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Freedom II: On Liberty

The Priority of the Individual Over Society

* Liberty as personal freedom, beyond basic rights against the state.
* **Liberal individualism**.
* A “different and more fundamental treatment” of the topic of liberty than earlier paradigms of liberal political thought and struggle.
* Mill argued that the question liberty “profoundly influences the practical controversies of the age by its latent presence, and is likely soon to make itself recognised as the vital question of the future. It is so far from being new, that in a certain sense, it has divided mankind, almost from the remotest ages; **but in the stage of progress into which the more civilised portions of the species have now entered, it presents itself under new conditions, and requires a different and more fundamental treatment**.”
* “But in old times this contest was between subjects, or some classes of subjects, and the government. By liberty, was meant protection against the tyranny of the political rulers.”

Taming the Leviathan

* **Sovereign power** was understood as “necessary, but also as highly dangerous; as a weapon which they would attempt to use against their subjects, no less than against external enemies.”
* Early liberal revolutions aimed to set **limits to sovereign power** over their subjects. According to Mill, ”this limitation was **what they meant by liberty.**”
* Liberal revolution was attempted by two methods:
	+ Recognition of political liberties or rights, “which it was to be regarded as a breach of duty in the ruler to infringe, and which if he did infringe, specific resistance, or general rebellion, was held to be justifiable”.
	+ Establishment of constitutional checks and balances, “by which the consent of the community, or of a body of some sort, supposed to represent its interests, was made a necessary condition to some of the more important acts of the governing power.”
* The first method was successful, the second had limited success, and where the constitutionalisation of government authority did occur, “to attain it more completely, became everywhere the principal object of the lovers of liberty”.
* Liberal aspirations were limited to limiting sovereignty over subjects.

Private/Public Distinction

* Mill’s *On Liberty* self-consciously marks a new phase in the intellectual and political history of Western liberalism.
	+ Beyond classical liberal and republican questions of autonomy and heteronomy.
* Philosophical inquiry into the nature and limits of the power which can be legitimately exercised by society over the individual.
* Freedom as non-interference: freedom is the negative right to do what one likes without **social/normative constraints** – not only **political domination**.
* This conception of freedom is the basis for the justification of negative rights that constitute the legal definition, construction, and protection of a space of unrestricted thought, speech, and action for individuals.
* Negotiation of the public/private spheres: expansion of the private sphere.
	+ “the practical question, where to place the limit.”

Liberal Individualism

* Protection against the tyranny of majority opinion and practice.
* Justified to protect the development of individuality against conformity to prevailing social norms, religious orthodoxy, *etc*.
* **Autonomous subjectivity: practical reason as the power to form and revise a private conception of the good, or a rational plan of life.**
	+ “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 his faculties** [archaic: powers]. He must use observation to see, reasoning and judgment to foresee, activity to gather materials for decision, discrimination to decide, and when he has decided, firmness and **self-control** to hold his deliberate decision. And these qualities he requires and exercises exactly in proportion as the part of his conduct which he determines according to his own judgment and feelings is a large one. It is possible that he might be guided in some good path, and kept out of harm's way, without any of these things. But what will be his comparative worth as a human being?” – *On Liberty*, III, pp. 109f.
* Autonomous subjectivity has as its condition of possibility that individuals have a negative right of non-interference, Mill argues.

Constituent Elements of Individual Liberty

* “First the inward domain of consciousness; demanding:
	+ liberty of conscience, in the most comprehensive sense;
	+ liberty of thought and feeling;
	+ **absolute freedom of opinion and sentiment on all subjects**, practical or speculative, scientific, moral, or theological.
* The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people; but, being almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is **practically inseparable from it**.
* Secondly, the principle requires:
	+ liberty of tastes and pursuits;
	+ liberty of framing the plan of our life to suit our own character;
	+ **liberty of doing as we like, subject to such consequences as may follow: without impediment from our fellow-creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong**.
* Thirdly, from this liberty of each individual, follows:
	+ the liberty, within the same limits, of combination among individuals;
	+ freedom to unite, for any purpose not involving harm to others: the persons combining being supposed to be of full age, and not forced or deceived.
* No society in which these liberties are not, on the whole, respected, is free, whatever may be its form of government; and none is completely free in which they do not exist **absolute and unqualified**.”
- *On Liberty*, I, pp. 22f.
* **Freedom as non-interference.**
* “The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, or mental and spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest.”
- *On Liberty*, I, p. 23.

The Harm Principle

* The harm principle is intended to “govern absolutely” the exercise of power by society over the individual by way of compulsion and control, “whether the means used be physical force in the form of legal penalties or the moral coercion of public opinion”.
* The harm principle states that “**the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others**.”
* Mill clarifies: “His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise or even right.”
* So what if our friends are ruining their lives? What if we know better? What if they need help? “These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to someone else.”
* “The only part of the conduct of anyone for which he is amenable to society is that which concerns others. In the part which merely concerns himself, his independence, is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.”
- *On Liberty*, I, p.9.

The Justification of Restrictions on Liberty

* Mill thus differentiates **paternalistic** and **moralistic** restrictions of liberty from restrictions of liberty based upon the harm principle.
* Restrictions on individual liberty are *paternalistic* if for the agent’s own good.
	+ Unjustified
* Restrictions on individual liberty are *moralistic* if to ensure that the agent acts morally (upon moral obligations) or not immorally (upon moral prohibitions).
	+ Unjustified
* Restrictions on individual liberty are applications of the *harm principle* if to prevent harm to someone other than the agent.
	+ Justified (maybe)
* Mill claims that the harm principle is the sole legitimate justification for restricting individual liberties, **iff the benefits of interference outweigh the costs** (harm reduction).
* Mill differentiates genuine harm and *mere offense*. In order for an action to to come under the harm principle, it must violate or risk violation of the core interests of others in which they have a legitimate right.

Priorities: the Right and the Good

* Liberalism versus perfectionism (associated with republicanism)
* In the liberal tradition, the measure of our institutions and policies is whether they enable the **negative freedom** of the individual to form, revise, and live out a private conception of the good.
	+ The right is prior to the good.
* In the perfectionist tradition, the measure of our institutions and policies is whether they enable the **positive freedom** of the individual to flourish in accordance with a determinate conception of the good: our **final end**.
	+ Wellbeing (interconnected dimensions)
	+ Virtuous agency and human development (interconnected dimensions)
	+ Religious orthodoxy and orthopraxy
	+ The common good and the expansion of the public sphere and public goods.
	+ Solidarity: the human being is a social animal, we are deeply interdependent.
		- Ethical relations with others and fulfilling social roles.
	+ Embeddedness in history, society, and the natural environment.

Mill’s Perfectionism: Liberal Progressivism

* Liberal democratic state-societies are supposed to be neutral with regard to different conceptions of the good.
* A **basic normative premise** in Mill’s argument for liberalism, however, is that the freedom to form and revise a conception of the good, and live out a rational plan of life, is a necessary (but insufficient) element of the good life for men and women as “progressive beings”. **Mill prioritises a thin theory of the good**.
* Our happiness consists in the higher activities that **actualise** our **capabilities** for reasoning, reflection, and creativity.
	+ An unreasoned, unreflective, imitative life is **less than fully human**.
	+ How thin is this account of the human good?
* The development and exercise of the capacity for practical reason and the development of individuality do the same **teleological** work in Mill’s argument that the final ends of virtue, human flourishing, and the common good do in perfectionist arguments.
	+ We need a better account of subject formation and the objective conditions and limits of possibility for the development and exercise of rational agency.
* Recalling our pedagogical commitment to be critical of Western intellectual and political histories that construct Eurocentric, progressive narratives of human freedom.