Mill, *On Liberty*

Central Question

Under what conditions is it legitimate to exercise social power to limit individual liberty?

Conclusions

An individual is not accountable to society for his or her actions *as long as they concern only that individual*. [Cf. 1.12: private or *self-regarding actions*, i.e. those which do not affect others.]

The individual is accountable to society for actions that concern the interests of others and may be subjected to appropriate social or legal punishments. [*other-regarding actions*, i.e. those which do affect others.]

Chapter I: Introductory

Setting Up the Problem: History of the Relationship Between Individuals and Ruling Powers

Rule of the Powerful over the Weak

Traditional and historical struggle between *liberty* and *authority*, where the rulers were understood to be an antagonistic and opposing force. Limits had to be set on the power of rulers. Mill identifies four stages of social development.

1. Protection of the people from the tyranny of rulers, but not necessarily in defense of individualism. [1.2]
2. The introduction of popular self-government based on the "will of the people", but again not necessarily in defense of individualism. [1.3]
3. Majority rule with safeguards introduced to protect the minority from the tyranny of the majority, but still without explicit recognition of the status of the individual.
4. The individual seeks protection from popular opinion [which Mill may have felt was largely commercial in spirit]. [1.5]

Rights and Constitutional Constraints Imposed by the People

These limits were established by the people through recognition of certain *rights*. Rebellion and/or resistance was the price to be paid for infringement of these rights by the rulers.

This approach was effective only if the rights could be *imposed* on the rulers.

Eventually a principle of self-government became preferable, i.e. establishment of *constitutional checks* within a *representative democracy*.
Assumption: If people rule themselves, there is no possibility of tyranny. In this case,

1. people rule themselves collectively;
2. society takes on the role of ruler; and
3. there is government of each by all the rest, not government of each by himself.

But if the will of the people is only the will of the majority or the most active within society, then there may arise a “tyranny of the majority”.

Political Oppression (power of rulers) vs. Social Tyranny (collective opinion)

Thus, limits on government are needed no matter what form government takes.

But Mill also believes that some rules of conduct must be imposed on individuals in order for there to be a peaceful and satisfying life. He claims that without these rules, our existence would not be valuable. [Explain.]

So what’s the right balance between individual liberty and social control?

Mill distinguishes between social tyranny (the soul enslaved by society) and political oppression (rulers dominating their subjects). These are the twin threats to individual liberty. Social tyranny is more insidious since “it leaves fewer means of escape”.

[example: same-sex marriage]

Rules of conduct can be imposed by law or by opinion.

These rules vary from society to society. Although they generally appear self-evident to their adherents, they are founded on little more than the preference and opinion of those in power. Thus, Mill seeks an objective standard based on reason, not mere preference [taste].

Historically the rights of the individual against the majority have been most forcefully defended within a religious framework. But here religious freedom is generally achieved through tolerance, indifference, or dogma -- not on the acceptance of a common rational principle. [1.7]

Mill’s Harm Principle: The only basis on which one can interfere with the liberty of another is in cases where harm will be inflicted on others. [1.9]

This establishes a necessary condition for the legitimate use of coercion.

Exceptions: The principle does not apply to those considered by law to be children, “backward races”, and barbarians, i.e. those incapable of self-
improvement through rational discussion, deliberation, and debate. [1.10] These groups may be interfered with against their will

1. if the end is the improvement of those people, and
2. if the means actually produces the desired results.

The cutoff for "civilized society" and, hence, the application of the principle of liberty is given by the capacity for "free and equal discussion".

The limits on coercion are established by appeal to utility in the broadest possible sense, not by appeal to a priori rights.

Interference may take the form of either legal punishment or negative public opinion.

Protection for self-regarding actions should be guaranteed as a basic moral right of the individual. [1.12]

Jonathan Riley [Mill: On Liberty, NY: Routledge, 1998, 51f] points out that Mill's liberalism is distinct from that of Rawls and all other prominent exponents of liberalism in that he defends the individual's moral right to absolute control over self-regarding behavior (in the sense of license) not harmful to others against their wishes.

Central role of reason: mind and the higher pleasures.

Personal Liberties Necessary for a Free Society

1. thought, feeling and expression.
2. taste and pursuit of the good (self-determination).
3. assembly.

Chapter II: Of the Liberty of Thought and Discussion

Freedom of Thought and Expression

Almost every opinion must be allowed expression even if it appears to be false and is held by only one person. [Elsewhere Mill considers cases where expression may cause harm sufficient to warrant coercion, e.g. 3.1.] Mill considers the following cases and arguments.

An opinion is assumed to be false and the opposing view true.

In this case, the view that is assumed to be false may in fact be true. Recognition that we may be mistaken requires such an admission. To deny it would be to assume infallibility. Thus it would be wrong to suppress expression of an opinion even if it appears to be false.
Errors in opinion are corrected by discussion and debate, not by experience alone. Experience alone is inadequate since it must be interpreted. This requires thought, analysis and discussion.

An opinion is assumed to be true and the opposing view false.

If this supposedly true opinion is not subjected to discussion and criticism, it will be held as dogma, not as truth. In order to gain knowledge, one must have reasons to support one’s beliefs. Understanding entails investigating "the grounds of one’s own opinions".

Without discussion, very little of substance is gained beyond the recollection of a few statements or ideas. Beyond shallow phrases, little is retained.

Each of two opposing opinions contain some but not all the truth.

This is the most common case. "It is only by the collision of adverse opinions" that the whole truth is likely to be revealed.

Chapter III: On Individuality, As One of the Elements of Wellbeing

While coercion is never legitimate with regard to thoughts, and only sometimes with regard to expression, to what extent is coercion with regard to the actions of individuals legitimate? [3.1]

Appeal to "personal impulses and preferences".

Diverse lifestyles are a social good. Just as we are not infallible in our opinions, so we are not infallible in our manner of pursuing the good.

It is not only important what you do but how you do it. Slavish imitation is dehumanizing. One must think and act independently and critically in order to build character and substance as a human being. Such an approach to living engages all the faculties: observation, reasoning and judgment, activity, discrimination, and self-control.

Conformity (which promotes mediocrity) is rewarded in modern society. But it is contrary to human flourishing and development, i.e. progress. On the other hand, a measure of self-restraint is valuable in developing character that is responsive to the needs and interests of others. One needs a balance between spontaneity and abiding by rules. [3.9]

The majority are warranted in establishing and enforcing laws that promote the majority view on appropriate other-regarding behavior provided liberty to discuss which rules and policies are appropriate is granted to everyone.
Mill offers four utilitarian arguments supporting the claim that those who do not place a high value on self-development and non-conformity should support it.

1. They might learn something from new lifestyles being put into practice and custom. [3.11, 3.14]
2. It is necessary for effective leadership in a democracy to have individuals who can think independently and are not beholden to the mediocre views of the many. [3.13]
3. Those conformists who do not value or exert their own self-regarding individuality benefit from living in a society where a diversity of views and practices exists. [3.14]
4. Diversity is an antidote to social stagnation and decline. [3.17]

Chapter IV: Of the Limits to the Authority of Society Over the Individual

Under what conditions can the liberty of the individual be limited?

"Though society is not founded on a contract, and though no good purpose is answered by inventing a contract in order to deduce social obligations from it, every one who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest." [4.3]

Social rules of conduct:

1. The interests of one another should not be injured, i.e. interests that ought to be considered either tacitly or legally as rights.

2. Each person must adopt an appropriate share of responsibility for defending the society and its individuals from harm.

If the harm done to another does not violate that person’s rights, the offender should be punished by opinion rather than law.

If an action affects no one’s interests, such an action must be tolerated (assuming the appropriate maturity and rationality of the agent.)

Any given person is far more interested in their own well-being than anyone else. Thus, that person must be allowed the freedom to pursue the good as he or she understands it. The consequences of any individual’s actions will be born by that person alone. It is reasonable to expect that “natural penalties” associated with self-regarding behavior may arise from the unfavorable judgment of others (expressing distaste or "standing aloof") and cause harm to the agent. [4.5; cf. 4.7]

When behavior that is, in itself, self-regarding affects the lives of others in that person’s sphere or proximity, then "artificial penalties" and punishment must be administered to correct the behavior and resulting harm to others. In such cases,
the offense is not simply the result of one's likes or dislikes. [4.7] These self-regarding faults are not classified as immoral by Mill; they do not harm others in general. It is only due to the special circumstances that, e.g. drunkenness, harms others due to the drunkard's failure to perform all of their duties. [4.6] By contrast, other-regarding faults are immoral. [4.10]

Note on the ambiguity of "harm" in Mill's treatise: Mill's concept of harm can be somewhat confusing given all the distinctions and provisos scattered throughout the text. Jonathan Riley offers the following definition which, he claims, resolves the ambiguity.

It seems quite clear...that Mill believes there are truly self-regarding acts, 'properly' beyond morality, which do not harm other people. Such acts can and should affect others' feelings. Others may feel intense dislike, for example, and thus seek to avoid the agent. But none of this amounts to harm to them. Harm is something other than mere dislike, namely, 'perceptible damage' suffered against one's wishes. (By implication, self-harm must be unintentional on this view.) It may appear in myriad forms, including physical injury (not excepting death), forcible confinement, financial loss, damage to reputation, broken promises (contractual or otherwise) and so on. Unlike self-regarding choices, other-regarding conduct directly harms others in one of these ways, or carries a reasonable probability of doing so. [Riley, 98, emphasis added.]

Mill considers objections to his distinction between self-regarding and other-regarding behavior. [4.8-12]

As for the claim that extravagant conduct harms society "indirectly", Mill claims in the interests of freedom it is better to tolerate the self-regarding behavior one disapproves of than to punish it. [4.11]

When judging the merits of rules governing the self-regarding behavior of others, society is more likely to be wrong than right since no one knows better than the individual what will or will not cause them harm. Majoritarian rules about other-regarding behavior are more often than not expedient since one is generally correct in assessing the likelihood of harm to oneself.

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