Creative Genius and the Rights of the Individual: From Romanticism to Utilitarianism

Prayer Before Studying Theology:

Lord God, the strength of all who put their trust in you;
mercifully accept our prayers, and because through the weakness of our mortal nature we can do nothing good without you,
grant us the help of your grace, that in keeping your commandments we may please you both in will and deed;
through Jesus Christ our Lord. Amen.
--Book of Common Prayer, Trinity 1

J.S. Mill (1806-1873), Utilitarianism's Rational Calculus and the Need for Individual Liberty

Three weeks ago we talked about John Locke's social contract theory of government.

- According to this model, a group of people, to preserve the safety of their persons and property, surrendered to the civil authority their right to enforce certain moral principles (with the civil authority having a largely negative role, being principally concerned with suppressing and punishing those who committed acts that threatened other's well-being or the continued existence of the social order).
- We noted one strange feature of Locke's account of tolerance, namely that it included the proviso that there were certain people who should absolutely *not* be tolerated !

With the transition in the early nineteenth century from Enlightenment rationalism and naturalism to Romantic theories of *personal expression* and *aesthetic value*, social contract models of government were revised in a way that emphasized that

1) "the people have no need to limit their power over themselves" and have not surrendered significant power to the state--on the contrary, the state must always reflect the will of the majority of people (="popular self-government");
2) the state must always and in every case respect the rightful liberties (e.g. *free speech* and *religious liberty*) of individual citizens (thus seeking to limit the "tyranny of the majority" that was possible under Locke's scheme and even under the popular self-government mentioned in [1] above);
3) the state must allow for complete freedom of discussion and the open criticism of received opinions and existing social customs, so that its citizens should have

"more of positive truth and very much less of error," allowing them to develop their intellectual and moral capacities to the fullest possible extent.

This is the approach taken in Rousseau's *Of the Social Contract* (1762) and James Mill's essay on *Government* (1821).

John Stuart Mill's approach to individual liberty in *On Liberty* (1859)=

- **absolute, "unchecked liberty of thought" and**
- **"unbounded freedom of individual action in all modes not hurtful to others"**

Mill's Life: Born in 1806, he was the oldest of nine children born to James Mill, a reform-minded intellectual who was part of a circle of friends who supported Jeremy Bentham's utilitarian philosophy (more on this later) and incidentally also contributed to young John's education, which was certainly very unusual in character (see Riley, *Mill: On Liberty*, pp. 7-12). Like his father James, John spent most of his life working for the East India Company. In 1822-1826, he founded a study circle called the Utilitarian Society, which discussed matters of political economy, logic and psychology and between 1825-1830 he took part in a number of public debates with persons of other political and philosophical convictions.

- The Benthamite type of radicalism Mill espoused
    - emphasized reason as an instrument of social reform and
    - believed that people were predominantly motivated by *self-interest*
        - Self-interest was generally defined in terms of pleasure, with wealth and power seen as sources of pleasure intrinsically associated with one's personal welfare and so to be pursued.
- The task then was to
    - improve the intellectual capacities of the masses and
    - establish social and political institutions that were compatible with the pursuit of enlightened self-interest.
        - Social institutions should be designed in such a way that self-interested persons, naturally being motivated to acquire *wealth* and *power*, should have the proper incentives, i.e. rewards and punishments, to act so as to maximize the general welfare.
- The cultivation of
    - higher moral and aesthetic sentiments (such as the passionate desire for justice or the sympathy for others, e.g., those who have suffered loss),
    - the fine arts
    - the imagination or
    - any form of religion

  was generally neglected, as were
    - any social connections beyond the family.

  These deficiencies (and the pressures caused by caused Mill to suffer a mental crisis (severe depression) in 1826-1827, which left him increasingly to be inwardly disillusioned with the Benthamite position and seeking more of a balance between cultivating reason and appropriate *feeling* (i.e. a pleasure higher and more noble

than the pleasures associated with self-interested behavior) in the development of one's own individual character.

- Mill's marriage in 1851 to Harriet Taylor, the widow of his friend John Taylor also helped to make Mill more receptive to the idea that society could be ordered in terms of small-scale, self-managed cooperative associations, in which men and women had equal rights of participation (giving Mill a *social ideal* not incompatible with his liberal commitment to the individual).

In reflecting upon the proper relation that should exist between the

- civil authority,
- the society, and
- the individual citizens,

Mill's *On Liberty* aims to defend the individual's absolute freedom to choose as he or she pleases among certain "purely self-regarding acts" viewed as *harmless to other people*.

The Rights of the Individual Condition and Limit the Power of the Government
The opening argument: Those who fought for liberty were concerned about rulers having too much power over citizens, so aimed "to set limits to the power which the ruler should be suffered to exercise over the community."

- They established that citizens had rights (enforceable over against the ruler) and instituted constitutional checks "by which the consent of the community...was made a necessary condition to some of the more important acts of the governing power," leading to democratic forms of government,
    - with the magistrates [civil officials] being delegates representing the interests of the people and
    - the ruler being able to be removed from office by the people.
- This dealt with the question of abuse of power by the ruler but did not deal with the question of abuse of power by "the most numerous or most active part of the people" (p. 6) (i.e. the majority may desire to oppress another part of the people).
    - Mill is therefore concerned to establish that "there is a limit to the legitimate interference of collective opinion with individual independence" (p. 7).
- The question, of course, is where to place this limit. Hume acknowledged that individualism must be checked at some point to prevent harm to others (pp, 11-12):

> That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant...The only part of the conduct of any one, 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. (Emphasis mine)

Paternalism: Making Other People Do What They Need to Do (=What We Need Them to Do)

Two exceptions are made to the individual's absolute sovereignty over himself/herself:
(1) Children need to be taken care of by others (paternalism) (p. 12)
(2) The backward (i.e. groups of people in the nation or abroad who are deemed 'uncivilized') may be dealt with in a similarly paternal way and with the use of force (despotism):
"For the same reason, we may leave out of consideration those backward states of society in which the race itself may be considered as in its nonage...Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement, and the means justified by actually effecting that end" (p. 12)

The Value of Individual Liberty Depends On Utility (Whether Individual Liberty Promotes What Is Best for All or At Least for the Greater Number)

Mill then clarifies that he is not speaking of an abstract right to liberty available to all, but rather the right to liberty is based upon an underlying concept of utility and qualified by the latter.

- The welfare of all (the greatest number of people), rather than the good of the individual, remains primary.
- Furthermore, the welfare of all can be a forward-looking concept that takes into account people's future well being (allowing both the future consequences of one's actions and people's future evolution into better human beings to be taken into account).

Individualism Meets This Criterion of Utility (It Leads to What Is Best for All)

Now individualism, Mill thinks, will be better for human beings, not because it is best for the individual but because it is the best means to achieve what is good for humanity as a whole (i.e. will allow them to enjoy quantitatively and qualitatively superior pleasures in the future):
"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."

All will therefore be better if the following are accorded:
(1) liberty in "the inward domain of consciousness" (freedom of thought and judgment)
(2) "liberty of tastes and pursuits; of framing the plan of [their lives] to suit [their] own character" (liberty of action) and
(3) the "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" (liberty of association).

Chapter 2 gives an extended utilitarian argument in favor of citizens being permitted to express any *opinions* they wish (not that one could say anything at all--e.g. yelling "Fire!" in a crowded movie theater when there is none would endanger others). Mill distinguishes three possible cases and argues that in each case where a person might

wish to express a view, while society would like to prevent the view from being hear, it is to society's benefit to let the person speak:

> If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind...[t]he peculiar evil of silencing the expression of an opinion is, that it is the robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clear perception and livelier impression of truth, produced by its collision with error.

(1) When the speaker is right and society is wrong in its view:
Those who want to silence dissent are not infallible:

> "The silencing of discussion is an assumption of infallibility...There is the greatest difference between presuming an opinion to be true, because, with every opportunity for contesting it, it has not been refuted, and assuming its truth for the purpose of not permitting its refutation."

Unless we permit challenges to the view we think is correct, we can't be sure whether our view really is true or is just an unexamined dogmatic assertion.

(2) When the society is right and the speaker is wrong:
There is still a benefit to society even if the generally held view is true--it challenges us to reflect upon why that view is correct: "if it is not fully, frequently, and fearlessly discussed, it will be held as a dead dogma, not a living truth...he who knows only his side of the case, knows little of that." Unless we "hear [opposing views] from persons who actually believe them; who defend them in earnest, and do their very utmost for them" we don't understand the other side or even, by way of contrast, what one's own views mean (the latter are no longer a "living view which regulate conduct").

(3) When both the speaker and society are partially correct ("share the truth between them"):
Truth is arrived at by "the reconciling and combining of opposites." Cf. his treatment of Christian morality as an extreme view, which contains some truth but needs correcting from an opposing viewpoint (see pp. 50-53: "Christian morality...rejected, the Christian faith").

Chapter 3 offers a utilitarian argument in support of citizens being able to act as they please, being able to live their lives as they choose and associate or unite with whomever they please as long as they don't harm others. In things that do not concern others, however, it is beneficial for individuality to assert itself, since it is the source of originality, which will lead to individual and social progress (and that is good for all). The individual who fails to choose his or her own plan of life and express his or her own individuality

> 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....
> [For the majority, however,] the mind itself is bowed to the yoke; even in what people do for pleasure, conformity is the first thing thought of; they like in crowds; they exercise choice only among things commonly done; peculiarity of taste, eccentricity of conduct, are shunned equally with crimes, until by dint of not following their own nature they have no nature to follow; their human capacities are withered and starved...

Mill's point is this: it is individuality, not conformity that promotes and furthers the growth of human beings:

> It is not by watering down into uniformity all that is individual in themselves, but by cultivating it, and calling it forth, within the limits imposed by the rights and interests of others, that human beings become a noble and beautiful object of contemplation...

To the extent that religion supports or requires conformity, this is contrary to reason:

> [I]f it be any part of religion to believe that man was made by a good Being, it is more consistent with that faith to believe that this Being gave all human faculties that they might be cultivated and unfolded, not rooted out and consumed...

In fact,

> 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*. There is a greater fullness of life about his own existence, and when there is more life in the units *there is more in the mass* which is composed of them.

Needless to say, this is a truth lost upon people who are very unoriginal and simply do not see the need for originality:

> Originality is the one thing which unoriginal minds cannot feel the use of. They cannot see what it is to do for them; how should they? If they could see what it would do for them, it would not be originality.

The fourth chapter of *On Liberty*, which is arguably the most important and interesting, tries to define when one can be said to be harming people, since this is what actually determines the scope of one's liberty. (Remember the qualification in Mill's argument: one should be able to do what one wants as long as one doesn't harm others.)

> Whenever, in short, there is a definite damage, or a definite risk of damage, either to an individual or to the public, the case is taken out of the province of liberty, and placed in that of morality or law.

Mill subsequently defines harm in terms of "a violation of any specific duty to the public" or "causing hurt to any assignable individual except himself" and in the introduction to *On Liberty* even claims that the individual has the responsibility to perform certain positive duties in order to avoid the harm to others which would result from the omission of these things.

The final chapter suggests certain applications of Mill's view and excludes certain interpretations of "harm" which might result from setting the bar too low.

- If you lose out to a competitor in an economy based on free trade, so much the worse for you but you cannot claim you have been harmed--you are not guaranteed immunity from hardship or suffering of this type. The state should intervene only where the competitor succeeded by employing some means that it is contrary to the general interest to permit (fraud, treachery, unreasonable force).
- Similarly, products that are dangerous or may cause harm (e.g. alcohol or poison) may legitimately be sold, purchased and used; the state may not forbid such things. (The state might however have reasons to put warning labels on the bottles, heavily tax the item or enquire about the intended use of such products, as long as none of this were being done by the state "to discourage conduct which it deems contrary to the best interests" of the individual agent.)

  > Their [i.e. adults'] choice of pleasures, and their mode of expending their income, after satisfying their legal and moral obligations to the State and to individuals, are their own concern, and must rest with their own judgment.

- The only limitation that could reasonably be placed on a person would be derived from the logic of freedom itself--for example, one should not be allowed to sell oneself into slavery (pp. 106-107: "The reason for not interfering...he is no longer free" with the conclusion "The principle of freedom cannot require that he should be free not to be free".") What is important <u>is freedom in its link to human development, not freedom as simply equaling the individual's ability to act on whatever desires he or she might have at the present time</u>. <u>Again the defense of individual freedoms is not endorsed as an end in itself but only as a means to the collective good</u> (progress of human beings toward a better life), even if that's not what people want.

Mill concludes *On Liberty* by arguing that government interference in the lives of individuals should be kept to a minimum because
(1) It is normally the case that "the thing to be done is likely to be better done by individuals than by the government";
(2) "Government operations tend to be everywhere alike" and this drive for uniformity can stifle the originality and experimentation that can lead to improvements;
(3) It is dangerous to add unnecessarily to [the government's] power since

> Every function superadded to those already exercised by the government causes its influence over hopes and fears to be more widely diffused, and converts, more and more, the active and ambitious part of the public into hangers-on of the government, or of some party which aims at becoming the government...[T]he absorption of all the principal ability of the country into the governing body is soon fatal, sooner or later, to the mental activity and progressiveness of the body itself.