

**Quality and Competence:
An Analysis of the Role of Mill's Qualitative
Hedonism on his Conception of Representative Democracy**

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(Abstract)

Traditionally, John Stuart Mill has been described as a transitional thinker who fails to fully understand the values he espouses. Critics contend that he cannot simultaneously espouse both utility maximization and the protection of individual choice-making as a non-trumpable value. Like his moral philosophy, Mill's political thought is also rejected for interspersing, seemingly at random, elements of utilitarianism with concerns about respecting individual choice-making. More recent attempts to bring Mill's commitment to utilitarianism into line with his respect for individual choice-making are not wholly successful. In this thesis, I offer an interpretation of Mill's moral philosophy which reconciles the tension between utility maximization and respect for individual choice-making as a non-trumpable value. In addition, I argue that my interpretation of Mill's moral philosophy also allows us to interpret his political thought.

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Introduction

Two radically different pictures of John Stuart Mill's project have been developed in the century following his death. Some have consistently interpreted Mill as a champion of the English utilitarians who lays out his conception of utility much more clearly than did his father or Bentham before him. More recently, others have interpreted Mill as a tenacious defender of the absolute value of individual choice-making. Perhaps the only aspect of Mill that these two sides agree upon is that Mill is deeply confused about the compatibility of the two values he endorses.

The tension between these values is especially evident in Mill's writings on representative democracy. In particular, critics charge that the two voting mechanisms which Mill endorses are incompatible both with each other and with the different values which he endorses elsewhere. These critics contend that the plural voting scheme, which allots multiple votes to the educated élite, conflicts with the absolute protection of individual choice-making. Additionally, such critics charge that plural voting defeats the entire purpose of the proportional voting scheme whose design is to ensure that parliament proportionally represents all of the interests of society.

In my first chapter I shall address this tension between plural and proportional voting. Following Dennis Thompson, I shall argue that Mill's views on representative democracy are driven by his commitment to the principles of competence and participation. I shall further argue that the plural and the proportional voting schemes are driven by considerations of *both* competence and participation. I will show that objections to Mill's voting schemes are aimed at the principle of competence. I will then examine the objection that the principle of competence is not compatible with Mill's commitment to the absolute value of individual choice-making. I will look at several attempts to articulate the worry and address each of them. Finally, I conclude that the tension between participation and competence is ultimately just a product of the tension between the values of utility maximization and the protection of individual choice-making as non-trumpable.

Accordingly, in chapter two I turn my attention to several recent attempts to reconcile Mill's theory of utility maximization with his claims about the non-trumpable nature of individual choice-making. I first lay out the traditional objections to Mill. I then examine successively the rule-utilitarian interpretation, the axiological interpretation and the indirect-utilitarian interpretation. While each of these interpretations has the potential to resolve the tension in question, I argue that they all fail for the same reason--none of these interpretations are fully consistent with all of Mill's claims. That is, although each interpretation captures part of Mill's considered position, none of the interpretations fully captures the whole of Mill's thought.

In chapter three, I present my account of how to resolve the tension. I argue that the key to understanding Mill's moral and political thought lies in his conception of the higher pleasures. I argue that because Mill regards the higher pleasures as infinitely more valuable than lower pleasures, his real interest is in maximizing the higher pleasures. I then argue that Mill seems to hold that the

higher pleasures are products of active higher mental faculties and that Mill indicates that individual choice-making is a practically-necessary condition for activating the higher mental faculties and hence attaining the higher pleasures. Further, since individual choice-making must by definition be done without coercive influence, on Mill's account the only way to attain the higher pleasures is by respecting individual choice-making.

In addition to resolving the tension between utility maximization and the protection of individual choice-making, the higher pleasures interpretation also resolves the initial tension between the principles of participation and competence. Since individual choice-making is required for the activation of the higher pleasures, and since Mill wants to maximize the higher pleasures, he designs an institution which will encourage individual choice-making. In other words, by participating in government, individuals are forced to make choices. The competent are then required to assist individuals in making the right sorts of choices. That is, because not just any choice will activate the higher mental faculties, the duty of the competent is to guide individuals to the right sorts of choices.

Chapter One

Competence and Participation

In this chapter, I will lay out the principles of competence and participation and show how they ground both the plural and the proportional voting schemes. In part one, I will argue that Mill does in fact value both competence and participation. I will then show that plural voting and proportional voting are both motivated by considerations of competence *and* participation. In part two I shall discuss the objection that the principle of competence is incompatible with Mill's commitment to the protection of individual choice-making as non-trumpable. I will examine three different attempts to articulate the objection. Although Mill does potentially have responses to these articulations, I shall argue that such responses are unsatisfying. I then argue that the tension between competence and participation is really indicative of the deeper tension between utility maximization and the protection of individual choice-making as non-trumpable. I conclude that the key to resolving the tension between competence and participation lies in first resolving the deeper tension.

1. Competence and Participation Explained

The actual machinery that Mill envisions for representative democracy consists of two main parts: the proportional voting scheme and the much-maligned plural voting scheme. The proportional voting scheme is a system that gives voters a single vote which, in the event that one's first choice for office is either elected by a considerable majority or is unelectable, can be transferred to one's second or third choice. In this manner, the system is supposed to insure that every voter has at least one person who truly represents that voter's opinions. The plural voting scheme, on the other hand, allots multiple votes to the educated élite while limiting the uneducated to one vote each. Mill designed the plural voting scheme to insure that the competent minority retains a voice in the legislature.

While many contemporary critics accept the proportional voting scheme as plausible, nearly all critics find the plural voting scheme reprehensible.¹ The intuition is that proportional voting encourages greater participation, a noble idea for participatory democrats, while plural voting embodies élitism. In this section, I will argue that the two voting schemes which Mill endorsed were motivated by his deep commitment to the principles of competence and participation. Dennis Thompson defines these principles as they appear in Mill.² Thompson claims that

¹ For examples of contemporary philosophers with favorable views of proportional voting, see Jonathan Riley, "Utilitarian Ethics and Democratic Government," The Utilitarian Response, Ed. Lincoln Allison, (London: Sage Publications, 1990) and, to a lesser extent, Dennis Thompson, John Stuart Mill and Representative Government, (Princeton: Princeton UP, 1976). For examples of those opposed to plural voting, see Thompson; Wendy Donner, The Liberal Self (Ithaca: Cornell UP, 1991) and Alan Ryan, J. S. Mill (London: Routledge & Kegan Paul, 1974).

² Thompson's claim is that these two principles are general restatements of Mill's two criteria for good government. These criteria, Thompson claims, are the protective criterion and the educative criterion. The protective criterion is satisfied when government institutions protect the interests of its citizens. The educative criterion is satisfied when the government becomes an "agency of national education." See Thompson, p. 9.

the principle of participation “requires that the participation of each citizen be as great as possible to promote both the protective and the educative goals of government.”³ The principle of competence, on the other hand, “stipulates that the influence of the more qualified citizens should be as great as possible to promote both the protective and the educative goals.”⁴

Thompson organizes his entire interpretation of Mill around the principles of competence and participation, claiming that these principles are the centerpieces to Mill’s views in *Representative Government*.⁵ Thompson shows that the principles of competence and participation are expressed as Mill’s answers to what Mill distinguishes as the positive and negative defects of government. He maintains that negative defects are the result of a government that ignores the talents of its citizens. The principle of participation is designed to remedy negative defects by insuring that everyone is involved in government. The positive defects of government, on the other hand, result from a lack of mental capability in the controlling body. The principle of competence introduces mechanisms that ensure that the mental level of the controlling body is sufficiently high.

Mill argues that the central negative defect is caused by “not bringing into sufficient exercise the individual faculties, moral, intellectual, and active, of the people.”⁶ The key to remedying this defect is, of course, participation. Mill’s notion of participation is not limited simply to voting; indeed he offers a rich notion of participation. As he argues, the means of curing negative defects is

on the one hand, by excluding fewest from the suffrage; on the other, by opening to all classes of private citizens, so far as is consistent with other equally important objects, the widest participation in the details of judicial and administrative business; as by jury-trial, admission to municipal offices, and, above all, by the utmost possible publicity and liberty of discussion, whereby not merely a few individuals in succession, but the whole public, are made, to a certain extent, participants in the government, and sharers in the instruction and mental exercise derived from it.⁷

Earlier, when discussing the ideally best form of government, Mill makes similar claims. At the end of the chapter, Mill concludes that

the only government which can fully satisfy all the exigencies of the social state is one in which the whole people participate; that any participation, even in the smallest public function, is useful; that the participation should every where be as great as the general degree of improvement of the community will allow; and that nothing less can

³ Thompson, p. 9

⁴ *ibid.*, p. 10

⁵ I have drawn much of this section from Thompson’s work.

⁶ J. S. Mill. Considerations on Representative Government. (Buffalo: Prometheus Books, 1991), p. 121 (Hereafter cited as *CRG*).

⁷ *ibid.*, p. 122

ultimately be desirable than the admission of all to a share in the sovereign power of the state.⁸

Mill's argument here is that governments can avoid the danger of ignoring the talents of its citizens by encouraging them to become active. This activity can take many forms, and any of these forms of activity, no matter how small, is ultimately helpful for avoiding the negative defects of government.

The value which Mill places on competence is also evident in his discussion of the infirmities of government. He argues that one of the positive evils of representative government is that it leads to "general ignorance and incapacity, or, to speak more moderately, insufficient mental qualifications in the controlling body."⁹ Mill compares representative democracies to government by bureaucracies and finds that a bureaucracy has a number of advantages in that it accumulates experience, acquires well-tryed and well-considered traditional maxims, and makes provision for the appropriate practical knowledge in those who have the actual conduct of affairs.¹⁰

Nothing about representative democracy, considered in itself, guarantees such provisions. On the other hand, though, a bureaucracy suffers since it tends to become routine and through this routine, it

loses its vital principle, and, having no longer a mind acting within it, [it] goes on revolving mechanically, though the work it is intended to do remains undone.¹¹

Since neither bureaucracy nor representative democracy is ideal, Mill claims that the best solution is to combine the best traits of democracy with the best qualities of bureaucracy. Mill's own solution is to constrain the will of the majority with the more enlightened reasoning of the competent. In the following sections, I shall explore this relationship between competence and participation as cashed out in the plural and proportional voting schemes.

Plural Voting

I will begin with the simpler and more controversial of the two schemes: plural voting. Under this system, educated citizens will receive more votes than uneducated citizens. Mill proposes that votes could be allotted based on a person's employment or education so that bankers, foremen, entrepreneurs and merchants receive more votes than common laborers. Additionally, Mill proposes that the better-educated citizens (e.g., those who are university graduates) should receive more votes than uneducated citizens. Mill then argues that

Subject to some such condition[s], two or more votes might be allowed to every person who exercises any of these superior functions.¹²

In other words, Mill wants to grant to those who display "individual mental superiority" a more heavily weighted voice in government.¹³

⁸ *ibid.*, p. 80

⁹ *ibid.*, p. 122

¹⁰ *ibid.*, p. 127

¹¹ *ibid.*, p. 127

¹² *ibid.*, p. 183.

¹³ *ibid.*, p. 182

Contemporary philosophers tend to give a scathing rejection of the plural voting scheme based upon the élitism of the competence principle. From our modern perspective under which every person over the age of eighteen is enfranchised, such scathing rejections are more than fair. But it is important to remember that this rejection is an *external* criticism of Mill's project. Since this project is designed to demonstrate the *internal* consistency of Mill's thought, we must concentrate on Mill's own position on this issue rather than simply rejecting him because he offends our egalitarian sensibilities.

It is crucial to remember that Mill was not writing from our perspective. Indeed, in the mid-nineteenth century, only propertied white males were permitted to vote. But in order to have some votes weighted, it is necessary that they be weighted with respect to others' votes. Mill provides these others by proposing that everyone, including women and the laboring class, be enfranchised.¹⁴ Thus the weighting of votes is only intelligible when understood as part of a system to enfranchise everyone. Given Mill's historical situation, it is impossible to claim that Mill was merely being an élitist in proposing the plural voting scheme, since plural voting cannot exist apart from universal suffrage.

The main point here is that when we discuss plural voting, we must be aware that it is a plan for both universal enfranchisement as well as for a weighting of votes. Indeed, it is impossible to interpret the plural voting scheme as having only the élitist aspect of weighting votes. Without the further aspect of universal enfranchisement, the plural voting scheme is meaningless. It is through this aspect of universal enfranchisement that we see Mill's commitment to participation in the plural voting scheme.

Mill gives two arguments for extending the suffrage to everyone. The first of these arguments stems from Mill's concern to cultivate all citizens. Mill argues that giving people a voice in government stimulates their intellects and encourages them to enter into a type of discussion with which they would otherwise never engage. Mill argues that

It is by political discussion that the manual laborer, whose employment is a routine, and whose way of life brings him in contact with no variety of impressions, circumstances, or ideas, is taught that remote causes, and events which take place far off, have a most sensible effect even on his personal interests; and it is from political discussion and collective political action that one whose daily occupations concentrate his interests in a small circle round himself, learns to feel for and with his fellow-citizens, and becomes consciously a member of a great community.¹⁵

¹⁴ One important class of exceptions to universal enfranchisement is the illiterate. Mill argues that those who cannot read, write or perform basic arithmetic should not be permitted to vote. His argument is that since the illiterate are not equipped to pursue even their own interests intelligently, they should not be entrusted with power over the whole community. See *CRG*, pp. 174-5

¹⁵ *CRG*, p. 172

Mill maintains here that exposure to the political process will benefit the laboring class by giving them incentive to engage their mental faculties and to become “both a patriot and a person of cultivated intelligence.”¹⁶

Mill’s second argument is a relatively standard utilitarian argument for democracy. He argues that people who have a voice in government are better able to protect their own interests than those who have no voice. He maintains that

Rulers and ruling classes are under a necessity of considering the interests and wishes of those who have the suffrage; but of those who are excluded, it is in their option whether they will do so or not; and, however honestly disposed, they are, in general, too fully occupied with things which they must attend to to have much room in their thoughts for any thing which they can with impunity disregard.¹⁷

That is, a government which has to be accountable to everyone, will be less likely to ignore or exploit anyone.

Mill’s argument for enfranchising women initially appears to be motivated by a slightly different reason. He considers biological sex

[T]o be as entirely irrelevant to political rights as difference in height, or in the color of the hair. All human beings have the same interest in good government; the welfare of all is alike affected by it, and they have equal need of a voice in it to secure their share of its benefits.¹⁸

In this passage Mill’s argument seems to be motivated by equality rather than by utilitarian considerations. I think, however, that such a reading is too simple. Certainly Mill claims that biological sex is not a sufficient reason for failing to treat people equally. But such equality itself does not give women the right to vote. Instead, Mill’s argument for equality simply implies that women should be allowed to vote for the same reasons as men are permitted to vote. That is, Mill’s claim is that since women are essentially the same as men, any argument which would enfranchise a man of a certain class would also enfranchise a woman of that same class.

When understood as being inextricably linked to participation, the competence aspect of the plural voting scheme is much more vivid. Mill’s concern is that once universal suffrage is granted,

absolute power...would rest with the numerical majority, and these would be composed exclusively of a single class, alike in biases, prepossessions, and general modes of thinking, and a class, to say no more, not the most highly cultivated.¹⁹

Again, in a slightly later passage, Mill worries that the great majority of voters in most countries, and emphatically in this, would be manual laborers, and the twofold danger, that of too low a

¹⁶ *ibid.*, p. 171

¹⁷ *ibid.*, pp. 173-4

¹⁸ *ibid.*, p. 191

¹⁹ *ibid.*, p. 169

standard of political intelligence, and that of class legislation, would still exist in a very perilous degree.²⁰

Mill is worried that the laboring class, being both the most numerous and the least educated, would hold the reins of power and would concentrate exclusively on class interest to the detriment of society as a whole. His goal, consequently, is to “prevent this abuse without sacrificing the characteristic advantages of popular government.”²¹

Mill’s answer to this problem is the plural voting scheme. He argues that giving more votes to the intelligent is perfectly consistent with universal suffrage. Mill asks rhetorically whether in the case of a business partnership between two people justice would require that each person’s opinion be weighted equally if it is also the case that one of the partners excels the other in knowledge and virtue. Mill thinks it is only natural that the partner whose knowledge and virtue are superior should be accorded more weight in the decision-making process. While Mill is careful to point out that if the decision involves only one person, then that person is entitled to his or her own opinion, he steadfastly maintains that in cases where the interests of many people are involved, those of superior intellect must be given more weight.²²

In fact, Mill argues that even those whose opinions are weighted against will feel the force of this argument. Mill argues that

No one but a fool, and only a fool of a peculiar description, feels offended by the acknowledgment that there are others whose opinion, and even whose wish, is entitled to a greater amount of consideration than his.²³

He then goes on to claim that

To have no voice in what are partly his own concerns is a thing which nobody willingly submits to; but when what is partly his concern is also partly another’s, and he feels the other to understand the subject better than himself, that the other’s opinion should be counted for more than his own accords with his expectations, and with the course of things which in all other affairs of life his is accustomed to acquiesce in.²⁴

²⁰ *ibid.*, p. 179

²¹ *ibid.*, p. 170

²² One might worry that Mill’s example here is not exactly analogous to plural voting. In the example of the business partners, one partner presumably knows that his intelligence is not as great as the other partner’s and thus agrees to allow his partner’s opinion to have greater weight. In plural voting, the masses do not get to make such a decision. That is, there is not a vote in which the masses decide to limit their vote. There are, I think, two problems with this objection. First, it is paradoxical to require that people make fully informed decisions about their inability to make fully informed decisions. That is, anyone who is truly able to recognize the benefits of limiting the amount of influence that the uneducated can have will not have his or her voice limited. Thus, if the masses came to this realization, then they would not have to vote to limit their influence. Second, I think that Mill does respond to this objection. In the paragraphs that follow, I present what I think to be Mill’s response.

²³ *CRG*, p. 181

²⁴ *ibid.*, p. 181

Mill thinks that it is only rational for both the educated classes and the laboring class to accept the plural voting scheme. Indeed, Mill feels that the acquiescence of the members of the laboring class will be no different than a case in which, for example, a laborer who knows little about financial planning entrusts his money to a banker.

Thus, for Mill, the plural voting scheme is designed to ensure that the educated few are able to counteract the political inexperience of the laboring class and to assuage the fears of the educated that the laboring class would ignore the general welfare of society in favor of only class legislation. However, Mill's commitment to competence as expressed in his plan to weight some votes can only be understood against the backdrop of participation in the form of universal suffrage.

Proportional Voting

As in the plural voting scheme, the role of the principle of competence in the proportional voting scheme is much more obvious in Mill's text. But also like the plural voting scheme, participation plays a very crucial role in proportional voting. Proportional voting is now called the single-transferable vote. On this system, a voter writes on his ballots, in order of preference, the names of the candidates he wishes to elect. Candidates are elected by receiving a certain quota of votes, the quota being determined by dividing the number of ballots by the number of seats to be filled. In the event that a voter's first choice either receives the required quota or is not elected, then that person's second choice is considered. This process continues until all the seats have been filled.²⁵

Mill argues for proportional voting using arguments from both competence and participation. Mill deals most explicitly with arguments from competence, maintaining that this system allows the minority of educated citizens to have an enormous impact on the legislative process.²⁶ Mill claims

The minority of instructed minds scattered through the local constituencies would unite to return a number, proportioned to their own numbers, of the very ablest men the country contains.²⁷

He then goes on to argue that the presence of these educated few would act as a moral constraint on the majority. He thinks that these representatives of the élite would in fact act as such a constraint because

The representatives of the majority...would no longer have the whole field to themselves. They would indeed outnumber the others, as much as the one class of electors outnumbers the other in the country: they could always outvote them, but they would speak and vote in their presence, and subject to their criticism. When any difference arose, they would have to meet the arguments of the instructed few by reasons, at least apparently, as cogent.²⁸

²⁵ For a more detailed description of Mill's proposal, see Thompson. Jonathan Riley also offers a very nice discussion of a contemporary model of the single-transferable vote.

²⁶ Donner, for instance, criticizes Mill for spending so much time advocating the competence aspect of the proportional voting scheme.

²⁷ *CRG*, pp. 160-161

²⁸ *ibid.*, p. 161

This process has the result that since they [the majority] could not, as those do who are speaking to persons already unanimous, simply assume that they are in the right, it would occasionally happen to them to become convinced that they were in the wrong.²⁹

Thus Mill concludes that

The instructed minority would, in the actual voting, count only for their numbers, but as a moral power they would count for much more, in virtue of their knowledge, and of the influence it would give them over the rest.³⁰

Mill argues that the educated minority will be able to guide the uneducated majority and, in the process, raise the entire discussion to a much more enlightened level.

As was the case with the plural voting scheme, the competence aspect of proportional voting seems clearer to contemporary philosophers, while the participation aspect is somewhat more subtle. Thompson, however, lays out several ways in which the proportional voting scheme is designed to encourage participation.³¹ In the following paragraphs, I shall discuss two of Thompson's claims and supplement them with textual support from Mill.

Thompson argues that the first way that proportional voting supports the principle of participation is by better protecting interests. As I discussed in the preceding section, one of Mill's arguments for universal suffrage is that representatives will then be accountable to all their constituents. Given this accountability, Mill argues that representatives will be unlikely to exploit any segment of the population. In a single-member district, straight majoritarian system, however, many members of society are effectively disenfranchised.³² Since those people who happen to be in the minority are deprived of a voice in government, there would be the possibility that the legislative body could exploit these citizens.

Proportional voting, however, has no such infirmity, for it allows all minorities to be represented. As Mill argues it [proportional voting] secures a representation, in proportion to numbers, of every division of the electoral body: not two great parties alone, with perhaps a few large sectional minorities in particular places, but every minority in the whole nation, consisting of a sufficiently large number to be, on principles of equal justice, entitled to a representative.³³

²⁹ *ibid.*, p. 161

³⁰ *ibid.*, p. 165

³¹ Thompson, pp. 104-106.

³² This just is Mill's worry about the tyranny of the majority.

³³ *CRG*, p. 156 Although it appears that the last bit of Mill's claim would (or at least could in principle) exclude some people from representation (i.e., those minorities that were simply too small to return even a single MP), I think that this proviso is necessary to prevent a slippery slope from representative democracy back to pure democracy. That is, if the size of minorities to be represented is not limited, then ultimately each individual could be said to be his or her own minority. Thus, for representative government to function, there must be a limit on how specifically interests can be

Thus, proportional voting allows every person to be represented. Of course, for Mill the desire for participation is grounded in his concern that everyone be represented and hence protected. Since proportional voting allows for more accurate representation of everyone, it follows that proportional voting furthers Mill's principle of participation.

The second way in which proportional voting supports the principle of participation is by making the act of participation more meaningful. Since each person would have voted for at least one member of Parliament, Mill maintains that members of Parliament will have a closer tie to their constituents.³⁴ Mill argues

Under this relation, the tie between the elector and the representative would be of a strength and a value of which at present we have no experience. Every one of the electors would be personally identified with his representative, and the representative with his constituents. Every elector who voted for him would have done so either because he is the person, in the whole list of candidates for Parliament, who best expresses the voter's own opinions, or because he is the one of those whose abilities and character the voter most respects, and whom he most willingly trusts to think for him.³⁵

Thus, since the proportional voting scheme allows every voter to feel represented, it gives meaning to the entire representative process. While this meaningfulness is not in itself participation, the attachment between voter and representative in a way underlies participation. A voter who has not directly contributed to the election of anyone in the legislature is effectively cut off from participation, for the differences between casting a useless vote and not voting at all are marginal. Thus, by implementing a system in which each voter can feel that his or her interests are being represented, Mill can avoid the sense of alienation that voters feel as a result of having their interests systematically unrepresented by the legislature.

2. The Objection

Mill's claims about competence and participation do not fully accord with our twentieth-century intuitions about democracy. Indeed, many critics find the principle of competence to be reprehensible.³⁶ In fact, they argue, the principle of competence is inconsistent with the individuality Mill espouses in *On Liberty*. In that work, Mill seems to argue that individual choice-making is a non-trumpable value. But if individual choice-making is really non-trumpable, then Mill could not consistently restrict individual choice-making on the basis of competence. That is, if individual choice-making cannot be overridden by *any* other considerations, then it follows that it cannot be overridden by competence. In what follows, I shall

defined. Thus while in principle some groups could be excluded, I think that Mill might argue that in practice there will not be any groups that are so small and have such specific interests that they cannot reasonably combine with other groups to return at least one MP.

³⁴ *CRG*, p. 156

³⁵ *ibid.*, pp. 156-7

³⁶ See for example Richard J. Arneson, "Democracy and Liberty in Mill's Theory of Government." *Journal of the History of Philosophy* 20 (Jan 82) and also Wendy Donner, *The Liberal Self* (Ithaca: Cornell UP, 1991), esp. pp. 198-208

first show that Mill does seem to advocate individual choice-making and then I will offer three different attempts to articulate the liberal objection.

That Mill does in fact argue that individual choice-making is valuable in *On Liberty* is relatively uncontroversial. The question at stake here is how much value Mill places upon choice; that is, it is an open question whether or not Mill regards choice to be a non-trumpable value or an instrumental value. For instance, James Bogen and Daniel Farrell argue that for Mill

liberty is not only said to be valuable as a means to something else which is valuable in and of itself but also to be valuable as an end in itself, independently of what in fact it does or does not lead to. In other words, on this line of thought...Mill seems to be saying that there is something intrinsically desirable about individual liberty.³⁷

Others, such as Mark Strasser, maintain that

Mill protects liberty and individuality because doing so is utility-maximizing for mankind. It would be a mistake to maintain that, because he offers a utilitarian account of why liberty must be protected, he was not a champion of liberty.³⁸

So while there is debate about exactly what value Mill does place upon individual choice-making, there is a general consensus about the answer to this question that can be found among the most vehement objectors to competence. Generally those who object to the principle of competence also argue that individual choice-making is, for Mill, a non-trumpable value that is grounded in a very weak conception of utilitarianism. Thus, in order to present the objections of this group in the strongest possible light, I will for the moment simply concede their interpretation of the value of individual choice-making for Mill.³⁹

The third chapter of *On Liberty* is typically regarded as the place in which Mill lays out his conception of individual choice. In many of these passages Mill does sound like he regards choice as intrinsically valuable and non-trumpable. In introducing the subject of individual choice, for example, Mill argues that one of the great evils of society is

that individual spontaneity is hardly recognized by the common modes of thinking, as having any intrinsic worth, or deserving any regard on its own account.⁴⁰

A few pages later, Mill argues that

If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is the best in itself, but because it is his own mode.⁴¹

³⁷ James Bogen and Daniel M. Farrell. "Freedom and Happiness in Mill's Defence of Liberty." *The Philosophical Quarterly* 28 (Oct. 78): 328

³⁸ Mark Strasser. "Mill and the Utility of Liberty." *The Philosophical Quarterly* 34 (Jan 1984): 65

³⁹ Although I do not discuss this debate in full here, conceding it for the moment to those who argue that Mill regards choice-making as non-trumpable, I do address the exact relationship between utility and choice-making in Mill in chapters 2 and 3. Thus I shall return to this question later.

⁴⁰ J. S. Mill. *On Liberty. On Liberty and Other Writings*. Ed. Stefan Collini. Cambridge: Cambridge UP, 1989), p. 57

⁴¹ *ibid.*, p. 67

In these two passages, Mill appears to be arguing that individual choice is intrinsically valuable. That is, for Mill choice is valuable not because it leads to some other good, but rather it is valuable just because it is chosen.

Mill then goes on to argue that neither society nor other individuals can interfere with individual choice-making except in very limited circumstances. Specifically, Mill argues that there are only two duties which society can impose upon individuals.⁴² First, individuals must not injure one another, and second, each person must bear a fair share of the labor involved in defending either the society or its individual members from harm.⁴³ But this is the limit of the constraints that can be placed upon individuals. As Mill argues

But neither one person, nor any number of persons is warranted in saying to another human creature of ripe years, that he shall not do with his life for his own benefit what he chooses to do with it.⁴⁴

Thus, not only is choice intrinsically valuable, but, except in cases of preventing harm to others, choice is also non-trumpable.

Insofar as Mill seems to regard choice-making as an intrinsic, non-trumpable value, critics argue that Mill cannot be consistent in holding this value along with the principle of competence. These critics argue that the principle of competence effectively constrains the choices of the majority of voters. This constraint is indirect, for the effect of the principle of competence is not to deny the unenlightened majority the ability to choose. Instead competence limits the amount of influence that such choices can have. Thus while the principle of competence does not actually limit choice-making, it does at least appear to be in tension with free choice. In the following sections, I will discuss some attempts to articulate exactly where this tension lies.

Arneson's First Articulation

Richard Arneson has argued that the principle of competence is paternalistic and hence it conflicts with the anti-paternalism of *On Liberty*.⁴⁵ Specifically, Arneson maintains that

My claim is simply that the limitations on majority rule that Mill favors in *Representative Government* are paternalistic in intent and directly at odds with the doctrine of *On Liberty*.⁴⁶

⁴² Mill in fact argues later that society can also impose the duty of keeping promises. I am not convinced that this third requirement to be imposed is really any different from the first one. That is, it is not all promise-keeping that Mill means to protect but rather he wants to protect the type of promise-keeping which would lead to the establishment of reasonable expectations, the absence of which would harm an individual. That is, Mill would favor sanctioning breaches of promise in business matters where he would not wish to sanction, say, the breaking of a dinner engagement. As such I think it is the harm caused by breaking promises that interests Mill, not the very act of promise keeping; consequently, I think that the interesting aspects of promise-keeping can be captured under the duty of non-injury.

⁴³ *ibid.*, p. 75

⁴⁴ *ibid.*, p. 76

⁴⁵ See, for example, the passage just cited.

⁴⁶ Richard J. Arneson. "Democracy and Liberty in Mill's Theory of Government." *Journal of the History of Philosophy* 20 (Jan 82): p. 46

Arneson attacks five different mechanisms which Mill espouses in *Representative Government*: the long terms of office for members of parliament, the limiting of legislative activity to debating policy and voting on legislation, the establishment of a codification committee to draft legislation, the restriction of the legislature from administering the law, and the plural voting system. As discussed in the preceding section, the real objection to these mechanisms, however, lies in their purpose, for in each case that Arneson cites, Mill is motivated by the principle of competence. Thus we can examine Arneson's objection as being directed against the principle of competence.

Arneson argues that Mill's goal in establishing mechanisms that ensure the principle of competence is to make it a constitutional requirement (or at least a practical necessity) that majorities must "defer to the opinions of experts."⁴⁷ Arneson worries that this goal might be paternalistic. This worry stems from Arneson's reading of a passage in *Representative Government* in which Mill claims that

There is no difficulty in showing that the ideally best form of government is that in which the sovereignty, or supreme controlling power in the last resort, is vested in the entire aggregate of the community; every citizen not only having a voice in the exercise of that ultimate sovereignty; but being, at least occasionally, called on to take an actual part in the government, by the personal discharge of some public function, local or general.⁴⁸

In particular, Arneson objects to Mill's phrase "in the last resort." Arneson thinks that when Mill restricts controlling power to "the last resort," he leaves open the possibility that coercion can take place somewhere between the beginning of the process and "the last resort." This coercion could then bias the consent that is given in the last resort. In other words, Arneson's worry is that Mill's account leaves open the possibility of coercion. Arneson objects that

Consent of this sort avowed at a later time does not in itself legitimate coercion at an earlier time, for the coercion may have had an effect in producing the consent.⁴⁹

To put the point another way, Arneson objects that Mill's criteria for supreme controlling power is just that the decision must ultimately be made by everyone. That is, the sufficient condition for the legitimacy of a political decision is that the members of the community recognize the decision as their own. Arneson's worry is that although the final decision may have been the community's own, it is possible that members of the community may have been coerced earlier and that this coercion then affected their decision.

For instance, suppose a community unanimously decides to legalize prostitution. The community votes on the issue and subsequently recognizes that the decision truly represented their feelings on the subject. Additionally, not a single member of the community was coerced into voting for the proposal. But

⁴⁷ *ibid.*, p. 46

⁴⁸ *CRG.*, p. 64

⁴⁹ Arneson, p. 47

now imagine that several years earlier a few members of this same community, without the approval of the rest of community, had distributed pro-prostitution literature in all of the public buildings in the community. Over the years, the people in the community became accustomed to the idea that prostitution is acceptable. Thus when the issue was voted upon, everyone decided to legalize prostitution. In this case, even though the decision to legalize prostitution was not forced upon the community, previous acts of coercion directly affected the decisions of every member of the community. That is, the slick advertising campaign instituted by a few pro-prostitution citizens may have interfered with the ability of the citizens of the community to choose freely. Arneson objects that Mill's account leaves open the possibility that such a scenario could take place.

This objection by itself is potential weakness of Mill's system of government; however, it is not sufficient to establish that Mill's system involves paternalism. Paternalism is commonly understood to involve the coercion of an individual for his or her own good. Arneson has established only that Mill leaves open the possibility of coercion, he has not yet shown that Mill advocates coercion for one's own good.

In trying to establish that Mill is actually advocating paternalism, Arneson attacks the educative aspect of the principle of competence. One of the central aspects of the principle of competence is that the competent can help to educate and improve the rest of the population. For example, Mill holds that one of the chief benefits of the proportional voting scheme is that it will allow the educated (and hence competent) to elect some members to parliament. These members can then raise the level of debate in parliament by forcing the representatives of the uncultivated majority to engage in logical argument. This benefit will, in turn, filter down to the masses. Arneson objects to this process. He argues that Mill's plan for educating the majority is really closer to indoctrination than it is to education. Consequently, Arneson concludes that "a main source of the paternalistic doctrines in Mill's theory of government is his adoption of the educative criterion of good government."⁵⁰

It is clear that Mill does hold that one of the most important functions of government is the education of its citizens. Indeed, Mill claims that

The first element of good government, therefore, being the virtue and intelligence of the human beings composing the community, the most important point of excellence which any government can possess is to promote the virtue and intelligence of the people themselves.⁵¹

In this passage, Mill appears to make a distinction between promoting virtue and promoting intelligence. That is, since Mill lists virtue and intelligence separately, it seems safe to conclude that he thinks there is a difference between mental and moral education. Arneson notes this distinction, conceding that government may be responsible for providing mental education while questioning why government ought to provide moral education.⁵²

⁵⁰ *ibid.*, p. 55

⁵¹ *CRG*, p. 89

⁵² Arneson, p. 48

Unfortunately, Arneson himself does not complete the argument here, for he fails to link explicitly Mill's desire to provide moral education with Arneson's own claim that such a desire is paternalistic. But we can assume that Arneson's reasoning proceeded upon standard lines. Given that paternalism is just the coercion of a person for his own good, then forcing a *particular* moral standard upon a person is a paradigmatic case of paternalism. In other words, to be concerned about a person's moral standards is just to be concerned that person's own good. To coerce a person to accept some moral standard is, then, to force him to do something for his own good. Thus, when Mill advocates that the government provide moral education for its citizens, he is espousing the most blatant example of paternalism.

The obvious first response to Arneson's criticism is to point to Mill's distinction between self- and other-regarding actions. Armed with this distinction, one can argue that since only self-regarding actions are ones whose sole concern is one's own welfare, it is only in the case of self-regarding actions that paternalism is possible. For example, a law that outlaws eating bacon fat because doing so would be harmful to people is a paternalistic law since the eating of bacon fat is something that affects the welfare of only the individual.⁵³ Other-regarding actions, on the other hand, involve multiple people. Thus, if I limit a person's ability to perform an action that affects other people because of the effects of that action on the welfare of *all* the people who are involved (including the person performing the action), then that it is not clear that this would be a case of paternalism. Since voting is a quintessential other-regarding action, permitting coercion in this realm does not automatically imply paternalism.⁵⁴

Indeed, in cases where other-regarding action is restricted, such action is usually restricted for the good of everyone involved. Such is the case in Mill where certain constraints restrict the amount of influence that some voters have because of the potentially adverse affects that some patterns of voting can have on the population as a whole. To some extent, such coercion can affect a person's own good. That is, if the majority passes a law that will ultimately harm everyone, then coercing the majority will be beneficial to them. But the real reason Mill envisions

⁵³ I realize that there are those who would argue that because of considerations like hospital visits and public insurance like Medicare or Medicaid, eating bacon fat may actually be an other-regarding action. I do not propose to solve the problem of deciding what should count as self-regarding and what count as other-regarding actions. Indeed, my point does not require that I do so. Whatever we ultimately decide about the difficult cases, it is clear that voting is a prime example of an other-regarding action. This fact is all that I will need to make my point.

⁵⁴ Actually, voting may not be a completely clear case of other-regarding action. Arguably the decisions that a person reaches in deciding what he or she will vote for are just expressions of that person's self-interest. As such, these decisions would technically be self-regarding. Thus one could argue that the act of voting itself is simply an extension of self-interest. But, on the other hand, the act of voting does involve others since the result of voting is to restrict the activity of some people. Making distinctions between self- and other-regarding actions is very tricky and Mill is notoriously unhelpful for making such distinctions. It does seem clear, especially in chapter five of *On Liberty*, that Mill regards voting as an other-regarding action. As I am interested in interpreting Mill, it is sufficient for my purposes to interpret voting as an other-regarding action. Whether Mill is correct in making this assumption is a question that I shall not address here.

for restricting the amount of influence that the majority has is not to protect just the majority but to protect everyone in the society.

Arneson's Second Articulation

Arneson discusses this distinction between self- and other-regarding actions. While conceding that other-regarding actions may be subject to different considerations than self-regarding actions, Arneson rejects the possibility that the distinction affects his arguments about paternalism. He asks

But why is it any more legitimate to deprive me of liberty *for my own good* when my act affects others than when it does not? [emphasis Arneson's]⁵⁵

He continues

The fact that my behavior affects others may introduce good reasons to limit my freedom for their sakes, but it can hardly affect the legitimacy of paternalism one way or another.⁵⁶

The first part of Arneson's response simply restates the prohibition against paternalism. He argues that the motive for depriving a person of his freedom to choose can never be based upon that person's own good. Even if the action affects others, a person's own good cannot motivate coercion. Arneson argues that having one's freedom restricted for the sake of others does not affect the legitimacy of paternalism. He does, however, concede that if that person's choice does affect others, then the fact that it affects others may be sufficient reason to restrict that action.

Although he does concede that coercion might be legitimate in the realm of other-regarding actions, Arneson need not concede that Mill's claims about moral education fall under the other-regarding heading. Indeed, the distinction that Mill makes between virtue and intelligence seems very troubling for the claim that voting should be seen as an other-regarding activity. Arneson could object that while intelligence can be a factor in other-regarding actions, virtue is always a self-regarding characteristic. To put the same point another way, it is possible that due to a simple lack of intelligence, an agent can perform an action that jeopardizes others. Consider, for example, a large group of voters (maybe even a majority) which proposes legislation that limits the work week to 20 hours while setting a minimum yearly wage of \$15,000 without considering the impact of this system on such factors as competitiveness and incentive. We might be inclined to argue that the government has the right to coercively prevent this proposal on the ground that it would be harmful to everyone involved. We would then justify this coercion by arguing that those who proposed this system just lacked certain information in making their decision (i.e., they were ignorant of certain consequences.) In such a case we would argue that the government has a duty to educate voters about relevant economic considerations.

Moral education, however, is not like this example. When we question the moral worth of an agent, we are addressing a characteristic that is purely self-regarding, for a person's moral worth affects no one but himself. Indeed, even in

⁵⁵ Arneson, p. 56

⁵⁶ *ibid.*, p. 56

cases in which a person's immoral actions do affect others, we do not punish that person because she is immoral; we punish her because she has harmed another person. Consider, for example, a case in which Fred signs a contract with the owner of a mill. This contract calls for Fred to provide bread to the mill owner in exchange for the time the mill owner spends grinding wheat for Fred. Fred uses the mill and then fails to provide the mill owner with the bread. In such a case Fred has harmed the mill owner; consequently, society can legitimately coerce Fred to give up some bread. But imagine now that Fred has promised his friend the mill owner a ride to the movie theater, but then Fred fails to pick up his friend. We may think that Fred is morally wrong for not keeping his promise, but we do not feel justified in coercing Fred to make amends for his negligence.⁵⁷ In other words, while we feel justified in coercively correcting the *harm* inflicted by the other-regarding aspect of immoral actions, we do not feel justified in coercing people simply because their actions are immoral. Thus an action being immoral is at best a necessary but not really a sufficient condition for justifying the use of coercion.

If it really is the case that moral worth is only a self-regarding character trait, then my initial response is not sufficient to save Mill from the charge of paternalism. That is, pointing out the other-regarding aspect of voting cannot rescue Mill from the charge that promoting the virtue of others is paternalistic. In responding to this reformulated charge of paternalism, it will be helpful to explore the concept of paternalism more closely. C. L. Ten makes an important distinction between strong and weak paternalism. I think that this distinction will allow Mill to respond to Arneson's objection.

Ten begins his account by pointing out that there are two aspects of paternalism that need to be considered. He calls these aspects the consequence and the decision aspects. The decision-aspect

refers to the different ways in which an agent's decision to act in a particular manner is vitiated or impaired, or his consent to certain acts is not 'full and free'.⁵⁸

The consequence-aspect, on the other hand,

refers to the undesirable consequences of a person's act, as for example the fact that the act will harm him or produce other undesired effects.⁵⁹

In other words, the consequence-aspect of paternalism involves the negative consequences of a particular choice while the decision-aspect involves the agent's lack of information in making a particular choice.

⁵⁷ I realize that there is some sense in which the mill owner has been harmed in this second case as well. The example turns upon our intuition that only physical or serious economic harm is sufficient to warrant coercion. Further, we do not count all physical and economic harm as worthy of punishment. Suppose, for instance, that the mill owner had to spend money to take a taxi to the movies and then sprained his ankle while stepping from the taxi. Fred is indirectly responsible for both the loss of money and the injured ankle; however, we still do not coerce him to repay the mill owner. The question of what sorts of harms count as worthy of punishment is an interesting puzzle which deserves further attention. As it is not entirely relevant to the project at hand, I shall not pursue it further here.

⁵⁸ C. L. Ten. *Mill on Liberty*. (Oxford: Clarendon Press, 1980), p. 109

⁵⁹ *ibid.*, p. 109

Ten then argues that an act of strong paternalism is one that is motivated by only the consequence-aspect whereas an act of weak paternalism is motivated by both the decision- and the consequence-aspects.⁶⁰ For example, imagine that Jack is about to step onto a bridge. What Jack does not know, however, is that the bridge is faulty and will not likely support his weight. Josh, who is standing nearby, knows that the bridge is faulty and, seeing Jack about to step on the bridge, rushes over and tackles Jack. Josh's action would qualify as weakly paternalistic, for Jack lacked a crucial piece of information which would likely have affected his decision to step onto the bridge. If, on the other hand, Jack knew that the bridge was faulty and was attempting, perhaps on a dare, to cross the bridge anyway, then Josh's action would be strongly paternalistic. In other words, for Josh to interfere with Jack only because Josh thinks that the consequences of Jack's action will be harmful would be for Josh to perform an act of strong-paternalism. Ten's position is that Mill prohibits only strong paternalism while accepting weak paternalism as permissible.⁶¹

This distinction between strong and weak paternalism allows Mill to respond to Arneson's paternalism objection. Since Mill allows that weak paternalism is justified, we need only show that the paternalism Arneson points to is a case of weak paternalism. As Arneson is objecting to Mill's desire for government to promote the moral education of its citizens, our task is to show that Mill regards moral guidance to be a crucial part of the decision-aspect. That is, Mill needs to argue that without a certain amount of moral guidance, the uneducated majority will lack certain information that is crucial to the decision-making process. If Mill makes such an argument, then we have a legitimate case for arguing that the moral education Mill advocates is a form of weak paternalism.

I think that we can construct such an argument from various parts of *Representative Government* and *On Liberty*. This reconstructed argument has two steps. First, Mill claims that people tend to value only their own interests.⁶² Mill goes on to claim that when placed in positions of power, all people tend to prefer their selfish and their present interests. In *Representative Government*, he puts the point this way:

Now it is a universally observed fact that the two evil dispositions in question, the disposition to prefer a man's selfish interests to those which he shares with other people, and his immediate and direct interests to those which are indirect and remote, are characteristics most especially called forth and fostered by the possession of power. The moment a man, or a class of men, find themselves with power in their hands, the man's individual interest, or the class's separate interest, acquires an entirely new degree of importance in their eyes.⁶³

That is, according to Mill, anyone who has any sort of authority over others will tend to prefer his selfish and present interests over his unselfish and distant interests.

⁶⁰ *ibid.*, p. 110

⁶¹ *ibid.*, p. 110 See also Joel Feinberg, "Legal Paternalism," *Canadian Journal of Philosophy* 1 (1971)

⁶² *CRG*, p. 136

⁶³ *ibid.*, pp. 137-8

Second Mill argues that those people of greater cultivation and education are typically able to overcome these limitations. That is, certain members of the elite class have disciplined themselves to make decisions based upon long-term consequences for society rather than making short-sighted and selfish decisions. Furthermore, Mill argues that these cultivated people can help others overcome their selfish, short-sighted tendencies. In *On Liberty*, for example, Mill establishes that we both can and ought to help the less-enlightened overcome their short-sightedness. He argues that

I am the last person to undervalue the self-regarding virtues; they are only second in importance, if even second, to the social. *It is equally the business of education to cultivate both...* Human beings owe to each other help to distinguish the better from the worse, and encouragement to choose the former and avoid the latter. They should be for ever stimulating each other to increased exercise of their higher faculties, and increased direction of their feelings and aims towards wise instead of foolish, elevating instead of degrading, objects and contemplations.⁶⁴

Then in *Representative Government*, Mill argues that such cultivation occurs through political discussions. He claims that

It is by political discussion that the manual laborer, whose employment is a routine, and whose way of life brings him in contact with no variety of impressions, circumstances, or ideas, is taught that remote causes, and events which take place far off, have a most sensible effect even on his personal interests.⁶⁵

That is, Mill argues that political discussions assist people in taking a more long-sighted view of their own interests. Additionally, political discussion also helps people to look beyond their selfish interests.⁶⁶ Mill continues

[A]nd it is from political discussion and collective political action that one whose daily occupations concentrate his interests in a small circle round himself, learns to feel for and with his fellow-citizens, and becomes consciously a member of a great community.⁶⁷

But political discussion alone cannot accomplish this task. Mill maintains that without the proper guidance, political discussion degenerates into class legislation. But those who are more cultivated are able to raise the level of discussion from

⁶⁴ *On Liberty*, p. 76. Emphasis added.

⁶⁵ *CRG*, p. 172

⁶⁶ I do not wish to commit myself to defending Mill's empirical claim that the common laborer does not normally have a "variety of impressions, circumstances, or ideas," nor do I wish to defend his claim that these same people do not normally consider that remote causes can affect them personally. Whatever one makes of Mill's psychological claims here, I think that his real point remains true. Even if the common laborer does in fact experience the things that Mill claims he does not, it is still true that political discussion encourages such thinking. Thus, even if people can independently develop the faculties that political discussion fosters, participation in the political process will still give people an opportunity to exercise and hone those skills. Thus the benefits of participation remain even if Mill's psychological claims are false.

⁶⁷ *CRG*, p. 172

mere class interests to a more enlightened level. He argues that a person who is involved in government is

[C]alled upon, while so engaged, to weigh interests not his own; to be guided, in case of conflicting claims, by another rule than his private partialities; to apply at every turn, principles and maxims which have for their reason of existence the general good; and he usually finds associated with him in the same work minds more familiarized than his own with these ideas and operations, whose study it will be to supply reasons to his understanding, and stimulation to his feeling for the general good.⁶⁸

Mill thus concludes that the *élite* act as a force for moral guidance.⁶⁹

It seems that Mill is arguing that some form of moral guidance is necessary just to get the masses to the point where they can make prudent decisions (i.e., where they can consider their own distant interests). So if people need guidance simply to make *prudent* decisions, then surely they will also require guidance before they can perform the much harder task of making *utilitarian* decisions. To put the point another way, it should be much easier to decide what will be in one's own best interest than it will be to decide what is in the interest of everyone. But if people need guidance before they can perform even the relatively simple task of deciding what is in their own best interests, then they will almost certainly require guidance in deciding what will be in everyone's interest. Mill's response to Arneson, therefore, is that voters must receive a certain amount of moral guidance on how to consider interests other than their own short-sighted and selfish ones before they can properly consider the effects of their other-regarding actions. In other words, Mill argues that people must be taught to act as utilitarians before they can be entrusted with making decisions that affect others.

Recalling the earlier distinction between the decision- and the consequence-aspects of choice-making, we can see that Mill's argument is not based upon the consequence-aspect of the decisions. Mill is not arguing merely that the uneducated will make bad decisions and hence must be protected from themselves. Rather, Mill's claim is that those who lack this moral guidance lack a crucial piece of information. Specifically, those who lack moral guidance lack the knowledge of how to choose anything other than what is in their immediate self-interest.

This response to Arneson's objection is not entirely satisfying. While it does appear to turn Arneson's paternalism charge into a case of weak paternalism, it also creates a new worry as to what exactly could count as strong paternalism. That is, if the paradigmatic case of paternalism (*viz.*, coercing someone simply because he or she lacks a specific moral code) is a case of weak paternalism, then the line between strong and weak paternalism is blurred, perhaps fatally so. Indeed, it seems to be the case that enforcing specific moral codes is exactly the type of behavior that prohibitions on strong paternalism are supposed to preclude. If we then decide that enforcing a specific moral code is a case of weak paternalism, then we create a slippery slope on which it may be impossible to label anything as strong

⁶⁸ *ibid.*, p. 79

⁶⁹ See note 30 above

paternalism. We consequently lose a distinction that seems to be very relevant. Thus, despite the fact that Mill could justify the educative aspect of the competence principle as weak paternalism, there remain some lingering doubts as to whether he has really addressed the actual worry of his critics. Perhaps a third articulation of the objection will help us clarify exactly what the charge against Mill really is.

Rosen's Articulation

Frederick Rosen puts the paternalism worry in a slightly different way.⁷⁰ Rosen stresses the fact that the educative aspect of the principle of competence necessarily requires the existence of both students and teachers. In the context of *Representative Government*, the teachers are to be the educated élite while the students are the members of the working class. Rosen then argues that although the relationship between teachers and students is not necessarily a paternalistic one, it nevertheless can be paternalistic. He maintains that paternalism is especially likely to result when the students are mature adults. Even if the relationship is free from paternalism, however, there is still a tension, for any relationship between students and teachers is inherently unequal. That is, a student and a teacher in the political realm can hardly be said to be political equals.

Rosen then goes on to point out that the educative aspect of the principle of competence is in tension with the principle of participation. He argues

There is a tension in Mill between the emphasis on education and the emphasis on participation in so far as it concerns the capacity of the people to operate a representative democracy. The former can be paternalistic but the latter tends to be egalitarian.⁷¹

In other words, the principle of participation seems to imply that all people in the political realm are of equal value. In arguing for participation, Mill consistently indicates that each person best represents his or her own interests and that each person's interests should count equally. But in stressing the educative aspect of the competence principle, Mill implies that the opinions of the élite are more valuable than those of the masses and that consequently the élite have an obligation to instill in others the value of these more enlightened opinions.

Mill does not appear to have an easy response to this objection. I think that the lack of a ready response on Mill's behalf is due to the fact that Rosen's objection is indicative of a much deeper tension present in Mill's writings. In particular, Rosen's worry highlights tension between Mill's professed utilitarianism and his commitment to the non-trumpable value of individual choice-making. Mill's advocacy of the principle of competence in general, and its educative aspect in particular, stems from his commitment to utility. Indeed, as I showed earlier, Mill argues that the educative aspect is necessary because without it the majority of people will not be able to move past their own short-term selfish happiness to view the larger utilitarian picture. In other words, for Mill the competent are to some extent just those who have moved from egoism to utilitarianism, and their influence is necessary to assist the rest of society in making that same transition.

⁷⁰ Jeremy Rosen. *Jeremy Bentham and Representative Democracy*. (Oxford: Clarendon Press, 1983), pp. 187-189

⁷¹ *ibid.*, p. 188

The principle of participation, on the other hand, can be seen as stemming from Mill's commitment to the value of individual choice-making. If, as Mill claims at times, a particular decision is valuable insofar as it is chosen, then participation just follows from this commitment. That is, if value stems from the very process of making choices then it is clear that we should extend to everyone the widest possible range of choice-making opportunities. Since the political realm is an aspect of life which has a profound effect upon people's lives, surely the range of choice-making opportunities should extend to the political sphere.

The tension that Rosen points out can thus be seen as a tension between utility maximization and the protection of individual choice-making as a non-trumpable value. We can ask of Mill whether the value of representative democracy lies in its tendency to maximize utility or if instead it is valuable because it is an instance of individual choice-making. An answer of utility would lead to mechanisms which are designed to ensure that the decisions of the people do in fact maximize utility. An answer of individual choice-making would lead to mechanisms which ensure that choice is respected. Because Mill advocates both types of mechanisms, it is unclear what his answer to this question is. In any case, it appears that the tension between Mill's principles of competence and participation will have to be resolved by first analyzing the tension between his advocacy of utilitarianism and his desire to protect individual choice-making as non-trumpable. I shall turn my attention to several prominent attempts to answer precisely this question in chapter 2.

Chapter Two

Utility and Individual Choice-Making

Mill is regarded as a vigorous defender of strict protection of individual choice-making as a non-trumpable value. He is also regarded as a systematic utilitarian. But since his most vigorous defense of individual choice-making⁷² is found in *On Liberty* while his most systematic defense of utilitarianism is from *Utilitarianism*, a question has arisen about the compatibility of the two views in Mill's thought.

On the one hand Mill claims that the greatest happiness principle "is necessarily also the standard of morality, which may accordingly be defined 'the rules and precepts for human conduct'."⁷³ On the other hand, he also argues that when a person tries to benefit others he must first stop "to assure himself that in benefiting them he is not violating the rights, that is, the legitimate and authorized expectations of anyone."⁷⁴ For Mill, the legitimate expectation of every person is that he or she be allowed to perform any action provided that this action does not harm others.⁷⁵ The question then is how does one resolve Mill's claims that utility should be maximized and that individual choice-making should be protected as non-trumpable?⁷⁶

Many resolutions to this problem have been offered, and in this paper, I shall systematically explore the major alternatives. The major alternatives can be grouped into four categories: transitional thinker, rule utilitarian, axiological utilitarian, and indirect utilitarian.

I shall begin by discussing briefly the traditional interpretation of Mill which holds that Mill's attempt to reconcile the maximization of utility with the protection of individual choice-making as a non-trumpable value stems from his fundamental confusion about the real implications of both utilitarianism and individual choice-making. I shall argue that based upon Mill's criticisms of Bentham, Mill both understands what is at stake in utilitarianism and rejects Bentham's conception. Because Mill appears to reject Bentham's account, we should explore Mill's conception of utilitarianism before declaring him to be hopelessly confused.

I shall next consider the interpretation of Mill as a rule utilitarian. I shall argue that this interpretation of Mill is equally unpromising as a method for resolving the tension. In particular, the rule-utilitarian interpretation is inconsistent with Mill's views on utility in chapter VI of the *Logic*.

⁷² Throughout this chapter I shall be using the term "individual choice-making" in place of "autonomy," even in cases where the philosophers I am discussing opted for "autonomy." I make this substitution of terms in order to avoid the ambiguities present in the term autonomy.

⁷³ J.S. Mill. *Utilitarianism*. (Indianapolis: Hackett, 1979), p. 12.

⁷⁴ *ibid.*, p. 19

⁷⁵ See J.S. Mill. *On Liberty. On Liberty and Other Writings*. Ed. Stefan Collini. (Cambridge: Cambridge UP, 1989), p. 13.

⁷⁶ By a "non-trumpable" value I just mean a value that cannot be superseded by any other value. Thus to say that individual choice-making is non-trumpable is to say that individual choice-making can never be sacrificed in the name of another sort of value.

I shall next turn my attention to the revisionary interpretation of Mill which places a great weight upon Mill's idea of the Art of Life as outlined in the *Logic*.⁷⁷ According to this interpretation, the principle of utility is an axiological rather than merely a moral principle; that is, the principle of utility simply states what it is that is intrinsically valuable. The revisionary interpretation of Mill is a promising strategy for showing the unity of Mill's thought, for it adds to the mechanism of rule-utilitarianism a clearly Millian conception of life. I shall argue, however, that Mill's frequent references to systematic utilitarian considerations shows that he regards the principle of utility as a moral and not as an axiological principle.

Finally, I shall examine the indirect utilitarian interpretation of John Gray. Gray argues that since direct appeals to utility are impossible, a new principle is need from which to derive rules. Gray claims that the principle of individual choice-making should be this principle. I argue, however, that Gray's interpretation cannot be supported in Mill's writing.

1. Transitional Thinker

The traditional interpretation of Mill is that he is transitional between the utilitarianism that dominated the nineteenth century and the Kantian liberalism that developed in the twentieth. Members of the traditional school charge Mill with being confused about the implications of both utilitarianism and the protection of individual choice-making as non-trumpable. As John Gray points out, there are three traditional objections to Mill's competing claims about utility maximization and the protection of individual choice-making as a non-trumpable value.⁷⁸ These objections are the basis of the traditional school's claim that Mill is a transitional thinker. In this section, I shall therefore outline these three objections--which I will call the moral rights objection, the logical connection objection, and the different values objection. These objections, however, all assume a standard Benthamite utilitarianism. I shall argue that Mill rejected standard Benthamism and that these objections are thus made too quickly.

The moral rights objection is potentially the most damaging for the compatibility of maximizing utility with protecting individual choice-making as a non-trumpable value. Whereas the logical connection objection and the different values objection deal with compatibility of the principles of liberty and utility, the moral rights objection claims that the two principles are of radically different kinds. The principle of utility is, of course, concerned with maximizing happiness; therefore, utility is, by definition, an aggregative principle. In other words, utility must always deal with summation. The principle of liberty, on the other hand, "is a utility-barring principle of a specific kind, namely, one that assigns weighty moral claims to individuals."⁷⁹ In other words, the principle of liberty distributes a certain set of rights to individual people, making the principle of liberty an inherently distributive principle. The argument is that aggregative principles are not

⁷⁷ Again, the interpretations of Mill among the revisionary school are varied. I shall simply give the main points upon which most members of this school are agreed and then offer some different interpretations from within this school.

⁷⁸ John Gray. *Mill on Liberty: a defence*. (London: Routledge & Kegan Paul, 1983), pp. 1-9.

⁷⁹ *ibid.*, p. 7

concerned with any particular kind of distribution; any distribution that maximizes the thing to be aggregated is a just distribution. Distributive principles, on the other hand, are concerned with ensuring that the pattern of distribution be just (e.g., an equal distribution, a proportional distribution, an agreed-upon distribution, etc.). Thus the objection is that the two principles have fundamentally different concerns and at best would only coincidentally settle upon the same pattern of distribution.

A possible response to the moral rights problem can be found in chapter two of *Utilitarianism*. Here Mill is responding to charges that utilitarianism is too demanding as a moral theory. Mill claims that

The great majority of actions are intended not for the benefit of the world, but for that of individuals, of which the good of the world is made up; and the thoughts of the most virtuous man need not on these occasions travel beyond the particular persons concerned.⁸⁰

Mill seems to be arguing here that in general, questions about utility are not abstract questions about overall happiness; instead, utility normally involves making specific individuals happy. In other words, Mill seems to be concerned to distribute happiness over specific people. But the traditional school's conception of happiness as being aggregative requires the utilitarian to be concerned only with maximizing the total amount of happiness present in the world. This conception does not seem to be Mill's. If it does turn out to be the case that Mill's conception of utility is that in normal cases the proper action is the one that distributes benefits to the individuals closest to the agent, then this traditional objection to Mill's thought does not seem so devastating.

This response on Mill's behalf is somewhat weak. Even if Mill is concerned with distributing happiness, the distribution cannot be his central concern. Instead, he must first be concerned with maximizing (or aggregating) happiness. Only after happiness is maximized can Mill worry about the actual distribution of happiness. Perhaps a better way to approach the moral rights objection is to see that it really dissolves into either the logical connection problem or the different values problem. That is, the worry that utility cannot account for the rights that individual choice-making implies really reduces to a worry that either utility and individual choice-making are logically incompatible or they are practically incompatible.

Gray's second objection examines the logical connection between the Principles of utility and liberty; that is, objectors ask whether it is logically possible to accept simultaneously both the protection of individual choice-making as a non-trumpable value and the maximization of utility as supreme principles. The root of this objection lies in the fact that the two principles seem to imply mutually exclusive options--the principle of utility holds that utility ought to be maximized in every situation while the protection of individual choice-making as non-trumpable can and often does limit the pursuit of utility. But, as Gray rightly points out, "One whose sole goal is the bringing about of best consequences will not on this account wish to tie his hands as to the most efficacious strategies for attaining his end."⁸¹ That is, a utilitarian should not accept an absolute principle which will limit

⁸⁰ *Utilitarianism*, pp. 18-9.

⁸¹ *ibid.*, p. 2

his ability to maximize utility. But Mill in fact seems to accept the principle of liberty even though acceptance of that principle requires the agent to ignore the implications of the principle of utility in a great number of cases. Thus it seems that there is a logical inconsistency in advocating both liberty and utility as absolute principles.

Finally, Gray discusses the different values problem. This objection is somewhat similar to the second in that it likewise deals with the compatibility of the protection of individual choice-making as a non-trumpable value and maximizing utility. But while the second objection questions the logical possibility of holding on to both individual choice-making and utility as absolutes, this third objection questions the practical possibility of that position. The objection hinges on the fact that the protection of individual choice-making as a non-trumpable value requires the protection of freedom in all cases except where harm to others may occur while the maximization of utility promotes the greatest total happiness. Obviously freedom and happiness are different values and it seems absurd to expect that in all cases the greatest total happiness will be compatible with complete freedom. Thus, even if Mill can show that it is logically possible to hold both principles, he is then faced with having to show that conditions in the world can obtain such that adherence to both the principle of liberty and the principle of utility is an effective strategy for moral action.

Unlike the moral rights objection, Mill does not explicitly offer even a weak response to either the logical connection or the different values objection. It is important to note, however, that in order to reject Mill, traditional critics must show that (1) Mill does face either the logical connection problem or the different values problem, or both and (2) that Mill is unaware of these problems and should hence be rejected as confused. For Mill to be unaware of these tensions would imply that he does not fully understand either utilitarianism or individual choice-making properly. His criticisms of Bentham, however, indicate that Mill does in fact understand elements of the tension. Without examining Mill's conception of utilitarianism first, it is unfair to reject Mill as a transitional thinker.

In "Remarks on Bentham's Philosophy," Mill repeatedly criticizes Bentham's conception of human nature. Indeed, Mill maintains that Bentham simply failed to consider several very important factors of our nature. But "the great fault," which Mill finds in Bentham's philosophy is that

He has largely exemplified, and contributed very widely to diffuse, a tone of thinking, according to which any kind of action or any habit, which in its own specific consequences cannot be proved to be necessarily or probably productive of unhappiness to the agent himself or to others, is supposed to be fully justified; and any disapprobation or aversion entertained towards the individual by reason of it, is set down from that time forward as prejudice and superstition.⁸²

Mill goes on to add that

⁸² John Stuart Mill. "Remarks on Bentham's Philosophy." *The Collected Works of John Stuart Mill*. Vol. X. Ed. J.M. Robson. (Toronto: University of Toronto Press, 1969), p. 8

A theory, therefore, which considers little in an action besides that action's *own* consequences, will generally be sufficient to serve the purposes of a philosophy of legislation. Such a philosophy will be most apt to fail in the consideration of greater social questions--the theory of organic institutions and general forms of polity.⁸³

In both of these passages, Mill claims that Bentham simply calculates the pleasure and pain of each individual action and then decides, on a case-by-case basis, whether or not that action is permissible. This is the standard by which, on Bentham's account, matters of social policy are decided. Of course, for Mill, the issue of liberty is a matter of social policy.⁸⁴ Thus on Mill's interpretation of Bentham, Bentham could allow that a person's liberty be compromised if that action cannot be shown to be "productive of unhappiness." That is, Mill recognizes that on Bentham's account, liberty is to be protected only when doing so happens to maximize utility.

But Mill maintains that Bentham's policy is inappropriate for determining social questions such as the proper sphere of protection for liberty. In other words, a simple analysis of the pleasure and pain associated with a particular action cannot be by itself a sufficient guide for determining a social policy about when liberty ought to be protected. Indeed, Mill rejects Bentham's simple hedonistic act-based account of utilitarianism, at least for questions of social policy. Based upon these remarks, two things seem clear. First, Mill does appear to understand the manner in which Bentham's utilitarianism works, and second he rejects that account.

Since it does turn out to be the case that Mill understands and rejects the crude mechanisms of Benthamite utilitarianism while still maintaining that the principle of utility is his foundational principle, it seems premature to reject Mill as a transitional thinker without further evaluating his system. That is, if Mill does indeed fully appreciate what Bentham's account of utility maximization entails and subsequently rejects that account, then Mill's picture of utilitarianism must, in some way, be different from Bentham's. In other words, Mill seems to have some other picture of utilitarianism in mind. Until we explore *his* conception of utilitarianism, it seems premature to reject him as confused. Thus I shall explore other interpretations of Mill, while still keeping in mind the very serious objections raised by the traditional school of interpreters.

2. Rule-Utilitarian

Since Mill does hold that maximizing utility and protecting individual choice-making as a fundamental value are compatible, we will assume that Mill did envision some mechanism for reconciling the two values. The earliest interpretation of such a mechanism was that of rule-utilitarianism. J.O. Urmson was the first to provide this particular interpretation of Mill in his famous essay.⁸⁵ Accordingly, I shall explore this interpretation of Mill as a rule-utilitarian.

⁸³*ibid.*, p. 9

⁸⁴ In *On Liberty*, Mill says that he is discussing *social* liberty, and he repeatedly refers to the social conditions and constraints upon liberty. Thus it seems safe to conclude that Mill views the question of liberty as a social question.

⁸⁵ J.O. Urmson. "The Interpretation of the Moral Philosophy of J.S. Mill." *Philosophical Quarterly* 3 (1953), pp. 33-9. [Reprinted in *Mill: A Collection of Critical Essays*. Ed. J.B. Schneewind. (Garden City: Doubleday & Co., Inc., 1968.)] All citations in this paper are from Schneewind.

The crux of Urmson's interpretation lies in his four major characteristics of Mill's rule-utilitarianism, of which two are important for our present purposes. Urmson claims that

- A. A particular action is justified as being right by showing that it is in accord with some moral rule. It is shown to be wrong by showing that it transgresses some moral rule.
- B. A moral rule is shown to be correct by showing that the recognition of that rule promotes the ultimate end.⁸⁶

Proposition B is not controversial for my purposes; indeed, any utilitarian will happily concede that *if* there are any moral rules, then they will have to be grounded in utility; therefore we shall not spend any time attempting to show textual support for Proposition B in Mill. Proposition A, on the other hand, is the heart of rule-utilitarianism, for the claim here is that actions are right only if they correspond to a utility-based moral rule. Urmson does offer some textual support for Proposition A.

Urmson points to Mill's distinctions between primary and secondary moral principles. The primary principle is, of course, utility. Secondary principles, or what Urmson terms "moral rules" are precepts such as "do not murder", or "do not lie."⁸⁷ In discussing the interaction between primary and secondary principles, Mill claims

But to consider the rules of morality as improvable is one thing; to pass over the intermediate generalizations entirely, and endeavour to test each individual action directly by the first principle, is another. It is a strange notion that the acknowledgment of a first principle is inconsistent with the admission of secondary ones.⁸⁸

Mill then goes on to add that

We must remember that only in these cases of conflict between secondary principles is it requisite that first principles should be appealed to. There is no case of moral obligation in which some secondary principle is not involved; and if only one, there can seldom be any real doubt which one it is in the mind of any person by whom the principle itself is recognized.⁸⁹

Urmson interprets these passages to mean that Mill does not view moral rules (secondary principles) as mere rules of thumb, but rather that Mill regards them as essential to moral reasoning. Thus "the relevance of a moral rule is the criterion of whether we are dealing with a case of right or wrong."⁹⁰ That is, only appeals to secondary rules are adequate for making determinations about right and wrong.

Urmson further builds his case by making use of Mill's distinction between actions which can be classified as wrong and those which simply fail to maximize utility. Mill claims in *Utilitarianism* that "We do not call anything wrong, unless we mean to imply that a person ought to be punished in some way or other for

⁸⁶ *ibid.*, p. 183

⁸⁷ *ibid.*, p. 183

⁸⁸ *Utilitarianism*, p. 24

⁸⁹ *ibid.*, p. 25

⁹⁰ Urmson, p. 184

doing it.”⁹¹ Since we intuitively consider punishment to be associated with the violation of specific rules, and since the only wrong actions, according to Mill, are punishable actions, Urmson naturally concludes that right and wrong derive their status from adherence to or violation of specific moral rules.

On Urmson’s interpretation of Mill, the protection of individual choice-making as non-trumpable becomes one such rule. Rules will be chosen by their tendency to maximize utility; therefore, on Urmson’s interpretation, we need only show that Mill holds that individual choice-making generally maximizes utility.

This is hardly a difficult task. In chapter three of *On Liberty*, Mill claims that
 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.⁹²

Clearly Mill seems to be justifying individual choice-making via systematic utilitarian considerations. Again later in chapter three, Mill argues

If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is the best in itself, but because it is his own mode.⁹³

Obviously Mill is referring here to individual choice-making. But he continues

A man cannot get a coat or a pair of boots to fit him, unless they are either made to measure, or he has a whole warehouseful to choose from: and is it easier to fit him with a life than with a coat, or are human beings more like one another in their whole physical and spiritual conformation than in the shape of their feet?⁹⁴

Mill here seems to be advocating individual choice-making because it is the best way to maximize the happiness of each individual. Thus it appears that Mill does in fact hold that the protection of individual choice-making does maximize utility.⁹⁵

In responding to Urmson’s interpretation Maurice Mandelbaum makes an important distinction regarding the relationship between moral rules and right and wrong. On the one hand, there is the claim (call it the rule-violation principle) that if a specific action violates a moral rule, then that action is wrong. This principle is much weaker than what I shall call the rule-justification principle which says that a

⁹¹ *Utilitarianism*, p. 47

⁹² *On Liberty*, p. 61

⁹³ *ibid.*, p. 67

⁹⁴ *ibid.*, pp. 67-8

⁹⁵ This move does not, of course, work quite so smoothly as Mill imagines. He faces the same difficulty recognized by all utilitarians, for he must find a way to move from egoism to utilitarianism. That is, Mill has arguments for showing why an agent should pursue his own happiness and he has arguments showing why an agent is the best judge of his own happiness. But there remains a gap between showing that an agent should pursue his own happiness to showing why he should pursue the happiness of others. I think that Mill makes the same jump in this passage that he makes on the egoism problem. This is a serious problem in Mill, and it merits further attention. I do not, however, intend to address this problem further here.

specific action is wrong *because* it violates a moral rule.⁹⁶ The rule-violation principle simply allows a disinterested observer to make an objective claim about the moral status of an action. The rule-justification principle, however, is a normative claim about *why* a particular action is called right or wrong. For Urmson's interpretation of Mill as a rule-utilitarian to obtain, he must show that Mill supports the rule-justification principle.

Mandelbaum then attacks Urmson on this distinction. He argues that Urmson has proven only that Mill relies upon the rule-violation principle. That is, for actions in which certain moral rules are broken, it does turn out to be the case that the actions are wrong. What Urmson does not establish is that Mill thinks that actions are wrong *because* they violate that rule. Mandelbaum draws support for his claim from Mill's refutation of moral intuitionism. In answering the question of why the lack of a recognized moral standard has not had more disastrous effects than it appears to have had, Mill claims that "whatever steadiness or consistency these moral beliefs have attained has been mainly due to the tacit influence of a standard not recognized."⁹⁷ From this statement, Mandelbaum concludes that despite the fact that in particular cases justification appears to be made via reference to a moral rule, we should bear in mind that, in Mandelbaum's words, "such a rule only carries conviction where, behind it, there is a tacit appeal to the standard without which the rule itself would lack justification."⁹⁸ In other words, the rules themselves do not provide the right- or wrong-making characteristics. Rather it is the principle of utility which proves to be the criterion of right and wrong, while rules simply function as a systematic method for making decisions quickly.

Mandelbaum supports his criticism of Urmson by appealing to the *Logic*. In the *Logic*, Mill distinguishes between the role of the judge and the legislator. He argues that the difference between the judge and the legislator lies in the fact that

To the judge, the rule, once positively ascertained, is final; but the legislator, or other practitioner, who goes by rules rather than by their reasons, like the old-fashioned German tacticians who were vanquished by Napoleon, or the physician who preferred that his patients should die by rule rather than recover contrary to it, is rightly judged to be a mere pedant, and the slave of his formulas.⁹⁹

Mill is arguing here that the role of the judge is to examine particular cases and then determine what rules an action falls under. The legislator, in contrast, has rules, and maxims of policy; but it would be a manifest error to suppose that the legislator is bound by these maxims in the same manner as the judge is bound by the laws, and that all he has to do is argue down from them to the particular case, as the judge does from

⁹⁶ Although Mandelbaum does discuss what are, in essence, the rule-violation principle and the rule-justification principle, he does not apply these particular labels. Instead, he talks just in terms of the concepts themselves. I have given Mandelbaum's concepts these labels for the sake of convenience.

⁹⁷ *Utilitarianism*, p. 3

⁹⁸ Maurice Mandelbaum. "Two Moot Issues in Mill's Utilitarianism." *Mill: A Collection of Critical Essays*. Ed. J.B. Schneewind. (Garden City: Doubleday & Co., Inc., 1968), p. 214.

⁹⁹ J.S. Mill. *On the Logic of the Moral Sciences*. Ed. Henry M. Magid. (Indianapolis: The Bobbs-Merrill Co., Inc., 1965), p. 139.

the laws. The legislator is bound to take into consideration the reasons or grounds of the maxim.¹⁰⁰

Clearly Mill expects the legislator to consider first principles, or utility, in making laws. As we saw in chapter one, Mill also advocates an active participation by everyone in the affairs of government. Consequently, most if not all citizens will at some point be in the position of the legislator. If Mill actually expects *everyone* to be capable of considering first principles in making laws, then it seems pointless to expect these same people to base the rightness and wrongness of their actions upon the rules which they themselves justified by appealing directly to utility.

3. Art of Life

Given Mill's views in the *Logic*, it seems fairly clear that Mill is not a rule-utilitarian. Thus while the rule-utilitarian interpretation of Mill does give us a crude picture of the mechanism for reconciling the maximization of utility with the protection of individual choice-making as a non-trumpable value, an accurate interpretation of Mill's moral philosophy will have to take the *Logic* into account. This is precisely the strategy adopted by those advocates of the revisionary interpretation of Mill. This movement, begun by Alan Ryan, draws on the Millian concept of the Art of Life. Indeed on this interpretation the Art of Life, which consists of moral, prudential and aesthetic aspects¹⁰¹ is central to Mill's conception of happiness.

The revisionary argument proceeds in three stages. First, they argue that the principle of utility is that which shows what has value in the world. Second, they argue that Mill's conception of expediency is what connects the principle of utility to our actions. Finally, they argue that Mill thinks that morality is crucially linked to punishment. In what follows, I shall outline their arguments for these three steps, showing how they fit together to form a powerful interpretation of Mill.

Throughout the *Logic*, Mill is concerned with separating art from science. Science, for Mill is the indicative, or that which states fact. Art, on the other hand, consists of a set of rules designed to instruct others on how to attain a desired end. Thus Mill maintains that activities such as architecture, medicine, and economics are all arts rather than sciences.¹⁰² Concerning everyday actions, Mill claims that

All action is for the sake of some end, and rules of action, it seems natural to suppose, must take their whole character and color from the end to which they are subservient.¹⁰³

For Mill the end of every human's action is happiness. Since all humans share this end, and since Mill sees art as that which guides people to desired ends, it is only natural that Mill should envision an Art of Life as a set of rules designed to lead people to happiness.

As already mentioned, the Art of Life consists of three parts--morality, prudence and aesthetics. Each of these areas guides a particular aspect of human life.

¹⁰⁰ *ibid.*, p. 139.

¹⁰¹ *Logic*, p. 145.

¹⁰² Mill uses "art" and "science" as technical terms in the *Logic*. Mill's usage should not be confused with our everyday usage of the words.

¹⁰³ *Utilitarianism*, p. 2

But, as Mill already made clear in *Utilitarianism*, he is not satisfied with a set of rules unless those rules are grounded in a first principle.¹⁰⁴ This *Philosophia Prima* for the Art of Life is “the promotion of happiness,” or, in other words, the principle of utility.¹⁰⁵ Thus members of the revisionary school maintain that it is the principle of utility which *grounds* morality; the principle of utility is not, however, specifically a moral principle. In the words of John Gray, “if the Principle of Utility figures directly at the critical level but not generally at the practical level of moral thought, it cannot by itself impose obligations or yield judgments about right action.”¹⁰⁶ That is, if utility is used only to determine the rules for the Art of Life and not to determine the moral status of specific actions, then utility cannot be sufficient to be itself a standard of right and wrong. Such a reading of utility has important implications, for on this view, an action can fail to maximize utility while still remaining an amoral act.

The axiological strategy thus retains the advantages of rule-utilitarianism while remaining consistent with a wider range of Mill’s texts. The axiological strategy couches the mechanisms from the rule-utilitarian view in a very Millian conception of life. As in rule-utilitarianism, the axiological strategy grounds morality in rules that are derived from utility calculations. But unlike the rule-utilitarian interpretation of Mill, which is based solely on Mill’s loose references to secondary principles, the axiological strategy appears to be grounded in a very Millian account of life. Mill does hold in the *Logic* that the Art of Life is a guide for how to live a properly integrated life, and he does claim that the principle of utility should act as life’s *Philosophia Prima*.

By taking seriously the implications of the Art of Life for utility, revisionary thinkers find a much different picture of utilitarianism forming. The principle of utility, freed from its status as a moral principle, now becomes an axiological principle. On this account, utility is not itself equivalent to morality; rather utility merely specifies what is good in the world. That is, the principle of utility no longer specifies what action is the correct one; instead it simply offers a standard by which to judge states of affairs. So for example the principle of utility allows one to claim that the agonizing death of a solitary animal from some natural causes is a bad thing even though it involves no actions to label “immoral.”

But if the principle of utility is axiological, it seems that we may have a problem reconciling the principle with Mill’s project. It is Mill’s presumed purpose in *Utilitarianism* to provide a moral theory; however, morality, is primarily concerned with actions. A theory of morality thus ought presumably to provide a guide for our actions. But if the principle of utility is solely an axiological principle, then it cannot serve as a moral guide as well, for axiological principles are indicative rather than imperative. That is, an axiological principle is one which simply states that X is good without specifying whether or not one should pursue X. Therefore the revisionist school needs to find in Mill a second principle which links the

¹⁰⁴ See esp. *Utilitarianism*, pp. 2-5

¹⁰⁵ *Logic*, p. 147

¹⁰⁶ Gray, p. 22

principle of utility to our actions. D.P. Dryer argues that Mill implicitly makes this move. He claims that Mill

argues that it is because happiness is the only thing desirable for its own sake that the test of conduct generally is its promotion of happiness. The principle he employs in taking this step is that if there is one sort of thing which is alone desirable for its own sake, then the promotion of it is the test of all human conduct. . . Mill thus takes it for granted that something should be done if and only if its consequences would be more desirable than would those of any alternative to it.¹⁰⁷

Dryer is claiming here that Mill simply assumes that anything of intrinsic value ought to be promoted, and that we should promote those actions which produce more of what has intrinsic value than would any alternative action. Gray argues that Mill often invokes a principle similar to this one under the name of expediency; therefore, following several members of the revisionary school, he labels this principle the Principle of Expediency.¹⁰⁸

The revisionary interpretation of Mill thus interprets Mill as follows: the principle of utility specifies that happiness is the only thing which has intrinsic value. This principle makes an axiological claim and nothing more; that is, it does not provide an imperative for actions. Instead, the imperative is given by the principle of expediency which tells us that we ought to maximize that which has intrinsic value. But, according to this interpretation, the failure to follow an imperative is not necessarily an immoral action. For instance, we can easily imagine that our axiological principle of utility could specify some good (e.g., my own personal health), and that the principle of expediency would specify that I ought to promote my own personal health. But it would be strange to say that if I do not promote my own personal health, then I am committing an immoral action. In other words, the revisionary school wants to exclude prudential imperatives from the realm of morality.

The revisionary thinkers thus conclude that even these two principles together--viz., the principles of utility and of expediency--do not give us morality. Thus, the revisionary thinkers claim that Mill needs a third principle which defines what it means to be moral. Mill offers such a definition in the last chapter of *Utilitarianism* where he claims that

We do not call anything wrong unless we mean to imply that a person ought to be punished in some way or other for doing it--if not by law, by the opinion of his fellow creatures; if not by opinion, by the reproaches of his own conscience. This seems the real turning point of the distinction between morality and simple expediency.¹⁰⁹

So for Mill actions are wrong only if they are actions which deserve punishment. A right action, therefore, would be one which would be punishable if it were not

¹⁰⁷ D.P. Dryer. "Mill's Utilitarianism." *Essays on Ethics, Religion and Society*. Ed. J.M. Robson. *Collected Works of John Stuart Mill*, Vol. 10. (Toronto: Toronto UP, 1969). p. lxiv.

¹⁰⁸ Gray, p. 22. Mill uses the term "expediency" throughout chapter five of *Utilitarianism*.

¹⁰⁹ *Utilitarianism*, p. 47

performed. All other actions are classified as matters of prudence rather than as moral or immoral actions.

The move of equating morality with sanctions is really the most crucial aspect of the entire axiological interpretation. By setting up a criteria for morality that is separate from simple maximization of utility, revisionary thinkers create a space for individual choice-making to play an important role. Since morality and utility are no longer inextricably linked, individual choice-making can be more than just instrumentally valuable. Taking advantage of this fact, revisionary thinkers remove the value of utility maximization from morality and insert in its place the protection of individual choice-making as a non-trumpable value. As a result, the worry of the traditional thinkers over the compatibility of the two values disappears.

The problem with the axiological interpretation revolves around the conceptual work that the axiological principle is supposed to be doing. That is, making the principle of utility an axiological principle seems to accomplish nothing more than to push back one step the tension between maximizing utility and protecting individual choice-making as a non-trumpable value. Instead, the axiological account does nothing more than to offer new names for the values that are really conflicting, for the supposed axiological principle of utility just is the moral issue about which utilitarians are concerned. The revisionary thinkers appear to be re-labeling morality as axiology, restricting the term “morality” to a very small subset of moral actions and then claiming that the tension between the moral values of maximizing utility and the protection of individual choice-making as a non-trumpable value disappears.

This terminological resolution is not Mill’s, however, for Mill seems to reject explicitly the idea that the principle of utility is nothing more than an axiological principle. After discussing the higher pleasures in *Utilitarianism*, Mill argues that the only possible test of utility, whether in terms of quality or quantity, is that of referring to the opinions of qualified judges. The determination that these judges make about what things are truly pleasurable becomes

according to the utilitarian opinion the end of human action, [and] is necessarily also the standard of morality, which may accordingly be defined “the rules and precepts for human conduct,” by the observance of which an existence such as has been described might be, to the greatest extent possible, secured to all mankind.¹¹⁰

Mill here is explicitly defining morality to be the rules of human conduct, and he does not place any sanctioning conditions upon those rules. This passage indicates that morality is a much more comprehensive subject than the axiological interpretation allows. Further, the standard of morality is determined not by appealing to rules, but by directly appealing to pleasure and pain, which, for Mill just is the same as appealing directly to utility.¹¹¹ Thus, Mill does not hold that the principle of utility is an axiological principle merely specifying that which is valuable, but rather he regards utility to be the actual standard of morality.

¹¹⁰ *ibid.*, p. 12

¹¹¹ See Mandelbaum’s rejection of rule-utilitarianism above.

So while the axiological interpretation does not find sufficient textual support in Mill, it does offer us an additional tool for reconciling the tension between maximizing utility and protecting individual choice-making as a non-trumpable value. Mill's comments on the Art of Life indicate that utility is not simply equivalent to morality; that is, while morality may be grounded in the principle of utility, the principle is not limited to just moral concerns. Instead, the principle of utility is meant to be a *Philosophia Prima* for all the parts of life. But if the principle of utility and morality are not simply equivalent, it remains to be seen how exactly utility and morality are related.

4. Indirect Utilitarian

John Gray offers a solution that makes use of the insights gained from the axiological account. Gray makes a case for Mill as an indirect utilitarian¹¹² who needs secondary rules, creating space in Mill's conception of moral philosophy for the importance of individual choice-making as a non-trumpable value while avoiding the competing tension of maximizing utility. The indirect utilitarian interpretation allows Gray to separate appeals to utility from secondary principles by highlighting the self-defeating nature of direct appeals to utility. Gray's account does not, therefore, rely upon the axiological strategy for disentangling utility from secondary principles; instead, Gray argues that the very nature of utility limits its ability to function as anything other than a ground for secondary principles.¹¹³

Gray argues that Mill finds appeals to utility to be ultimately self-defeating for two reasons: people lack the knowledge and ability to detect which action has the best consequences¹¹⁴ and happiness is not something that can be directly pursued.¹¹⁵ Gray's interpretation of Mill as an indirect utilitarian is based primarily upon Mill's claim in the *Autobiography* that

¹¹² The differences between indirect and rule utilitarians are subtle and not always clear in the literature. What I take to be the crucial differences between Urmson's rule-utilitarian account and Gray's indirect utilitarian account is that Urmson establishes rules that are based upon utility and then measures right and wrong by whether or not an action conforms to a rule. Gray, on the other hand, argues that because appeals to utility are self-defeating, utility cannot serve as a guide even for determining rules. Instead, Gray derives the principle of individual choice-making from utility and then wants to use that principle rather than utility to ground rules.

¹¹³ Gray's account does, in fact, build upon the axiological interpretation of Mill. The two accounts are really only marginally connected, and, as I argue above, Gray's account can independently produce the same benefits of the axiological account. Thus, for the purposes of this paper, I shall consider the two accounts to be separate.

¹¹⁴ I do not think that the first of these reasons is one which Mill actually holds. This reason sounds suspiciously similar to the criticism that there is not ample time to calculate the consequences of actions. Mill responds to this charge in *Utilitarianism* by claiming that "there has been ample time, namely, the whole past duration of the human species. During all that time mankind have been learning by experience the tendencies of actions; on which experience all the prudence as well as all the morality of life are dependent" (p. 23). Thus I think it is safe to argue that Mill would have expected us to arrive at conclusions based upon previous experience. While we of course could not analyze all of the consequences, Mill would not allow that this is sufficient by itself to warrant a move to indirect utilitarianism. However, as Gray spends most of his time arguing for the second of these two points, I shall not further belabor my criticisms of his first reason.

¹¹⁵ Gray, p. 35

I never, indeed, wavered in the conviction that happiness is the test of all rules of conduct, and the end of life. But I now thought that this end was only to be attained by not making it the direct end. Those only are happy (I thought) who have their minds fixed on some object other than their happiness; on the happiness of others, on the improvement of mankind, even on some art or pursuit, followed not as a means, but as itself an ideal end.¹¹⁶

Gray rightly enough interprets this passage to mean that Mill holds that it is impossible to pursue one's own happiness directly. From this point, Gray concludes that it must also be impossible to pursue utility; consequently, Gray concludes that all appeals to utility are self-defeating.¹¹⁷

Having argued that Mill seems to advocate indirect utilitarianism, Gray's next move must be to show that Mill regards individual choice-making to be one of Mill's secondary principles. Of course, on Gray's account, Mill's indirect utilitarianism does not logically entail the value of individual choice-making, but it does allow Mill room to regard individual choice-making as a real value. Gray's argument for the claim that Mill does in fact value individual choice-making as a non-trumpable value proceeds by examining three types of freedom--negative freedom, rational self-direction, individual choice-making¹¹⁸--and comparing each to Mill's text.¹¹⁹ For Gray, negative freedom just is the freedom from coercion. Rational-self direction is a more powerful conception of freedom which provides that the agent "act in accordance with his own rational policies" even in cases where that agent is being coerced.¹²⁰ Finally, Gray maintains that to be an individual choice-maker is to exercise one's capacity for a rational will while also having a free will. Gray offers two passages from the third chapter of *On Liberty* to support his claim that Mill espouses this conception of individual choice-making. In the first, Mill argues that

The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice. He who does anything because it is the custom makes

¹¹⁶ J.S. Mill. *Autobiography*. (New York: The Liberal Arts Press, 1957), p. 92

¹¹⁷ This is, in fact, the only passage that Gray cites in making this claim. What Gray seems to fail to recognize is that there is a significant procedural difference between pursuing one's own happiness and pursuing overall happiness. That is, while it may be self-defeating to pursue one's own happiness, the same charge does not automatically apply to the pursuit of other's happiness. I will say more about this later in my chapter.

¹¹⁸ Gray actually uses the term autonomy rather than "individual choice-making." To keep my terminology consistent and to avoid the extra connotations of autonomy, I am substituting "individual choice-making" for "autonomy." I think that we mean to capture the same qualities by these terms, so I do not feel that in making this substitution I am being unfair to Gray.

¹¹⁹ Gray discusses autarchy as a fourth type of freedom. The differences between autarchy and autonomy are subtle and not completely relevant to this paper, so I shall forgo a full discussion of this topic. Ultimately, I think that on Gray's account, Mill could only be shown to advocate autarchy; however, as the differences between the two are not relevant to my topic, I shall not discuss this issue further.

¹²⁰ Gray, p. 74

no choice . . . The mental and moral, like the muscular powers, are improved only by being used.¹²¹

Mill goes on to add that

A person whose desires and impulses are his own--are the expression of his own nature, as it has been developed and modified by his own culture--is said to have character. One whose desires and impulses are not his own, has no character, no more than a steam-engine has a character.¹²²

Gray argues that these passage demonstrate that Mill does value individual choices. Mill seems to regard individual choice-making as fundamentally valuable in forming character, and for Mill, the formation of character is a crucial aspect of morality. Indeed, in "Remarks on Bentham's Philosophy," Mill criticizes Bentham for ignoring character formation. Mill states that

It is not considered (at least, not habitually considered,) whether the act or habit in question, though not in itself necessarily pernicious, may not form part of a character essentially pernicious, or at least essentially deficient in some quality eminently conducive to the 'greatest happiness.'¹²³

Mill's picture seems to be that character is essential to morality and that the ability to choose freely is essential to character. Gray therefore concludes that Mill does hold a deep commitment to individual choice-making.

Having argued that Mill does value individual choice-making, Gray's next step in demonstrating Mill's consistency is to argue that Mill *justifies* the value of individual choice-making by indirect appeals to utility. Gray makes this move by incorporating Mill's conception of individual choice-making into Mill's much-derided account of the higher pleasures. In discussing the higher pleasures, Gray is quick to point out that for all his references to pleasure and the absence of pain, Mill "never endorsed the primitive view that pleasure is a sort of sensation that accompanies our actions."¹²⁴ In other words, Mill does not define happiness as a mental-state account of pleasures and pains. Instead, Gray argues, Mill views happiness as the projects "expressed in an indefinitely large set of happy human lives."¹²⁵ Gray therefore wants to view the distinction between higher and lower pleasures as being a distinction between differing types of activity instead of as a difference between two mental states.

Gray then goes on to attempt to distinguish the higher pleasures from other pleasures. Gray argues that a necessary condition for a pleasure's being a higher pleasure is that it be one which is individually chosen after the agent has had experience with a fairly robust range of experiences. Gray goes on to add that the *sufficient* condition for a pleasure to be a higher pleasure is that it reflect the

¹²¹ *On Liberty*, p. 59

¹²² *ibid.*, p. 60

¹²³ "Remarks on Bentham's Philosophy," p. 8

¹²⁴ Gray, p. 71

¹²⁵ *ibid.*, p. 72

individual nature of the agent.¹²⁶ Gray consequently refuses to offer any sort of list of the higher pleasures. Instead, he maintains that the higher pleasures will vary from person to person; as long as something is individually chosen and that choice follows from the nature of that person, then that activity will be a higher pleasure. From this, Gray concludes that “there can be no doubt. . .that Mill saw the striving for [individual choice-making] as a permanent part, though an easily thwarted part, of the human striving for happiness.”¹²⁷ In other words, Gray holds that individual choice-making is an essential aspect of Mill’s conception of happiness.

Gray’s account of Mill as an indirect utilitarian seems to solve all of our earlier difficulties. By showing that direct appeals to utility are self-defeating, Gray creates space for the existence of secondary principles that function as the rules for human conduct. Gray then argues that Mill both regards individual choice-making as a non-trumpable value and justifies individual choice-making since things chosen individually just are the higher pleasures. Consequently, on Gray’s account, since any attempt override individual choice-making in the name of utility maximization would be self-defeating, utility maximization must stop at individual choice-making.

I find three important difficulties in Gray’s interpretation. The first major problem that I see lies in Gray’s reconstruction of Mill as an indirect utilitarian. The textual evidence from the *Autobiography* that Gray cites is insufficient to warrant the conclusion that Mill regards the promotion of utility as self-defeating. That is, the single passage that Gray cites does not sufficiently establish that Mill is an indirect utilitarian. Additionally, Mill often seems to appeal directly to utility in both *Utilitarianism* and *On Liberty*. As noted earlier, Gray cites a very powerful passage from the *Autobiography* that clearly seems to argue that Mill does not advocate the direct pursuit of utility. But Gray’s claims go much further than what might seem warranted by the passage. Gray’s use of this passage is intended to cash out his earlier claim in which he states that

Mill recommends the adoption of a principle constraining the direct pursuit of happiness as a self-denying ordinance with respect to the promotion of happiness. . .[this thesis] maintains that a principle constraining the pursuit of happiness is derivable from principles which enjoin maximizing it with the assistance of certain quasi-empirical assumptions about the paradoxical and self-defeating effects of trying directly to promote happiness.¹²⁸

While the passage Gray cites certainly supports his claim that the direct pursuit of happiness is impossible, it hardly denounces the direct promotion of happiness. Indeed, the promotion of the happiness of *others* is one of the ends Mill claims that an agent can pursue in order to indirectly pursue his own happiness. In fact, in the very passage that Gray cites Mill claims that one of the things that leads to the happiness of agents is for them to “have their minds fixed on some object other

¹²⁶ *ibid.*, p. 73

¹²⁷ *ibid.*, p. 79

¹²⁸ *ibid.*, p. 15

than their happiness [such as] on the happiness of others.”¹²⁹ Gray’s slide from the fact that it is paradoxical for an individual to pursue his own happiness to the assumption that promoting utility suffers from the same paradox is simply unwarranted.

But Gray’s interpretation of Mill as an indirect utilitarian suffers from a second and even larger problem, for Gray’s interpretation is inconsistent with some of Mill’s own claims. In discussing whether a person should be answerable for not preventing evil to others, Mill argues that

There are often good reasons for not holding him to the responsibility; but these reasons must arise from the special expediencies of the case: either because it is a kind of case in which he is on the whole likely to act better, when left to his own discretion, than when controlled in any way in which society have it in their power to control him; or because the attempt to exercise control would produce other evils, greater than those which it would prevent.¹³⁰

Here Mill clearly seems to be offering systematic utilitarian considerations for deciding an issue. Mill’s appeal is not to individual choice-making as Gray would have us believe, but rather to utility. Again, in arguing for the freedom of speech, Mill’s claim is that

the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it.¹³¹

Mill certainly appears to espouse direct systematic considerations of utility in this case. But if Mill were an indirect utilitarian, then he would not ever appeal directly to utility. Indeed, on Gray’s account, any direct appeal to utility is impossible; therefore, even one direct appeal to utility on Mill’s part is sufficient to undermine Gray’s claims.

More troubling for Gray’s interpretation, however, is Mill’s argument in *Utilitarianism* that a “test of right and wrong must be the means...of ascertaining what is right or wrong, and not a consequence of having already ascertained it.”¹³² This claim seems to deal explicitly with indirect utilitarianism. Indirect utilitarianism maintains that since appeals to utility are impossible, the agent may appeal only to principles which have been derived from utility. The test of right and wrong for an indirect utilitarian is thus to ask whether an action violates a secondary principle. But this test is itself “a consequence of having already ascertained” what is right and wrong. That is, these secondary principles have themselves been previously justified as right by appealing to utility. On the indirect-utilitarian interpretation, the test for right and wrong is not really what is showing us whether the action is right or wrong, for in establishing the secondary

¹²⁹ *Autobiography*, p. 92

¹³⁰ *On Liberty*, p. 15

¹³¹ *ibid.*, p. 20

¹³² *Utilitarianism*, p. 2

principle which we appeal to, we have already determined, via utility calculations, that the type of action in question is wrong.

The third problem with Gray's account is his rejection of Mill as a mental-state advocate of happiness, a rejection for which Gray does not even bother to give an argument or to cite textual support. This lack of evidence is especially troubling considering how often Mill refers to happiness as pleasure and pain. Gray admits that Mill speaks of pleasure and pain but still maintains that "Mill never endorsed the primitive view that pleasure is a sort of sensation that accompanies our actions."¹³³ This is a very important and serious claim for which, unfortunately, Gray offers absolutely no textual support. Quite likely this is because there is no such support. While Gray is certainly correct that Mill rejected Bentham's primitive view of pleasure as equaling intensity times duration,¹³⁴ Mill nowhere argues explicitly for a desire-satisfaction account of pleasure. Mill does, however, specifically mention that pleasure is a sensation when he asks in *Utilitarianism*

What means are there of determining which is the acutest of two pains, or the intensest of two pleasurable sensations, except the general suffrage of those who are familiar with both?¹³⁵

Here Mill is in fact defining pleasure and pain as mental-state sensations.

Additionally, in discussing pleasure and pain in part two of the "Three Essays on Religion," Mill claims that

pleasure of one description or another is afforded by almost everything, the mere play of the faculties, physical and mental, being a never-ending source of pleasure, and even painful things giving pleasure by the satisfaction of curiosity and the agreeable sense of acquiring knowledge; and also that pleasure, when experienced, seems to result from the normal working of the machinery [of the body], while pain usually arises from some external interference with it, and resembles in each particular case the result of an accident.¹³⁶

Unless "pleasure" and "pain" are interpreted here as sensations, it is difficult to see how to make sense of this passage. The second half of this passage in particular seems difficult to interpret as desire-satisfaction. It seems awkward and contrived to argue that what Mill really means here is that he has a desire to have his body function properly. Imagine, for example, a person who has had his arm badly mangled in an accident. When we ask him to describe the pain that he feels, we would be very surprised to hear him reply that he is currently experiencing a thwarted desire to have his arm function in a proper manner. We expect instead to hear screams, directly indicating that he is experiencing an intense physical sensation of pain. To read Mill's claims about pleasure and pain and their relationship to the body as desire-satisfaction seems very implausible.

¹³³ Gray, p. 71

¹³⁴ See esp. J.S. Mill, "Remarks on Bentham's Philosophy" *The Collected Works of John Stuart Mill*. Ed. J.M. Robson. Vol. X. (Toronto: University of Toronto Press, 1969.)

¹³⁵ *Utilitarianism*, p. 11

¹³⁶ John Stuart Mill. "Three Essays on Religion." *The Collected Works of John Stuart Mill*. Ed. J. M. Robson. Vol. X. (Toronto: University of Toronto Press, 1969) p. 458

Since Mill does clearly indicate here that by pleasure and pain he means sensations, and since there is indication that in *Utilitarianism* he uses pleasure and pain to refer to sensations as well, there is little reason to assume that he would use the words differently in other places. And, as Gray admits, Mill defines utility as pleasure and the avoidance of pain.¹³⁷ Indeed, Mill did not at any point indicate that he embraced a desire-satisfaction account. Thus, since Mill does explicitly accept in at least two different places that pleasure and pain are sensations and since there is no evidence to the contrary, it is reasonable to conclude that Mill does advocate a mental-state account of pleasure rather than a desire-satisfaction account.

As a result of these three major problems, Gray's interpretation of Mill is deeply flawed. First, because Mill does in fact appeal directly to utility, individual choice-making does not play quite so central a role in his system as Gray claims; that is, Mill will always appeal to utility to ground institutions, whereas Gray's account appeals to individual choice-making to ground institutions. Second, since Mill does accept pleasure as a mental state, Gray's easy reconciliation of Mill's higher pleasures with individual choice-making falls apart, for without the desire-satisfaction account of pleasure, the higher pleasures are no longer just those activities that are chosen individually. Instead, Gray would have to provide some argument as to why the mere fact that I choose something individually should provide that action with more pleasure than I would have received had someone coerced me into performing that same action.¹³⁸

Once again, however, there is a valuable insight to be drawn from this interpretation. Indeed, Gray offers an interpretation of Mill that does in fact solve all of the problems Mill seems to face. Unfortunately, parts of Gray's picture do not seem to be shared by Mill. Still, Gray's account offers a reason for stopping utility maximization at individual choice-making. In addition, Gray offers the interesting possibility that perhaps Mill's account of the higher pleasures is of some importance in interpreting Mill's considered view of morality.

While each of these attempts to reconcile Mill's desire to maximize utility with his desire to protect individual choice-making as non-trumpable, we have seen that each also provides a valuable insight into Millian interpretation. From the traditional school, we learn that a standard conception of utilitarianism is not sufficient to reconcile these two values. The rule-utilitarian account shows that rules of some sort are necessary for solving the problem. The axiological interpretation shows that Mill's conception of human life is very rich and complex and that our moral system must in some way account for this complexity. Finally Gray's indirect utilitarian account suggests that the neglected higher pleasures might be essential to interpreting Mill. In chapter three, I shall draw on these insights as I

¹³⁷ See *Utilitarianism*, p. 7

¹³⁸ I realize that there are some obvious cases in which it is true that an action chosen freely is far more pleasurable than one that a person is coerced into performing (e.g., a sex act). However, the type of case which I have in mind would be one in which, say, a person is coerced into visiting the dentist. The short-term pain from visiting the dentist is equal in both cases as is the long-term pleasure of having healthy teeth. Why should the pleasure that a person receives from having healthy teeth be any greater just because that person freely chose to visit the dentist?

offer my interpretation of Mill's reconciliation between maximizing utility and protecting individual choice-making as a non-trumpable value.

Chapter Three

The Higher Pleasures Account

Having examined and rejected several possible interpretations of Mill, I shall in this chapter offer my own interpretation of Mill's moral philosophy. I argue that Mill's picture of morality hinges upon his conception of the higher pleasures. My position is that the higher pleasures are inextricably linked to individual choice-making. Indeed, Mill seems to argue that the only way of reaching the higher pleasures is through individual choice-making. Thus, since Mill wants to maximize pleasure, individual choice-making is instrumentally valuable. But even though choice-making is of instrumental rather than intrinsic value, I argue that on this interpretation, choice-making is still a non-trumpable value.

In the second part of this chapter, I shall return to my original question of how to reconcile Mill's principle of competence with his principle of participation. I shall argue that the two principles are perfectly consistent on the higher pleasures account.

1. Quality Defended

To this point each attempt to reconcile *Utilitarianism* with *On Liberty* has possessed the unfortunate consequence of solving inconsistencies only to replace them with new textual inconsistency. This consequence is a result of attacking the problem in the wrong way. Rather than attempting to modify Mill's version of utilitarianism into something other than a strict weighing of pleasure and pain, we should instead examine Mill's concept of *utility* itself. That is, the answer to reconciling utility and liberty lies in understanding what it is that Mill means by utility. I shall argue that this answer lies in cashing out Mill's claim that "I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being."¹³⁹

In beginning to cash out what Mill means by "man as a progressive being," we first note that, in chapter two of *Utilitarianism*, Mill defines utilitarianism as "The creed which accepts as the foundation of morals 'utility' or the 'greatest happiness principle' [and which] holds that actions are right in proportion as they tend to promote happiness; wrong as they tend to produce the reverse of happiness. By happiness is intended pleasure and the absence of pain; by unhappiness, pain and the privation of pleasure."¹⁴⁰

As I argued in chapter two, Mill does indicate that by pain and pleasure he really means sensation; consequently, I will base my interpretation on the assumption that for Mill utility is equal to pleasure and the absence of pain, and that by pleasure and pain he simply means internal sensations.¹⁴¹ Second, we note that Mill also argues

¹³⁹ J.S. Mill. *On Liberty. On Liberty and Other Writings*. Ed. Stefan Collini. (Cambridge: Cambridge UP, 1989), p. 14

¹⁴⁰ J.S. Mill. *Utilitarianism*. (Indianapolis: Hackett Publishing Company, 1979), p. 7

¹⁴¹ I realize that there is a considerable controversy over whether or not Mill advocates a desire-satisfaction account of utility or a mental-state account. I think that there are good reasons for

that pleasure can be distinguished into higher and lower pleasures, and that the factor which distinguishes the two is quality. Again Mill argues in *Utilitarianism* that

It is quite compatible with the principle of utility to recognize the fact that some kinds of pleasure are more desirable and more valuable than others. It would be absurd that, while in estimating all other things quality is considered as well as quantity, the estimation of pleasure should be supposed to depend on quantity alone.¹⁴²

Mill is arguing here both that the higher pleasures exist and that they are more valuable than the lower pleasures.

Still it remains to be shown what it is that distinguishes the higher from the lower; that is, it is necessary to show exactly what work the idea of quality is doing. Admittedly, Mill is not very thorough in clarifying what he means by quality. Indeed, he gives us only a very few clues about quality and the higher pleasures in *Utilitarianism*. Even these clues are not very clear, for he offers four different criteria of the higher pleasures in the space of four pages.¹⁴³ For Mill, the higher pleasures are (1) “the mental over bodily pleasures,”¹⁴⁴ (2) those “to which all or almost all who have experience of both give a decided preference,”¹⁴⁵ (3) those which involve the “higher faculties,”¹⁴⁶ and (4) those chosen via “the judgment of these who are qualified by knowing both [higher and lower pleasures], or, if they differ, that of the majority among them.”¹⁴⁷ Individually, none of these four criteria of the higher pleasures--the mental pleasures, the experienced judges, the higher faculties, and the majority rules criteria--provides a sufficiently broad definition of the higher pleasures. Taken together, however, these four claims do give us a glimpse of the picture of human nature which grounds Mill’s picture of the higher pleasures.

Mill obviously thinks that these four different ideas are more or less equivalent since he offered them as different criteria for the same thing. Thus it may prove profitable to combine the four criteria. Clearly Mill’s claim in (2) that experienced judges pick out the higher pleasures and his claim in (4) that a majority of competent judges should pick out higher pleasures are closely connected. The experienced judges criterion makes the opinions of competent judges one the method for determining whether something is a higher pleasure, while the majority rules criterion adds only the requirement that a majority of such competent judges agree. The mental pleasures aspect and the higher faculties aspect do not fit quite so neatly together; however, one could make the claim, as I think

interpreting Mill as offering the latter account. What I offer in this chapter is a way to reconcile a mental-state account with the higher pleasures. I do not, however, claim to have resolved the debate.

¹⁴² *Utilitarianism*, p. 8

¹⁴³ As it turns out, two of Mill’s claims about the higher pleasures will turn out to be partially definitive of the higher pleasures while the other two will be the criteria for picking out the higher pleasures.

¹⁴⁴ *Utilitarianism*, p. 8

¹⁴⁵ *ibid.*, p. 8

¹⁴⁶ *ibid.*, p. 9

¹⁴⁷ *ibid.*, p. 11

Mill is implicitly doing here, that the mental just is that which involves the higher faculties.¹⁴⁸ That is, for Mill the higher faculties and the mental faculties are not two separate aspects of the mind; instead Mill sees the higher mental faculties as one function of the mind.

The two sets--the mental pleasures aspect and the higher faculties aspect being one set and the experienced judges criterion and the majority rules criterion being another--have different functions. The experienced judges criterion and the majority rules criterion are the tools for picking out the higher pleasures; that is, these two criteria assist us in deciding whether or not something is a higher or a lower pleasure. The second set of aspects--the mental pleasures and the higher faculties aspects--is, on the other hand, partly definitive of the higher pleasures. In other words, a majority of competent judges allow us to pick out the higher pleasures, and the characteristic that makes something a higher pleasures is that it involves the use of the higher mental faculties. Consequently, in order for a judge to be competent, it must be the case that he is just a person who has developed his higher mental faculties.

The higher pleasures play a crucial role in distinguishing Mill's utilitarian system from those of his father and of Bentham. On J.S. Mill's account, the higher pleasures add the element of quality while James Mill and Bentham rely solely on the quantity of pleasure and pain for making utility calculations. That is, while Bentham calculated utility as a product of the intensity and duration of a pleasurable or painful experience, Mill claims that the quality of the particular experiences in question must enter into the calculation. Thus, on Mill's account, a smaller quantity of a particularly high quality pleasure could outweigh a large quantity of low quality pleasure. Indeed, Mill claims that a higher pleasure infinitely outweighs a lower pleasure, such that those who have close experience of it place it so far above the other [lower pleasure] that they prefer it, even though knowing it to be attended with a greater amount of discontent, and would not resign it for any quantity of the other pleasure which their nature is capable of.¹⁴⁹

That is, Mill maintains that the higher pleasures are those which competent judges will prefer to any quantity of lower pleasure.

Many philosophers object to Mill on precisely this count, claiming that Mill's commitment to hedonism leaves no room for quality. That is, critics object that the introduction of quality commits Mill to a desire-satisfaction account of utility or else it represents the introduction of a mysterious attribute into utility calculations.¹⁵⁰ Still other philosophers object that intensity and duration are the only possible attributes for calculating pleasure and pain. Consider, for example, that the calculation of utility as just quality is analogous to the calculation of the volume of

¹⁴⁸ I will not here address the truth value of this claim. I am not overly concerned with whether or not Mill actually holds the "correct" views. Rather, my project is to show that Mill's actual beliefs are both plausible and consistent. I think that the claim I have made on Mill's behalf is at least intuitively plausible and this is all that I really need for my current purposes.

¹⁴⁹ *Utilitarianism*, p. 8

¹⁵⁰ My thanks go to John Christman for helping me to clarify exactly what this objection entails.

water that flows through a pipe.¹⁵¹ In order to calculate that total, all that is needed is the rate of flow through the pipe (the intensity) and the amount of time that the water is allowed to flow (the duration); the resulting product gives the volume. All other information is extraneous; indeed, it is unclear what purpose any other information could possibly serve in making this calculation. Likewise, it is unclear where Mill could possibly find room to insert quality into any utility calculation.

Wendy Donner addresses the criticism that quality adds a mysterious new property to a hedonistic conception of utility. She argues that the role of both quality and quantity is to provide normativity in utility calculations. That quality adds a normative component to hedonism is uncontroversial. Donner's strategy is to show that quantity plays the same role. She argues that "Bentham regards the quantities of pleasures as empirical facts, but he also regards them as normative, i.e., that in virtue of which the pleasures which have them are good."¹⁵² In other words, Donner claims that for even the strict hedonistic utilitarian, pleasures are considered to be good insofar as they have some quantity (i.e. some intensity times some duration). Of course, for mental-state theorists, something that is "good" just is that which is pleasurable, so for Donner to argue that quantity is the good-making characteristic of pleasure is slightly inaccurate. It does seem to follow from the very idea of "good" that we can also talk about "better" and "worse." It is also the case that Bentham regards a pleasure with a higher quantity as *better* than one with a lower quantity. Since claims of better (or worse) are normative claims, Bentham does still use quantity as a normative concept.¹⁵³ Thus while it is the case that Mill adds a normative condition for determining pleasure, he is not adding a different type of condition. Instead, he is simply adding a *second* normative condition to the already existing normative aspect of quantity.

The second objection, that only intensity and duration can be used to measure utility, is the more widely-held objection and also the more difficult to answer. The water-pipe analogy very nicely represents the powerful intuition that the only way in which a pleasure can be better is for it either to be more intense or to last longer. But Mill's intuition that certain types of pleasures seem to be more valuable than others is also compelling. The difficulty lies in finding space in our first intuition for Mill to insert his conception of quality. I think that the water-pipe analogy may in fact have room for just this concept.

¹⁵¹ I am indebted to Pat Croskery for introducing me to this analogy, and for the many hours which we have spent discussing it. It should be noted, however, that all subsequent response to and alterations of this analogy are mine and should not be held against Croskery.

¹⁵² Wendy Donner. "John Stuart Mill's Concept of Utility." *Dialogue* 22. Sept. 1983, p. 485

¹⁵³ It could be objected at this point that quantity itself is not a normative concept whereas quality is always normative. For example, we can discuss the quantity of an artist's paintings without making any sort of normative statement, but to discuss the quality of those same paintings is to make normative claims. Thus because quantity is not necessarily a normative attribute while quality is always normative, critics might object that the two are disanalogous in important ways. I think that Donner's claim is that while quantity might not normally be a normative concept, when applied to utility, quantity does assume a normative role. Thus in the case of hedonism, quality and quantity are doing the same work even if they are not analogous in all situations.

To begin, we should note that the water-pipe analogy as stated begs the question to some extent. The analogy gains its power by assuming that insofar as we are measuring one uniform value, the correct answer in utility calculations is a straightforward “more is better.” But this assumption that utility is uniform is exactly what is at stake in questioning whether the higher pleasures exist. To put the point another way, the water-pipe analogy rests upon the assumption that pleasure and pain are a continuous spectrum. To calculate value, then, we need only calculate the quantity or volume of pleasure produced. But Mill’s conception of the higher pleasures is not a continuum. Between the higher and the lower pleasures is a fundamental gap that cannot be crossed by a mere increase in volume. The existence of this gap implies that the higher pleasures are not exactly the same thing as the lower pleasures.¹⁵⁴

While the difference between higher and lower pleasures does not imply complete incommensurability, it is enough to render straightforward quantity comparisons useless. In other words, although Mill is not comparing apples and oranges, he is comparing fresh oranges with old, nearly spoiled oranges. Both things are still oranges, but clearly a distribution that provides ten old oranges is not equivalent to a distribution that provides ten fresh oranges. It is granted that to compare fresh oranges with old oranges is not to compare the same thing, but Mill is not intending to compare exactly the same thing. To argue against his position using an analogy that rests upon the assumption that utility calculations must compare the same thing seems to beg the question.

Perhaps a fairer way of stating the analogy would be to place it in the context of some story. Imagine, for example, that a water-bottling plant owns two wells, but they can only afford to keep one of them operating. They could make their decision based solely upon which well produces the greatest volume of water. But now imagine that the water from the well producing the greatest volume has a very high concentration of lead while the water from the second well is completely pure. We may then be inclined to argue that the well which produces a smaller volume is in fact more valuable than the well with the larger volume. We get this answer by examining the *quality* of the product being produced.

Donner’s response to the normativity problem along with this different way of framing the water-pipe analogy would seem to lend some plausibility to the distinction between the higher and lower pleasures. That is, while I do not claim to have established that higher pleasures exist, I do maintain that the higher pleasures are on a solid enough grounding that they cannot be quickly or easily dismissed.¹⁵⁵ I

¹⁵⁴ Unfortunately, Mill himself does not provide a great deal of help in answering this objection. Mill thought it to be intuitively obvious that there can be a quality/quantity distinction in pleasure. Thus he provides very little discussion of quality other than to briefly describe it. He does not respond to serious objections other than by appealing to intuitions. Thus my response to the water pipe analogy cannot be supported by specific textual claims. I do not think, however, that my response is very different from what Mill’s might have been had he considered such an objection.

¹⁵⁵ The purpose of this project is to provide an interpretation of Mill which brings some consistency to some central aspects of his moral and political thought. I am not attempting to show that Mill’s picture is the correct account of moral and political philosophy. Thus for my purposes it is enough to show that my interpretation both makes sense of Mill textually and is plausible as an account of truth.

will argue that this distinction between the higher and the lower pleasures, together with his claim that the higher pleasures just are those pleasures that are derived from the exercise of the higher mental faculties, lies at the foundation of Mill's moral theory. I will argue that the key to making the move from the this foundation of higher pleasures to the reconciliation of apparently competing values is Mill's appeal to competent judges.

As Donner points out, Mill claims in *Utilitarianism* that the higher pleasures can be distinguished from the lower pleasures only by appealing to competent judges. But Mill does not limit the role of the competent judges to just this function of determining what counts as a higher pleasure. Indeed, Mill argues that competent judges are the only means we have for making any sort of interpersonal comparisons of pleasure of pain. Mill claims that

On a question which is the best worth having of two pleasures, or which of two modes of existence is the most grateful to the feelings, apart from its moral attributes or consequences, the judgment of these who are qualified by knowledge of both, or, if they differ, that of the majority among them, must be admitted as final. And there needs be the less hesitation to accept this judgment respecting the quality of pleasures, since there is no other tribunal to be referred to even on the question of quantity.¹⁵⁶

In support of this claim that only competent judges can make determinations about the appropriate weights of pleasures and pains, Mill asks rhetorically

What means are there of determining which is the acutest of two pains, or the intensest of two pleasurable sensations, except the general suffrage of those who are familiar with both?¹⁵⁷

And again

What is there to decide whether a particular pleasure is worth purchasing at the cost of a particular pain, except the feelings and judgment of the experienced?¹⁵⁸

Mill is arguing that only those people who have had experience of all sorts of pleasures and pains are in an appropriate position to evaluate both the quality and the quantity of pleasures and pains. He further claims that once these competent judges--or a majority of them--have decreed one pleasure or pain to be superior or inferior to another, then there can be no recourse from that decision.

Mill presses his case further for making a distinction between the higher and the lower pleasures. He argues that since we accord these competent judges supreme authority in distinguishing between the quantity of pains, then when those judges

declare the pleasures derived from the higher faculties to be preferable in kind, apart from the question of intensity, to those of which the

I think that my replies to these standard objections are enough to establish the latter.

¹⁵⁶ *Utilitarianism*, p. 11

¹⁵⁷ *ibid.*, p. 11

¹⁵⁸ *ibid.*, p. 11

animal nature, disjoined from the higher faculties, is susceptible, they are entitled on this subject to the same regard.¹⁵⁹

That is, if we intend to respect the authority of competent judges in matters of quantity, then Mill reasons that we should also accept the claims of judges who tell us that there is a certain class of pleasures which, when compared with any pleasure from the other class, is so much more valuable that they “would not resign it for any quantity of the other pleasure which their nature is capable of.”¹⁶⁰ Thus, once a majority of competent judges has ruled that a class of higher pleasures exists, to deny these higher pleasures is to deny the validity of competent judges to make distinctions between any two pleasures.

Mill does not, of course, cite any sort of empirical studies of a group of competent judges to support his claim that, in fact, these judges make a distinction between higher and lower pleasures. But he does claim that

it is an unquestionable fact that those who are equally acquainted with and equally capable of appreciating and enjoying both [higher and lower pleasures] do give a most marked preference to the manner of existence which employs their higher faculties.¹⁶¹

Mill does seem to believe that a majority of competent judges, if actually polled on the matter, would agree to this division between the higher and lower pleasures.

2. The Higher Pleasures Account Explained

After arguing for a distinction between higher and lower pleasures, the next step for Mill, as a good utilitarian, will be to promote maximization of these higher pleasures. Now as I argued earlier, it is the exercise of the higher mental faculties which is the distinguishing characteristic of the higher pleasures.¹⁶² That is, while competent judges pick out the higher pleasures, the exercise of the higher mental faculties is practically necessary¹⁶³ for activating the higher pleasures. The next step for Mill, then, would be to determine how to promote the higher mental faculties. For Mill’s discussion on this subject, we must turn to *On Liberty*.

In a passage which is commonly cited as an example of Mill’s support of individual choice-making, Mill argues that

The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice. He who does anything because it is the custom makes no choice. He gains no practice either in discerning or in desiring what is best. The mental and moral, like the muscular powers, are improved only by being used.¹⁶⁴

¹⁵⁹ *ibid.*, p. 11

¹⁶⁰ *ibid.*, p. 8

¹⁶¹ *ibid.*, p. 9

¹⁶² See p. 70 above

¹⁶³ By “practically necessary” I mean that while it is not necessarily the case that the higher pleasures are connected to individual choice-making, given the way that humans happen to be designed, individual choice-making is always connected to the higher pleasures. Thus while in principle the higher pleasures could be considered independently of individual choice-making, in practice the two are necessarily connected.

¹⁶⁴ *On Liberty*, p. 59

And again in a later passage, Mill claims that

He who chooses his plan for himself, employs all his faculties...And these qualities he requires and exercises exactly in proportion as the part of his conduct which he determines according to his own judgment and feelings is a large one.¹⁶⁵

Here Mill is claiming that the mental faculties are exercised only in choice-making. Additionally, Mill argues that the more a person has control over his life, the more that person exercises his mental faculties. As we noted earlier, Mill maintains that the exercise of the mental faculties just is a higher pleasure. If the only way to exercise these mental faculties is through individual choice-making, then individual choice-making must be a necessary condition for attaining the higher pleasures. Indeed, individual choice-making, along with the activation of the higher mental faculties, are just constitutive of the higher pleasures. For Mill the utilitarian, since the higher pleasures are infinitely more valuable¹⁶⁶ than the lower pleasures, and since the higher pleasures are attained only through individual choice-making, the key to maximizing utility is to maximize individual choice-making.

It should be noted at this point that this account of Mill as being concerned with protecting individual choice-making has two interesting implications. First, because Mill justifies the protection of individual choice-making in terms of maximizing utility, Mill's advocacy of individual choice-making can coexist with his utilitarianism. Of course, most utilitarians recognize the value of allowing some freedom of choice within certain limits; consequently, it is easy to provide a simple account of choice-making within a utilitarian framework. The difficulty lies in showing that the protection of choice-making as *non-trumpable* is compatible with utilitarianism. The higher pleasures account solves this worry, for this interpretation of Mill does indeed provide a reason for protecting individual choice-

¹⁶⁵ *ibid.*, p. 59

¹⁶⁶ There is some debate as to whether Mill means that a particular higher pleasure is infinitely valuable or that the capacities for higher pleasures are infinitely valuable. The most common interpretation is that Mill means the former. Indeed, he specifically claims that "Of two pleasures...If one of the two is, by those who are competently acquainted with both, placed so far above the other that they prefer it...and would not resign it for any quantity of the other pleasure" (*Utilitarianism*, p. 8). But in the following paragraph, Mill talks about the higher pleasures as capacities. He claims famously that "It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied" (*Utilitarianism*, p. 10). In both of these examples, what Mill is comparing is not one higher pleasure to a lower pleasure but rather a life that experiences the higher pleasures measured against a life that is incapable of experiencing the higher pleasures. Indeed, throughout this entire paragraph, Mill talks about losing the capacity to attain the higher pleasures.

I think that Mill is really interested in the capacity to attain the higher pleasures and not in individual higher pleasures. The claim that an individual higher pleasure infinitely outweighs any lower pleasure is implausible. If Mill's real position is that the *capacity* for experiencing higher pleasures infinitely outweighs lower pleasures (or even the capacity to experience lower pleasures) then his account is far more plausible. Indeed, if this is his position, then his case for respecting individual choice-making is even stronger. For if it is the capacity to attain the higher pleasures that is really important, then all choices will have to be respected. That is, since individual choice-making is constitutive of the higher pleasures, to deny a person the ability to choose freely is to deny them the very capacity to attain the higher pleasures.

making as non-trumpable. Furthermore, this reason is consistent with his utilitarian value of maximizing pleasure.

Mill gets non-trumpable value for individual choice-making by virtue of the very nature of choice-making. Maximizing utility, on Mill's qualitative account, is a matter of maximizing individual choice-making; however, by definition, it is not possible to force people to choose things. If I coerce someone into making a choice, then that person is not really choosing; instead he or she is merely responding to my threat of force. In other words, in trying to coerce someone to choose something, I remove the very possibility of their being able to choose. Since I cannot therefore force people to make choices, and since choice-making is partially constitutive of the higher pleasures, it follows that I cannot directly promote the higher pleasures. To put the point another way, since it is not possible to force people to make choice, it is also impossible to force them to activate their higher mental faculties and thereby achieve the higher pleasures.

The utilitarian is therefore limited in the manner in which he can maximize utility. It will not be possible to perform actions which have the direct result of causing other people to experience the higher pleasures. What is possible, however, is the protection of the conditions under which the higher pleasures can be attained. That is, while the utilitarian cannot directly promote the higher pleasures, she can advocate the complete protection of individual choice-making. Indeed, any attempt to trump individual choice-making with an appeal to utility is (usually) self-defeating. Since the higher pleasures are of nearly infinitely more value than are other types of pleasures, and since it is only through individual choice-making that people can experience the higher pleasures, any attempt to justify trumping individual choice-making will result in the loss of more utility--in terms of lost higher pleasures--than could be attained by trumping. Consequently, the protection of individual choice-making as a non-trumpable value is grounded in the value of maximizing utility. Thus this interpretation of Mill not only shows that the protection of individual choice-making as a non-trumpable value and maximizing utility are compatible, it also shows that the former is a necessary condition for producing the latter.

I recognize that there is a very strong objection that can be inserted here. Specifically, one could object that there is no reason why, in principle, one could not sacrifice one person's choice-making ability for a substantial gain in higher pleasures. That is, to say that individual choice-making is necessary for attaining the higher pleasures is not to say that individual choice-making could never be trumped by huge gain in higher pleasures. Mill's response to this point is the standard two-prong utilitarian line that (a) it is unlikely that others will be in a position to know whether or not a particular violation will truly maximize utility and (b) even if it really were possible to make such a determination, following general rules provides a sense of security that would otherwise be lost.¹⁶⁷ Thus Mill could grant that in principle utility could trump individual choice-making, but as a matter of practical social policy, it will never be permissible to sacrifice individual choice-making.

¹⁶⁷ See *On Liberty*, pp. 76-77

With this account of the non-trumpable value of individual choice-making as constitutive of utility, we can put to rest the logical connection objection and the different values objection raised by the traditional school in chapter two. The first of these, the logical connection problem, charged that it is logically impossible to simultaneously accept as supreme principles both the protection of individual choice-making as a non-trumpable value and the maximization of utility. The argument for this position is that the two principles imply mutually exclusive options. That is, the principle of utility requires that utility always be maximized while the protection of individual choice-making acts as a restraint upon the pursuit. On the higher pleasures account, however, Mill does not fall prey to this particular objection. On this interpretation, utility maximization and individual choice-making are not mutually exclusive options. Indeed, the higher pleasures and their infinite value are necessarily connected to individual choice-making in such a way that it is impossible to have one without having the other. Thus the two principles are not just compatible; they are inseparable.

The different values problem receives a similar answer. This objection charged that it is practically impossible to expect that utility maximization and the protection of individual choice-making as non-trumpable would always be compatible. Since utilitarians protect happiness while advocates of individual choice-making promote liberty, and since these are different values, it seems unlikely, critics argue, that the two values will always coincide. The higher pleasures account answers this objection as well. On this account, individual choice-making is valuable only because it is necessary to attain the higher pleasures. Thus, because individual choice-making is the only way to attain the higher pleasures, it is not unreasonable to expect that the protection of individual choice-making as non-trumpable will always coincide with utility maximization.

I have already argued that the higher pleasures account is textually consistent with Mill's claims and that it also resolves the tension between protecting individual choice-making as non-trumpable and maximizing utility. In addition to meeting these two important criteria, the higher pleasures account has an additional feature. Specifically, the higher pleasures account captures the most powerful features of the interpretations discussed in chapter two. That is, each interpretation in chapter two possessed a valuable insights which made it appealing. The higher pleasures account captures the insights of each position while avoiding their respective pitfalls. First, we see that, like the rule-utilitarian account, the higher pleasures account does provide rules for guiding behavior, the most obvious of these rules being "Respect everyone's ability to make choices." Unlike the rule-utilitarian account, however, the higher pleasures account does not then use these rules to justify right and wrong, nor does it derive rules from general tendencies toward utility maximization (thereby raising the problem of how to act in exceptional cases). Instead, the higher pleasures account derives its important rule from a practically-necessary connection between the higher pleasures and individual choice-making. Thus Mill does not derive the rule because it tends to promote utility; instead, Mill recognizes that without individual choice-making, the higher pleasures are unattainable and hence his rules are designed to protect the conditions of individual choice-making.

On the axiological account, the principle of utility acts as a *Philosophia prima* for all the many rich and complex aspects of life. Utility is supposed to retain this function even in the many areas of life where we do not make moral judgments (e.g., we do not label someone immoral for failing to use utility to guide aesthetic aspects of his life). But the axiological account proved to be just a terminological resolution of tensions between maximizing utility and protecting individual choice-making as non-trumpable. That is, the axiological account simply redefined as “axiological” what we normally think of as morality and then claims to have solved the tension. The higher pleasures account, on the other hand, retains a broad definition of morality while still capturing the fact that human life consists of many varied activities. Indeed, the very essence of the higher pleasures account consists in making certain that people do not neglect important aspects of life. On the higher pleasures account, all areas of life--the moral, the prudential and the aesthetic--are all taken into account. Indeed, many of the higher pleasures are aesthetic qualities. By taking all three aspect of life into account, the higher pleasures account acts as a *Philosophia Prima* for the art of life. That is, the higher pleasures account uses the principle of utility to guide and unify the various aspects of life.¹⁶⁸

Finally, we come to Gray's indirect utilitarian account. Like Gray, the higher pleasures account emphasizes the role that the higher pleasures play. In Gray's account, the higher pleasures just represent those things that are individually chosen. But this reading is not consistent with Mill's status as a mental-state theorist. The higher pleasures account, however, does incorporate both the higher pleasures and Mill's mental-state account of pleasure. Competent judges maintain that certain activities which involve the use of the mental faculties feel infinitely more pleasurable than those activities which do not involve the mental faculties. So unlike Gray's account, the higher pleasures are valuable not because they are chosen and hence better satisfy desires; rather the higher pleasures are valuable because they feel better. Individual choice-making plays the role of “necessary condition for activating the higher pleasures” rather than the role of “that which gives value to the higher pleasures.” In other words, on Gray's account, the higher pleasures are valuable because they are chosen while on the higher pleasures account, the higher pleasures are valuable because they are more pleasurable, but the only way to activate the higher pleasures is to make choices.

3. Competence and Participation Revisited

¹⁶⁸ One aspect of the axiological account which the higher pleasures account cannot capture is division that Mill makes between the moral and the prudential. By making utility, in the form of the higher pleasures, the ultimate appeal for morality, the higher pleasures account blurs the distinction between morality and prudence. That is, an action that would maximize a person's own happiness (i.e., a prudential act) would have the same status as an action that maximizes utility (i.e., a moral act). Thus on the higher pleasures account, it appears that Mill would once again be committed to making moral judgments about prudential acts. In other words, the failure to perform a prudential act might be considered immoral under the higher pleasures account. This unhappy circumstance does not appear to be compatible with Mill's distinction in the *Logic* between the moral and the prudential. I am still working on a way to reconcile the higher pleasures account with the Art of Life. Currently this problem remains unresolved.

In the last section, I presented the higher pleasures account as fulfilling three roles. First, I argued that the higher pleasures account is consistent with Mill's arguments. Second I demonstrated that the account solves the tensions put forward by the traditional school. Finally, I argued that my interpretation captures the insights that made previous interpretations so appealing. With these three aspects of the higher pleasures account established, we are now in a position to turn our attention to the tension between the principles of competence and participation. In the following section, I will argue that on the higher-pleasures account, competence and participation are not merely compatible with each other, but rather that a commitment to the higher-pleasures account drives Mill to accept both principles. That is, the principles of competence and participation represent the logical conclusion of the higher-pleasures account. I shall proceed by first showing that, because of the connection between individual choice-making and the higher pleasures, the higher-pleasures account requires something like Mill's principle of participation. Then I shall argue that, because the higher-pleasures account is still a utilitarian theory, the account needs the principle of competence as well. Finally, I shall argue that, given my interpretation of Mill's project, these two principles are not subject to the criticisms put forward in chapter one.

The principle of participation

As we discussed in chapter one, Mill advocates the principle of participation as a measure for warding off the negative defects of government. That is, Mill argues that participation, even in the smallest sense, ensures that government will take advantage of all the talents of its citizens. While this explanation does make participation valuable, it does not confer value in any deep sense. Any utilitarian could defend the above account of participation as a simple instance of expediency. Mill's views in *On Liberty* about the value of individual choice-making would seem to commit him to a deeper value of participation. The higher-pleasures interpretation can account for this deeper value.

In the preceding section, I argued that a utilitarian committed to the higher pleasures account comes to the personal decision that individual choice-making must not be trumped. Roughly that argument is that the higher pleasures are infinitely valuable and consequently to maximize the higher pleasures is to maximize utility. These higher pleasures can be attained only through the exercise of the mental faculties and the exercise of the mental faculties is possible only through individual choice-making. Now since individual choice-making is by definition something that must be done free from coercion or influence, the utilitarian cannot directly promote other people's higher pleasures. The best he can do is to protect the conditions necessary for the attainment of the higher pleasures, namely individual choice-making.

With this basic line of reasoning in place, the utilitarian now needs to design a system that will accomplish two purposes. First, he needs a way to motivate everyone to regard individual choice-making as non-trumpable. Second, he needs a way to encourage people to make the type of choices that lead to the higher pleasures. The first of these goals can be accomplished through the establishment of a legal system and through basic moral education. Recognizing that not everyone will have sufficient knowledge to make the determination that individual choice-

making must be non-trumpable, the utilitarian will specify through rules that individual choice-making must be respected. With that goal in mind, the utilitarian designs a legal system which places sanctions upon certain types of behavior. Once such a legal system is in place, people have a motivation to respect the rules and hence to respect individual choice-making. But the utilitarian, knowing that sanctions will have little effect upon those who do not fear being caught, can go one step further. He can condition people to regard violations of the legal system as unpalatable. Eventually, the utilitarian will inculcate into people an intuitive dislike for certain types of actions. This intuition, coupled with legal sanctions, will suffice to motivate people to follow rules.¹⁶⁹

The second goal of the utilitarian, that of encouraging people to make choices that lead to the higher pleasures, is what Mill accomplishes through the principle of participation. The work that the principle of participation is doing, however, is inextricably linked to the principle of competence. That is, it is impossible to talk about the benefits gained through participation without also discussing the benefits gained through competence.

As I discussed in chapter one, Mill maintains that, left on their own, people tend to make poor (i.e., short-sighted and selfish) choices. One of the duties of the competent is to raise people from this level to a more enlightened level. This elevation is not accomplished by simply forcing people to think more broadly. Rather, the job of the competent is to guide the people to this higher level. The competent cannot, however, perform this task without the help of the people. We can think of the job the competent are doing as being analogous to the work a park ranger does in leading nature hikes. The ranger can guide people along a trail, pointing out difficulties and assisting where he is needed, but he can perform these tasks only if there are other people who are actually following him along the trail. So too can the politically-competent guide novices through the political process only when the novices are actually engaged in the political process. In other words, for any sort of guidance to take place, there must be some activity on the part of those being guided.

On the higher pleasures account, political activity itself is valuable because it tends to promote the right sorts of individual choice-making. As Mill often argues, politically active citizens tend to be more enlightened. Mill commented very favorably on de Tocqueville's analysis of the effects of democracy on Americans.¹⁷⁰ Following de Tocqueville, Mill argues that participation in government will help every person to improve himself. Mill argues that most members of the working classes have no incentive to reach for any sort of cultivated activities. He argues that, for those citizens,

[I]f instructive books are within their reach, there is no stimulus to read them; and, in most cases, the individual has no access to any person of

¹⁶⁹ This is the basic strategy employed by both Richard Brandt, *Morality, Utilitarianism and Rights* (Cambridge: Cambridge UP, 1992) and R.M. Hare, *Moral Thinking* (Oxford: Clarendon Press, 1981). Brandt interprets Mill as following this strategy in *Utilitarianism*. See pp. 47-8.

¹⁷⁰ See, for example, *CRG*, pp. 171-2 and also J. S. Mill, "De Tocqueville on Democracy." *The Collected Works of John Stuart Mill*. Ed. J.M. Robson. Vol. ? Toronto: University of Toronto Press, 196?.

cultivation much superior to his own. Giving [them] something to do for the public supplies, in a measure, all these deficiencies.¹⁷¹

Mill's argument here is that if the masses do not participate, they will have no incentive to better themselves, and hence will continue to live unenlightened lives.

Participation in the political process, however, provides this incentive. We can imagine what this process might look like. The uneducated individual will participate at first out of mere self-interest, his only desire being to protect his own interests from others. Quickly, however, this individual will learn that to further one's own interests within a group setting will require compromise. In order to make the best possible compromises, the individual will begin to examine "instructive books" and engage in political debate with those who are more enlightened on the subject than he is. Through this process, the individual will educate himself.

Besides the fact that reading "instructive books" and engaging in political debate will allow a person to better represent his own interests in government, these activities are also activities of the higher mental faculties. That is, these are the types of activities which count as being higher pleasures. The political process, therefore, leads people to experience the higher pleasures. If we accept Mill's claim that those who have experience of both the higher and the lower pleasures always prefer the higher, then this newly-educated individual, having once experienced the higher pleasures, will realize their greater value and will consequently pursue activities which lead to the higher pleasures. Thus, on the higher pleasures account, political participation is valuable insofar as it leads to the higher pleasures.

Returning to our utilitarian whose goal it is to encourage people to exercise the right type of individual choice-making, we now have his solution. It is impossible for him to coerce people to make the right sorts of choices; however, it is perfectly permissible for him to design institutions that promote the right sorts of individual choice-making. That is, he can design systems under which everyone is motivated to make the type of choices that lead to the higher pleasures. Participatory democracy is such an institution. Thus, in addition to having all of the benefits which a standard utilitarian cites, a system of democracy has the additional feature of being conducive to the types of individual choice-making that lead to the higher pleasures.

Mill indeed seems to argue this way. He consistently argues that activity is more valuable than passivity. He claims, for example, in *On Liberty* that "more good may always be made of an energetic nature, than of an indolent and impassive one."¹⁷² Likewise in *Utilitarianism*, Mill maintains that true happiness is not a life of rapture, but moments of such, in an existence made up of few and transitory pains, many and various pleasures, with a decided predominance of the active over the passive.¹⁷³

¹⁷¹ J.S. Mill. *Considerations on Representative Government*. (Buffalo: Prometheus Books, 1991), p. 78

¹⁷² *On Liberty*, p. 60

¹⁷³ *Utilitarianism*, p. 13 emphasis added

And of course throughout *Representative Government*, Mill continues with this theme that the active life is far more valuable than a passive life. The higher pleasures account shows why Mill regards activity so highly.

The principle of competence

That the principle of competence is compatible with utilitarianism is not a difficult argument to make. Indeed, while critics consistently denounce the principle of competence, this rejection is based upon the fact that it is apparently inconsistent with his commitment to individual choice-making, and not upon any claims about its consistency with utilitarianism. But I hope to do more here than just show that the principle of competence is acceptable for a utilitarian. Instead, I argue that competence is absolutely essential to the higher-pleasures account.

As I discussed in chapter one, competence is supposed to accomplish two things. The first is to protect society as a whole from the uneducated majority. This protective aspect of competence is easily justified as a straight-forwardly utilitarian concern and so it will not concern us much here. The second purpose, on the other hand, is crucial to the higher-pleasures account. This second purpose of competence, the educative aspect, is to guide the uneducated to a more enlightened state. This aspect of competence is an integral part of the value that attaches to participation. That is, if the educative aspect of competence is eliminated, then it will be impossible to attain the full value of participation.

In chapter one, we saw Mill's arguments for why competence is required to raise the level of awareness for the uneducated. Mill's argument there was that the uneducated, if bereft of guidance, would tend to consider only class interests in parliament. That is, because the uneducated are not able to see past a very narrow conception of the world, they would write legislation which would be beneficial only from their limited points of view. Such legislation could, however, turn out to be very harmful to everyone when long-term consequences are taken into consideration.

The presence of the competent is designed to avoid such problems. Because the competent will be ensured of representation in parliament, there are sure to be at least a few people present who can introduce the representatives of the majority to the long-range or far-reaching consequences of their proposed legislation. And with the presence of these competent insured, Mill claims that

When any difference arose, they [the majority] would have to meet the arguments of the instructed few by reasons, at least apparently, as cogent.¹⁷⁴

Mill argues that since there will always be this significant minority present, the representatives of the majority will feel compelled to present reasoned arguments for their proposals.

This reason-giving process will be the catalyst that ultimately stimulates people to better themselves. In other words, if legislation is enacted only by those who have similar interests, then there is nothing to force the uneducated to learn how to engage in political discussion or to seek "instructional books" to learn the art of compromise. Since the representatives of the majority do have to engage in such

¹⁷⁴ *ibid.*, p. 161

debate, they will have sufficient motivation to better themselves. And it will not be just the representatives of the majority who will be affected by the competent. Remember that Mill's conception of participation is very rich; it does not consist of merely voting. With the competent as well as the uneducated involved in every area of public life, the level of debate inspired by the competent will always provide the motivation for the uneducated to better themselves. Thus the benefits of having people participate can be attained only if Mill can insure that the competent will also be represented.

4. The reconciliation

Having examined how the higher pleasures account requires both participation and competence, we are now in a position to respond to the critics' objections at the end of chapter one. In particular, we can now see why Mill's system cannot be accused of inconsistency on the basis of either paternalism or inequality.

Paternalism

The paternalism worry stemmed from the fact that Mill argues in favor of a governmental obligation to provide moral education. Arneson's criticism is that morality is necessarily self-regarding and hence for the government to promote a specific type of moral education is equivalent to coercing a person for his own good. If we argue that this paternalism that Arneson objects to is only a form of weak paternalism, then we raise the possibility that strong paternalism may not exist. Hence our response on Mill's behalf is somewhat unsatisfying.

The worry about paternalism is directly dependent upon the intrinsic value of individual choice-making. In other words, we worry about paternalism only if we think that what makes something valuable in the world is that it be chosen freely. Thus since "good" just is the ability to choose freely, if we deny a person the ability to choose freely in the name of his own good, then we are being very inconsistent.¹⁷⁵ So for someone to advocate the intrinsic, non-trumpable value of individual choice-making while at the same time insisting that the government provide moral education for its citizens would be inconsistent.

On the higher pleasures account, however, the worry that Mill's paternalism is inconsistent dissolves. Although on this account Mill does regard individual choice-making to be a non-trumpable value, that value is not intrinsic. Rather, individual choice-making is constitutive of the higher pleasures. For Mill, the only intrinsically valuable thing is pleasure, and consequently, anything that is necessary for attaining pleasure becomes instrumentally valuable. Thus, in principle, individual choice-making could be sacrificed if it would lead to a greater amount of pleasure. In other words, on the higher pleasures account, if individual choice-making were not constitutive of the higher pleasures, then there would be no need whatsoever to protect individual choice-making. That is, had humans been designed in such a way that the higher pleasures could take place without

¹⁷⁵ It may be that we would want to make an even stronger charge against someone who advocated this position. It may not even be a coherent position to hold that we could deny choice in the name of good when it is the very act of choosing that provides good.

individual choice-making, then individual choice-making would not have its instrumental value.

The charge that Mill's paternalistic tendencies are inconsistent with his desire to protect individual choice-making makes the error of confusing the way in which individual choice-making is protected with the reason for protecting it. Arneson seems to assume that because Mill wants to protect individual choice-making as a non-trumpable value, he must also regard individual choice-making as intrinsically valuable. The higher pleasures account gives reasons to think that these two things may not be connected. Because Mill is really concerned with promoting the higher pleasures, he will regard any process that facilitates this goal as instrumentally valuable. If it turns out that moral education provided by the government will help lead to the higher pleasures, then it is perfectly consistent for Mill to advocate such a process.

Thus our picture of Mill is that he does want to protect individual choice-making as non-trumpable but only because it leads to the higher pleasures. To advocate government-sponsored moral education is not to deny people the ability to choose freely. Rather, the purpose of moral education is to show people how to make the proper types of choices. Further, since Mill's criteria of good is the driven by pleasure and pain rather than by the intrinsic value of individual choice-making, he can consistently claim that certain choices are better than others. Consequently, the charge that Mill's paternalistic tendencies are internally inconsistent dissolves.¹⁷⁶

Inegalitarianism

The higher pleasures account handles the inegalitarianism worry in much the same way that it handles the paternalism worry. First, we note that, like anti-paternalism, egalitarianism is only a central value if it is the case that value derives from individual choice-making. That is, if all value stems from the fact that things are being chosen freely, then it follows that there is no way to make a value distinction between two freely chosen things.¹⁷⁷ For example, if choice is the only thing that provides value, then choosing pushpins is just as valuable as choosing poetry. Further, since all choices are of equal value, all choice-makers are also of equal value. Thus if individual choice-making is what provides value, then complete egalitarianism seems to be required as a necessary corollary.

As I already argued, however, the higher pleasures account does not assign individual choice-making the role of determining value. Instead, value is assigned,

¹⁷⁶ Paternalism may still be a charge that liberals would want to apply to the higher pleasures account. This criticism would, however, represent an attack upon the validity of the higher pleasures account as a candidate for the correct moral and political system. While that criticism is very interesting and deserves further consideration, it is not my purpose here to defend the truth of the higher pleasures account. Rather my project is to demonstrate that the higher pleasures account is Mill's account and that his account presents a consistent picture of moral and political thought. Thus all that I have attempted to do here is show that my account of Mill is internally consistent.

¹⁷⁷ Of course in making this claim I assume that neither choice violates another person's ability to make choices. I realize that a choice of murder is not equivalent to a choice of altruism. I also realize that those who hold that value stems from individual choice-making have grounds for distinguishing between murder and altruism. My point is only that for any two actions, assuming that neither action violates some duty, there is no grounds for making value judgments between those actions.

in general, via pleasure and pain calculations, and in particular by means of the higher pleasures. But once again, if the higher pleasures operate as the standard for determining value, then Mill does have a method for distinguishing between individual choice-makers, namely, those whose choices lead to the higher pleasures are more valuable than those whose choices do not lead to the higher pleasures.

Mill is not, therefore, inconsistent in holding that everyone's choice should be valued but that some choices should be valued more than others. Indeed, the charge of inegalitarianism would seem to be an external rather than an internal criticism of Mill's account. That is, while one might still wish to accuse Mill of inegalitarianism, such an accusation would represent a criticism of Mill's system as an account of truth rather than an attack upon the internal consistency of Mill's thought.

On the higher pleasures account, individual choice-making is valuable only because it is constitutive of the higher pleasures. Mill favors allowing people to choose in the political realm because such choice-making opportunities help others to activate their higher mental faculties and thus attain the higher pleasures. But from the mere fact that Mill advocates universal suffrage, it does not follow that each person's voice ought to be equal. Indeed, given Mill's position that the higher pleasures are so much more valuable than the lower pleasures, it would seem somewhat strange if he then advocated that those who recognize the value of the higher pleasures should be accorded the exact same status in making laws as those who do not even recognize the existence of the higher pleasures.

5. Conclusions

I have argued that Mill does not have a confused interpretation of utilitarianism which wrongly tries to value both individual choice-making as non-trumpable and utility maximization. Further, I have rejected previous attempts to reconcile this tension in Mill. Such attempts, while providing valuable insights into the subtleties of Mill's thinking, fail to be textually consistent with all of Mill's claims. I have formulated the higher-pleasures interpretation of Mill which resolves the tension between utility maximization and the protection of individual choice-making as non-trumpable. The higher pleasures account has two advantages over previous interpretations of Mill. First, it makes sense of passages that are troubling for other interpretations. Second, the higher pleasures account draws upon the insights of all the previous interpretations.

I have also argued that the higher pleasures account reconciles the tension present in Mill's political thought. Specifically, the higher pleasures account shows why Mill values both competence and participation. This second reconciliation is important, for it brings to Mill a coherence which has previously been denied to him. The higher pleasures account brings unity to Mill's moral and political thought, showing how his commitments to a particular conception of morality are institutionalized in society.

Bibliography

- Aiken, Henry D. "Mill and the Justification of Social Freedom." Liberty. Nomos (Yearbook of the American Society for Political and Legal Philosophy). Vol. 4 Ed. Carl J. Friedrich. New York: Atherton Press, 1966.
- Anderson, Brian A. "Mill on Bentham: From Ideology to Humanised Utilitarianism." History of Political Thought 4 (Summer 1983): 341-356.
- Anderson, Elizabeth S. "John Stuart Mill and Experiments in Living." Ethics 102 (Oct. 1991): 4-26.
- Arneson, Richard J. "Democracy and Liberty in Mill's Theory of Government." Journal of the History of Philosophy 20 (Jan. 1982): 43-64.
- Bogen, James and Daniel M. Farrell. "Freedom and Happiness in Mill's Defence of Liberty." Philosophical Quarterly 28 (Oct. 1978): 325-338.
- Brandt, Richard. Morality, Utilitarianism and Rights. Cambridge: Cambridge UP, 1992.
- Brink, David. "Mill's Deliberative Utilitarianism." Philosophy and Public Affairs 21 (Winter 1992): 67-103.
- Chopra, Y.N. "Mill's Principle of Liberty." Philosophy 69 (Oct. 94): 417-441.
- Cowling, Maurice. Mill and Liberalism. Cambridge: Cambridge UP, 1963.
- Donner, Wendy. "John Stuart Mill's Concept of Utility." Dialogue 22 (Sept. 1983): 479-494.
- , The Liberal Self. Ithaca: Cornell UP, 1991.
- Dryer, D.P. "Mill's Utilitarianism." The Collected Works of John Stuart Mill. Ed. J.M. Robson. Vol. X. Toronto: University of Toronto Press, 1969.
- Duncan, Graeme. Marx and Mill. Cambridge: Cambridge UP, 1973.
- Dworkin, Gerald. "Paternalism." The Monist 56 (1972): 64-84.
- Graham, Gordon. "What is Special About Democracy?" Mind 92 (Jan. 1983): 94-102.
- Gray, John. Mill on Liberty: a defence. London: Routledge & Kegan Paul, 1983.
- Hare, R.M. Moral Thinking. Oxford: Clarendon Press, 1981.
- Mandelbaum, Maurice. "Two Moot Issues in Mill's *Utilitarianism*." J.S. Mill. Ed. J.B. Schneewind. Garden City: Doubleday & Co., Inc., 1968. 206-233.
- Mill, John Stuart. Autobiography. New York: The Liberal Arts Press, 1957.
- . Considerations on Representative Government. Buffalo: Prometheus Books, 1991.
- Mill, John Stuart. On Liberty. On Liberty and Other Writings. Cambridge Texts in the History of Political Thought. Ed. Stefan Collini. Cambridge: Cambridge UP, 1989.
- . On the Logic of the Moral Sciences. Ed. Henry M. Magid. Indianapolis: Bobbs-Merrill Company, Inc., 1965.
- Mill, John Stuart. "Remarks on Bentham's Philosophy." The Collected Works of John Stuart Mill. Ed. J.M. Robson. Vol. X. Toronto: University of Toronto Press, 1969.
- . "Three Essays on Religion." The Collected Works of John Stuart Mill. Ed. J.M. Robson. Vol. X. Toronto: University of Toronto Press, 1969.
- Mill, John Stuart. Utilitarianism. Ed. George Sher. Indianapolis: Hackett, 1979.

- Neff, Emery. Carlyle and Mill. New York: Octagon Books, Inc., 1964.
- Riley, Jonathan. "Utilitarian Ethics and Democratic Government." The Utilitarian Response: the Contemporary Viability of Utilitarian Political Philosophy. Ed. Lincoln Allison. London: Sage Publications, pp. 160-192.
- Rosen, Frederick. Jeremy Bentham and Representative Democracy. Oxford: Clarendon Press, 1983.
- Ryan, Alan. J.S. Mill. Routledge Author Guides. London: Routledge & Kegan Paul, 1974.
- Strasser, Mark. "Mill and the Utility of Liberty." The Philosophical Quarterly 34 (Jan. 1984): 63-68.
- Ten, C. L. Mill on Liberty. Oxford: Clarendon Press, 1980.
- Thompson, Dennis F. John Stuart Mill and Representative Government. Princeton: Princeton UP, 1976.
- Thorton, Neil. The Problem of Liberalism in the Thought of John Stuart Mill. New York: Garland Publishing, Inc., 1987.
- Urmson, J.O. "The Interpretation of the Moral Philosophy of J.S. Mill." J.S. Mill. Ed. J.B. Schneewind. Garden City: Doubleday & Co., Inc., 1968. 179-189.
- Zimmer, Louis. "John Stuart Mill and Democracy." Mill News Letter 11 (Summer 1976): 3-17.

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