Mill’s *On Liberty*

Mill is concerned with the question of when it is appropriate to interfere with the liberty of an individual. Historically, there have been several considerations offered for when it is appropriate to do so. These have been:

1. It is permissible to interfere with an individual’s liberty when their actions hurt or endanger the actor. This is known as the **principle of legal paternalism**.
2. It is permissible to interfere with an individual’s liberty when their actions are immoral, even when they harm no one but their perpetrator. This is known as the **principle of legal moralism**.
3. It is permissible to interfere with an individual’s liberty when their actions are offensive to others, even if they are not harmful. This is known as the **offense principle**.

We’ll see each of these principles at work in many of the readings we will be doing in subsequent weeks.

Mill’s position on this issue is clear in the very first paragraph the reading, when he states: “The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.” That an action might be immoral or offensive or even harmful to the actor him or herself are not sufficient grounds to compel or coerce behavior. Mill’s statement of this principle is very strong and legal philosophers such as Gerald Dworkin have argued that we generally tolerate many more occasions of interference than Mill’s principle itself would permit. For instance, an issue relevant in the state of Pennsylvania is the debate over whether the state could demand that motorcyclists wear helmets. While Pennsylvania repealed this law, many states do think such laws are justified on the grounds of legal paternalism. There are many such laws which are justified on such grounds and generally tolerated. Nonetheless, Mill articulates a very important principle that has exercised great influence in politics and law.

One goal of this course is to learn to read difficult material clearly and critically and in the case of this reading we might wonder what justification Mill cites in support of his principle. In the context of the short selection we have from *On Liberty* this is not entirely obvious, but Mill does seem to point to two general considerations: utility and the autonomy or sovereignty of the individual, which is connected to Mill’s view of human nature. As a Utilitarian, Mill argues that individuals will be better off in the long run if the state does not interfere in his or her liberty. Do you think he’s right about this? Note that Mill eschews the notion of abstract rights. As a Utilitarian, Mill denies that there is some notion of universal human right independent of the notion of utility. Utility is the “ultimate appeal.” Secondly, Mill claims: “In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.” Mill offers a strong defense of the sovereignty of the individual in “laying out his existence.” These comments come in Chapter III, where Mill draws on
the German philosopher Humboldt in setting out what we might think of as a progressive view of the human being.

It is important to notice that Mill makes some important qualifications to his core principles, especially in paragraph two of the reading. His doctrine is meant to apply “only to human beings in the maturity of their faculties.” Some of what he has to say here seems to verge on racism, or at least the worst aspects of the colonial mentality. Mill is a very careful writer and thinker who is always raising objections to his own views and carefully working through them, sometimes qualifying his views and other times recognizing just how difficult matters can be.

In Chapters IV and V Mill offers a number of comments on applying his two core principles (and you should note that in the first paragraph of Chapter V Mill carefully reminds the reader of his two core maxims) to some practical applications and you might pay close attention to his discussion as you consider applying Mill to some issue of your own.

**Mill on the tyranny of the majority**

One important aspect of Mill’s defense of liberty is related to his famous account of the tyranny of the majority, not included in our selection. Here’s the relevant paragraph:

Like other tyrannies, the tyranny of the majority was at first, and is still vulgarly, held in dread, chiefly as operating through the acts of the public authorities. But reflecting persons perceived that when society is itself the tyrant--society collectively over the separate individuals who compose it--its means of tyrannizing are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates: and if it issues wrong mandates instead of right, or any mandates at all in things with which it ought not to meddle, it practices a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself. Protection, therefore, against the tyranny of the magistrate is not enough; there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formation, of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own. There is a limit to the legitimate interference of collective opinion with individual independence: and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism.