Mill's Self-Regarding Acts

AN ANALYSIS

Atanu Sarbadhikari

MONOGRAPH 71

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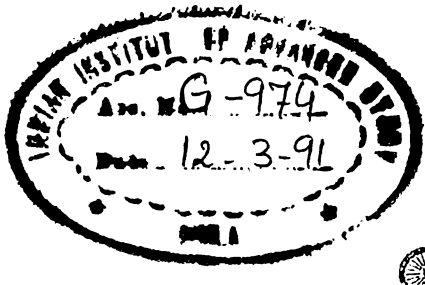

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Foreword

The Indian Institute of Advanced Study encourages Indian and foreign scholars to work in the field of comparative religion and philosophy covering all ages and societies. A number of scholars in this field have come to the Institute as Fellows. The monographs prepared by them are published by the Institute, and this study of Mill's philosophy belongs to the series of monographs on 'comparative religion and philosophy'.

Since J. S. Mill, as the best of the utilitarian philosophers, remained popular in India for a considerable period and influenced a number of eminent individuals in this country, this study should be welcome not only to the philosopher but also to the historian of ideas.

J. S. GREWAL
Director

Preface

Mill's Self-Regarding Acts: An Analysis is an attempt to understand and assess a foundational concept of liberalism as political philosophy. The idea of working on this topic was suggested to me by my teacher, Shri A.K. Mukherjee of Jadavpur University. He kindled my interest in J.S. Mill's doctrine of self-regarding actions (as presented in *On Liberty*, 1859) by commenting that here Mill has raised an issue which is not only of direct and vital concern to-day but is both timely and timeless.

The monograph was written on a fellowship grant from the IIAS, Shimla. I am indebted to Professor Margaret Chatterjee, former Director, IIAS, for certain perceptive observations. I also thank Mr M.N. Sinha for his never-failing sympathy and help in matters connected with the preparation of the monograph. The Institute provided me with the most agreeable environment and quiet encouragement in which to pursue my work. Needless to say that during this period I incurred many other debts of gratitude. A certain section was presented as 'working paper' in a seminar at the Institute. A two-day discussion which this produced proved to be rewarding in the final revision of the drafts of papers. I wish to thank my friends for their enlightening criticism and kind encouragement.

SHIMLA

ATANU SARBADHIKARI

Contents

Introduction

The subject of J.S. Mill's essay, *On Liberty*, as he himself explains in the opening sentence, is 'civil or social liberty: the nature and limits of power which can be legitimately exercised by society over the individual'. Society has jurisdiction over conduct where members of society have an interest. Mill, accordingly, divides conduct into self— and other-regarding acts. Prophetically he remarks that this issue is 'likely soon to make itself recognised as the vital question of the future'. His contention that there is a hard, impregnable core in the individual is fraught with far-reaching consequences, affecting such important fields of life as politics, morality, jurisprudence, sociology of law, etc. That what concerned Mill was not merely confined to his own century is also evident from the recent debates and controversial writings of such modern researchers as Bernard Williams, J.J.C. Smart, Amartya Sen, Robert Nozick and others.

An attempt is made here at an exposition and critical evaluation of his doctrine of self— and other-regarding acts (*On Liberty*), so far as I myself have succeeded in understanding it with the help of some of his notable (and also available) commentators. Since its publication in 1859, *On Liberty* has elicited numerous studies. In view of the proliferation of articles and papers that have appeared, any further attempt to study the essay must be justified in terms of its approach. As I see it, a deep significance attaches to Mill's distinction between self-regarding and other-regarding acts as the motive of creativity underlies the former. I have argued in this paper that central to Mill's conception of liberty and as such to that of man is the attribute of creativity. What Mill is recommending is that creative self-development, individual's own cultivation of personal life and character (even to extremes of eccentricity) should lie at the heart of socio-political apparatus, no matter how difficult and complicated the task might appear to be.

The author of *On Liberty*, however, has not based his defence of Liberty directly on individual creativity but on such traits of

character, e.g., spontaneity, imagination, energy, etc., which drive the creative people. Whereas philosophers have traditionally been inclined to regard man as a universal abstract entity, Mill places high value on individual differences, and rejects the old notion that human nature is always and everywhere identical. He sees no reason why 'all human existence should be constructed on some one or some small number of patterns...' (*On Liberty*).

It is, however, heartening to see that the old philosophical notion of 'man in general' seems no longer to be adequate in view of the accumulated evidence against it. Modern researchers are prone to appreciate the immense diversity and potentiality of the human spirit about which Mill was so eloquent. There is an increasing realization among informed persons that men, far from being invariable or uniform in respect of their mental and moral natures are inexhaustibly rich in their differences and incredibly supple and flexible. The pedagogical goals suggested by modern scientific studies stress the immense variability of man as a procreative being. This emerging concept of man, again, emphasizes not on what man is but what he may become by actualizing the diverse qualities that lie idle in the depth of his being. It is this creation of self, together with creativity as a moral force in society, which implicitly but basically concerns Mill in *Liberty*.

As we all know, modern political thought is prone to depend more on empirical method and seeks to advance in experimental lines, and social or political philosophies are tested by their practical value. Mill praised Bentham, because he introduced into morals and politics those modes of investigation which were fundamental to the idea of science. On numerous occasions Mill claimed for himself that all his moral and social ideas were derived from the principle of utility, though 'it is utility in the largest sense...'. To remember this last point is very necessary, because some modern scholars seem to be eager to overlook such professions and regard Mill's social and political thinking as solely grounded on values unrelated to utility. In Chapter I, while examining the leading ideas of Mill's principle of liberty, I have discussed at some length the positive and negative concepts of liberty, and have concluded that, though Mill is widely recognized to be operating with the negative concept, it was essentially not 'freedom from' but 'freedom to' that attracted him. He

wants that people should be free to participate in the creation of as great a variety of 'modes of existence' as possible. Each individual should be given liberty, so that he can create his own plan of life. For Mill the individual person—his freedom to pursue what, for him, constitutes good life—is centrally and crucially important, the only limit being that he should not infringe the same rights of others or cause harm to them.

In Chapter 2, we are mainly concerned with the application of Mill's principle of liberty. As we have noted, the key concept used by Mill to define the constraints limiting individual freedom is that of harm. The principle of harm, which circumscribes the principle of freedom, states that the only jurisdiction for coercively interfering with a person is to prevent him from harming others. The issue as a whole which in 1859, in Mill's view, 'presents under new conditions and requires a different and more fundamental treatment' now presents itself under still newer conditions. Various contemporary reactions to this are presented and examined. Crucial questions and serious objections have been raised about the practicability of his principle. Mill, however, always recognizes the fact that human affairs are fluid, and that the issue is always to be comparatively studied (he contrasts the example of a man privately drinking with that of a policeman drunk when on duty, etc.). The most serious and extensively shared objection that the distinction between self- and other-regarding acts is fictitious and at best only theoretical and not practical can be met, we have concluded, by a version of Mill's principle suggested by himself. While dealing with the harm principle and its application, I have dwelt upon such interrelated topics as social roles and their scope, the question of rights, public and private spheres of morality, determinism and indeterminism, etc. But why should we at all seek to retain Mill's principle in the face of numerous difficulties attached to it? Why should men, when no perceptible hurt is done to others, be left free to do whatever they like with themselves?

We have suggested that, though man always needs to assert his creative faculties and potential, yet to affirm this truth has never been more imperatively necessary than at the present time. It is in Mill's clear stand on this position and in his bold statement of it (that the individual person should be given freedom so long as he does not cause harm to others) that he appears

unique among all political theorists. Some great philosophers, like Plato, have spoken profoundly on the nature of the ideals of justice, but have nonetheless left avenues wide open for public tyranny. Some others, like Rousseau, have written with passion about liberty and man's being everywhere in chains, but have overlooked the extent to which a 'general will' can repress individuals or minorities. Still others, like Marx, have courageously spoken of the dignity of the individual and even of his creativity, but have not explained how they can be safeguarded when the abuse of power justifies itself as authority; when, for example, the dictatorship of proletariat fails to rise to the occasion and abdicate voluntarily. Mill, more than anyone else, without ever shifting his eye from the social order and improvement of mankind, maintains his whole vision of the individual person as the ultimate actuality of all socio-political activity, and the grounds for his free creative fulfilment as the ultimate ethical test of it.

Throughout the paper, I have endeavoured to see how far Mill can be legitimately defended from the attacks of some of his formidable adversaries, J.F. Stephen downwards. As Mill himself acknowledges in *On Liberty*, the best way to discover truth is through the interplay of viewpoints: 'The interest of truth require a diversity of opinions.' This statement by Mill seems to embody exactly the spirit in which this work as a whole approaches its subject matter.

Now, the harm principle of Mill, as presented in Chapter 2, stands in urgent need of a theory of human nature which will describe as fully as practicable the so many peculiar ways in which men can be harmed. This is very important as Mill has particularly stressed 'the differences among human beings in their sources of pleasure, their susceptibilities of pain...' (*On Liberty*). It is not only the harm principle but his crucial notion of human progress, too, needs to be organically related to some theory of human nature. In the final Chapter, Mill's conception of human life and his ideal of individuality is analysed and discussed.

'The first question in regard to any man of speculation', Mill writes in his essay on Benthan, 'is, what is his theory of human life?' As for himself, Mill challengingly raises the issue of importance of personal identity, implicity identifying this with individual creativity. The individual is now pressed from all sides to

conform. Mill thinks it absolutely imperative to find a way by which to make the individual, the deviant, and even the heretic worthy of respect and unassailable. He finds the key in the creative nature of specific human being and claims that society must honour it. But how can, in social transactions, a creator's dignity be measured or traded off? In this chapter, I have raised such issues and have incidentally dwelt on individual differences, eccentricity, spontaneity, whims, etc. The word 'creativity' itself, however, is not to be found in the text of *On Liberty*, and the concept is nowhere overtly presented as his theory of human life. Mill does never consciously develop such a theory at all. As he himself says about Bentham, incidentally explaining such omissions:

> In the minds of many philosophers whatever theory (of human life) they have... is latent, and it would be a revelation to themselves to have it pointed out to them in their writings as others can see it, unconsciously moulding everything to its likeness.

The unifying thread of all the chapters lies in its presentation of the view of Mill which conceives man to be potentially creative. It also lies in the attempt to establish that, while upholding the cause of man, Mill provides a moral critique and the basis of a social vision associated with the concept of the creative man.

CHAPTER 1

Mill's Doctrine of Self- and Other-Regarding Action: Perspective and Purpose

> The individual is not accountable to society for his actions in so far as these concern the interests of no person but himself.[1]

The part of conduct which concerns 'the interest of no person but himself' Mill calls 'self-regarding'. Advice, persuasion, etc. are only measures, Mill argues, by which society can justifiably express its disapproval of his self-regarding coduct, if needed. It has jurisdiction over that conduct where the members of society have an interest. To protect the general interest society is entitled to intervene in what can be called the individual's other-regarding (not Mill's word) conduct. Elaborating his point Mill says:

> The only part of the conduct of anybody, 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.[2]

In distinguishing these two parts of our conduct in *On Liberty*, Mill attempts to present a thesis which, he hopes, would safeguard the individual's essential rights without endangering society as a whole. His plea is that each individual should be left at liberty to think and act as he considers right, so long as he does not interfere with the same liberties of thought and action of others. This conclusion of his Mill expresses by creating the new concept of *sovereignty of the individual*.[3] The

[1] J.S. Mill, *On Liberty*, p. 149, Everyman Edition of *J.S. Mill Utilitarianism*, etc., 1972. All page references in the text are to this edition of *On Liberty*, also cited as *Liberty*.

[2] Ibid., p. 73.

[3] Ibid., p. 131.

phrase has been appreciated as significant, because it transfers to the individual what is generally looked upon as the monopoly of the state. It seeks to raise the person to the status of a ruler and not merely to protect him against rulers. By conferring upon the individual the right to legislate for himself, Mill seeks to deprive society of the right to legislate for others in the sphere of what he defines as 'self-regarding' acts.

It is to be noted in this connection that since Plato much of Western classical philosophy easily lends itself to a totalitarian interpretation. Not necessarily intentional, this tendency can be easily seen to be the inevitable consequence of the belief that the only certain knowledge of which we are capable is the knowledge of the universals. As such, individuals are considered only in so far as they participate in or illustrate some universal category. Their differences are altogether ignored.[4]

As if waging a war against this long-drawn Western tradition, Mill gives us incidentally two definitions of freedom in his *Liberty*.

(1) The only freedom which deserves the name is that of pursuing our own good in our own way.[5]
(2) Liberty consists in doing what one desires.[6]

In both these definitions we see that the emphasis is on the individual, not on the society of which he is a member. His liberal creed is thus fundamentally individualistic and rational in nature. Since liberty implies the capacity to make a choice amongst alternatives, a liberal stresses priority of reason over non-reason. He rejects as unreliable the immediate grasping of reality implicit in revelation, in intuition, etc. And as reason is

[4] In his evaluation of Jeremy Bentham, his predecessor and mentor, Mill significantly emphasized that Bentham introduced into morals and politics those habits of thought and modes of investigation, which were essential to the idea of science; that it was not his opinions but his method that constituted the novelty and the value of what he did. Mill writes: Bentham's method may be shortly described as the method of detail; of treating whole by separating them into their parts, abstractions by resolving them into things,—classes and generalities by distinguishing them into the individuals of which they are made up... See J.S. Mill, 'Bentham' *Utilitarianism* ed. Mary Warnock, The Fontana Library, 1965, p. 85.

[5] J.S. Mill, *On Liberty*, p. 75.

[6] Ibid., p. 152.

an attribute of the individual mind, individualism, as the right and duty to act on the basis of one's own initiative, comes to be recognized as a fundamental value. To many it has appeared that Mill's idea of individual liberty is negative—it is *freedom from* all externally imposed coercions. As Mill states:

> There is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest; comprehending all that portion of a person's life and conduct which affects only himself, or if it also affects others, only with their free, voluntary, and undeceived consent and participation.[7]

But it is not the negative aspect of freedom from state interferences or social pressures on which Mill wants to lay emphasis. Freedom *from* such coercions is freedom *for* the maximum development of individuality. Mill's first definition stresses, as we see, the positive or intrapersonal aspect of liberty in that it implies a duty on the part of the individual to develop his own personality; the second stresses the negative (or interpersonal) aspect of liberty—the conditions necessary for development. In his essay Mill argues for liberty, not as an end in itself but as a means to improvement: 'The only unfailing and permanent source of improvement is liberty'.[8] It is essential for our purpose to keep Mill's priorities in order. Mill assigns no absolute value to liberty. On the contrary, he lays emphasis on the utility of liberty.[9] 'I forego any advantage which could be derived to my argument

[7] Ibid., p. 75.

[8] Ibid., p. 128.

[9] Arguments for liberty as a moral right have been distinguished from arguments for liberty from utility or from consequences. The arguments for liberty for a moral right demonstrate that such liberty averts injury from each citizen individually, whereas these for liberty from utility or consequences demonstrate that it promotes the general good, i.e. it brings benefits to all citizens collectively. Mill, no doubt, has used both types of arguments. Thus, while arguing for the individual's liberty of thought and expression, Mill says that the suppression of free discussion might be regarded as wrong, because it is a 'private injury' (p. 79) to the individuals who require to express themselves and, again, also because it robs 'the human race' (p. 79). He also says that he will side with the latter view. Historically, arguments for liberty as a moral right precede arguments for it from utility or consequences. Mill along with Bentham introduced consequential arguments for liberty.

from the idea of abstract right as a thing independent of utility.[10] Liberty and originality for Mill, have a way of opening up diverse lines of future improvement for 'man as a progressive being'.[11] But since Mill is generally interpreted as operating with a negative concept of liberty and the point of our analysis is that he is a positive spokesman of individual creativity, it is proper that we look a little more closely into this most valuable distinction.

Now, when can an actor, *A*, be truely said to be at liberty to do *X*? According to the positive or interpersonal concept of liberty, *A* is not at liberty to do *X* if *A* is a slave, for example, to his passion, e.g. because *A* is a drug addict. As Erich Fromm has put it, freedom of man in the positive sense involves 'the realization of his individual self; that is, the expression of his intellectual, emotional and sensuous potentialities'.[12] The initiator of the positive concept of individual liberty was Plato.[13] Other acknowledged protagonists are Rousseau, Kant and Hegel. Nevertheless, this argument is rejected by many who argue that if liberty is a right (Mill speaks of 'the claim of the moral nature to develop itself in its own way') a person can possess such a right only against some other person, and not against himself or part of himself. Political liberty, in particular, must be that kind of liberty which can be promoted or hindered by political arrangements.

The term 'negative liberty' was coined by Bentham[14] to signify that liberty is the absence of coercion. The initiator of the negative concept of liberty was, however, Hobbes. He defined liberty as 'the absence of external impediments'; and, again, '(a) free man is he that... is not hindered to do what he hath the will to do'.[15] Locke, Hume, Bentham and Mill, too, generally

[10] J.S. Mill, *On Liberty*, p. 74.

[11] Ibid., p. 74.

[12] Erich Fromm, *The Fear of Freedom*, London, Routledge and Kegan Paul, 1955.

[13] 'According to another tradition, which extends from Plato ... man reaches the highest form of self-realisation, by submitting to some moral norms imposed by his own higher self. ...' *International Encyclopedia of Social Sciences*, Vol. 5, p. 558.

[14] D.G. Long, *Bentham On Liberty*, Toronto University Press, 1977, p. 54.

[15] Thomas Hobbes, *Leviathan*, ed. M. Oakeshott Oxford, Basil Blackwell, 1946, pp. 84, 136-37.

speaking, accepted Hobbes' concept of liberty. Mill, however, did not confine himself solely to it.

In recent political literature, Sir Isaiah Berlin has not only extensively treated but has also comparatively evaluated these two concepts particularly, in his influential article 'Two Concepts of Liberty.[16] Berlin thinks that the history of the positive concept of liberty is so dominated by despotic and even totalitarian motives that we should give it up altogether and confine ourselves to the negative concept exclusively. Against Berlin, however, we may argue that in the history of political theory, we scarcely find a single negative definition of liberty that is not attended by numerous positive notions. These positive notions, again, seem formally to agree on the importance of self-fulfilment of man in society, i.e. of liberty as freedom for human development. Marx's conception of 'personal liberty' as a state in which 'every individual has the means to develop his endowments in all directions,[17] would be as agreeable to Mill as to others. This is so because what is called the positive concept of liberty is closely connected with its 'negative' concept as the absence of constraints. The absence of constraints can only signify the liberty to behave in consonance with one's inner nature, and thus to fulfil oneself. To have recourse to a poet's similie: 'When freedom is not an inner idea which imparts strength to our activities and breadth to our creations, when it is merely a thing of external circumstances, it is like an open space to one who is blindfolded.'[18] That Mill, too, thought they were closely related is apparent from his observation on the evil effects of customs: 'The progressive principle, however, *in either shape*, whether as the love of liberty or of improvement, is antagonistic to the sway of custom...'[19] (emphasis mine). What Mill says praising negative logic in *Liberty* seems also to be revealing in this connection:.

[16] Isaiah Berlin, *Four Essays On Liberty*, New York, Oxford University Press, 1969.

[17] K. Marx, *Kritik des Gothaer Programms*, quoted by R. Dahrendorf in his *Essays In The Theory of Society*, London, Routledge and Kegan Paul, 1968, p. 184.

[18] See Rabindranath Tagore, 'The Spirit of Freedom' in *Creative Unity*, Macmillan, 1962, Indian Edition, p. 133.

[19] J.S. Mill, *On Liberty*, p. 128.

> It is the fashion of the present time to disparage negative logic ... without establishing positive truths. Such negative criticism would indeed be *poor as an ultimate result;* but as a means to attaining any positive knowledge or conviction worthy the name, it cannot be valued too highly.[20]

Even Berlin himself was not very insistent regarding the logical status of his distinction, yielding that these two concepts of liberty 'may ... seem ... at no great logical distance from each other—no more than positive and negative ways of saying much the same thing'.[21]

In fact, Mill's operative concept is that of self-determination to a great extent. This is not only apparent from such quotations from Wilhelm von-Humboldt in *Liberty*, for example, as 'the true end of man ... is the highest and most harmonious development of his powers to a complete and consistent whole',[22] etc. but also in his discussion therein of men who voluntarily abdicate liberty. Though Mill defines liberty as 'doing what one desires', here we find that he does not take the agent's desires as given. These people are not free, according to him, because their desires are not 'properly their own'.[23] Here he is definitely concerned with a loss of liberty other than by external coercion.

The absence of arbitrary constraints makes self-determination possible; it states positively nothing about man's capacity for making use of the chance offered to him. It is Mill's contention that society must guarantee certain conditions in order to release individuality and to facilitate the free play of *creative* impulses in man.

There is no doubt that without these conditions freedom is devoid of all meaning. But, again, without knowing what human beings are, it would not be possible to establish what is positive or negative in a given human condition. There is thus a view of human nature involved in every view of liberty.

Mill sees man as essentially a creator. In him, as we proceed, we shall see the interplay of social conditions and possible

[20] Ibid , p. 104.

[21] Isaiah Berlin, *Two Concepts of Liberty*, Oxford, Oxford University, 1058, p. 16.

[22] J.S. Mill, *On Liberty*, p.115.

[23] Ibid., p. 119.

liberty serves as both boundary and stimulus to man's creative and moral nature. The mainspring of man's creativity is his tendency to actualize himself, to become his potentialities. When Mill compares human nature with a tree 'which requires to grow... according to the tendency of the inward forces which make it a living thing'[24], he means the directional trend which is evident in all organic and human life—the tendency to expand and develop, the urge to express all the capacities of the organism. This tendency which exists in every individual is the primary motivation for creativity as the organism forms more and more new and complex relationships to the environment in its efforts to be most fully itself.

Now, what, according to Mill, are these 'inward forces' which make human nature 'a living thing'? He defines the 'region of human liberty' as follows:

> It comprises *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.... The liberty of expressing and publishing opinions... is practically inseparable from it. *Secondly*, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit our own character.... *Thirdly*... freedom to unite, for any purpose not involving harm to others.... No society in which these liberties are not, on the whole respected, is free....[25]

On Liberty relates these three fundamental liberties of the individual: (*a*) the freedom to believe, (*b*) the freedom of taste, and (*c*) the freedom to unite, to the claims of society. It will be perhaps useful to consider these three liberties separately.

Freedom of thought is the very basis of all these liberties. It is, of course, in his intellectual life that a man's individuality is most convincingly manifested. He is not only the author of his own thoughts in the sense that it is he who *thinks* them, but he is also the beneficiary or victim of them. Again, what a person thinks has no social consequences, unless he expresses what is in his mind. Thought, apparently, is free by its very nature;

[24] J.S. Mill, *On Liberty*, p. 117.
[25] Ibid., p. 75.

what matters more is freedom to communicate one's own ideas to others. Thus, freedom of thought implies freedom of speech, which again implies freedom to publish and address the public.

Alan Ryan has relevantly noted in this connection that thinking whatever one wants is a paradigm case of self-regarding action, but expressing those thoughts and thus entering the public sphere has been defended by Mill as a right without which the defence of free thought would be altogether meaningless. According to Ryan, this appears at first sight to mark an early breach in Mill's self- and other-regarding distinction. If Mill can take an other-regarding act out of the public domain because it is so vital to a self-regarding act, why cannot we equally take a self-regarding act out of the private domain since it may, in its turn, be essential to some other-regarding act, which we want to forbid? Answering this self- posed question Ryan says:

> In fact, the right to free speech is not founded on the privateness of what goes on in one's head, but rather on the value of truth. The right to free speech rests, for Mill on the claim that it is essential to the discovery of truth.[26]

A recent biographer of Mill, E. August, has concluded that 'this solitary truth-seeker is the hero of *On Liberty*, appearing again and again.... Socrates and Jesus are historical versions of him'.[27]

But perhaps it is better to remember that for Mill the higher creative or dynamic element is not the sole pursuit or the ideal of truth but also of good and beauty as well and the moulding of human life into perfection by this *comprehensive* ideal. For Mill truth is never finished, certain or timeless but always subject to new data and experiences. Long before instrumentalism made any formal impact on philosophy, Mill was an instrumentalist in his approach to the problem of truth. As he writes: 'If the lists are kept open, we may hope that if there be a better truth, it will be found when the human mind is capable

[26] Alan Ryan, *J.S. Mill*, London, Routledge and Kegan Paul, 1974, p. 137.

[27] Eugene August, *John Stuart Mill: A Mind At Large*, Vision Press Ltd., London, 1976, p. 151.

of receiving it...'.[28] He could never convince himself that there existed such a thing as attainable objective truth in the field of judgements; even if this had been attainable, no compartmental man is the hero of *On Liberty*. His biographer, E. August, seems to have committed here the same fault of which Mill himself had accused Bentham. In his essay on Bentham, Mill writes:

> Every human action has three aspects: its *moral* aspect, or that of its *right* and *wrong*; its aesthetic aspect, or that of its *beauty*: its *sympathetic* aspect, or that of its loveableness. The first addresses itself to our reason and conscience; the second to our imagination; the third to our human fellow-feeling.

He, however, adds:

> It is not possible for any sophistry to confound these three modes of viewing an action; but it is very possible to adhere to one of them exclusively and lose sight of the rest. Sentimentality consists[29] in setting the last two of the three above the first; the error of moralists in general and of Bentham, is to sink the two latter entirely.[30]

Mill's image of either Socrates or Jesus in *On Liberty* is not simply that of a lone truth-seeker. 'These (Socrates and Jesus) were, to all appearances... men who possessed in a full, or somewhat more than a full measure, the religious, moral, and partiotic feelings of their time and people....'[31]

The starting point for Mill like any of his utilitarian predecessors is, of course, that a human being like any other animal is pleasure-seeking. But what characterizes man, according to Mill, is *how* he seeks it. The absurdity of being satisfied with

[28] J.S. Mill, *On Liberty*, p. 83.

[29] We should carefully note here that, according to Mill, feelings as well as sentiments have different orders. As he said, while concluding *Utilitarianism*, that justice is and ought to be guarded 'by a sentiment not only different in degree, but also in kind; distinguished from the milder feeling which attaches to the mere idea of promoting human pleasure or convenience, at once by the more definite nature of its commands, and by the sterner character of its sanctions'.

[30] See J.S. Mill, Bentham, in *Utilitarianism*, ed. Mary Warnock, The Fontana Liberty, pp. 121-22.

[31] Ibid., p. 86.

the sense in which satisfaction is a termination of the human moral goal is ably brought out by the science-fictional pleasure device depicted by J.J.C. Smart.[32] It has been rightly pointed out against those who think that Mill's moral and social thought are inconsistent with utilitarian values that such line of reasoning is plausible, 'Only if we leave out of account Mill's actual views about human nature and if we insist that utilitarianism is necessarily conjoined... with a highly simplistic psychology'.[33] In other words, a belief in the uniformity of human nature and the equation of pleasure with distinct pleasurable sensations (both denounced by Mill) are assumptions of such a line of thinking.

But, again, if it is not simply in discrete pleasurable sensations that a man finds his pleasure, then where does he find 'it? The answer lies in the fact that he finds it more significantly in realization of certain projects. Here we arrive at the second requirement of Mill's principle of liberty—the *liberty of tastes and pursuits*, 'of framing the plan of our life to suit our own character...'. Here, again, in order to appreciate the characteristic way in which Mill stresses his point, we need to understand what he conceives a plan of life to be. For him a plan of life is 'our own' or personal in the sense that each individual should shape it for himself and by himself. He should not passively accept it from others; and, again, he should realize it for himself, and not depend on having it realized for him: ...his own mode of laying out his existence is the best, not because it is the best in itself, but because it is his own mode'.[34] This is, indeed, a very positive and a very rich notion of liberty. A person is not free, according to Mill, unless he has chosen for himself his own way of life in some awareness of competing alternatives.

Now, to turn to Mill's case for the *liberty of association.* It is important to note that Mill *deduces* it from the previous argument: 'from this [the second] liberty of each individuals,

[32] J.J.C. Smart and Bernard Williams, *Utilitarianism For and Against*, Cambridge, Cambridge University Press, 1973.

[33] R. Wollheim, 'Introduction', *John Stuart Mill: Three Essays*, Oxford, Oxford University Press, 1975. This passage draws heavily from this Introduction.

[34] J.S. Mill, *On Liberty*, p. 125.

follows the liberty, within the same limits, of combination among individuals....' In connection with 'voluntary associations', Mill writes in an important passage in *On Liberty* that 'they are questions of development'.[35] They furnish: 'The peculiar training of the citizen... and guide their conduct by aims which unite instead of isolating them from one another'.[36] Each citizen as a social being needs the company of other fellows, and it is only in associating himself with them that he can attain most of his objectives. Thus, society or state will seriously injure them, if it fails to respect this right. An editor of *On Liberty* wrote: 'It was the liberty that was denied Mill and Harriet Teylor during their twenty years of unconventional friendship by the gossip and scorn of London Society, that Mill is intent to secure'.[37] Even if this be true, this does not rob Mill of the force of his arguments. He no doubt speaks slightingly about the conventional standards, of taste and other manners; it is these which threaten the development of the creative nature of exceptional individuals.

If one admits that a human being is such that he can achieve genuine pleasure only through the conception and execution of a plan of life 'suited to his own character', then it also becomes apparent that one person's choice of how to live may constantly be in conflict with the choices of others. It is not only that people differ widely about the kinds of life that they choose to live, but again in general they can hardly make an overall choice of a total plan of life at a time. People choose successively to pursue various activities from time to time, not once and for all. Thus, as J.L. Mackie puts it, the diverse activities determined by successive choices 'take as central the right of persons progressively to choose how they shall live'.[38] The suggestion is quite emphatically made by Mill when he declares in *Liberty* that his utility is grounded on 'the permanent interests of *a* man

[35] Ibid., p. 164.

[36] Ibid., p. 164.

[37] C.V. Shields (ed), *On Liberty*, New York, The Liberal Arts Press, 1956. See Introduction by C.V. Shields. 'She is "the inspirer, and in part the author of all that is best' in Mill's work whether his portrait of her is justified is almost beside the point: she is *On Liberty's* first and loftiest image of human development in its richest diversity.' E. August, op. cit., p. 145.

[38] J.L. Mackie, 'Can There Be a Right-Based Moral Theory?' in *Persons and Values* (II), Oxford, Oxford University Press, 1985, p. 113.

as a progressive being'.[39] To say 'of man as a progressive being' would imply a collective view, but here the emphasis is on each individual. He seems to insist that we must gather up our personality in order to thrust it always into a present which it will create by entering: it is then that our action is truly free. 'The mental and moral, like the muscular, powers are improved only by being used.' Again, Mill declares: '...these interests... authorise the subjection of individual spontaneity to external control, only in respect to those actions of each, which concern the interest of other people'.[40] The whole passage with its references to 'legal penalties', etc. makes it quite plain that what he has in mind is not any interests of other people but specifically their rights and the defence of their rights.

What would have been Mill's basic position *vis-a-vis* equal civil liberty and individual creativity seems to have been well brought out by Ralf Dahrendorf in the following passage [though here he is not dwelling on Mill]:

> Because all men are equal as citizens they may be unequal in the mode of their existence; without equality of rights and obligations, the multiplicity of forms and styles of life is impossible. But if the rights and obligations of the citizen's role are extended beyond what is necessary for creating the basis of social existence, if they are applied to regulating the mode of human self-development as well, they change from a necessary condition of liberty into its destroyer.[41]

Mill concedes that society has the right to punish drunkenness and similar vices by public disapprobation, etc., but he denies the right of the state to do so by law. But is not law [as his critics point out] only public opinion organized, defined, and equipped with force? If so, then what can be the objection to the substitution of state punishment in the place of public opinion, especially when the latter is inflicted upon the victim without hearing, without proof and possibly with utmost severity.

[39] The People's Edition of 1865 reads 'of a man'. Library Editions read 'of man'. Noted in Everyman Edition (p. 424). The point is suggested by J.L. Mackie, *op. cit.*

[40] J.S. Mill, *On Liberty*, p. 74.

[41] Ralf Dahrendorf, *op. cit.*, p. 195.

On Liberty has however, often been appropriately described as an *appeal* not for a change in political organization, but for a public opinion that *values* and *respects* the differences in points of view. What Mill recognized and what the earlier writers failed to see was that behind a liberal government there must be a liberal society. Thus, if a state or a society takes a limited view of 'modes of life', making it difficult for a member to live in other than one or a few permitted modes, members of that society will be deprived of experiencing new modes of life, perhaps containing something valuable. This explains why Mill was not concerned only with coercion exerted by state but equally, if not even more, with social pressures or public opinion. This is a much more sophisticated appreciation of the obstacles to individual liberty than an exclusive concentration on the dangers of the government or state. 'A mode of existence' can survive illegality in a permissive social environment, but it is difficult for it to survive in an inimical one, even if it be not threatened with legal measures. Society, as Mill was aware, has at its disposal methods for the exaction of submission which surpass in effectiveness any civil penalties, methods capable of 'enslaving the soul itself'.[42] Mill points out:

> Such are the differences among human beings... that unless there is a corresponding diversity in their modes of life, they neither obtain their fair share of happiness, nor grow up to the mental, moral and aesthetic stature of which their nature is capable.[43]

This statement of Mill has elicited searching questions and crucial objections. It has been alleged that Mill has failed to perceive the dangerous implications of the endless pursuits of individual goals. His individuality is 'utterly worthless hothouse individuality of caprice and pretence'.[44] By denigrating authority and conformity, Mill is only threatening the social order. Again, he has been portrayed as an authoritarian asserting the value of liberty only as related to an intellectual elite. His concern was

[42] J.S. Mill, *On Liberty*, p. 68.

[43] J.S. Mill, *On Liberty*, p. 125.

[44] R.P. Anschutz, *The Philosophy of J.S. Mill*, Oxford, Oxford University, Press, 1953, p. 48.

for the exceptional individual alone threatened with a mediocre and pressing social conformity, with 'a hostile and dreaded censorship'.[45]

In the face of all these charges, Mill seeks to maintain the position 'that free scope should be given to varieties of character' only 'short of injury to others'.[46]

[45] Maurice Cowling, *Mill and Liberalism*, Cambridge, Cambridge University Press, 1963. According to Cowling, Mill was an advocate of thoroughly rational autho rity.

[46] J.S. Mill, *On Liberty*, p. 115.

CHAPTER 2

Applicability of Mill's Doctrine

> 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.[1]

THE effects of a man's action upon other members of society may be beneficial or harmful. As is generally acknowledged, it was the former possibility that influenced Adam Smith[2] in propounding the *laissez-faire* doctrine. He suggested that, while pursuing their own self-interest, men would at the same time be led to promote the interest of society. In any case, if the consequences are generally beneficial, they are likely to create few serious difficulties, since hardly anybody takes objection to promoting his interests. It is, however, quite the reverse with acts that harm the interests of persons besides the agent. And, as it generally happens, human purposes and activities do not automatically harmonize with one another. Whoever is harmed seeks protection from conduct that harms him. Thus, the desire for self-protection seems unavoidably to lead to social restraint, and, as Mill readily concedes, regulations become necessary and socially justifiable:

> ...for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subjected either to social or to legal punishment, if society is of opinion that the one or the other is requisite for its protection.[3]

Identifying the scope of morality with that of legitimate public control, Mill contrasts it with that of individual liberty:

> Encroachment on their rights; infliction on them of any loss or damage not justified by his own rights; falsehood or duplicity in dealing with them; unfair or ungenerous use of advantages over them; even selfish abstinence from defending

[1] J.S. Mill, *On Liberty*, p. 73.
[2] Adam Smith, *The Wealth of Nations*, 1776.
[3] Ibid., p. 149-50.

> them against injury.... And not only these acts but the dispositions which lead to them are properly immoral and fit subjects of disapprobation....[4]

It should be noted here that Mill's contention is that even when a man merits disapprobation society is not entitled to use force against him. The inconveniences arising from 'conduct which neither violates specific duty to the public, nor occasions perceptible hurt to any assignable individual, except himself, is one which society can afford to bear'.[5] Illustrating his point Mill says that, if 'a man through intermperance or extravagance becomes unable to pay his debts' or support his family, 'he might be justly punished; but it is for the breach of duty to his family or creditors not for the extravagance'.[6]

It has been alleged by many critics of Mill that the category of self-regarding actions is an empty class, and Mill is unrealistic in drawing such a distinction. There is very little we can do particularly in an organized society that does not have some effect on other people. As Barker[7] observes, Mill divides the indivisible. Social existence and individual existence cannot be separated, as society is only the institutionalized expression of the diverse needs and interests of the individuals. D.G. Ritchie[8] says that even thoughts of an individual cannot be completely self-regarding.

But does everything that one performs actually affect others? Anticipating the question, Mill himself has insisted that self-regarding acts are those which apply only to the actor 'directly and in the first instance',[9] even if they produce 'contingent or as it may be called constructive injury'[10] to others. John Morley,[11] a disciple and an early interpreter of Mill, sought to save Mill by making

[4] Ibid., p. 135.
[5] Ibid., p. 138.
[6] Ibid., p. 138.
[7] Ernest Barker, *Principles of Social and Political Theory*, Oxford, Oxford University Press, Third Indian Edition, 1983, p. 217.
[8] D.G. Ritchie, *Principles of State Interference*, London, 1891, pp. 96-8.
[9] J.S. Mill, *On Liberty*, p. 75.
[10] Ibid., p. 138.
[11] John Morley, 'Mr. Mill's Doctrine of Liberty' in *Fortnightly Review*, August 1873, cited by H.J. McCloskey in *J.S. Mill: A Critical Study*, London, Macmillan, 1971, p. 109.

little of indirect, remote effects of actions. But this procedure is not consistent with Mill's own application of his principle. As his critics point out, Mill saw that the indirect effects of procreation, colonization, socialism, etc. must be taken into account. H.J. McCloskey thinks that it is at least in part concern over the 'apparently damaging nature of this criticism' that led Mill's sympathisers, from John Morley (1873) to J.C. Rees (1960) and others today, to seek to reinterpret Mill's principle.[12] Rees suggests[13] that Mill's distinction implies a division of conduct into activities which either do or do not *affect the interests* of other persons, and not what has generally been supposed to have been the division, namely, into conduct having and not having effects on others. It is also obvious that the relevant effects on interests are harmful ones. Mill easily concedes that self-regarding actions can have certain diverse effects on others. The point to be specially noted in connection with Mill is that, when he acknowledges that a person's conduct may seriously affect others, he does not thereby assert that they are harmed. Other people, for example, may be affected by one's conduct, because they dislike it, find it repulsive, or consider it immoral and so on. But these are never grounds for interfering with one's conduct. Mill is explicit that we should be left to do whatever we like 'so long as what we do does not harm them, even though they should think our conduct foolish, perverse or wrong'.[14] As he must have seen, great many instances of 'harmful conduct' cannot properly be classed as harming others. It is to be noted that the difference (between *interests* and *effects*) lies in the fact that we appeal to certain standards or values in judging whether interests have been affected or not. On the other hand, a man can be affected by an action simply because he is whimsical. Stressing this useful result, Ryan says that it rules our one kind of effect as unimportant. A man who regards homosexuality, for example, as repulsive may claim truly that the mere thought of it is painful to him. On utilitarian considerations, it may be supposed that his pain implies that homosexuals ought to refrain. But the drawing of a line between

[12] H.J. McCloskey, Ibid., p. 108.

[13] J.C. Rees, 'A Re-reading of Mill on Liberty' in *Political Studies*, (viii, No. 2), 1960, p. 123.

[14] J.S. Mill, *On Liberty*, p. 75.

self- and other-regarding actions, according to Ryan, is to enable us to say that he has no business to ask for his pains to be considered. If he wants to have homosexuality stopped, he has to show that it harms his interests, independently of what he thinks about its moral nature.[15]

Mill speaks of 'distinct and assignable obligation' in reply to the most pervasive and formidable criticism of his position regarding self- and other-regarding distinction that there is hardly any act which does not in some way or other affect other members of society. Taking the example of drunkenness, Mill commented that if a man drank privately, so song as he did not make himself a nuisance to others, it was exclusively his concern. His critics, however, draw our attention to the fact that very few drunkards will be adversely affecting no one else; most of them are likely to have dependents to look after. Again, a drunkard with no dependents, may not harm but himself, but it is for the time being only; in near future he may be begging or stealing and thus become a social nuisance. Anticipating such objections Mill guarded himself by limiting the harm principle as applied to the law. Society may resent the fact that the drunkard by allowing himself to become morally degraded is doing harm to himself, but that cannot be any justification for its applying force and encroach on the field of what Mill calls 'self-regarding misconduct'.[16] Acknowledging that an individual's conduct can adversely affect others, Mill argues that it is only when a person violates a distinct and assignable obligation to others that 'the case is taken out of the self-regarding class, and becomes amenable to moral disapprobation'.[17] When Mill introduces the term 'distinct and assignable obligation',[18] he concedes to possible objectors that a person's misconduct may similarly affect those who are close to him or, in a lesser degree, society-at-large. His contention is that this kind of conduct, though declared by the principle of liberty to be subject to control as it does harm to others, should nevertheless be left free. The law should restrain a man only if he is

[15] Alan Ryan, *J.S. Mill*, London, Routledge and Kegan Paul, 1974, p. 150.

[16] J.S. Mill, *On Liberty*, p. 153.

[17] Ibid., p. 138.

[18] Ibid., p. 137.

violating a definite obligation or if his conduct is going to harm the definite rights of definite individuals. Blasphemy, obscenity, etc. are by definition unspecific, as such they are distinct from offences which harm definite individuals. What perceptible hurt is there to those who hear blasphemies or obscenties?

Thus, a noteworthy feature of Mill's harm principle is that the prevention of harm to others is not presented by him as a sufficient condition of rightful interference. Mill explicitly says that we must not think that 'what can alone justify the interference of society, that therefore it always does justify such interference'.[19] The harm that an individual does to himself and the harm that he may do to society in some indirect manner do not generally outweigh the value of liberty, Mill insists, of leaving people to do as they choose. General harm to society-at-large being vague is not a fit subject for adoption of legal measures, though it can be brought under the control of moral opinion.

Many modern critics of Mill, however, are eager to look at things that are more obvious to us than they were to Mill more than a century and a quarter ago. Inviting us to change the example of the drunkard, D.D. Raphael challengingly asks:

> What about the owner of a factory the furnaces of which belch sulphurous fumes into the atmosphere.... What about the manufacturers who pour millions of gallons of poisonous effluent into rivers and estuaries?[20]

Mill's principle states that freedom must not be curbed simply on the ground of preventing unspecified harm to society. Yet, as Raphael insists, we should all agree that legislation (which is definitely a curb on liberty) to prevent pollution, etc. is justified for preventing that kind of harm to society.

We, however, find that in *Liberty* Mill has specified two alternative ways in which a harmful action can fall within his principle. Self-regarding conduct may be restricted, he says, either if it damages the rights of particular individuals or if it disables the doer from executing an assigned public duty. Illustrating the second point Mill says: 'No person ought to be

[19] Ibid., p. 150.

[20] D.D. Raphael, 'Liberty and Authority' in *Of Liberty*, ed. A.P. Griffiths, Cambridge, Cambridge University Press, 1983, pp.6-7.

punished simply for being drunk: but a soldier or a policeman should be punished for being drunk on duty'.[21] His contention is that the soldier and the policeman will not be able to execute their respective duties, if they are intoxicated at the time. Raphael says in criticism of Mill that the second alternative will not apply to his examples (cited above). It cannot be said that the private factory owner disables himself from any public duty by having furnaces that pollute the atmosphere.

Still, as Raphael himself indicates a way out,[22] we can modify Mill's principle, taking account of something else that he has said in the context:

> Whenever... 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.[23]

This wider formulation appears to be more acceptable and also sensible. There is certainly definite *risk* of damage to public when factory chimneys pollute the environment. But can this latter formulation help us in distinguishing such cases from that of the drunkard? If a man habitually gets drunk, is there no risk of damage to the public? It may be said in answer that there is risk, but it is not definite as it is with the pollution of atmosphere, etc.

H.B. Acton also insists that Mill's argument need to be adapted to the new means of communication, especially radio and television, which have come into use since Mill's day. Adopting another point of view, he argues that a group of people bent on overthrowing a society can say that there is no evidence of perceptible hurt to assignable individuals as the result of indulgence in certain drugs, malicious criticism of authority, maliciously motivated telephone calls, televized sadism etc. Acton emphasizes that the seriousness of such practice lies in its *extent*; for example, televized sadism is sadism for the million.

Mill, his critics say, was aware of the dangers constituted by

[21] J.S. Mill, *On Liberty*, p. 138.

[22] D.D. Raphael, 'Liberty and Authority' in *Of Liberty*, ed. A.P. Griffiths, Cambridge, Cambridge University Press, 1983, pp. 6-7.

[23] J.S. Mill, *On Liberty*, p. 138.

> 'the masses' but lived at a time when it was unlikely that 'different experiments of living' would be carried out by 'the masses' as well as by 'the few'. In consequence he fails to distinguish between social tyranny and defence of the moral consensus.[24]

While rephrasing Mill's principle in the same way as Raphael does, Ryan has laid emphasis on the intentional aspect in the description of action: 'The test of an action being self- or other-regarding depends on the intention of the agent.' This seems to meet Acton's charge.

> Mill's point is that moral judgements must be grounded on the harm the agent knowingly does to others; what lies outside this realm is a matter for prudence and aesthetics, fit matter for entreaty (etc.) ... but not compulsion, not punishment.[25]

Summing up what he believes to be the essence of Mill's argument in *Liberty*, Ryan states: 'People have failed to distinguish between acts which really are wrong and those which are foolish or unaesthetic....'[26] Mill's principle, according to him, requires us to leave alone those actions of other people where they intend no harm to others, and where it is not immediately forseeable that such harm will occur. This is plainly what Mill means, asserts Ryan,[27] when Mill qualifies his statement that whenever 'there is a definite damage or a definite risk of damage', etc. by saying:

> But, with regard to the merely contingent, or, as it may be called, constructive injury which a person causes to society, by conduct which neither violates any specific duty to the public, nor occasions any perceptible hurt to any assignable individual except himself the inconvenience is one which society can afford to bear, for the sake of the greater good of human freedom.[28]

[24] H.B. Acton (ed.), *Utilitarianism*, etc. Everyman Edition, 1972. 'Introduction' by H.B. Acton.

[25] A. Ryan, *The Philosophy of John Stuart Mill*, London, Macmillan, 1970, p. 240.

[26] Ibid., *op. cit.*

[27] Ibid., p. 249.

[28] J.S. Mill, *On Liberty*, p. 138.

But why should we at all seek to retain Mill's principle in the face of all these accumulating difficulties attached to it? Why, when no perceptible hurt is done to the interests of others, should we be left free to do whatever we like with ourselves, as Mill argues, without interference from others? An examination of Mill's arguments reveals that in one set of arguments he advocates this tolerance out of uncertainty that our opinion or any single opinion is the correct one. We do not at present know any criterion that we can apply in order to make judgement between opinions. As R. Oppenheimer has pointed out that knowledge which used to double in millenia or centuries now doubles in a generation or a decade. While commenting on this, C.R. Rogers says (and here, perhaps, lies the answer to our question): 'It appears that we must discover the utmost in release of creativity if we are to be able to adapt effectively.'[29] Again, he questions pointedly: 'Can science inform us on ways of releasing the creative capacity of individuals, which seem so necessary if we are to survive in this fantastically expanding atomic age?'[30] It is here that Mill's distinction between self- and other-regarding acts and the accompanying harm principle seen as a persistent defence of individual creativity appear to help. Problems emerging from the enormous scientific progress endanger human survival—new ideas and new values, and the actions inspired by them, are needed to solve them. Unless man can make new and original adaptations to his environment as quickly as his science and technology can transform it, he may perish.

Novel ideas and values are the product of the creativity of individual minds. Mill strongly believes in the individual origin of new ideas. 'The initiation of all wise or noble things comes and must come from individuals; generally at first from some one individual'.[31] In order to be able to *contain* 'knowledge', man needs to assert his creative potencies, much more forcefully and aggressively than ever before. He has to work out newer adjustments with the universe and with his 'new' sense of reality and to engage in the heroic task of giving shape to his life

[29] Carl R. Rogers, Some Issues Concerning the Control of Human Behaviour: A Symposium by Carl R. Rogers and B.F. Skinner' *Science*, 124,November 30, 1956.

[30] Ibid., op. cit.

[31] J.S. Mill, *On Liberty*, p. 124.

which must be an extremely difficult creative discipline. If creativity is renounced at this stage, then as a prophet of caution has noted: 'At the best he (man) will remain arrested in some kind of mediary typal perfection, like other animal kinds while Nature pursues her way beyond him to a greater creation'.[32] But the possibility for creativity to express itself can be stifled by the coercion of arbitrary centralized power and a 'hostile and dreaded consorship', the twin agents of authoritarianship. In the final analysis, nothing matters more than to safeguard our capacity to create, because on it depends not only our progress but, in the long run, survival itself.

But perhaps courage should be combined with caution. Patric Devlin has argued against Mill that men generally take morality as a whole, and that an immoral activity by partially weakening belief in society's shared morality is likely to result in the undermining of the whole of morality. Devlin calls this 'intangible harm' in marked contrast to Mill's 'definite damage'. His thesis is that unless there is a common belief in the value of the moral code, society is in inevitable danger of disintegration.

> Societies disintegrate from within more frequently than they are broken up by external pressure. There is disintegration when no common morality is observed and history shows that the loosening of moral bonds is often the first stage of disintegration, so that society is justified in taking ... steps to preserve its moral code....[33]

If the objection that dissent as such weakens society is valid, then, as it has been rightly pointed out, it would obliterate the self- and self-regarding distinction altogether. 'This seems to be intended as an all-out attack on the distinction, and one which, if successful, would leave Mill's case in a ruined condition.'[34]

The controversy regarding the private and public spheres of morality came up in a recent discussion,[35] when the Wolfenden

[32] Sri Aurobindo, *The Life Divine*, Pondicherry, Sri Aurobindo Ashram Trust, 1982, p. 1052.

[33] P. Devlin, *The Enforcement of Morals*, Oxford, Oxford University Press, 1965, p. 13.

[34] A. Ryan, *J.S. Mill*, London, Routledge and Kegan Paul, 1974, p. 151.

[35] The main protagonists were Prof. H.L. A Hart, *Law Liberty and Morality*, Oxford University Press, 1963; and P. Devlin, *The Enforcement of Morals*, Oxford, Oxford University Press, 1965.

Committee (1957) observed that the function of the criminal law in regard to sexual matters was 'to preserve public order and decency, to protect citizens from what is offensive or injurious... but there is a realm of private morality which is... not the law's business'.

The distinction drawn by Wolfenden Committee has been compared by Prof. H.L.A. Hart with Mill's distinction between self- and other-regarding actions. He argues in the spirit of Mill that the main business of the criminal law is to prevent harm to other people. Questioning the view of the Committee, Devlin claims that 'the suppression of vice is law's business',[36] that the criminal law does and should go further in preventing some conduct that is generally considered immoral even though it may not cause harm to other people. As Sir James F. Stephen, the contemporary critic, says against Mill: 'There are acts of wickedness so gross and outrageous that, self-protection apart, they may be prevented as far as possible at any cost to the offender and punished, if they occur, with examplary severity.'[37] Devlin[38] has brought the charge that Mill's liberalism commits him to 'a principle that exempts all private immorality always from the law' He contends that there cannot be any 'theoretical limits' to the power of the state to legislate against what is considered to be immoral conduct. Devlin asks Mill: 'What sort of a society would it be if half the population got drunk every night?'

Against Devlin, Raphael[39] points out, that Mill would never talk of private morality and immorality. In Mill's view conduct comes within the sphere of morality only if it helps or harms other people. It was John Locke, however, it should be noted, who argued in his *Letter Concerning Toleration* and in the *Second Treatise* that no person was to be punished unless he has offended other men or injured them in their rights. It is bad, for example, to tell lies, but a lie is not punishable as such; it is punishable only when the liar, injures other men by his lie. Now, it can be logically derived from this position that no one

[36] P. Devlin, *op. cit.*, Ch. 1.

[37] Sir James F. Stephen, *Liberty, Equality, Fraternity*, ed. R.J. White, Cambridge, Cambridge University Press, 1967, p. 162.

[38] P. Devlin, *op. cit.*

[39] D.D. Raphael, *op. cit.*, p. 12.

ought to be punished for any action which is merely immoral and not injurous. But Locke did not, in fact, draw this conclusion as Mill did in *Liberty:*

> '...the self-regarding faults... are not properly immoralities ... and ... do not constitute wickedness. They may be proofs of any amount of folly.... The term duty to oneself, when it means anything more than prudence, means self-respect or self-development,... [and along with other]' duties to ourselves are not socially obligatory, unless circumstances render them at the same time duties to others.[40]

A man may do harm to himself, but that does not make his conduct immoral. In other words, as we have already noted, Mill is concerned with personal autonomy which relates fundamentally to the freedom of persons to choose their own lives. This particular ideal of individual well-being should not be confused with the indirectly related notion of moral autonomy, deriving from the Kantian idea that morality consists in self-enacted principles: 'The will is therefore not merely subject to the law, but is so subject that it must be considered as also making the law for itself....'[41]

Ryan had done much to help the matter and set Mill in the proper perspective. According to him, from J.F. Stephen to P. Devlin 'the discussion of the famous essay has been confused by a misunderstanding of its purpose'.[42] It is a fundamental error to represent Mill's concern, Ryan goes on, as one of enforcement of morals or the limits of political action. It was about the curtailment of individual liberty, whether by law or opinion, and, again, apart from compulsion where unwarranted, Mill readily advocated other means of deterrence such as pursuasion, warning, etc.

Against Devlin's thesis that the slackening of moral bonds is often the beginning of disintegration of a society, Ryan pointedly asks: 'Does he really mean that we are in imminent danger of civil war, mob violence, or foreign domination, if we do not

[40] J.S. Mill, *On Liberty*, p. 135.

[41] I. Kant, *Fundamental Principles of the Metaphysic of Morals*, tr. H.J. Paton, London, 1956. pp. 98-99.

[42] A Ryan, *The Philosophy of John Stuart Mill*, London, Macmillan, 1970, p. 234.

share a common horror of, say, masturbation?'[43] Such a suggestion is obviously ludicrous. According to Ryan, Devlin has redefined what is meant by a society in such way, that its survival depends on self-regarding behaviour being in conformity with public opinion, and then he has slided into the common meaning of the word to persuade us that the collapse of society would be very alarming.

Again, Ryan has helpfully drawn our attention[44] to the fact that, if treated as a sociological generalization, Devlin's claim that dissent as such weakens society is not true. The proof that it is not so lies in the shock with which we generally greet the revelation of somebody's private indiscretions. It is just because he has played his part normally all along that we are so surprised. But this surprise demonstrates that private dissent in, for example, sexual matters really has no impact on our interests.

Thus, Mill's sole point that a society cannot inflict suffering on people for the sake of avoiding a rather vague or speculative harm seems to hold good against Devlin's thesis of *intangible* harm. Mill needed to arrive at a criterion for the kind and degree of harm at which he would draw the line between individual liberty and social control and he found his key in definiteness. As he remarks elsewhere: '...vagueness was not to be met by vagueness. but by definiteness and precision: details were not to be encountered with generalities, but with details.'[45] In *Liberty*, hewever, he refers to two forms of definiteness, individual and public: '...a definite damage, or a definite risk of damage, either to an individual or to the public'.[46] Together they constitute the two branches of distinct and assignable obligations.[47] The former in which a definite individual is harmed is the sphere of the violation of the rights of individuals. The latter in which the definiteness arises from the social role of the agent, as in the case of the soldier or the policeman drunk on duty, is the sphere of duties to the public.

[43] Ibid., p. 246.

[44] A. Ryan, *J.S. Mill*, London, Routledge and Kegan Paul, 1974, p. 151.

[45] J.S. Mill, '*Bentham*' in *Utilitarianism*, etc., The Fontana Library, 1965, p. 110.

[46] J S. Mill, *On Liberty*, p. 138.

[47] This has been noted by D G. Brown, 'Mill on Harm to Others' 'Interests' in *Political Studies*, Vol. XXIV, No. 3.

This latter point in which the definiteness arises from the *social* role of the agent concerned raises some important questions: is there anything left at all undefined by the set of a man's social roles when they are all characterised? Is it possible to reduce the self to one or several social roles or functions? Or whether there is *more* to an individual than what can be expressed in terms of social roles? If there is nothing more, then there is ultimately no argument against totalitarianism. As the name implies, totalitarianism is a system that totalizes individuals and thus regards them only as parts of a whole which, for that very reason, can be dealt with in terms of the whole.[48] Answering the question firmly in the affirmative, Mill writes in *Principles of Political Economy*:

> Whatever thing we adopt respecting the foundation of the social union and under whatever political institutions we live, there is a circle around every individual human being, which no government... ought to be permitted to overstep....

He continues in the vein of *Liberty*:

> ...there is a part of the life of every person who has come to years of discretion, within which the individuality of that person ought to reign uncontrolled either by any other individual or by the public collectively.[49]

The relevance of this ruling principle of liberty, though it has sometimes been negatively described as 'the principle of insula-

[48] Against the holistic objection that the whole is more than the sum of the parts, and so the properties of the whole (e.g. the emergent water molecule) can only be discovered by studying the whole, etc., Nagel argues that, if the analytic method cannot deal satisfactorily with emergent properties, no other method can do any better, for the stumbling block is simply a lack of necessary information. As Nagel puts it: 'The logical point constituting the core of the doctrine of emergence is applicable to all areas of inquiry and is as relevant to the analysis of explanations within mechanics and physics generally, as it is to discussions of the laws of other sciences'. See *Structure of Science*, pp. 372-73. The 'logical point' here is that the conclusion of a valid deduction cannot contain an expression that does not appear in the premises. This is indeed, the core of the issue, since scientific explanations can be put in the form of deduclion.

[49] J.S. Mill, *Principles of Political Economy*, London, Penguin, 1970, Vol. II, p. 306.

tion',[50] 'the Sanctity of Ideosyncrasy'[51] etc., cannot be over-emphasized specially in the context of our highly organized society. Today our first and even our only contact with others is in terms of social roles. If I say that I am a teacher, a doctor, an Indian, a clerk, or a married person, I am still indistinguishable from many others. I do nothing, in all these capacities, that is not done by numerous others as well. The system of social sanctions, i.e. of rewards for conforming and punishments for deviant behaviour, guarantees that we will not seek to evade the set of expectations emanating from the binding character of social roles. Even by way of answering the crucial question 'Who I am?' Berlin observes: 'I am a social being in a deeper sense than that of interaction with others. For am I not what I am, to some degree, in virtue of what others think and feel me to be?[52] For Mill, it is a matter of regret that it is not only what concerns others but in what concerns only themselves, the individual or the family does not ask themselves:

> What do I prefer or, what suit my character and disposition? Or, what would allow the best and highest in me to have fair play, and enable it to grow and thrive? They ask themselves, what is suitable to my position? What is usually done by persons of my station? .... It does not occur to them to have any inclination, except for what is customary. Thus the mind itself is bowed to the yoke....[53]

Against the thinker like F.H. Tenbruck, who insists that sociology and social psychology have shown, independently of each other, that man without roles does not and cannot exist, Ralf Dahrendorf has rightly pointed out:

> The fact that in sociology and social psychology the idea of role helps explain human behaviour implies absolutely nothing about the real existence of men with or without roles; it is

[50] R.P. Anschutz, *The Philosophy of J.S. Mill*, Oxford, Oxford University Press, 1953.

[51] R.P. Wolff, *The Poverty of Liberalism*, London, Beacon Press, 1968, p. 19.

[52] I. Berlin, *Two Concepts of Liberty*, Oxford, Oxford University Press, 1958, p. 40.

[53] J.S. Mill, *On Liberty*, p. 119.

> therefore in principle irrelevant to the premises and conclusions of a philosophical theory of man.[54]

Helpful though they may be, genuine understanding of the individual does not originate from viewing the person as only a case for analytical observation, from noting his behaviour and probing into the hidden dynamics, frustrations, etc. Real understanding is grounded in life itself, in being sensitively aware of the nucleus of a man's world, perceiving the person as he is, and respecting and valuing his resources and strengths. 'With respect to his own feeling and circumstances the most ordinary man or woman has means of knowledge immesurably surpassing those that can be possessed by any one else.[55]

Even if we set aside the deeper philosophical or psychological issues associated with social roles, it is our common experience that at one time or another almost everyone violates the expectations connected with his social positions.

> The man and still more the woman, who can be accused either of doing 'what nobody does', or of not doing 'what everybody does' is the subject of as much depreciatory remark as if he or she had committed some grave moral delinquency.[56]

Significantly, to our question as to what is left undefined by the set of a man's social roles it would seem only his whims, his choices that are not predictable according to the confluence of his social roles. It is in these that we seek the point where we feel ourselves most intimately within our own life. And Mill recognizes in these his weapons against totalitarianism.

It is noteworthy that, though even such critics of Mill, as Devlin, denied that there was any distinction between self- and other-regarding acts, the law, however, they thought, should respect privacy. Ryan says[57] in criticism of Devlin that this admission, on his part, reveals the weakness of his position as Mill's adversary.

H.J. McCloskey, again, has alleged that Mill's contentions

[54] Ralf Dahrendorf, *Essays in the Theory of Society*, London, Routledge and Kegan Paul, 1968, p. 103.

[55] J.S. Mill, *On Liberty*, p. 133.

[56] Ibid., p. 126.

[57] A. Ryan, *op. cit.*, p. 151.

have commonly but wrongly been constructed as a defence of the ideal of privacy. Arguing that to be free from interference in one's self-regarding actions is distinct from one's privacy respected, McCloskey points out[58] that a person's privacy may be invaded without any idea of interference or coercion being relevant at all. The invader of privacy may act secretly, and the self-regarding conduct of the individual remains unaffected because he is unaware of it. Typically, we become aware, when we are subjected to interference and coercion.

But so far as Mill is concerned, the evidence of the text of *Liberty* does not seem to confirm McCloskey's contentions. In the text Mill complains about the 'gross usurpations upon the liberty of private life actually practised'[59] in his 'own day'. This observation is preceded by a prolonged and most revealing footnote which McCloskey seems to overlook. Mill writes:

> There is something both contemptible and frightful in the sort of evidence on which, of late years, any person can be judicially declared unfit for the management of his affairs.... All the minute details of his daily life are pried into, and whatever is found ... is laid before the jury as evidence.... *These trials speak volumes as to the state of feeling and opinion among the vulgar with regard to human liberty.*[60] (emphasis mine)

McCloskey has insisted that 'different arguments are also needed to support a demand for privacy than those for freedom from interference in respect of one's self-regarding action'.[61] He has not elaborated. It seems, however, that the argument contained in Mill's phrase—'the inconvenience is one which society can afford to bear, for the sake of the greater good of human freedom'—can easily hold good for both.

It is our claim, however, that Mill prizes privacy because of its relevance to creativity. From a narrow social point of view, the private object protected may not be valuable. In fact, insistence upon the right of privacy often seems perverse, suspiciously unaccountable or even suggestive of guilt. But, with regard to

[58] H.J. McCloskey, *op. cit.*, p. 109.
[59] J.S. Mill, *On Liberty*, p. 144.
[60] Ibid., p. 126.
[61] Ibid., *op. cit.*

Mill, the claim to self-possession is more of the nature of spiritual privacy; it is the most sacred of all that is to be defended. The footnote to *On Liberty*, from which we have just quoted, continues in its condemnation of those legal trials which so belittle human dignity:

> So far from setting any value on individuality—so far from respecting the right of each individual to act, in things indifferent, as seems good to his own judgement and inclinations, judges and juries cannot even conceive that a person in a state of sanity can desire such freedom.[62]

Mill was afraid that uniformity was almost sure to become a substitute for equality and an impersonal populace was particularly eager to penetrate and police private life in order to make certain that uniformity prevails.

As for the individual, when Mill claims that he should be left to himself in things indifferent as seem good to his own judgement and inclinations, this does not mean that his 'individual' is oblivious of or unwilling to be aware of, the judgement of others. 'It would be a great misunderstanding of this doctrine to suppose that it is one of selfish indifference, which pretends that human beings have no business with each other's conduct in life....'[63]

Mill does not conceive of private life as a context for escaping from organized society. He simply means that the basis of evaluation should lie within the individual himself, in his own reaction to and appraisal of the object concerned. For Mill the creative life is always based on self-values, not on the values of the system. Raising a significant objection to privacy, Helmuth Plessner says:

> If in order to make the sphere of freedom unassailable we identify it with that of privacy (and privacy, we should note, in an extra-social sense), freedom loses all contact with reality, all possibility of social realization.[64]

But Plessner does not see that there can be another confrontation

[62] J.S. Mill, *On Liberty*, p. 126.
[63] Ibid., p. 132.
[64] See Helmuth Plessner, quoted by R. Dahrendorf, *op. cit.*, p. 104.

of the two—society and the individual—in which the motive of protest predominents which we believe to be the central concern of *Liberty*. 'Not that Mill's 'I' is hopelessly alienated from 'the people', but he is sufficiently independent to take a Luther like stand against wrongdoing.'[65] 'If it (the community) has its being which it seeks to affirm by the life of the individuals, the individual also has a being of his own which he seeks to affirm in the life of the community.'[66] In Mill this confrontation is basically viewed as a constructive struggle between persons who are engaged in a dispute or controversy and who remain together face to face respecting their differences.

What is a society? Apparently, it consists of numerous people who set themselves up as guardians and judges, and, once they have formed a guideline by whatever method, they expect that every member of their society must abide by it.[67] In fact, this was the ordinarily practised and acknowledged function of society in Mill's time, the function which, needless to say, was repulsive to Mill:

> In its interferences with personal conduct it (public) is seldom thinking of anything but the enormity of acting or feeling differently from itself; and this standard of judgement, thinly disguised, is held up to mankind as the dictate of religion and philosophy....[68]

So he thought it absolutely necessary to find a way by which to make the individual, the deviant, and even the heretic respectable and unassailable. He found the key in the basic creative nature of the individual human being and claimed that society must honour it.

The individual as a moral being, as a living protest against the unjustified interference of society, the resistance to society's claim to dictate man's every move—these are surely some of the themes which inspired Mill's *Liberty*, as Mill knew: 'Whatever crushes individuality is despotism, by whatever name it may be

[65] E. August, *John Stuart Mill: A Mind At Large*, London, Vision, 1976, p. 151.

[66] Sri Aurobindo, *op. cit.*, p. 1049.

[67] J.S. Mill, *On Liberty*, p. 70.

[68] Ibid., pp. 140-41

called, and whether it professes to be enforcing the will of God or the injunctions of men.[69] In his remarks on Calvinistic theory, Mill accusingly says that according to it: 'All the good of which humanity is capable, is comprised in obedience. You have no choice: thus you must do and no otherwise: "whatever is not a duty is a sin".[70] Thus, on this view, 'there is no redemption for any one until human nature is killed within him'. To be good out of fear of consequences of evil or eternal domination or public opinion or punishment means to choose the system regardless of one's own self and one's own experience.

Bentham had assumed that the happiness of the individual and the happiness of the people-at-large were same, and it was essentially over this issue that Mill broke away from him. He criticized Bentham, because he failed to recognize that each individual seeks him own kind of happiness or has his own conception of the 'good'; and that, if the good of society was to be attained, each individual should be given liberty to realize his own good. In other words, that society was best in which as many individuals as possible did not simply accept the general good as their own good. In Mill's priorities, society is greater than the government or the state, but the individual is at the very heart of society; and this order cannot be reversed. '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'.[71] Evidently Mill criticized Bentham because he did not recognize the individual's most basic right, that is, the right to be himself or to be free to develop his potential powers. And so, while basically remaining attached to his predecessor regarding happiness as the goal of all human action, Mill attempted to design a doctrine which, he hoped, would protect the individual's essential interests without endangering society as a whole. In the footnote to *Liberty*, which we are still considering, we see Mill defending the choices of even the so-called mentally incompetent. A person is not exhaustively defined by his social roles, including even that of mental health: his definitive value resides still in his free choice. He is still not an object and so cannot be

[69] Ibid., p. 121.
[70] Ibid., p. 119.
[71] Ibid., p. 121.

dealt with by force. This recognition that each individual has his own scale of values which we must respect, even if we do not approve of it, is an inalienable part of Mill's conception of the creative human personality.

As regards the issue of diversity *vis-a-vis* liberty, two questions confront each other. Should men be free *because* they differ from one another? Or should they be free *in order* that they may differ from one another? Reacting more favourably to the latter, Mill says:

> Whoever thinks that individuality of desires and impulses should not be encouraged to unfold itself, must maintain that society has no need of strong natures—is not the better for containing many persons who have much character—and that a high general average of energy is not desirable.[72]

The belief that a free society will work without any trouble only if the members of that society are to a large extent guided by common values is wide enough. Political thinkers, as diverse in their orientation as Hobbes, Burke or Laski, have pleaded that there is necessity for general agreement on fundamentals amongst members of a social system. But such notion of freedom is a denial of that freedom with which Mill is concerned. 'Wherever all the forces of society', says Mill, 'act in one single direction, the just claims of the individual human being are in extreme peril'.[73] In *On Liberty*, he has argued that 'there is no reason that all human existence should be constructed on some one or on some small number of patterns.... Such are the differences among human beings....'[74] Carl J. Friedrich seems to be nearer to Mill when he says that 'what binds a free people together is not an agreement upon fundamentals, but a common way of acting in spite of disagreement on fundamentals'. Mill observes in the same vein:

> As men are much more nearly of one nature, than of one opinion about their own nature, they are more easily brought

[72] Ibid., p. 118.

[73] J.S. Mill, 'Bentham' in *Utilitarianism*, etc. ed. Mary Warnock, The Fontana Library, 1965, p. 117.

[74] J.S. Mill, *On Liberty*, p. 125.

> to agree in their intermediate principles... than in their first principles.[75]

When Mill asserts that liberty is pursuing one's good in one's own way, his argument depends rather on a view of the method by which men discover what is good. What matters most is the development of the capacities with which individuals are endowed rather than continuation of any specific way of collective life.

It has, however, been vehemently objected against Mill that it is not the individual at his creative best but 'the only sort of individuality that is likely to be developed under these circumstances is the sort that is utterly worthless—the hothouse individuality of caprice and pretence.'[76] His critics point out that Mill was wrong in assuming that a man was only himself when he succeeded in being different from others, as if individuality was synonymous with ideosyncracy. 'Eccentricity, says Professor MacCunn, 'is but the parody of individuality.' That Mill has ignored the crucial part played by custom and tradition in providing a *content* for the empty form of individuality is the core of the conservative charge against Mill.

[75] Ibid., p. 119.
[76] R.P. Anschutz, *op. cit.*, p. 48.

CHAPTER 3

Mill's View of Human Nature: The Creative Individual

Approval of eccentricity, diversity, spontaneity brings with it the obligation to point out how different, and sometimes antagonistic tendencies can establish relationships that will not only maintain the social harmony necessary for the survival of all but will specifically preserve the *liberty to create* itself. This is a formidable problem, but absolutely necessary for Mill to find a solution to it. To determine the proper relationship between 'I' and 'they' is invariably one of the thorniest of human problems. It has, however, been claimed on behalf of Mill by his critic: 'That criterion, the prevention of harm to other people, despite its weaknesses as a universal principle, maintains its position as the strongest bastion of liberty that any thinker has given us'.[1] But when is a man harmed? Arguing from a broader perspective, it has been objected that Mill's principle of harm cannot become operative unless there is a theory of human nature which describes as fully as practicable what Mill calls the human 'sources of pleasure' and their 'susceptibilities of pain'. In the absence of such a theory, so many peculiar ways in which *men* can be harmed cannot be determined. Mill argued that we must protect a minimum area of individual freedom, if we were not to degrade or deny our nature. The question is: 'What is the minimum which no man can give up without offending against his very human essence? What is that essence?' It may be wisely suggested that this has been, and perhaps may always be a matter of endless controversy. Mill said in criticism of Bentham: 'Man, that most complex being, is a very simple one in his eyes'.[2] But a decision in this respect is, indeed, badly needed for the application of Mill's harm principle. And, here, again, as he does not seek to draw the scope of non-interference in terms of such

[1] D D. Raphael, 'Liberty and Authority' in *Of Liberty*, ed. A.P. Griffiths, Cambridge, Cambridge University Press, 1983, p. 15.

[2] J S Mill 'Bentham' in *Utilitarianism*, etc. ed. Mary Warnock, The Fontana Library, p. 101.

principle as that of natural rights, or of the dictates of a categorical imperative, the revelation of a sacred book, the available sanctity of custom or tradition, only the ever-shifting frontiers of utility are left open to give him the answer. To such questions as 'What is a man?' 'What does he want?' the usual utilitarian answer is 'happiness'. But with Mill 'happiness', again, is a term which is evaluative, and this tends to make things difficult. As J.J.C. Smart comments:

> It is because Mill approves of the 'higher' pleasures, e.g., intellectual pleasures so much more than he approves of the more simple and brutish pleasures, that quite apart from consequences and side effects, he can pronounce the man who enjoys the pleasure of philosophical discourse as more happy than the one who gets enjoyment from push-pin or beer drinking.[3]

It is not only that Mill has introduced a 'good' greater than pleasure but has simultaneously a new concept of the man experiencing pleasure. But, when Mill declares that his 'utility' is the 'utility in the largest sense, grounded on the permanent interests of man as a progressive being',[4] it can be reasonably expected that his principle will provide a practical criterion for distinguishing those actions which advance progress from those which inhibit it. Allegedly this faith in the efficacy of his principle has been belied. Man as a progressive being, it may be suggested, discovers more and more effective means for the elimination of evils and the multiplication of higher pleasures. The most formidable question suggested by Mill's position is: which of our impulses or interests or utilities should we seek to develop and which to discourage in order to reach the goal of social progress? As there is in Mill no positive theory of those 'permanent interests of a man as a progressive being', his concept of individuality has been criticized as empty.

But here, it, too, can perhaps be demanded on behalf of Mill: how can Mill predetermine the content of individuality and at the same time speak of unlimited possibilities of development,

[3] Smart and Williams, *Utilitarianism For and Against*. Cambridge, Cambridge University Press, 1973, p. 22.

[4] J.S. Mill, *On Liberty*, p. 74.

uniqueness of man, etc. without contradicting himself? A utilitarian, again, cannot have any logically central concern for what a person should be. His demand rather is that in various fields of activity one should be left free to become what one wills, and thus be happy. A liberal, again has his own justification for not having any strict theoretical commitments in this regard, Human nature, Mill declares, in *On Liberty*: '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 on all sides according to the tendency of the inward forces which make it a living thing'.[5] Mill's critics, however, have in their turn, not been slow to point out that the result of this unhappy comparison will be the exaltation of instinct at the cost of reason, and this is the result with which he cannot consistently have any sympathy. But the metaphor of tree, which is recurrent in *Liberty*, refers not to rational faculties exclusively. Man is a rational creature but not wholly rational. Besides his rational will, man is subject to his impulses and desires which are not rational. The metaphor of tree embodies the creative impulses of man. The very nature of the inner conditions of creativity makes it clear that they cannot be forced but must be allowed to emerge. The cultivator cannot force the germ develop and sprout from the seed; he can only supply the fostering conditions which will allow the seed to unfold its own potentialities.[6]

But could a liberal of Mill's persuation really tolerate the political void which the acceptance of his doctrine, this avoidance of any theoretical commitment, generates? Roger Scruton has not only raised but has also partly answered the question, while criticizing Mill's antipathy towards custom:

> I doubt it, for just as his idea of freedom is parasitic on deeper assumptions about human nature that he prefers not to explore, so is his life-style parasitic on a social order which he fails

[5] Ibid., p. 117.

[6] 'By squeezing human beings in the grip of an inelastic system and forcibly holding them fixed, we have ignored the laws of life and growth, we have forced living souls into a permanent passivity, making them incapable of moulding circumstance to their own intrinsic design, and of mastering their own destiny'. Rabindranath Tagore, *Creative Unity*, Macmillan, Indian Edition, 1962, p. 138.

(such is the self-involvement of his nature) to support or condone.[7]

The deeper assumptions of Mill, to which Scruton is referring here, are, if we interpret Mill correctly, the creative impulses of man. But why would Mill be afraid of his own assumptions about human nature? Ryan describes Mill's picture of a happy man as 'the possession of a character which is self-reliant, rational in its assessment of the world, tolerant, wide-ranging in its interests, and spontaneous in its sympathies'.[8] But this description does not correspond to Ryan's observation elsewhere that Mill's defence of individuality does not lend itself to ready summary, partly because *it does not depict a type of character to which one can react favourably* or unfavourably.[9] It is perhaps Berlin who comes more close to the mark, when he speaks of 'a certain type of character of which Mill approves—fearless, original, imaginative, independent, non-conforming to the point of eccentricity'.[10] Berlin seems to dwell here on the formal dimensions of the creative human urge. The point to be noted is that creativity is not restricted to some particular content; it makes no distinction between 'bad' and 'good' creativity. The novelty inherent in a creative product grows out of the unique qualities of the individual in his interaction with the materials of experience. Creativity has always the stamp of the individual upon its product. A created product can maintain or it can become part of the environment as a technological invention or a cultural object respectively does. But it can also be destructive of the environment, and this is where the clash between social interest and private creativity begins. The very essence of the creative product is novelty, and so we have hardly any standard to judge it or to judge the innovative individual. Indeed, as Mill points out, the more original the creator, the more likely is he

[7] Roger Scruton, 'Freedom and Custom' in *Of Liberty*, ed. A.P. Griffiths, Cambridge, Cambridge University Press, 1983, p. 196.

[8] Alan Ryan, *The Philosophy of John Stuart Mill*, Macmillan, 1970, pp. 254-55.

[9] Alan Ryan, *J.S. Mill*, London, Routledge and Kegan Paul, 1974, p. 141.

[10] I. Berlin, *Two Concepts of Liberty*, Oxford, Oxford University Press, 1958, pp. 12-13.

to be misjudged by his contemporaries. Socrates, Mill reminds us, made creative discoveries which in his own day were evaluated as blasphemous and destructive, but in our own day as basic and constructive.

Mill's love and concern for the novel aspect of a created product was great, and he has been censured for this. He not only said that 'it is useful that while mankind are imperfect there should be different opinions', but he courageously concluded from this: '... so it is that there should be different experiments of living'.[11] Individuals ought to be free from control, because this is necessary for progress towards more and more significant modes of existence.

Experiments of living about which Mill is eloquent in *Liberty* include individual life-styles and social experiments voluntarily entered into. Such experiments as, for example, Mr. Owen was making in America, which, even if miscarried, was 'sure to throw light on the principle of human nature'.[12]

Now, while acknowledging that Mill is right in his claim that if all are free to engage in different modes of living, society may gain greater insight into the character and values of different modes of life, McCloskey strongly objects that

> To dignify this truth by speaking of experiments of living is extremely misleading. In advocating experiments of living, Mill came in effect to praise diversity, difference and eccentricity for themselves, and a society in which there is diversity is preferable to one in which there is uniformity.[13]

To Mill the search of the human spirit for an appropriate way of life appeared so provisional and delicate that freedom from risks lay, paradoxically, in the maximum possible variety of experiments. Most non-liberals share the view that diversity in ideas, values, interests and aspiration is something to be got rid of; it is wrong, if not a positive evil. As the overwhelming majority of mankind see it: to achieve uniformity in the way

[11] J.S. Mill, *On Liberty*, p. 115.

[12] Quoted by H.B. Acton from Samuel Bailey's *Essays on the Persuit of Truth and the Progress of Knowledge*, 1829, P. 174. See also Everyman Edition of *On Liberty*, p. 427.

[13] M J. McCloskey, *op. cit.*, p. 123.

people think is a desirable goal. Mill was quick to discern that it was uniformity of the *mind* or 'despotism over the mind',[14] which they sought in the first place, not uniformity of practical and material activities. So the diversity that he asserted was irreducibly psychological in its foundation, emphasizing on 'the differences among human beings in their sources of pleasure, their susceptibilities of pain....[15]

But are not such experiments too dangerous to trifle with like this? And should we not seek to do away with them altogether? It should be immediately recognized that such experimental consequentialism, which Mill is overtly advocating, makes no claims on *certain* evaluative knowledge: the attitude towards whether this or that has intrinsic value is always provisional. It might be argued that the function of the polity is to maintain an environment for the sake of sheer endurance of the individuals. We, however, can very well imagine that, if certain subhuman species had public lives, they might organize for mere survival. But to be human, on the other hand, is to be culture-maker and appreciator'.[16] The appreciation of this difference is probably more basic than the development of any social structural dichotomy between the public and the private. If all creativity were made impossible to man, 'what will be his comparative worth as a human being'?[17] Then the only option would be a bare maintenance of biological human life, 'the ape-like one of imitation'.[18] If we compare the societies of bees and ants, for examples, with human societies, we find:

> The former are admirably ordered and united, but stereotyped; the latter are open to every sort of progress, but divided, and incessantly at strife with themselves. The ideal

[14] J.S. Mill, *On Liberty*, p. 161.

[15] Ibid., p. 125.

[16] Society is a joint-stock company in which the members agree for the better securing of his bread to each shareholder to surrender the liberty and culture of the eater. The virtue in most request is conformity. Self-reliance is its aversion. It loves not realities and creators but names and customs. See R.W. Emerson, 'Self-Reliance' in *The Social Philosophers*, Modern Pocket Library Edition, 1954, p. 394.

[17] J.S. Mill, *On Liberty*, p. 117.

[18] Ibid , p. 117.

> would be a society always in progress and always in equilibrium, but this idea is perhaps unrealizable....[19]

In recent times, R.B. Friedman has argued that it is because of the existence of a vast majority who are eager to abdicate liberty that the argument from social progress occupies such a prominent place in *Liberty*. According to Mill, he insists, progress is a value of lower order than individual self-development; in fact, it is only a persuasive device.

> The reward (for allowing other people to make use of liberty) Mill offers the majority is 'social progress'; society cannot progress without liberty, and the multitude are so strongly attached to progress that they can be persuaded to accept its necessary condition, liberty, despite their aversion to liberty.[20]

Friedman's interpretation explains the simultaneous presence of an individualist and a social justification of liberty in the essay. As he himself notes, this simultaneous presence is not the product of a divided mind but rather of design. But, in our view, he fails to see that belief in progress is no less crucial to Mill's position.

A very important reason, however, for Mill's concern with the liberty of individuals is clear in the chapter 'Of Individuality'. Here he repeatedly asserts that initiatives for experiments in new 'modes of existence' come from individuals.

> ... there are but few persons... whose experiments, if adopted by others, would be likely to be any improvement on established practice. But these few are the salt of the earth; without them, human life would become a stagnant pool.[21]

It is implicit in Mill's position that a process of individuals freely creating and choosing new modes of existence will have a direction. It will tend to throw up a greater variety of more and

[19] Henri Bergson, *Creative Evolution*, tr. A. Mitchell, New York, The Modern Library, 1944, p. 112.

[20] R.B. Friedman, 'A New Exploration of Mill's Essay *On Liberty*' in Political Studies' Vol. XIV, No. 3, 1966, p. 301.

[21] J.S. Mill, *On Liberty*, p. 122.

more significant modes of existence, reaching greater proportion of the public. 'The worth of different modes of life should be proved practically'[22] he insists. If it were thought that choice and creativity, if encouraged, would lead to the adoption of still more insignificant modes of existence then the case for individual liberty will collapse, and the conservative position of preserving such significant modes of life as already acquired would seem to be quite acceptable. It is not only in *Liberty* but also in the sixth book in his *A System of Logic* where he is dealing with the method appropriate to the moral or social sciences that Mill leaves us in no doubt as to his commitment to progress. He writes: 'It is my belief that the general tendency is, and will continue to be, saving occasional and temporary exceptions, one of improvement—a tendency towards a better and happier state'.[23] This commitment of Mill, again easily explains why he recommends[24] outright despotism for 'races' in a 'backward state'. We will be at a loss to understand these limits Mill puts upon his principle of freedom (which can easily be seen as in conflict with his almost passionate approval of cultural diversities) unless we take into account how profound an influence the idea of creative progress was on Mill's mind.

Political thinkers before Mill, such as Locke and Adam Smith, also advocated that social harmony and progress were compatible with preserving a wide area for personal life which no external authority must be allowed to trespass. Hobbes, on the other hand, argued that if people were to be held back from flying at each other's throat, strong preventive measures had to be implemented; he spoke in favour of extending the scope of centralized control and reducing freedom of the individual. But Mill's position marks a departure in that he views this preserve as a precondition of all progress and civilization. Unless men are left to live their own lives according to their wishes or think their own thoughts, no scope is left for spontaneity, genius or for anything which is truly creative or worthy of man. He argues for liberty as a means to the betterment of mankind and also for creative self-development of the individual. The two

[22] Ibid., p. 115.
[23] J.S. Mill, *A System of Logic*, BK. 6, Ch. 10, Eighth Edition, 1872.
[24] J.S. Mill, *On Liberty*, p. 73.

are closely linked. Mill wants each individual be given liberty, so that he can create his own plan of life and at the same time (if what is created is worthy) can set for the rest of the mankind 'the example of more enlightened conduct, and better taste and sense in human life'.[25]

Bentham was denounced by Mill, because he did not care for those items of intrinsic value, the admiration for which is constitutive of human life. The love of beauty, the passion of the artist, the appreciation of order—none of these powerful elements of human nature were thought worthy of a place in Bentham's Table of the Springs of Action.[26] Mill regretted that Bentham did not recognize man as a being capable of pursuing spiritual perfection as an end; of desiring for its own sake, the conformity of his own character to his standard of excellence. Karl Britton seems justified when he observes, while dwelling on Wordsworth's influence on Mill:

> Nothing more clearly marks the advance of John Stuart Mill upon the moral philosophy of James Mill and Bentham than this turning away from the purely intellectual disciplines to 'the internal culture of the individual...'.[27]

For Mill man, the interpretor of his own experience, is the creator of his own life-style

> The traditions and customs of other people are, to a certain extent, evidence of what their experience has taught *them*, presumptive evidence, and as such have a claim to his deference: but in the first place, their experience may be too narrow; or they may not have interpreted it rightly.[28]

Here the later point—that the source or locus of evaluative judgement should be internal—raised by Mill, as we have already noted, is fundamental for all creativity. 'The Scipionism of Scipio', as Emerson significantly reminded us, 'is precisely that

[25] Ibid., p. 122.

[26] J.S. Mill, 'Bentham' in *Utilitarianism*, etc., ed. Marry Warnock, The Fontana Library, p. 101.

[27] Karl Britton, *John Stuart Mill*, London, Penguin, 1953; p. 73.

[28] J.S. Mill, *On Liberty*, p. 116.

part he could not borrow'.[29] A creative person is moved to action by intrinsic motivation rather than the rewards that entice others. The value of the product for him has to be established not by the approval or disapproval of others but by himself. What Mill is urging is that a responsible grown-up man be allowed 'to use and interpret experience in his own way. It is for him to find out what part of recorded experience is properly applicable to his own circumstances and character'.[30]

But creation is not just a synthesis of old and known elements. 'Secondly', [Mill goes on] '... customs are made for customary circumstances and customary characters; and his circumstances or his character may be uncustomary'.[31] Here Mill seems to insist not just on any reordering of elements, old and tried, but on genuine novelty, on a real departure from the beaten track.

> Thirdly, though the customs be both good as customs and suitable to him, yet to conform to custom, merely as custom, does not educate or develop in him any of the qualities which are the distinctive endowment of a human being.[32]

The distinctive human endowment which we are arguing and which Mill is speaking about is the creative potential of the individual human being. This third point, however, seems to have been overworked (in a direction perhaps not intended by him) by Mill's advocates who want to defend him from the onslaughts of his conservative opponents. C.L. Ten gives us a good summing up of their arguments

> Mill is not opposed to tradition and custom as such.... If a person, in exercising a choice, decides that a customary style of life is the one that most suits him, there is nothing that Mill need find objectionable. However, at the time Mill wrote, he felt that the sway of custom was too great.... Men were forced to act in the same way and to hold the same beliefs... even when customary rules were not imposed men willingly and unthinkingly accepted them....[33]

[29] R.W. Emerson, *op. cit.*, p. 413.
[30] J.S. Mill, *On Liberty*, p. 116.
[31] Ibid., p. 116.
[32] Ibid , p. 116.
[33] C.L. Ten, *Mill on Liberty*, Oxford, Oxford University Press, 1980, pp. 70-71.

But Mill, despised action, based upon inherited custom, too deeply, to dismiss his attitude towards it in a compromising manner. For him custom has an inevitable despotic power: 'the greater part of the world has, properly speaking, no history because the despotism of custom is complete'.[34] The special choice on which Mill has concentrated seems to be the option between the prevalent norms of society and the individual's standards and preferences: 'Their [customs' and traditions'] interpretation of experience', Mill pointed out, 'may be correct, but unsuitable to him'.[35] According to him, it is possible to speak about a man having choices properly his own, only so far as he calls society's standards into question. Mill's idea of progressiveness implies not, indeed, the rejection but the questioning of all established opinions'.[36] Challenging assumptions is a territory that creative artists and scientists regularly share. Creative people, it must be noted, are motivated as much by problem findings as by problem solving. Ryan points out,[37] in this connection, that we can become mentally enslaved by internalizing the wrong sanctions imposed on us from outside; for if we mistakenly come to identify what is genuinely right or wrong with what public opinion demand and disapprove, we come in effect to side with public opinion against ourselves. Elucidating this point a contemporary Indian philosopher has said: 'To refuse to live up to the light within us is real sin; to refuse to live up to the ideas of the crowd around us is conventional sin. We are afraid of conventional sin and so commit real sin'.[38] Why is this so? It is because 'when any line of conduct is in conformity with social opinion, we feel that we are exempt from personal responsibility.[39] This does not imply that individual choice is only exercised in actually defying social standards. But rather, as Mill knew, it is the experience of possible conflict between an individual and society which gives meaning to the concept of

[34] J.S. Mill, *On Liberty*, p. 128.

[35] Ibid., p. 116.

[36] Cited from Mill's speech 'Speaking in the Church' by H.J. Laski in his edition of Mill's *Autobiography* (The World's Classics), p. 322.

[37] Alan Ryan, *op. cit.*, p. 135.

[38] S. Radhakrishnan, *East and West in Religion*, London, Allen and Unwin, 1933, p. 90.

[39] Ibid., p. 194.

one's own choice.[40]

Now, if choice is so important that a man, as Mill sees him, is most himself in choosing and not being chosen for, in being the creator of his experience and not just its creature, what then is meant by freedom of choice? What is its status? As an authority defines it, freedom of choice signifies 'a relationship between an actor and a series of alternative potential actions'.[41] This choice among alternatives appears to be the common feature of all types of action which are considered not only free but also creative. While analysing the structure of a choice, Mill writes: 'The human faculties of perception, judgement, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice'.[42] In almost all the products of creation we mark this selective activity, an emphasis. The artist paints his convas in simplified form rejecting the minute varieties which exist in reality. The scientist has to push aside all other alternatives, while framing a basic law of natural relationships. The poet selects those words, or the musical composer combines those notes, which give unity to what he wants to express. This is the choice of the specific person. Reality exists in a multiplicity of chaotic facts, but 'I' reduce chaos and bring a pattern to my relationship to reality. I have my way of approaching reality and finding beauty in it. And it is this unique personal selectivity or choice which seems to bestow on the creative products a concern for aesthetics.

To many, however, the setting for man of a choice is unrealistic. As B.F. Skinner has argued that man's creative powers, his capacity to choose and our right to hold him responsible for his choice—all these are conspicuous by their absence in the new self-portrait of man, provided by science.

> Man we once believed, was free to express himself... could initiate action and make spontaneous and capricious changes of course.... But science insists that action is initiated by forces

[40] R.B. 'Friedman', 'A New Exploration of Mill's Essay on Liberty' in *Political Studies*' Vol XIV No. 3, 1966, p. 290.

[41] David L. Sills, (ed.), *International Encyclopedia of the Social Sciences*, Vol. 5, p. 558.

[42] J.S. Mill, *On Liberty*, p. 116.

> impinging upon the individual, and that caprice is only another name for behaviour for which we have not yet found a cause.[43]

Accusing Mill of upholding the doctrine of philosophical necessity, Lord Acton comments that 'if it be assented to, it is evident that there is no place for culpability to come in, either in character, action, or opinion'. He quotes from Mill's *A System of Logic*:

> The doctrine called philosophical necessity is simply this: given the motives present to an individual's mind, and given likewise the character and disposition of the individual, the manner in which he will act may be unerringly inferred.[44]

In fact, however, Mill holds 'we are exactly as capable of making our character, if we will, as others are of making it for us' (*A System of Logic*).[45] He convincingly argues that a determinist also can logically affirm the responsibility of persons; by stressing that all is causally determined, he does not deny that the person is an important factor in the causal sequence. Actions follow necessarily from their antecedents merely in the sense that they take place if the conditions upon which they depend are not counteracted by other conditions. Whatever a man does may necessarily follow from his character, but, nonetheless. his character is alterable by himself. 'Our consciousness of freedom' is nothing but the feeling that we can change our character if we will; to do so actually is to achieve 'moral freedom'.[46] In the *Autobiography*, Mill describes a time in his life:

> When the doctrine of what is called Philosophical Necessity weighed on my existence like an incubus, I felt as if I was scientifically proved to be the helpless slave of antecedent circumstances.[47]

In the same work, again, Mill describes how he got out of the

[43] B.F. Skinner, *American Scholar*, 25, pp. 52-53,1955-56.

[44] Lord Acton, 'Mill on Liberty' in William Eleenstein (ed.), *Political Thought in Perspective*, Mc Graw-Hill, p. 517.

[45] J.S Mill, *A System of Logic*, London BK. VI, Ch. 2, Sec. 3, 1961.

[46] Ibid , *op. cit.*

[47] J.S. Mill, *Autobiography*, London, 1873, p. 168.

debilitating belief that 'our character is formed by circumstances' by the conviction:

> That we have real power over the formation of our characters; that our will, by influencing some of our circumstances can modify our future habits or capabilities of willing. All this was entirely consistent with the doctrine of circumstances ... properly understood.[48]

Even if the doctrine of philosophical necessity or any version of determinism be scientifically valid, this does not very much matter. Pointing out what he calls 'the great paradox of behavioural science', Carl R. Rogers has hopefully argued against Skinner that behaviour, no doubt, when it is studied scientifically, is best understood by prior causation. But responsible personal choice, which is the predominent element in being a person, which is the core experience in psychotherapy and which exists prior to any scientific endeavour, is an equally prominent fact in our lives.

> That these two important elements of our experience appear to be in contradiction has perhaps the same significance as the contradiction between the wave theory and the corpuscular theory of light, both of which can be shown to be true, even though incompatible. We cannot profitably deny our subjective life, any more than we can deny the objective description of that life.[49]

Now, capacity for choice means that there is an area in which human beings are not determined, in which they are free, in which spontaneity holds sway. Though a limited area, its presence accounts for the variety of experiences, making for the richness of life. If we try to describe Mill's view as a doctrine of freedom, it is obviously a doctrine of conditional freedom. I am free (within limits) to be honest, if I desire to be honest with a strong enough desire. The question now arises: am I free to desire honesty or to desire it more strongly? The answer[50] here

[48] Ibid., *op. cit.*

[49] C R. Rogers and B F. Skinner, 'Some Issues Concerning the Control of Human Behaviour: A Symposium' in *Science*, 124, November 30, 1956.

[50] Suggested by Karl Britton, *op. cit.*

also is a conditional freedom: I am free to strengthen my desire for honesty, my permanent inclination to it, if I desire to do so strongly enough. This relatively small area in which choice operates is sufficient to deliverman from the bondage of determinism. This transforms the mere physical individual into a moral individual and a creator; without this creativity human action in the liberties of the external world would be confronting a wholly estranged world. Without this creativity free agency would be nothing more than desperate acts to make oneself something, anything. And then perhaps Anschutz' charge that Mill simply substitutes one error for another, 'bohemian nonsense for bourgeois nonsense' will be unanswerable. With creativity people can be persons and self-possessed. It endows them with the ability to choose between right and wrong, and, therefore, with responsibility for their actions.

We are now trying to answer the question: does Mill think that, so long as the agent's choice is made freely and deliberately, it does not matter what its content is?

Philosophers have generally tended to deny the freedom of a capricious or arbitrary act. Hegel says in his *Philosophy of Law* that the individual finds the fullest realization of his freedom in dying for the sake of state. It is only then that he destroys the last trace of any personal whimsicality and uniqueness and become completely a part of the state. John Locke explains in his *Essay Concerning Human Understanding* that liberty is the capacity for choice inherent in the reasoning faculties of human beings. It is neither goodness nor evil, neither right nor wrong. Liberty is choice, and can be used for good or evil purpose. Classifying liberals into high-minded and the ordinary, John Plamenatz, in recent times, has said that Mill is a good example of the high-minded liberal.

> For him the excellence of man consists above all in his capacity for self-improvement.... The ordinary liberal [as opposed to the high-minded one] is less concerned about the quality of the ends which men pursue; he is much more concerned that their right to pursue whatever ends attract them should be respected, so long as the pursuit does no harm to others.[51]

[51] John Plamenatz, *Reading from Liberal Writers*, Allen and Unwin, 1965, p. 26.

In fact, Mill has presented two views of self-development in *Liberty*, viz. free choice on the one hand and 'the highest and the most harmonious development of man' on the other. In the chapter 'Of Individuality As One of the Elements of Well-being', Mill presents a view of self-development which is to be attained by the conscious and choiceful pursuit of an object of interest to the agent. Here the stress in on being oneself, for that one has to pursue an object according to one's choice. One must not passively accept. To realize oneself, it is necessary to *be* oneself, to be 'I', and this would be inhibited by thoughtless conformity to custom.

It is perhaps good that at this point we bring out the methodological significance of the first person case, because much of the attraction of Millian liberalism lies in the fact that it intends to describe a state of political or social freedom which can be seen to be so by the individual agent concerned. Almost all the anti-liberal theories begin with the doctrine of the 'true' or 'real' interests, and adopt a purely third-person attitude towards the social world—the attitude not of the involved participant but that of the observer. It may then appear quite immaterial whether the 'true' or 'real' interests of the subject should also be recognized by him as agreeable. If it is argued, for example, that the renunciation of all rights of ownership, personal pride, etc. are the genuine interests of every human being, their repulsive character, under ordinary circumstances, originates from the fact that the interest of the victim is represented in such a manner that, from his point of view, he cannot appreciate it.

Regarding the above controversy, it has been perceptively remarked by Roger Scruton that the real problem is not with the idea of 'real interest', but with the conception of human nature with which it is conjoined.[52] It is the essential feature of *human* nature that we have a first person perspective on our action. It is part of our real interest that we should be able to do that which, from our own point of view, we can see to be desirable. In the concluding lines of his essay, Scruton has remarked: 'The theory of human nature is certainly not there in

[52] Roger Scruton, 'Freedom and Custom' in *Of Liberty*, ed. A.P. Griffiths, Cambridge, Cambridge University Press, 1983, p. 192.

Mill. Had it been there it may have awoken him to the fact that freedom is not the only political value'.[53]

Mill's theory of human nature is certainly not conclusive, and as we have already suggested this is necessarily so. But the emphasis on the first person perspective about which Scruton is insisting, is, in any case, too much there in Mill to be mistaken. Mill says: 'A person whose desires and impulses are his own... is said to have a character'[54] and he regrets the fact that the individual or the family do not ask themselves—what do I prefer? Or, what would suit my character and disposition?[55] Mine is only that to which I am related by my creative activity.

> ...by dint of not following their own nature... their human capacities are withered and starved: they become incapable of any strong wishes or native pleasures, and are generally without either opinion or feelings of home growth, or properly their own.[56]

The inability to act spontaneously, to express what I actually feel or think, and the consequent urge to present a pseudo-self to others and myself forms the basis of all sense of inferiority and cowardice.

This recognition of the self as the supreme value, however, does not necessarily mean that man is inherently good. The point, however, is that in any situation of his life he can make a choice. He may choose to be himself, and when he does so he participates in goodness. We should note here that it is not the good and the evil in human behaviour that concerns Mill in *Liberty* but the fact that man is pressed from all sides to conform. Mill's concerns with good and evil are aimed at promoting man's creative emergence as an individual self. Individuals are scarcely inclined to assert themselves as distinct and personally responsible beings. Rather, they are eager to assert themselves as types and representatives. If ordinary people speak about their values and sometimes even insist upon them, this assurance is due to a sense that their values are those of the average man

[53] Ibid , *op. cit.*
[54] J.S. Mill, *On Liberty*, p. 118.
[55] Ibid., p. 119.
[56] Ibid., p. 119.

and so require no apology. Thus, a strong and vital stand needs to be taken on behalf of creative self-hood, just because real individuality is so widely repressed and feared. There is no doubt that man today is largely prevented from making a free choice. And it is because modern man is so pressed to strive for standards and objectives that contradict his own growing humanity, he must ask 'what do I prefer'? and must actively confirm his self-hood to prevent his becoming 'a machine'.

The first person case of human nature, as a given fact (which underlies his distinction between self- and other-regarding acts in *Liberty*), is drawn at great length in a passage in *The Subjection of Women*:

> There is no subject on which there is a greater habitual difference of judgement between a man judging for himself, and the same man judging for other people.[57]
>
> His personal exclusion from the deciding authority appears itself the greatest grievance of all, rendering it superfluous even to enter into the question of mismanagement.[58]

The passage begins with the wise observation: 'He who would rightly appreciate the worth of personal independence as an element of happiness, should consider the value he himself puts upon it as an ingredient of his own'. Only when the person is recognized as an integrated being with self-determining capabilities there is hope for him or for mankind. And here, once again, Mill seems to lay down what has been claimed to be the foremost condition of all creativity that the source or locus of evaluative judgement is internal. The value of his product, for the creative person, is established not by the praise and condemnation by others but by himself—have I done something satisfying to me?

Now, faced with the proposition that the ultimate good is the choosing of oneself and virtue is conformance of character to an idea chosen by the subject, pessimists raise the question: what will happen if the subject chooses to be like Alcibiades,

[57] J.S. Mill, *On Liberty*, etc., The World's Classics, Oxford, Oxford University Press, 1963, p. 542.

[58] Ibid., p. 543.

Hitler or a typical smug pillar of commercial society, always chasing wealth and influence, yet absolutely self-satisfied and blind to his ignobility? Regarding this point Sen and Williams ask pointedly and answer:

> Is the mere fact that some one chooses something a source of value for the thing chosen? It is natural to think of choosing and valuing as related, but it is hard to avoid the suspicion that, in this representation, the direction of the linkage has been inverted.... Basing choice on valuation is cogent in a way that basing valuation on choice is not.[59]

Thus, it has been reasonably objected:

> If 'freedom' becomes a label for anybody's moral or political ends, then everybody's value commitment to freedom will be vacuous. All will agree that liberty is the supreme good, but they will agree on nothing else. Meaningful disagreement about the *value* of freedom presupposes agreement about the meaning of freedom in nonvaluational terms.[60]

But perhaps we should not forget that there is an *irreducible element of choice* in adoption of anything as a standard of value. There is nothing which, in its own nature and independent of our choice of it, is a standard of value; and also there is no characteristic which *requires* that we should admire the things that possess it. There are reasons, to be sure, why we choose particular standards for particular purposes. But, whatever these reasons, 'there is an ineradicable element of choice in the transformation of any natural feature into a standard of value'.[61]

Thus, it appears that there are two fundamental orientations to values, each of which is involved in prizing an object. One is the value the thing has. The other is the value as creating. The latter is a process where prizeworthiness does not derive from the value the thing possesses, but rather from its status as

[59] Sen and Williams (ed.), *Utilitarianism and Beyond*, Cambridge, Cambridge University Press, 1982. Introduction by Sen and Williams.

[60] David L. Sills (ed), *International Encyclopedia of the Social Sciences*, Vol. 5, p. 556.

[61] J.L. Mackie, *Persons and Values*, Selected Papers (ii), Oxford, Oxford University Press, 1985, p. 65.

creator of values. What is the subjective value of choosing? Partially it must lie in the chooser's being the creator of the objective values chosen. While determining his own character by these objective values of his choices, he at the same time determines himself to be the chooser of them. Mill has greatly emphasized the latter, i.e. that formal or the subjective aspect of creativity, because it is not only neglected but it is not even adequately recognized. Free agency is based not on choosing the good but on adopting an alternative as one's *own reason* for acting. Only creative activity is an exercise of freedom where freedom consists precisely in the production of value: 'His voluntary choice is evidence that what he chooses is desirable'.[62] But just because any creative product is a normative measure, it does not follow that all the normative measures are equally elegant. A product that is less than the best is comparatively bad, even though it is also realization of some value. Goodness admits of degrees. Mill regretted that 'the individual or the family do not ask themselves—what do I prefer? Or, what would suit my character and disposition?' He immediately added to this query: 'Or, what would allow *the best and highest in me* to have fair play, and enable it to grow and thrive?[63] (emphasis mine).

A clue to the compromise between the two conflicting views of Mill regarding self-development is unmistakeably provided by his phrase 'the qualities which are the distinctive endowment of a human being'. Some critics of Mill find such phrases as tautologies. But after saying this Mill goes on elaborating that the 'human faculties of perception, judgement, discriminative feeling, mental activity and even moral preference, are exercised only in making a choice'. Here Mill is precisely dwelling on the unique element of creativity which is the process of deliberation, with its analysis, selectivity and criticism. But it is not enough to have a good idea; creativity is, above everything else, a matter of activity. By activity we do not mean just doing something but the quality of creative activity that can operate on one's emotional, intellectual and sensuous experiences, and in one's will as well. It is a characteristic of agents, characteriz-

[62] J.S. Mill, *On Liberty*, p. 158.
[63] Ibid., p. 63.

ing their free choices. After deliberation has produced its creative suggestion, it must be selected and acted upon for the agent to be actually creative. Assuming that his list contains what he considers the 'distinctive endowment' to be, it becomes easy to combine his two views of self-development. We can point out that this will be attained by the conscious pursuit of ends which bring into play these faculties.[64] Mill stressed free choice. But *free* choice, say, of a mode of life is only one aspect of his ideal of individuality; the other aspect is that the choice should be such as to nourish and develop a person's potentialities.

Now, given the limitations of the 'human faculties of perception', etc. very few effects are absolutely best and most effects are ambiguous. Mill has considered some of them at length in the chapter 'Application' in *Liberty*. Regarding the question 'should a person be free to be a pimp'? Mill observes that 'the case is one of those which lie on the exact boundary line between two principles, and it is not at once apparent to which of the two it properly belongs'.[65] Mill agrees that whatever one is permitted to do (e.g., fornication), must be permitted and advised to do. But the question becomes doubtful if 'the instigator derives a personal benefit from his advice'.[66] There is a crucial problem involved in such cases with which Mill is dealing here. Social structures acknowledging values of various sorts must always treat those values in the form of trade-offs, which sometimes require relinquishing one good for the sake of another. The protection of any value is at a cost, and the society has to provide mechanism for saying that in certain circumstances the price is prohibiting. Mill does not deny that regarding privacy there should be procedures for abrogating it: 'The necessities of life... continually require, not indeed that we should resign our freedom, but that we should consent to this and the other limitation of it'.[67]

But how can a creator's dignity be measured and traded off?

[64] Noted by R.S. Downie, Elizabeth Telfer, *Respect For Persons* Allen and Unwin, 1969, Ch. 3.

[65] J.S. Mill, *On Liberty*, p. 154.

[66] Ibid., p. 154.

[67] Ibid., p. 154.

It is only objective values which can be weighed. Therefore, in respecting privacy the social forces cannot be expected to deal primarily with the inmost privacy itself, the subjective creating. Mill accepts that society does not directly prize a person's inmost privacy. Rather, it prizes the person himself. And a person is not a bifurcated value animal with objective and subjective values. A person is a 'consistent whole'[68] an integrated harmony of the two. Because of the social valuing of integrity, we respect people's privacy, we institute curbs on the power of the organized public to control people according to their merely objective sides. Mill wrote of the period as early as 1826: 'The maintenance of a due balance among the faculties now seemed to me of primary importance'.[69]

But if individuality is not definable by the good of mankind, because each will define that good according to his own standard, it will be defined in practice as mere diversity and as nothing in itself. Here we are confronted with the question: what does define individuality? In *On Liberty* individuality means the individual person;[70] one of the elements of well-being,[71] is the same thing as development[72] which is the characteristic of strong natures.[73] Sometimes Mill seems to emphasize on the improvement and the good of mankind, and sometimes on the spontaneous and the diverse. In fact, for Mill, individuality begins as the formal assertion of individual spontaneity and diversity, but they are justified for what they can, in the long run, achieve: 'the highest and most harmonious development of his [individual's] powers to a complete and consistent whole'.[74]

Individual differences are justified by the possibility of the best individual: 'It brings human beings themselves nearer to the best thing they can be...'.[75] The best individual is, of course, taught by society; he gathers up past experience of humanity both appreciatively and critically. Then, what is most important,

[68] Ibid., p. 115.
[69] J.S. Mill, *Autobiography*, London, 1873, p. 143.
[70] J.S. Mill, *On Liberty*, p. 131.
[71] Ibid., p. 114.
[72] Ibid., p. 121.
[73] Ibid., p. 118.
[74] Ibid., p. 115.
[75] Ibid., p. 121.

making use of all his faculties, and conforming his interpretation of experience to his own character, he chooses a plan of life by himself and for himself. The happiness for the individual consists essentially in the realization of his own plan of life. Now, the fact that there is no guarantee that what is one person's plan of life will be another's is sufficient to establish the diversity of human nature: 'If it were only that people have diversities of taste, that is reason enough for not attempting to shape them all after one model'.[76] Intimately linked to this ideal is the belief that human variety is in itself something good and that the purpose of society is to facilitate the full development of the varied potencies of the human being. The great truth of the essay, as Mill himself says, is 'the importance to man and society, of a large variety in types of character, and of giving freedom to human nature to expand itself in innumerable and conflicting directions'.[77]

Referring to the highest and harmonious development of individual powers, which is the goal of a man's life, Mill says (quoting Humboldt) that for this there are two requisites: 'freedom, and variety of situations'. The most vital consideration concerning freedom relates to the variety of situations available. It is not mere number but variety that matters. As J. Raz explains that a choice between, say, hundreds of identical and identically situated houses is hardly a choice, compared with a choice between a town flat and a suburban house: 'Choices are guided by reasons and to present the chooser with an adequate variety there must be a difference between the reasons for the different options'.[78]

Mill asserts, after Humboldt, that from the union 'of these two, i.e. freedom and variety of situations, arise 'individual vigour and manifold diversity', which, again, combine themselves in 'originality'.[79]

To choose a plan of life one must have 'a high general average of energy'. The best individual has a strong character as

[76] Ibid., p. 125.

[77] J.S. Mill, *Autobiography*, New York, Columbia University Press, 1948, p. 177.

[78] Joseph Raz, *The Morality of Freedom*, Oxford, Oxford University Press, 1986, p. 398.

[79] J.S. Mill, *On Liberty*, p. 116.

he has to strive valiantly to achieve his ideals. An individual, according to Mill, is not free, unless he possesses the kind of character which permits him to pursue plans even in the face of opposition and temptation. And since a strong character is very much one's own, he is known by his originality in contrast to the mediocrity around him. The kind of men and women needed, Mill asserts, are those people who have the strength to break the bond of what is merely customary and conventional. His objection to conforming to custom as custom is that this conformance scatters our energy and blurs the impression of the individual's character.[80] Mere diversity without strength of character is perhaps the trivial end in the series of choices. Mill is, however, aware that diversity of tastes is compatible with a dull uniformity of inclination, even with the despotism of custom[81] and that it must be enlivened with examples of originality. 'Originality is not always genius, but genius is always originality', and a society which is distrustful of original people 'may have the satisfaction of thinking itself very moral and responsible, but it must do without genius'.[82] The most concentrated expression of individuality is found in human genius. 'The great genius', it has been perceptively observed, 'returns to essential man'. 'In every work of genius we recognize our own rejected thoughts; they come back to us with a certain alienated majesty'.[83] A society without genius may have persons of talent who bring a larger than usual measure of commonplace ability into its service, but genius in such a soil 'usually retires into itself and dies without a sign'.[84] As he says in *Liberty*: 'Genius can only breathe in an *atmosphere* of freedom'.[85] Because the best individual will be original society must learn to tolerate him; and to tolerate originality it has to learn to tolerate mere non-

[80] 'Ordinarily everybody in society reminds us of somewhat else' or of some other person. Character... reminds you of nothing else; it takes place of the whole creation'. See R.W. Emerson, 'Self-Reliance' in *The Social Philosophers;* New York, Modern Pocket Library, 1954, p. 400.

[81] J.S. Mill, *On Liberty*, p. 127.

[82] J.S. Mill, 'Grote's History of Greece', *Dissertations and Discussions*, London, 1875, pp. 528-9.

[83] R.W. Emerson, *op. cit.*, p. 392.

[84] J.S. Mill, *op. cit.*

[85] J.S. Mill, *On Liberty*, p. 122.

conformity, eccentricity. It has been argued in defence of Mill that 'Mill praises eccentricity in this context because it is a means of breaking through the tyranny of custom', that 'at the time when he wrote, he felt that the sway of custom was too great...'.[86] In answer to the contention that it was not Mill but his times when there was such a despotism of custom, etc. some of Mill's unqualified generalizations may be freely quoted:

> Eccentricity has always abounded when and where strength of character has abounded; and the amount of eccentricity in a society has generally been proportional to the amount of genius, mental vigour, and moral courage which it contained.[87]

The problem of the omnipresent power of custom was not only *peculiar* to Victorian England, though it must have played its role in forming Mill's attitude towards it. As he says: 'The greater part of the world has, properly speaking, no history, because the despotism of custom is complete. This is the case over the whole East'.[88] He criticizes the public zeal to identify eccentricity with madness.[89] Though Mill's sympathy towards eccentricity is eloquently expressed throughout the third chapter of *Liberty*, this also is to be found in his other works. In *Principles of Political Economy*, for example, Mill says paradoxically: 'No society in which eccentricity is a matter of reproach, can be in a wholesome state'.[90] A mere diversity of taste in which nothing is desired strongly is less respectable than eccentricity. Though Mill's praise for eccentricity is not absolute, he holds that the actualization by men's talents and powers towards increasing individuation and a particular, incomparable self-hood is an index of the nature of man. '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 a character.[91] But the evil is: 'Indivi-

[86] C.L. Ten, *op. cit.* pp. 70-71.
[87] J.S. Mill, *On Liberty*, p. 125.
[88] Ibid., p. 128.
[89] Ibid., p. 126.
[90] J.S. Mill, *Principles of Political Economy*, II, i, 3, p. 209.
[91] J.S. Mill, *On Liberty*, p. 118.

dual *spontaneity* is hardly recognised by the common modes of thinking as having any intrinsic worth, or deserving any regard on its own account'.[92]

Why is spontaneous activity rated so highly by Mill? Not only because it is the reverse of compulsive activity and not the activity of the automaton—the uncritical adoption of patterns suggested from the outside—but as Bergson points out:

> Every human work in which there is invention, every voluntary act in which there is freedom, every movement of an organism that manifests spontaneity brings something new into the world. True, these are only creations of form. How could they be anything else?[93]

One premise for this spontaneity, however, is the acceptance of the total personality and the elimination of the dichotomy between reason and passion; for spontaneous activity is possible only when man does not repress essential parts of his self and when different spheres of life have reached a fundamental harmony. 'This energy does not descend into individual life on any condition other than entire possession'.[94] Arguing that 'desires and impulses are as much part of a perfect human being as beliefs and restraints, and strong impulses are only perilous when not properly balanced', Mill regrets:

> To a certain extent it is admitted that our understanding should be our own: but there is not the same willingness to admit that our desires and impulses should be our own likewise; or that to possess impulses of our own, and of any strength, is anything but a peril and snare.[95]

Mill believes that the realization of the self is accomplished not only by an act of thinking but also by the realization of man's total personality, by the active expression of his emotional and intellectual potentialities. These potentialities are present in everybody: 'There are as many possible independent centres of

[92] Ibid., p. 115.

[93] Henri Bergson, *op. cit.* p. 261.

[94] R.W. Emerson, 'The Over-Soul' in *The Social Philosophers*, New York, Modern Pocket Library, 1954, p. 431.

[95] J.S. Mill, *On Liberty*, pp. 117-118.

improvement as there are individuals'.[96] They become real only to the extent to which they are expressed. In other words, positive freedom consists in the spontaneous activity of the total, integrated personality.

A spontaneous act has been described as the answer to the problem of freedom. Negative freedom by itself makes the individual an isolated being, whose relationship to the world is marked by mistrust and dread. Having gained their liberty men desire reunion. The basic dichotomy that is inherent in liberty—the emergence of individuality and the agony of aloneness—is dissolved on a higher plane by man's spontaneous action. It affirms the individuality of the self and simultaneously unites the self with man and nature. Whether it be diversity or eccentricity or originality, it is only those qualities which originate from our spontaneous activity that give strength to the self and thereby form the basis of its integrity.

Two broad paths of theory and practice diverge from the idea that the highest reality and value is the person. One of these leads to the protection of the person against society and the world. This represents a dualistic and a relatively pessimistic point of view. The person is viewed as perpetually threatened with the determinism of an impersonal world around him. The fundamental criterion of social organization and political action thus comes to be the protection of the person.

Negative liberty is the philosophy of this path. This outlook is marked by a mistrust of the world and of society. Such liberals aim at assuring the inviolability of individuals. Moral philosophers, on the other hand, have not been satisfied with conceptions of good and evil that are rooted in mere self-preservation and self- protection. Freedom, they say, is something to be realized. They have explored the essence of the good as a quality positively present and linked to a healthy, normal individual self. They have been concerned with the personal and human value of the good.

Philosophers, Plato downwards, have described kinds of goodness and qualities of goodness. Mill himself in his essay on Bentham has employed such analogous terms as love, truth, beauty, harmony, unity, order etc. But has he (or they) ever

[96] Ibid., p. 128.

come to grips with an absolute concept of goodness itself?

Man is conceived by Mill as basically creative. His theory of human nature, as we have already noted, is incomplete. And Mill knew it. Commenting on man and human life, Mill writes in *Liberty*: 'Among the works of men which human life is rightly employed in perfecting and beautifying, the first in importance is surely man himself'.[97] A perfect definition applies only to a completed reality; creative tendencies, on the contrary, are never fully realized, though they are for ever on their way to become so. They are not so much states as tendencies, of the 'inward forces', as Mill puts it. In the course of text, he does nowwhere *directly* base his defence of liberty on human creativity. Had he done so, had he actually emphasized on the *highest* common factor of all men, that would have defeated his purpose. Then, the criticism that he conceptualized liberty as a kind of elitist ivory tower enterprise or that he was a man of 'sneers and smears and pervading certainty'[98] would have easily gained ground. But, as Lord Acton says, while commenting on *Liberty*: 'Mr Mill... has skilfully chosen his ground'.[99] Mill instead stresses the point that 'there are as many possible centres of improvement as there are individuals'.[100] Even while dwelling on originality (not to speak about creativity), Mill says: 'They (unoriginal minds) can not 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.[101] It is unfortunately an 'eternal law' that men of distinguished originality 'must themselves create the taste of the habits of thought by means of which they will afterwards be appreciated'.[102] What was he *directly* doing in *Liberty*? He was forcefully and even aggressively encouraging such traits of character which are actually the horsepower that fuels the creative process. 'At present individuals are lost in the crowd'.[103]

[97] Ibid., p. 117.

[98] Maurice Cowling, *Mill and Liberalism*, Cambridge, Cambridge University Press, 1963, p. 93.

[99] Lord Acton 'Mill on Liberty', in *The Rambler*, Vol. 2 (New Series), November, 1859.

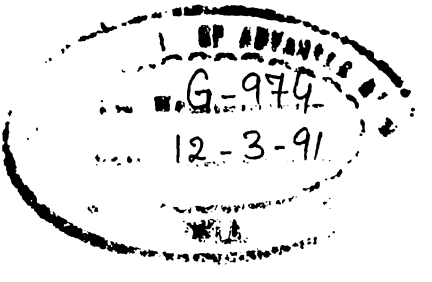
[100] J.S. Mill, *On Liberty*, p. 128.

[101] Ibid., p. 123.

[102] J.S. Mill, 'Alfred de Vigny' in *Dissertations and Discussions*, I, pp. 321-22.

[103] J.S. Mill, *On Liberty*, p. 123.

The classic ideal of the whole man, that 'highest and harmonious development of his powers to a complete and consistent whole', so dear to Mill and Humboldt, is no longer easily reflected on by modern man. But Mill divides the human conduct (into self- and other-regarding) not to fragmentize or atomize the image of man. He does it so that his creation can involve the expression of his *whole* personality. Preparation for creation calls for a rigorous collection of all one's inner forces. And Mill grounds his argument for creativity on such qualities of personality, e.g. spontaneity, self-reliance, courage, etc. which are characteristic expressions of a whole man about to unfold the creative act. If man is denied his creativity, the following of the inner law of his own being, then all his freedom and energy are rejected in favour of a rather protective anonymity and a mechanical way of life that lack any ethical commitment. A successful adjustment to society may, of course, result, but Mill would have said that such adjustment reduced individuals to collective modes, to the least common denominator, repressing all creative urges that marked the spontaneous living of unique persons. He would have put such achievements aside, identifying them with 'what Mr Carlyle strikingly calls the completeness of limited man'.[104]



[104] J.S. Mill, 'Bentham' in The Fontana Library *Utilitarianism* etc., ed. M. Warnock, p. 123.

J.S. Mill's Self-Regarding Acts: An Analysis

The Monograph brings out an important and so far unexplored aspect of J.S. Mill's social political thinking by closely looking into Mill's well known work *On Liberty*. Mill's emphasis of self-regarding acts has so far only been given a by and large simplicistic interpretation. The author has set before himself the philosophically interesting task of finding a deeper significance of Mill's distinction between self-regarding and other-regarding acts by pointing out the motive of creativity underlying the former. He argues that the creation of self, and creativity as a moral force in society, these two together, *implicitly* but *basically* concern Mill in *Liberty*.

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