasons for not maintaining such a right is clear, Mill also refers to the “Principle of Free Trade”, see “On Liberty”, p. 293.

⁷⁴ Of course, the welfare system does, in theory, protect a right not to be completely desolate, probably for utilitarian reasons.

⁷⁵ Mill, “On Liberty”, p. 284.

how it is that the source of a harm renders it categorically different.⁷⁶ A Muslim or Jewish person might experience great shock and dismay at the mere thought of her neighbours were freely and happily consuming pork. Must we completely disregard the harm from thought of others eating pork, as opposed to harm from the sight of it? On the one hand, we could say yes because society has such a strong interest in individuals being capable of performing experiments in living, in this case experiments with pork, as to *always* outweigh the disutility of the shocking thought.⁷⁷ This is roughly the conclusion that Wolff comes to in his utilitarian grounding of the indecency policy. On the other hand, we could expand the other-regarding sphere to include knowledge-as-effect. The thought of someone's behaviour would then convert the action into an other-regarding one, and if it were injurious enough to one's fragile sensitivities, would constitute a harm. This latter interpretation would be more consistent with classical utilitarianism, but also potentially shrinks the self-regarding sphere into non-existence. Therefore, I would side with Wolff in disregarding the harm from shocking thoughts, but for different reasons.

The self-regarding sphere is clearly intended to be the actual spatial-conceptual realm wherein one's actions do not affect anyone else. Some have argued that no such sphere can exist because everyone's actions affect others, even if in remote ways. Demarcating some boundary between the self and other regarding spheres would basically be arbitrary and without utilitarian support.⁷⁸ Against this claim, I maintain that it is possible to make a demarcation between actions that affect others and actions that do not, precisely at this contentious boundary region of publicity and thought. The sight of some action clearly makes it other regarding, and possibly even harmful depending on the sensitivities of the witness. However, the mere thought of some offensive action does not render that action other regarding. It is one thing to witness some indecent or blasphemous act and to be offended by it, or even harmed; it is quite another thing to experience the same level of shock by the mere thought of some act. Empirically - although highly unlikely - the pain may be the same, but the causal agent of the pain would not be actor, it would be the thinker, thereby making the offence/shock/harm self-inflicted. Whereas witnessing an offence is a response to the publicity of the action, thinking of an offence is an act initiated by the thinker. Recalling the memory of some offensive act would be the product of an other-regarding act, as it

⁷⁶ Wolff, "Mill, Indecency, and the Liberty Principle", p. 151. Wolff is actually citing Jonathan Riley with this question. See Riley, Jonathan, 'One very Simple Principle', *Utilitas* Vol. 3, 1991, p. 23.

⁷⁷ Wolff, "Mill, Indecency, and the Liberty Principle", p. 155.

⁷⁸ James Fitzjames Stephens, *Liberty, Equality, and Fraternity*, R. J. White ed., (Cambridge: Cambridge University Press, 1967), pp.137 – 150.

would be based on an original visual experience, but the mere suspicion of such acts would not suffice, provided the people supposedly involved took adequate steps to maintain privacy. If the mere thought of some offence was sufficient to render it an other-regarding act, then there would be no means by which to differentiate between the knowledge of such act, the suspicion of such act, and the fabrication of such act. Any notion of security would evaporate as nobody could be certain that somebody was taking offence to something they may or may not be doing. This threat would pose a particular problem for persecuted minorities, and social elites trying to regenerate people's preferences. The thought of some offensive action, and the subsequent shock, can only be considered self-inflicted, and so it would not meet the second criterion of the Harm Principle.

Conclusion

Hamburger's thesis is controversial, but has been a refreshing expansion to the secondary literature on Mill's social and political thought. Although his full thesis that Mill endorses coercive strategies in order to morally regenerate individuals is unsustainable, he is correct in identifying certain forms of influence and control that challenge Mill's status as a paradigmatic liberal. In this chapter I have shown the forms of behaviour Mill disapproves of, and how he attempts to demarcate legitimate forms of influence. I next showed how the nature of that influence can be of a second-order type, applicable only to individuals' reflective thoughts and reasons about their characters, or their first-order activity. Mill thinks it inexpedient to morally or physically coerce people to choose the higher pleasures and conceptions of the good because it denies them the proper exercise of their second-order reflective capacities and deliberation, which are generic. It is not enough to simply reflect on one's first-order activity, one must do so correctly. In other words, individuals need to know the grounds and reasons for the superiority of higher goods and wilfully assent to them. It is not that there is a narrow set of forms of life that Mill endorses, rather there is a range within which there might be indefinite possibilities. Individuals are to conduct experiments in living in order to discover a manifestation of the higher goods that are an expression of their own unique individuality. The Harm Principle ensures the equal opportunity for all to conduct their experiments free from interference by those forces hoping to maintain the status quo, or worse. Mill's conception of harm may be an empirical matter, but his selective applicability of the principle only to other-regarding, wrongful harms, and then *only to first-order activity*, or "freedom of action", enables social elites to influence the

evaluation of the outcomes of the experiments, via severe penalties, need be. In this way, elites assist the masses in developing the appreciation and desire for the higher forms of the good, and hence have a crucial role to play in the progressive complexity and increase in quantity of utility.

7. Conclusion:

A very normative liberal-utilitarianism

This reassessment of Mill's liberalism began by looking at the dominant controversy in the secondary literature since the late 1960s. The dispute was mainly about whether liberal principles were derived successfully from his utilitarianism foundation, and was initiated by Isaiah Berlin who argues that Mill fails in his attempt. The debate should have been about Mill's relationship to liberalism altogether. This point is made forcefully by Joseph Hamburger, who argues that Mill's project was to bring about a new Religion of Humanity, an idea he receives from Auguste Comte. To that end, the liberties argued for in *On Liberty* were nothing more than a strategy to break down existing Victorian and Christian social norms and beliefs, and to be replaced by more secular and altruistic ones. Couched within the arguments for liberty, were intimations of how society would encourage certain preferences and discourage others. Social elites were to play a key role in reforming the characters of individuals, and could even attach "severe penalties" to certain self-regarding behaviour.¹ This attribution of freedom *and* high levels of social control challenges Mill's status as a paradigmatic liberal, but also reveals the depth and complexity of his thought. For, even though Hamburger is wrong in his attribution of wholly illiberal strategies to Mill's ultimate project, he highlights the influence of Auguste Comte, a thinker not only outside of the liberal tradition, but a well-known critic of it as well.

Any attempt to clarify Mill's position in the liberal lineage needs to take into account the influence of Comte, which the literature largely neglects.² This influence is self-evident, as Mill himself discusses in the Essay entitled, "Auguste Comte and Positivism". After admitting a few beneficial contributions that positivism has made, Mill then goes on to criticise not only Comte's positivism, but also attacks Comte as a person. Perhaps this frank admission of the philosophical relationship between Comte and Mill has put the issue to rest in the secondary literature. However, a closer inspection of their systems reveals more similarities than the literature notes, and even Mill admits.

¹ John Stuart Mill, "On Liberty" in *Collected Works XVIII*, John M. Robson ed. (Toronto: Routledge and Kegan Paul, 1977), p. 278.

² Some exceptions are Iris Nicholas Capaldi, *John Stuart Mill*, Cambridge: Cambridge University Press, 2004); Wessel Mueller, *John Stuart Mill and French Thought*, (Urbana: University of Illinois Press, 1956); Linda C Raeder, *John Stuart Mill and the Religion of Humanity*, (Columbia, MI: University of Missouri Press), 2002.

Mill shares with Comte a particular philosophy of history that adds a progressive dimension to Mill's system. Mill also takes on board the notion of the Religion of Humanity, but with a key difference. Whereas for Comte, the Religion is an utopian and revolutionary stage that is, in a sense, the end of history, for Mill it is the institutionalisation of the conditions for progress, as given by Mill's particular conception of human psychology. Finally, and perhaps most interestingly, Mill and Comte both employ a mix of freedom and social control in their systems.

For Comte, negative freedom was a necessary condition during the critical stages of history when one dominant ontological and epistemological paradigm gradually gives way to another dominant one. Once the Religion of Humanity was achieved, freedoms would evaporate, because society - that is, humanity - would be organised into an organic whole under the direction of Scientist-Priests (of which, Comte would be the High Priest) directing all moral (including educational) and political affairs. Like Comte, Mill also recognises the immense influence that could be wielded by education and religion. As described in Chapter IV of *On Liberty*, society is to play a key role in shaping the character and behaviour of individuals. Social elites are to help individuals reform their tastes and develop an appreciation for the higher pleasures. Liberty is essential for individuals to conduct experiments in living in order to discover manifestations of the higher pleasures that best suit their individual natures, but elites assist in the evaluation of these experiments, even with the sanctioning of very severe penalties. Comte's Religion of Humanity is an authoritarian utopia ritualising every minutia of human existence, whereas Mill's Religion is merely the institutionalisation of the conditions of moral reform, which includes both negative freedoms and high levels of second order influence. This complex mixture of liberty and control in Mill's system requires us to reassess his relationship to liberalism, but falls short of Comte's crime of "liberticide".

These are the most significant differences between Mill and Comte's systems. Although they share some of the same methodologies, their projects are ultimately very different. Comte was not the only non-liberal influence on Mill's thought, as Mill was the godson of Jeremy Bentham. Despite some recent attempts to interpret a liberal pattern of distributive justice in his writings, Bentham is best understood to be outside of the liberal lineage, defined loosely as a significant commitment to freedom and/or equality, however substantiated. Bentham does recognise the utility of equality and freedom to individuals, but subordinates both to security, the first necessary condition for the pursuit of utility. Bentham's system is more an example of a classical form of

utilitarianism. Mill is also advocating a utilitarian doctrine, but one significantly different than Bentham's. Mill may have received the whole utilitarian framework from his Godfather, but he radically expands it before its final articulation in *On Liberty* and *Utilitarianism*.

Firstly, Bentham, like Comte, seeks to arrange society so as to harmonise interests, which negates one of the key conditions of progress for Mill, the conflict of ideas. If, according to Bentham, an individual's interests could be tied to society's interests, then everyone's could be fulfilled without conflict, and without excessive cost to the state. The best example of this reasoning is Bentham's panoptotic design for poor houses and prisons. By means of a special architectural design, prisoners (or workers, students, patients, paupers, etc) would never know if they were simultaneously being monitored, thereby causing them to police their own behaviour. The panopticon is an ingeniously practical device that is designed to abolish privacy and promote homogeneity of prescribed behaviour amongst its inhabitants. Comte employs a more brutish approach to harmonising the interests of individuals in society. Comte's system requires that everyone undergo rigorous moral and scientific education from the age of 14 under the auspices of the Scientist Priests. From then on, through ritual and indoctrination, the child is instilled with love for the Great Being, Humanity. Moreover, through testing, an individual's best role in the maintenance of the species would be determined and rigidly prescribed. The individual is to selflessly and altruistically devote himself to his work, thereby forfeiting any personal interest that does not directly benefit the species. Humanity's interests *just are* the individual's interests. This kind of homogeneity Mill constantly warns against with his repeated references to "Chinese stationariness".

Secondly, Bentham's simplistic conception of pleasure fails to capture the complexity of the human experience for Mill. Humans are active, creative and naturally diverse creatures that need to freely express themselves in order to experience maximal utility. Therefore, conceiving of pleasures purely in quantitative terms misrepresents the manifold ways in which humans experience it. Mill maintains that pleasures don't merely vary in duration and intensity as Bentham describes, but in quality as well. A pleasure is considered higher if an experienced judge prefers it to such an extent that he would "not resign it for any amount of the other pleasure". This incommensurable superiority is a problematic expansion to Bentham's monistic conception of pleasures, and so threatens Mill's ethical hedonism. Put simply, if according to the Pleasure Principle, pleasure is the only thing valuable, then what is it, other than pleasure that

makes a higher pleasure higher? Why not value this 'otherness'? It would be one thing to posit that the exercise of certain capacities renders an experience more pleasurable than one that does not, but it is another thing to say that no amount of the lower could ever be preferable to any amount of the higher. Unfortunately, this incoherency remains despite the addition of the Comtean progressive dimension that Mill brings to his utilitarianism. However, what this progressive dimension does is to enable Mill to defend against the liberal critique of Bentham. As Parekh has shown, it is merely an empirical matter whether an equal distribution of rights actually does maximise utility, or whether some illiberal distribution would do so.³ By appealing to the progressive interests of humans, Mill is able to claim that an equal distribution of 'rights' will *eventually* maximise utility, even at the short-term utility costs of maintaining such a distribution. Mill's ambitiously empirical claim about human nature enables him to defend the long-term expediency of liberal principles, in the face of narrow, short-term utilitarian demands to the contrary. In this way, Mill can be considered to be articulating a form of liberal-utilitarianism.

Mill borrows generously from Comte, despite his famous essay attacking Comte and positivism. Mill also inherits an entire philosophical foundation from Bentham, despite heavily amending it. Both doctrines do acknowledge an instrumental role of liberty to a certain and limited extent, but neither could be reasonably considered a liberal influence. The key element that both of these doctrines lack is a notion of individuality. As has been shown, Mill's conception of human nature is largely a Romantic one, taken from von Humboldt. For Comte, egoistic drives are forever present in the psyche, but are suppressed through ritualistic expressions of love and altruism. The individual's character is totally irrelevant, as its aptitudes could be determined, and the needs of humanity would dictate the most beneficial [to the species] role in society with no scope for lateral or hierarchical mobility. Bentham, being more concerned with political reform than revolutionary change, recognises homogeneity as a source of security and stability. On this view, no more utility is derived from framing a life that conforms to one's unique character, in fact rampant individuality could even threaten security. As previously stated, this thesis does not seek to demonstrate the history of the genesis of Mill's moral and political thought, rather to describe the dominant influences of it, and give a coherent interpretation of it. It is a testament to the richness and complexity of this thought that two of the main influences of Mill's doctrine stand outside of the liberal tradition, from which he supposedly hails. This being the case, the

³ Bikhu Parekh, "Bentham's Theory of Equality", *Political Studies*, Vol. XVIII, No. 4, 1970.

influence of Wilhelm von Humboldt takes on a particular importance, because his notion of individuality not only animates Mill's progressive utilitarianism, but also gives it its liberal ethos.

The influence of Wilhelm von Humboldt is widely acknowledged among Mill scholars. It would be impossible not to, as Mill begins *On Liberty* with a quote from von Humboldt, and he is the only person cited repeatedly in a favourable light. However, there has been little discussion of the actual specifics of this influence. Mill's concern for individuality that he takes from von Humboldt is what emerges as the key element that precludes Mill's system from being fully illiberal. If individuality is the ultimate source of utility, then its facilitation is the *raison d'être* for any utilitarian doctrine. Bentham recognises individuality in a weak sense with his admission that "push-pin is as good as poetry".⁴ He acknowledges that individuals will have different sources of pleasures, and since pleasure is homogeneous, he needn't be prescriptive. All things being equal, any source of pleasure is as good as another, and it is only a case of finding one's favourite, or most expedient. Similarly, Comte's system attaches absolutely no weight to the notion of individuality, because it is totally irrelevant to the maintenance of the species. Humanity is an organic whole, and as such, each individual has a specific role to play. In fact, the positivist education is designed specifically to suppress those elements of character that are not oriented towards the selfless devotion to the species. We can see now how it is the failure to recognise the importance of individuality that forms the basis of Mill's rejection of much of their ideas. What drives this point home, is by considering what *On Liberty* would look like without the endorsement of individuality. What we see is that even though the freedoms advocated in the essay would remain, they would merely in a formal sense, much like in Bentham's harmonious system. The demand to find a form of life that produces the most utility for an individual would eventually lead individuals to converge on a ever-shrinking range of options, until a definitive, and Aristotelian-esque hierarchy of lives emerged.

Even though Mill recognises the import of individuality for maximising utility, it is a highly socialised process that reveals one's individualism, which is a bounded concept. Von Humboldt, on the other hand, not having a theory of higher pleasures or goods, has a much more subjective conception of individuality, which is partly why he advocates a form of libertarianism. For him, anyone who "love[s] their labour for its

⁴ This quote is actually from Mill paraphrasing Bentham. See John Stuart Mill, "Bentham", in *Collected Works X*, John M. Robson ed., (Toronto: Routledge and Kegan Paul, 1969); Jeremy Bentham "Rationale of Reward", in *The Works of Jeremy Bentham Volume II*, J. Bowring ed., (Edinburgh: William Tait, 1843), p. 253.

own sake” is enjoying the highest level of human flourishing.⁵ Mill conceives of indefinite possibilities for human flourishing, provided that they involve the higher pleasures. Individuals need to find those activities in life which excite the moral and aesthetic capacities of the mind. Mill, like Comte, considers himself to be writing during a critical period in history, when the individuals seeking to develop their capacities still encounter substantial pressure to conform to old Victorian and Christian social norms and beliefs. Also like Comte, Mill acknowledges the role that social elites play in the progress of society. The “experienced judges” of *Utilitarianism* are to wield considerable influence over the direction of development of individuals wanting to reform their tastes and pursuits.

On Liberty describes the complex mixture of influence and freedom individuals are to experience as they gradually move from the Victorian outlook to the more regenerated one characteristic of Mill’s version of the Religion of Humanity. Mill is clear in his statement of the Harm Principle: “That the sole end for which mankind are warranted, individually or collectively, interfering with the liberty of action of any of their number, is self-protection.”⁶ However, the point of Chapter IV is to delineate the forms of influence that society can rightfully exert over the individual. It would be a great misunderstanding of Mill’s doctrine, “to suppose it is one of selfish indifference,” because “human beings owe it to each other to help distinguish the better from the worse.”⁷ Even though Mill goes to some length to differentiate between the two forms of interference society may exercise over the individual, his reliance on the *reasons* for the influence rather than on the *effect* of the influence threatens the integrity of the Harm Principle. Therefore, in order to clarify the balance between control and coercion, I have employed a hierarchical conception of the self in *On Liberty*. Such a conception enables me to interpret the limits of the control elites are to rightly exercise over the individual, while protecting the sphere of negative liberty essential to reforming one’s character.

Understood this way, the Harm Principle, protecting the liberty of action of individuals only applies to first-order decision making and action-taking. This level of mental activity can also be considered character. This is where individuals express their desires and beliefs about the world, such as drinking excessively is enjoyable, racism is bad, or staying home and raising children is what one will do. This level of expression does not take into account the reasons one has for holding their beliefs and desires.

⁵ Wilhelm von Humboldt, *Limits of State Action*, in J.W. Burrow ed., (Cambridge: CUP, 1969), p. 27.

⁶ Mill, “On Liberty”, p. 223.

⁷ *Ibid.*, p. 276-7.

These reasons occur at the second-order level of the self, and this is where elites can explicitly influence individuals.

Elites can do everything in their power, short of coercion, to extinguish the desire to drink excessively. This influence can range from reasoning, to ostracising, to subtle social conditioning. Similarly, elites cannot prohibit the racist statements, they must teach them *why* such statements are wrong. As Chapter II of *On Liberty* makes clear, knowing the grounds for truth is as important as knowing the truth itself. More interestingly, elites cannot force one to leave the children home with minders or ones' spouse, and return to the work. This last example is different than the previous two, because it is not simply that the belief that staying home and rearing the children is bad, or wrong, it is the reasons why one chooses to do so that elites should be concerned with. It would not be an expression of individuality to stay home and mind the children if this were being done merely because it is conventional. This would be an unreflective decision, not based on any, or impoverished, second-order reasoning. If, however, one deliberated with one's life-partner and came to a decision in line with, or despite convention, then that would be an expression of individuality. In this case, all elites could do is influence the reasoning process by initiating deliberation at the second-order, i.e. about one's first-order desires regarding children.

Mill and Autonomy

As described in the previous chapter, Mill employs both a negative and a positive conception of freedom in his moral and political thought. The negative is straightforward, as the harm principle explicitly protects "liberty of action" from the wrongful interference by others. As G.W. Smith correctly identifies, Mill also considers full freedom to include "possession of the capacity to alter one's character, if one wishes."⁸ This capacity is the second-order level of activity previously discussed, and it is to be positively induced by elites. It is the *grounds* one possess for preferences and beliefs, and what separates "living truth" from "dead dogma". Elites cannot simply impose their preferences, just as they simply cannot coerce individuals to choose the higher pleasures. What they can do is help individuals understand *why* the higher pleasures are superior. The preferences may originate in an external source, but once the individual understands why some preferences are better than others and then submits to them, they then become expressions of their individuality.

⁸ G. W. Smith, "Social Liberty and Free Agency", in *J.S. Mill On Liberty in Focus*, John Gray and G. W. Smith, eds., (London: Routledge, 1991), p. 250.

Using the hierarchical conception of the self to clarify the extent to which elites can influence individuals may reiterate the centrality of the Harm Principle as one of absolute non-interference against other-regarding, wrongful harms of the first order, and therefore confirm Mill's status as a liberal thinker, but it also reveals a potential problem for Mill's system, one he acknowledges in the introduction to *On Liberty*. Like the German Romantics before him, Mill recognises the tension between the sociability of humans and the demands of individuality that they must express. Society "practices a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself."⁹ There is the risk that social forces, be they elites as Mill would hope, or the more generalised influence of the zeitgeist, over-determining the individual. In other words, elites are meant to help individuals express their individuality, but what they in fact might be doing is merely *imposing* preferences (and their reasons) for the higher goods.

It would be impossible to be human without any social influences as one develops as an adult, but there is nonetheless an important difference between impressive and repressive forces. Whereas the former contributes to the genuine formation of one's character, the latter is a superimposition of one. The problem for Mill is that differentiating between the two might be impossible. Someone might be *conditioned* to prefer the higher pleasures, even though their *actual* preferences would be for the lower ones. If it is impossible to differentiate between genuine individuality and conditioned preferences, then it would seem to weaken the concept of individuality considerably. And if the concept of individuality is weakened to the point of insignificance, then it becomes even harder to assimilate Mill into a recognisable tradition of liberalism.

We can see now how Mill's concept of individuality involves a highly normative concept of autonomy. Expressing individuality is not simply a case of discovering one's deepest or truest desires, and fulfilling them. Mill never explicitly refers to essences, or quiddities¹⁰, but he does speak of "inward forces" (p. 263), "energy" (p. 263), "Pagan self-assertion" (p. 266), and "personal impulse" (p. 264). Individuality is exercising deliberative choice, that is, second-order reasoning, with regards to choosing higher pleasures that conform to these internal drives. It is an active

⁹ Mill, "On Liberty", p. 220.

¹⁰ Jonathan Riley, *Mill on Liberty*, (London: Routledge, 1998), p. 170.

and creative process, not one of passive introspection. Charles Guinon puts it best when he conceives:

“the imperative ‘be yourself’, not as telling you to shape yourself according to the requirements of an antecedently given essence, but directing you to accept that your creative activity of self-making is the ultimate source of your own being. To be yourself, on this view, is to own up to the task of self-making in a way that is truthful to your own genuine feelings at each moment”¹¹

This positive notion of freedom is not just procedural. Reflection of the second-order is not merely enough to be considered fully free in Mill’s system. If one were to experience a range of pleasures, and then after deliberation chooses to pursue the lower ones, Mill would not view this as an expression of individuality, and therefore not being fully free. To be fully free one must understand and wilfully submit to the superiority of the higher pleasures that conform to one’s “inward forces”. For Mill, it is an empirical fact that the higher pleasures yield not just more, but qualitatively better pleasure, and that “pagan self-assertion” be tempered with “Christian self-denial”. Since the Pleasure Principle says “that pleasure, and freedom from pain, are the only things desirable as ends”, it would be irrational for anyone capable of appreciating the higher pleasures to choose anything else.

The normativity of this conception of autonomy comes from this narrowed range of rational options. The preference for a lower pleasure could only be the result of the heterogenic influence of the prevailing social ethos of conformity and conventionality, or a defect of character, like being in the *immaturity* of one’s faculties. The distinctly human capacity of choice is generic, but needs to be exercised regularly. The authority that the elites have, and the influence they wield over second-order reasoning is specifically to overcome these two hindrances to human flourishing. The progressivist dimension to Mill’s doctrine makes these constraints and forms of influence actually utility maximising. Provided that first-order decision-making and action taking is protected from interference, this *second-order* paternalism promotes human flourishing.

Hamburger is correct to identify high levels of social control in Mill’s doctrine, but he understates the centrality of negative liberty to Mill’s theory of progress. Negative liberty is not merely a means to breaking down outmoded social norms, eventually to be dispensed with during the next organic period. This sphere of absolute non-interference is the necessary condition for expressing individuality, which entails

¹¹ Charles Guinon, *On Being Authentic*, (London: Routledge 2004), p. 70, paraphrasing Jean Starobinski describing Rousseau.

developing the correct type of desires (for the higher pleasures) and moral outlook, in short, character. The Comtean influence he highlights is a crucial part of Mill's doctrine, but only part of it. The Romantic departure from Bentham's conception of human flourishing is the other part. And even though Mill's notion of autonomy underpinning individuality is highly normative, and possibly unattractive to contemporary theorists, it nonetheless counter balances the influences of Comte and Bentham, both outside of the liberal tradition.

Mill and Liberalism

There are two remaining questions for our reassessment of Mill's moral and political thought. Is his system liberal, and if so, how does it relate to other, and perhaps less controversial, liberal doctrines? The answer to the first question turns largely on one's conception of freedom, and its relationship to utility. The second question will require a brief historical survey of the main strand(s) of liberal thought before Mill, and a brief survey of some of the versions of liberalism in contemporary discourse. Despite the high levels of social control and its particular nature, Mill does articulate a liberal theory that is novel, yet within the liberal parameters. Moreover, it will be shown that he prefigures more positivistic liberals, and ultimately some contemporary variants of perfectionism.

Before situating Mill in a recognisable liberal tradition, it is necessary to state what I mean by liberalism. Many writers go to great lengths to stress the contestability of any definition of liberalism. Managing the expectations of the reader, they claim that no definition could possibly hope to distil the various types of liberalism down to an essential core of values or ideas at work in all variants. Hence Kelly says that "any book that sets out to defend liberalism is bound to face the charge that it offers a distortion, caricature or incomplete picture, that when looked at from another angle shows precisely the opposite of what is depicted."¹² Even critics of liberalism take careful aim at their amorphous target before attacking. John Kekes, for example, says "any proposed interpretation must keep to the middle between the pitfalls of securing the consent of the contending parties by being too vague and of providing a detailed, albeit partisan account." Liberalism is for sure a family of doctrines all bearing a resemblance from a macro perspective, but upon closer inspection revealing subtle - but no less crucial - differences between them. Despite these precautions, I think it reasonable to define liberalism loosely as a commitment to equality and freedom, however each

¹² Paul Kelly, *Liberalism*, (Cambridge: Polity Press, 2005), p. 2.

defined, either as ends in themselves, or as constitutive parts of human flourishing, again, however defined. Moreover, another element of any version of liberalism I would argue is in holding the individual as the irreducible and un-aggregative unit of moral significance. This definition enables us to include thinkers like Nozick and Hayek who hold freedom as the sole end of justice, and a commitment to equality that is purely formal, as in equality before the law. This definition also makes it easy to exclude versions of nationalism and Comte's positivism because of their commitment to the moral significance of the nation or species. Bentham's exclusion is a slightly more controversial judgement. He does hold the individual as the only unit of moral significance, but his holding of liberty, or rather security, and equality as formal ends of governance, are merely instrumental to the promotion of utility. Bentham's conception of human nature as simple pleasure seeking does not identify liberty nor equality as constitutive elements of happiness, rather as merely instrumental to it, in most cases. As was argued in Chapter Four of this thesis, his commitment to these values turn on their empirical ability to maximise happiness, and it does not take a stretch of the imagination to envision situations when they would not. Based on this definition, we must now determine if Mill can be included in these vague parameters of liberalism.

As described in Chapter Six, there are both negative and positive elements to Mill's conception of freedom, which form part of a larger thesis about the utility of individuality. The Principle of Liberty unambiguously protects a sphere of non-interference as the necessary condition for the exercise of individuality. This would seem to placate advocates of negative liberty, and confirm Mill's liberal credentials. However, if one were to consider Hayek's definition of freedom, then we see that potential problems still might remain for Mill's inclusion in the tradition. Hayek defines freedom as lack of coercion, for sure a definition that Mill could agree with. However, as Hayek says, this move merely shifts our analysis from one ambiguous term to another. He clarifies, "coercion implies, however, that I still choose but my mind is made someone else's tool, because the alternatives before me have been so manipulated that the conduct that the coercer wants me to choose becomes the least painful one."¹³ This manipulation of circumstances in order to change the incentive structures of certain behaviour is exactly what Mill advocates. Provided the manipulators, social elites, do not violate the Harm Principle in the process, they are acting within their prerogative, as expressions of their own individuality. Their goal is to change the normative status of the conduct in question, in order to facilitate moral regeneration. Individuals "who show

¹³ F.A. Hayek, *The Constitution of Liberty*, (Chicago: Chicago University Press, 1960), p. 133.

rashness, obstinacy, self-conceit – who cannot live within moderate means – who cannot restrain himself from hurtful indulgences – who pursues the animal pleasures at the expense of those of feeling and intellect” are to experience “very severe penalties” for their self regarding character flaws specifically for the purpose of behaviour modification.¹⁴ On this interpretation, the second-order influence that individuals experience falls into Hayek’s definition of coercion, thereby disqualifying Mill from inclusion in the tradition.

Even on Berlin’s account of negative freedom as non-interference by other people, it is unclear as to whether Mill could be included in the liberal family. Again, we have a shift from defining the condition [of freedom] to the instruments of its modifier, the interference. The absence of this modifier then defines the condition. Unfortunately, Berlin is inconsistent with his conceptualisation of interference.¹⁵ However, the definition of freedom Berlin attributes to Mill as the ability to do what one wishes is straight-forward enough, even if unsatisfactory.¹⁶ On this partial and incomplete conception of freedom, Mill would seem to be a whole-hearted liberal. The Harm Principle protects just that – what one wishes to do (within the self-regarding sphere). Berlin does recognise the positive element of Mill’s conception of freedom, but he denies its logical connection to the negative.¹⁷ What Berlin fails to consider, is the implication of influencing what exactly one wishes, i.e. influencing people’s second-order reasoning. It is therefore unsurprising that he not only considers Mill a liberal, but crowns him – along with Benjamin Constant – the “Father” of Liberalism.¹⁸

Any conception of freedom that is purely negative does not take into the consideration the quality and meaningfulness of the sphere of non-interference. Without some reference to a normal range of desires, i.e. a positive dimension, such conceptions of freedom fail when confronted by the example of the contented slave. To tell the slave that he is not really free despite what he says, is to counterfactually refer to some normative set of beliefs and desires. As Gray states, “any view of freedom as the non-restriction of options is bound to remain radically incomplete...in the absence of an account of the nature and powers of the self whose options are opened and closed by human action and omission.”¹⁹ On the other hand, a purely positive conception of

¹⁴ Mill, “On Liberty”, p. 278.

¹⁵ David Miller, “Introduction”, in *Liberty*, David Miller ed., (Oxford: OUP, 1991), p. 13.

¹⁶ Isaiah Berlin, “Two Concepts of Liberty”, in *The Proper Study of Mankind*, Henry Hardy and Roger Hausheer eds., (London: Pimlico, 1998), p. 211.

¹⁷ Berlin, “Two Concepts of Liberty”, p. 200.

¹⁸ *Ibid.*, p. 232.

¹⁹ John Gray, “On Negative and Positive Liberty”, in *Conceptions of Liberty in Political Philosophy*, Zbigniew Pelczynski and John Gray eds., (New York: St Martins Press, 1984), p. 338.

liberty, that is to be under the direction of the higher, inner, or rational self, is to implicitly presuppose one true or correct option among any set. This rational commensurability of options can justify the coercion of individuals into choosing the one true option. It would only be because of a failure in deliberation that any other option would be preferable. If one were more educated, rational, enlightened, or not under the influence of heteronymous forces, then the indisputability of the 'true' option would be plain. Such an extreme conception of positive freedom has obvious dangers because of its authoritarian and paternalistic implications, and so is quite a departure from the liberal confines, as it is typically defined.

The hierarchical conception of the self enables us to clearly see the positive and negative elements to Mill's conception of freedom. The Harm Principle delineates a space of non-interference within which one enjoys liberty of action. It would be impossible to express one's individuality without such a sphere, and so is a necessary condition for human flourishing. Individuality for Mill is not a subjective matter, like for von Humboldt. It is the ultimate source of pleasure and is governed by the laws of human psychology. Exercising those capacities for refined activities yields not only more, but qualitatively better pleasure. Since Mill's theory of life reads "that pleasure, and freedom from pain, are the only things desirable as end", there is an implicit rationalism, which comprises the positive element to Mill's conception of freedom.²⁰ Individuals who pursue the lower pleasures, or unreflectively adhere to social norms are not self-legislating as they otherwise would do, were they not more educated, rational, enlightened, etc. for Mill, expressing individuality simply is what autonomous people do, but they require a space of non-interference in order for this to be possible.

Mill's concept of individuality is more like a positive conception of freedom, such as Kant's. Kant's equating a free will with a moral will is more than just procedural. Maintaining an independence from phenomenal influences and employing the dictates of practical reason are not enough. In order to be free (autonomous), one must also conform to moral principles that meet the strict universalisability criterion. The content of the choices are at least as important as the exercising of the will. To abide by maxims that cannot be universalised is simply to be under the influence of heteronymous influences. Similarly, exercising one's deliberative capacity of choice, as described in Chapter Five, is not in itself an expression of one's individuality. One must choose higher pleasures that are expressions of one's inward forces. Again, the content

²⁰ John Stuart Mill, "Utilitarianism", in *Collected Works X*, John M. Robson ed. (Toronto: Routledge and Kegan Paul), p. 210.

of the choices are at least as important as the experiments in living, and subsequent deliberative processes. To choose lower pleasures, or to conform to social conventions for the sake of it, is to be under the homogenising influence of outmoded social outlooks, like Victorianism. Mill's individuality contains a highly normative conception of autonomy. Full freedom for Mill then – although he does not articulate it in this way – is exercising deliberative reasoning about one's first-order desires, beliefs, and opinions, i.e. one's character, coming to hold the *correct* character, and non-interference to act on one's character and express individuality.

Mill's highly normative conception of freedom as it underpins his notion of individuality does justify Mill's inclusion in the liberal family, but not uncontroversially. As has been shown, some undisputable liberals such as Hayek would seem to exclude Mill, as I interpret him, based on Hayek's conception of coercion. However, I maintain that Mill is a bona fide example of a liberal thinker, because freedom - both positive and negative - are constitutive elements of human well being for him. Freedom is not merely a hypothetical means to happiness, as for Bentham; because of Mill's empirically derived conception of human nature, it would be impossible to be happy without both positive and negative freedom. Moreover, Mill held a formal conception of equality as well, applying the Harm Principle equally to all "human beings in the maturity of their faculties."²¹ And of course, it goes without saying that the unit of moral significance is the individual. Mill may have a highly normative conception of autonomy, but at least he has one, and subsequently must be recognised as being within the liberal tradition. However, it must not be forgotten that these principles are derived from an anterior Principle of Utility. It is for this reason that Mill can simultaneously be considered both a liberal and a utilitarian thinker, or more accurately, a liberal-utilitarian.

This intimate connection between utility and this interpretation of freedom in Mill may justify his inclusion in a recognisable lineage of liberal theories, at least insofar as Kant remains in that same tradition, but that does not place him beyond criticism. The highly normative conception of autonomy at work justifies, and even requires second-order influence - by way of elites or experienced judges - in order to help individuals free themselves from the homogenising pressures of old social norms, and discover the higher pleasures that best conform to their natures. As described above, this influence can be pervasive and highly generalised, leaving individuals "fewer means of escape". In other words, Mill wants to liberate individuals from the dominance of Victorian social norms, but only so they could be dominated by new ones, namely

²¹ Mill, "On Liberty", p. 224.

those of his Religion of Humanity. The notion of autonomy built into his conception of individuality is too normative, and the implicit rationalism too strong. To put it another way, his conception of human flourishing, embracing the Religion of Humanity, is too narrow. There may be indefinite higher pleasures that individuals can experience, but human flourishing for Mill still demands that the pleasures be *higher*. This is akin to saying that human flourishing consists of reading books. True, there may be near-infinite number of books available, but we would still be confined to reading. A less normative notion of autonomy at work, one that retained the procedural dimension but dispensed with the substantive one would support much more plural conceptions of human flourishing, and preclude the crime Mill risks committing, that of 'autonomicide'.

The final question to address is how Mill fits into the lineage of liberal theories. Mill is unique in his drawing from disparate strands of European philosophy into a largely coherent liberal doctrine. Mill starts with a utilitarian framework, and then over the years comes to realise that the ultimate source of utility is to be had by expressing one's individuality. In order to weaken the homogenising influence of Victorian social norms, and encourage experiments in living, Mill institutionalises the conditions of social progress, which is characterised by the liberal principles articulated in *On Liberty*. These principles are part of a larger perfectionism that Mill introduces into the liberal tradition that is carried on by thinkers such as T.H. Green and running up to Joseph Raz.

A full historical review of the dominant strands of liberal thought is not possible with the limited time and space here, but even the briefest survey of some of the key figures reveals that Mill introduces the Romantic notion of individualism into the main of the liberal tradition. John Locke, for example, best known for his defence of private property, states that:

"For *law*, in its true notion, is not so much the limitation as the direction as the direction of a *free and intelligent agent* to his proper interest, and prescribes no farther than is for the general good of those under the law...So that, however it may be mistaken, *the end of law* is not to abolish or restrain, but *to preserve and enlarge freedom*: for in all the states of created beings capable of laws, *where there is no law, there is no freedom.*"²²

Like Mill, Locke charges the state with the protection of a sphere of non-interference. In Locke's case it is to exercise the natural law that is reason; in Mill, it is to develop the capacity to express one's individuality. Their systems are both liberal insofar as they are concerned with maintaining spheres of negative liberty, at least at the first-order level,

²² John Locke, *Second Treatise on Government*, Richard H. Cox ed., (Wheeling, IL: Harlan Davidson, Inc., 1982), p. 34.

however for Mill his doctrine calls for much more. Locke is trying to re-create the conditions of perfect freedom, governed by natural law, but with protection from the arbitrary interference from the less rational, characteristic of the state of nature. Individuals confront each other as either competitors or co-operators in the accumulation of property, governed by the majoritarian laws enforced by the state. For Mill, on the other hand, individuals help each other develop their capacities to better express their individuality. This pursuit is governed by the state by means of the harm principle, but is much less individualistic than in Locke. Locke is interested in protecting liberty like Mill, but his legal system lacks the dynamic notion of harm, and his conception of human flourishing lacks the notion of “utility in largest sense, grounded on the permanent interests in man as a progressive being.”²³

Benjamin Constant, the other “father” of liberalism according to Berlin, also lacks a notion of individuality in his liberal doctrine. Constant differentiates between ancient and modern conceptions of liberty, which is analogous to Berlin’s distinction between positive and negative conceptions of liberty. The ancient concept is concerned with political participation and ability to influence matters of state and governance. The modern is concerned with negative freedoms enjoyed by individuals. His thesis is that whereas in the ancient regimes all too often civic freedoms were sacrificed in the name of political ones, in modern regimes the opposite is true, individuals are too ready to give up access to the political processes and retreat into their sphere of private activity and pursuits. Modern citizens need to re-exert the ancient conception of liberty and combine it with the modern one. Only by participating in the political machinery could citizens safe-guard the liberties that are so crucial to their modern existences:

“Political liberty, by submitting to all its citizens, without exception, the care and assessment of their most sacred interests, enlarges their spirit, ennobles their thoughts, and establishes among them a kind of intellectual equality which forms the glory and power of people.”²⁴

Like Mill, Constant acknowledges the instrumental value of liberty in developing certain human faculties and capacities, but his conception of liberty lacks the ontological underpinnings that elevates Mill’s conception of liberty beyond mere non-interference.²⁵ Constant is arguably as eclectic a European thinker as Mill is, but his

²³ Mill, “On Liberty”, p. 224.

²⁴ Benjamin Constant, “The Liberty of the Ancients Compared with that of the Moderns”, in *Constant Political Writings*, Biancamaria Fontana ed., (Cambridge: CUP, 1988), p. 327.

²⁵ Biancamaria Fontana, “Introduction”, in *Constant Political Writings*, Biancamaria Fontana ed., (Cambridge: CUP, 1988), p. 27.

liberal doctrine, like Locke's, also lacks the ideals of individuality and progress at its heart.

Mill may have been the first to introduce the ideal of individuality into a liberal doctrine, but others have taken up his efforts since him. Mill anticipates the broader development of British idealism and the New Liberalism of the late 19th century, which maintains a more positivistic account of the state and its role in human flourishing. T. H. Green, for example, sees a system of natural or innate rights as necessary in order for individuals to perfect themselves as moral beings. Even though these rights are essentially individual, they require the recognition of society in order to be effectual.²⁶ Green conceives of freedom as the pursuit of self-perfection, which comprises the common good.²⁷ He nonetheless opposes the paternalistic practices by the state in order to induce this perfection, in order to facilitate the development one's own capacities.²⁸ Moreover, as Gerald Gaus discusses in his book, *The Modern Liberal Theory of Man*, the 'modern liberals' he identifies, Mill, Green, Bosenquet, Hobhouse, Dewey, and Rawls all identify the tension between the demands of individuality and human sociability.²⁹ As I have pointed out, this tension can be found also in the writings of the early German Romantics, from whom Mill draws his notion of individuality. In fact, Gaus claims that his tension appears in most post-Rousseauian political thought, including Marx and the anarchist Kropotkin. What makes the writers in question "liberal" is the liberal-democratic conclusions they come to in their writings.³⁰ What Gaus doesn't consider are the ways in which Mill's formulation and justification of liberal principles are similar to the perfectionism of Joseph Raz

Much like this interpretation of Mill, Raz's perfectionism sits somewhere between liberalism and communitarianism. Raz identifies well-being as the successful pursuits of comprehensive goals. Beyond one's biological needs, the well-being of an individual depends on the reasons one has for having those goals and the success one achieves in their pursuits.³¹ Rather than remain neutral over the range of options available to the public, Raz argues the state is specifically to promote and discourage certain conceptions of the good. Whereas justice for Rawls demands the exclusion of moral considerations when dealing with individuals, so as not to impose one's conception upon others, for Raz it requires treating individuals with moral dignity:

²⁶ John Roberts, "T. H. Green", in *Conceptions of Liberty in Political Philosophy*, (Zbigniew Pelczynski and John Gray eds., (New York: St Martin's Press, 1984), p. 245.

²⁷ Roberts, "T. H. Green", p. 250.

²⁸ J. W. Burrow, *The Crisis of Reason*, (New Haven: Yale University Press, 2000), p. 129.

²⁹ Gerald Gaus, *The Modern Liberal Theory of Man*, (London: Croom Helm, 1983).

³⁰ Gaus, *The Modern Liberal Theory of Man*, p. 6.

³¹ Joseph Raz, *The Morality of Freedom*, (Oxford: Clarendon, 1986), p. 308.

“Is treating one another with respect if one treats him in accordance with sound moral principles, or does respect for persons require ignoring morality (or parts of it) in our relations with others? There can be little doubt that stated in this way the question admits of only one answer. One would be showing *disrespect* to another if one ignored moral considerations in treating him.” (emphasis added)³²

In other words, it is a duty of the state to help individuals pursue valuable activities, which contribute to their well-being. Mill makes a similar claim in *On Liberty*, although he generalises the responsibility to all of humanity, rather than to the state:

“Human beings owe each to other help to distinguish the better from the worse, and encourage to choose the former and avoid the latter. They should ever be for ever stimulating each other to increased exercise of their higher faculties, and increased direction of their feelings and aims towards wise instead of foolish, elevated instead of degrading objects and contemplations.”³³

Mill does not institutionalise perfectionist ends in the state like Raz does, but they both recognise that the achievement of personal goals is ultimately a social endeavour, in that fellow individuals, be they agents of the state or social elites, aid in the project. Not only is the pursuit of one’s goals a social endeavour, the goals themselves must be based upon socially recognised forms, approved or not. The meaningfulness of an activity is only endowed by social recognition, and the goals themselves can only be acquired through a process of tacit familiarisation and habituation.³⁴ For Mill, expressions of individuality are socially embedded practises, but he does not limit the validity of pursuits to socially recognised ones. In fact, Mill’s rationale for arguing for individuality is to overcome the conventional and outmoded ways of life, or in order to discover more utility-producing pursuits that better conform to one’s inward forces. Such pursuits do not require social recognition (and certainly not approval) for legitimacy, because this is an empirical matter, and the further away from established norms the pursuit is, the greater the potential genius of the new practice.

Perhaps the most important similarity between Mill and Raz is that for both of them the well being is a highly normative end, albeit for different reasons. Whereas for Mill, it is supposedly an empirical ‘fact’ that the most utility is to be derived from the exercise of certain capacities; for Raz, well being consists of autonomously choosing a valuable goal, as defined by normative reasons, and achieving it. Autonomy consists in

³² Raz, *The Morality of Freedom*, p. 157.

³³ Mill, “*On Liberty*”, p. 277.

³⁴ Raz, *The Morality of Freedom*, p. 311.

a lack of coercion and manipulation at the hands of others, mental capacities, such as “the power to absorb, remember and use information, reasoning abilities, and the like”, and range of valuable options from which to choose.³⁵ Not only must the options conform to existing social forms, thereby making for a conservative range of options, but the options must be valuable as well. The value of a comprehensive goal is determined by the reasons one has for holding such goals, but since both the individual and state can be wrong about the reasons for holding a goal, and hence its value, we are left only with the goals derived from the existing social forms, with no mechanism to critically assess or revise them. Autonomously choosing irrelevant goals, or worse yet, immoral ones, does not contribute to well being, despite what the individual or state might think.³⁶ Human flourishing for Mill - expressing individuality, implies the highly normative conception of autonomy described above. Because certain activities yield more - and *higher* - pleasure, choosing a life of manual or humble labour, or one that does not exercise the higher capacities is evidential of a defect of character.

Despite these key similarities, Mill is not a perfectionist. His Pleasure Principle and his empiricist methodology commit him to the position, however questionable, that individuals, once properly educated, will prefer the higher pleasures determined by their individuality, and it is in fact good that they do so. This position is very similar to Raz’s claim that people merely should prefer certain goals over others for reasons totally independent of individual preferences. Mill wants to retain a naturalist grounding, but his empirical claims about individuals seem too ambitious to be verifiable. His theory therefore comes across as entailing a highly normative conception of human flourishing like Raz’s conception, despite Mill wanting to remain entirely within a utilitarian framework. The good life for Raz contains a narrow range of socially recognised and rationally endorsed forms, from livestock farming to campaigning against the use of DDT, in other words pursuits that utilise a range of human capacities. For Mill, on the other hand, human flourishing can involve an indefinite range of activities, provided they involve the exercise of specific, higher capacities, because for Mill it is simply a fact that these are the ultimate sources of utility.

Mill and Beyond

Mill weaves disparate strands of 18th and 19th century thought into a coherent doctrine advocating principles as the best way to promote happiness and social progress.

³⁵ Ibid., p. 408.

³⁶ Ibid., p. 302, 408. Raz says that pursuing goals for which one holds bad reasons for may advance one’s self-interest, does not contribute to one’s well being, p. 317.

Mill may be best known for protecting a sphere of negative liberty around individuals to order for them to conduct their experiments in living, but this reading is mistaken. There are too many passages within *On Liberty* and in other writings that point to high levels of social control and advocacy of the authority of elites. Taking these into consideration, and employing a hierarchical conception of the self, I have attempted to show how Mill's project, as articulated in *On Liberty* and *Utilitarianism*, is to create the necessary conditions during this critical period in history for individuals to free themselves from the homogenising influence of social convention, and learn to express their individuality. I have tried to show that read this way, the seemingly contradictory claims that Hamburger highlights cohere in a perfectionist version of liberal-utilitarianism. This interpretation has taken for granted some elements of Mill's thought that warrant further study, which I will only suggest now before concluding. Some of these have been touched upon in previous chapters. These issues largely come from Mill's methodology, but touches on several key elements of his moral and political doctrine. Future psychological and sociological research may force us to re-consider much of Mill's principles.

The first issue that I must point to is Mill's claim about the inherent desirability of the higher pleasures. Mill forcefully asserts that "it is an *unquestionable* fact that those who are equally acquainted with, and equally capable of appreciating both, do give a most marked preference to the manner of existence which employs their higher faculties" (emphasis added).³⁷ If we were to challenge this claim, and retort that some people may always prefer the lower pleasures, he might come back and say that these people really are not capable of appreciating the higher pleasures. It takes more than knowing the rules of Chess to be able to appreciate it, just as it takes more than literacy to be able to appreciate poetry. However, this defence then raises the possibility that there may be no way to actually determine when someone is capable of appreciating both pleasures. This objection goes both ways, because a person may eventually develop the ability to appreciate the higher pleasures, only to lose the ability to appreciate the lower. As discussed in Chapter Four of the thesis, the fool may not be able to appreciate the life of Socrates, but neither can Socrates truly appreciate the life of the fool, because he *is* Socrates. The two lives are incommensurable, thereby making a first person comparison meaningless. What turns on the potential fallacy of this dubious empirical claim about the inherent superiority of the higher pleasures is Mill's

³⁷ Mill, "Utilitarianism", p. 211.

conception of human nature and happiness. If pushpins really are as good as poetry, then Mill loses his arguments for cultivation of the self, and hence for social progress.

Following from this, the theory for individual self development that this interpretation makes may not be the only, or best, way to facilitate character reform. First of all, it may not even be the case that the type of self development that Mill advocates is even possible. Perhaps individuals' characters are fixed at an early age, and once they become mature in their faculties, their personalities are already beyond substantial alteration. This possibility is highly unlikely. Humans can always learn to appreciate new art forms and activities even at a late age. However, reforming one's *moral* character may not be as easy, even despite the high levels of second-order influence. Even if this type of reform is possible, it still might be the case that direct, first-order paternalism is the best way to facilitate the reform of individual character. Mill agrees with Comte about the overwhelming influence on character that education and religion play, but he stops short of advocating the illiberal extent to which Comte utilises these institutions. Perhaps Comte is correct, and that the only way to truly change people's moral sentiments is by forced repetition and ritual. Not only would this render the Harm Principle inexpedient, but it would also turn any notion of autonomy into a hindrance, instead of means to greater utility.

Finally, and perhaps most problematically, Mill's claims about individuality may lose their strength upon rigorous psychological inspection. First of all, individuality may not be the wellspring of utility that Mill claims it is. It might be the case that individuals in late modern Western civilisation derive more pleasure from conforming to local sources of identity, rather than exploring their own unique drives and impulses. We needn't turn to academic psychology to consider this possibility, for this is exactly what Mill is arguing against in *On Liberty*. He attributes it to the hegemony of Victorian social forms and thinking, but it may simply be an aspect of human nature that Mill did not see, or did not want to recognise. Secondly, and perhaps ironically, it might be the case that individuality itself may not even exist. Mill waxes Romantically about "inward forces" (p. 263), "energy" (p. 263), "Pagan self-assertion" (p. 266), and "personal impulse" (p. 264), but these might merely be the attributes of a metaphysical conception of human nature that Mill has faith in. As described above, individuality may be nothing more than the preferences of social elites imposed upon individuals who would otherwise be happy to conform to their peer groups and communal identities. Character itself may be nothing more than the sum total of the experiences one has had, modulated by present circumstances. Even if individuality is "self-making in a way that

is truthful to your own genuine feelings at each moment” as described above, “genuine feelings” may be wholly causally determined by one’s surroundings. If individuality is hollowed in this way, then it becomes stripped of its status as the ultimate source of utility, and Mill will have made no progress over the Benthamite system of implicit conformity.

I don’t mean these points to be critical of my interpretation of Mill’s doctrine; I merely want to point out those elements that I have chosen not to pursue, and what potentially turns on them. Much of what I am suggesting requires scientific research, and not philosophical analysis. Like Mill, I believe that in order to articulate how the world should be, one should understand firstly how it works. Mill wrote close to 200 years ago, and so we cannot hold him responsible for the advances in science that have been made since his own research. Nonetheless, he has given us principles about how best to arrange society that appeal as much to our Romantic sentiments, as to our utilitarian and positivistic rationalities. Mill is an eclectic thinker, and his political morality exemplifies the synthesis of seemingly incompatible philosophies. His statement of liberal principles has become part of the foundation of the contemporary public faith in liberal-democratic institutions. Nonetheless, and in the spirit of Mill, it is necessary to question the reasons we have for holding Mill in such esteem, and to that end, to re-examine the evidence. The last thing Mill would want would be for his “one very simple principle” to become yet another piece of “dead dogma”.

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