

Justice and Ethics

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There are three points of confusion on the distinction between ethics and justice in John Stuart Mill's essay "On the Liberty of Thought and Discussion," from On Liberty. The first is his use of the principle of utility, an fundamentally ethical doctrine, for the development of a system of justice, a process which seems backward. Second, the fact that, as described by Mill, the optimally just state is one in which any given system of ethics enjoys incomplete observance. Finally, under Mill's system, the most important feature, the free discussions of opinions, are exactly those which are bound to become extinct. I believe that these points suggest that Mill had an understanding of the interrelations between justice and ethics which contain reflections of their true interrelations, but which is itself essentially flawed.

In making this argument, I make the assumption that there is such a thing as absolute right and wrong. I suspect that we currently have very poor knowledge of it, but that a better understanding of right and wrong is accessible to reason and experience.

The distinction between ethics and justice is difficult to define, and an exploration into its nature is one of the underlying motives of this paper, but I will start from the following understandings of the two terms. Ethics is the study of what is right and wrong, in the sense of obligations in action. Justice pertains to what is allowed, merited, and required of acting entities. I here use the term "action" not to define my terms deontologically, but simple to mean that these apply to actual (or theoretical) people doing actual (or theoretical) actions in actual (or theoretical) situations.

It is conceivable, given the above definitions, that justice and ethics most properly are identical. There are simple cases, however, which call this view into question.

Consider the ethical rule that it is wrong to torture human beings, a rule one would expect to find legislated into any just system. However, when the human that is being tortured is identical to the human doing the torturing, that is in the case of self-torture, it is possible that the situation is no less wrong, but completely just.

Negative wrongs, evils of inaction, also find different responses to ethics and justice. A wealthy monopolist is found to have so much money that he could solve all of the worlds hunger problems without significantly decreasing his own standard of living. It may be just that he sit on the wealth that he has earned, but the results are difficult to justify ethically.

To take an example from utilitarianism, consider the situation in Ursula LeGuin's short story "The Ones Who Walk Away from Omelas," where a single child is tortured for the good of society. The child has done nothing to be put in that situation, and there is no justice in its lot in life. However, by utilitarian principles, such a sacrifice, if it is possible, is a moral imperative.

Justice and ethics may be found to derive from the same doctrine as our understanding of them reaches completion, but for the time being, they are very distinct. However, in developing his system of justice in On Liberty, Mill uses utilitarian ethics to justify all of his liberties. This suggests that Mill thinks that either the two are identical or, or that their relationship consists of right ethical codes spawning right systems of justice.

The opposite view appears to be more accurate. Right justice is the conditions under which (among other things) the study of ethics can evolve. The proper liberties given under a system of justice are prerequisites for allowing ethics to progress into new areas and take new forms. A system of ethics cannot precede a system of justice. Moreover, ethical judgments, except when instantiated into laws or social pressures, need have no bearing on the development of justice. A system of justice may allow for any number of ethical systems.

However an ethical system, if strongly enacted, displaces justice, and if weakly enacted, has no bearing on the justice of situations.

I believe that the relationship is more complicated, and consists of both of these effects. Any statement of allowance or liberty must be based on ethical assumptions if it is to apply to the world. For example, consider Mill's first claim of liberty. Mill notes that in all realms of human knowledge, and foremost in ethics, our "knowledge" is insecure, incomplete, and based on biased understandings. While true, without ethical assumption, this implies nothing in the realm of action. Our knowledge of ethics is faulty, but that is not necessarily worse than the alternative, and has no inherent obligation for its own fixing. Moreover, any system of justice is a kind of enforcement of morality, because what is liberty to one may be a violation of another. It may be a natural violation, such as the liberty of life taking away others right to kill, but it nonetheless a restriction on people.

This seems to contradict the above idea that justice precedes ethics. One way to understand my resolution to this conflict is in terms of simple differential equations:

$$\begin{aligned} Justice(t) &= f(Ethics(t)) \\ \frac{\partial Ethics}{\partial t} &= g(Justice(t)) \end{aligned}$$

In words, the state of justice is determined by the state of ethics. However, the improvement of the state of ethics— its progress toward a more complete understanding of good and evil— is a function of the level and completeness of justice. According to this understanding, any progress made in ethics may be made to any of the systems held by individuals pursuing ethical progress, and the ethics which determines justice is most properly a synthesis of the truths found in all concurrent ethical systems.

The second point of confusion that I want to address is Mill's description of the progress of ethics on a societal and a personal level. As time passes, Mill claims that "the number of doctrines which are no longer disputed or doubted will be constantly on the increase" (50). In other words, mankind's understanding of right and wrong will improve. Oddly,

this prospect does not seem to appeal to Mill. The reason for this lies in Mill's belief that self-improvement is an ultimate good.

Mill's overarching claim is that "we can never be sure that the opinion we are endeavoring to stifle is a false opinion; and if we were sure, stifling it would be an evil still" (21). If everyone were a true utilitarian, in that each pursued the highest quality pleasures he was aware of, each decided his actions based on what would improve the happiness of everyone around him, Mill would believe that his ideas had in part failed. This is because meaningful discussion would become impossible and it is in meaningful discussion that Mill thinks good is found.

I have called justice a prerequisite to the discussion of ethics. All philosophical discussions have necessary prerequisites. These include language, that both parties understand the words used in general; logic, that it is possible for truths to contradict other truths and imply other truths; and meaningful purpose, that discussion of the topics has the potential to produce changes outside of the conversation. Discussions on any topic also require the liberty of discussing that topic, or at least the absence of enforcement against its discussion.

Mill's arguments are to show that discussions of ethics have meaningful purpose. Specifically, Mill argues that the discussions and the potential for these discussions is useful: it will make people ultimately happier and more fulfilled. Specifically, it will do so not only for the people in the discussion, but also for all those who live in the context where such discussions are possible.

For Mill, the meaningful purpose of discussion is found in the *state* that results from the *means* of the discussion, not a state that results from its ends. The result of discussion, Mill thinks, is progress— the more complete and truer understanding of the universe. However, potentially at least, this end improves the happiness and improvement of others not at all. Improvement is an individual process which is gleaned from engaging in challenging discussion.

This argument only makes sense when self-improvement is an ultimate good. For Mill it is because self-improvement is the mechanism for becoming capable of experiencing higher quality pleasures. Higher quality pleasures are found in the pursuit of those things which engage the human capacities. Opinions “received” from others, such that the receiver has only cursory knowledge of the motivations for the idea, are essentially useless. In a sense, such receivers do not know the opinion at all, because they have not been changed by it.

All this meaningful purpose for discussions produces another problem. As discussion ensues among people who are “do[ing] their utmost” to defend their views, people’s natural aversion to conflict will encourage them to come to agreement (43). Mill warns that “teachers and learners go to sleep at their posts, as soon as there is no enemy in the field,” but it is exactly this perception of an “enemy” in the other opinion which will both fuel and then extinguish the arguments Mill holds so dear (49).

It has been said that justice is a kind of translation of ethics into practice. Whereas ethics may concern ideals, justice is supposed to be directly tied to implementation. How then, in Mill’s view, is the argumentative, suboptimal state to be maintained? Mill’s solution is to say that as time goes on, conflicts will be resolved, but other conflicts will remain. This solution, however, is unsatisfactory because it will make the truths so opined less distinct, because lost will be “the clearer perception and livelier impression of truth, produced by its collision with error” (21).

One option for maintaining what I have called the suboptimal state of justice is by stifling some true opinions. Under Mill’s utilitarianism, perhaps it can be good to place a false belief in the place of a true one if people acting under the false belief are happier, and particularly if it causes them to engage in more meaningful discussion.

However, Mill has an additional assumption about how knowledge in the world works: that although it can be difficult to grasp any piece of the stuff which forms human knowledge, together all that stuff forms a coherent whole. By this, it is impossible to stifle even one truth without a thinker being constrained in their pursuit from “follow[ing] his intellect to

whatever conclusions it may lead” (40). In other words, one cannot fence off one realm of knowledge without obstructing the roads through the rest of it. If one opinion is not taken, others with reflections of its truth must be.

The confusion arises from assuming that the justice/ethics interaction is taking place on a society level, which Mill denies. The reason that society level solutions to these problems do not work is not because of society level complications. These solutions do not work, as above, because the true conflict takes place within each individual.

Mill believes that good is found in self-improvement, on an individual level. Applying similar mathematical intuition as before,

$$\begin{aligned} \textit{Self - Improvement} &= h\left(\frac{\partial \textit{Ethics}}{\partial t}\right) \\ &= h(g(\textit{Justice})) \end{aligned}$$

In other words, the greater the level of justice, the greater the potential for self-improvement.

In summary, the following points are difficulties in Mill’s understanding of the interactions between ethics and justice: First, ethics is not only a foundation of justice, because justice is even more strongly a foundation for ethics. Second, Mill holds a concept of justice which undermines its own ethical foundation, and in which the very undermining is justified by means of undermined ethical code. Third, Mill’s concept of justice seems impossible to implement in a way which results in a society which can maintain itself. However, when one realizes that justice is a foundation for the *improvement* of ethics and that Mill’s interest is in *discussion*, not its results, then a clearer picture arises, of justice as the direct foundation for self-improvement, jointly an ultimate good.