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TAKING ETHICS SERIOUSLY: ON THE MORAL AND POLITICAL THEORY OF JOHN STUART MILL[1]

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ABSTRACT

John Stuart Mill, one of the most important of Moral philosophers, advanced a concept of Happiness that, in spite of its debt to Plato, is fundamentally original. This paper argues that his writings should be taken seriously and in context, as he took others'. Particular attention is paid to two criticisms that have been aimed at Mill , the first that he commits the Naturalistic Fallacy defined by G.E. Moore in *Principia Ethica,* the second that he sacrifices human rights to welfare (perhaps the prevailing view of the past century) . The first criticism in countered by noting that in identifying the desirable Mill gives preference to enlightened desire over bare desire; the second by pointing to the importance of Justice and Human Rights for the possibility of the good life and the welfare of society.

Keywords: John Stuart Mill, ethics, naturalistic fallacy, G.E. Moore, criticism of utilitarism.

RESUMEN

John Stuart Mill, uno de los más importantes filósofos de la Moral , presentó un concepto de Felicidad que, a pesar de su deuda con Platón , es fundamentalmente original. Este artículo argumenta que los escritos de Mill deben ser tomados en serio y en contexto, como el tomó los de los demas. Se presta particular atención a dos críticas que han sido hechas a Mill. La primera se refiere a que Mill incurre en la Falacia Naturalista definida por G.E. Moore *en Principia Ethica, la segunda,* que sacrifica los derechos humanos al bienestar (el punto de vista prevaleciente sobre Mill en el pasado siglo). A la primera critica se responde

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observando que al identificar lo deseable Mill dio preferencia al deseo ilustrado sobre el deseo bruto. A la segunda se responde señalando la importancia de la justicia y de los derechos humanos para la posibilidad de la buena vida y el bienestar de la sociedad.

Palabras clave: John Stuart Mill, ética, falacia naturalista, G.E. Moore, críticas al utilitarismo.

1. Introduction

The four most important philosophers to have taken ethics seriously are probably Plato, Aristotle, Kant and Mill. Current moral philosophers are, with some exceptions, so *narrowly* concerned with human rights, "veils of ignorance", theorems and dilemmas that the seriousness of their attitude to ethics is questionable - certainly, they find little room in their discourse for meta-ethics and moral argument, and have nothing to say about the areté or excellence of Plato Or Aristotle, about Kant's *Selbstzufriedenheit*, or Mill's moral development and sympathy.

For me, Mill is in some ways the wisest of the four, because his principal tenets are the most attractive. What, you will ask, has attractiveness to do with wisdom? In this case, quite a lot, because we are not wholly rational animals, and a moral argument must be attractive to us; in Austin's terms, it must have illocutionary and perlocutionary force. Our rationality is indeed surely pretty weak: I certainly do not believe that we are endowed with sufficient Kantian practical reason to enable us to base our ethics solely on appeals to justice or impartiality, without regard to our emotional nature, for appeals to freedom or equality are bootless if they fail to awake feelings of proper self-regard or sympathy for others. A moral argument must be attractive because we need to be moved, we need to feel a moral attraction to what Plato called goodness, beauty and truth; still with Plato, without love of love we are unable to be generous or just. As Hume put it, reason is the slave of passion, an instrument that can help balance our intrasubjective and intersubjective conflicts, but which cannot take on the motivational role of moral feelings; by analogy with Agnes Heller's "the goal of justice is beyond justice" *(Beyond Justice,* p.326), we might say that the goal of reason is beyond reason. Thus, in a sense, Mill's moral philosophy can be seen as taking Hume's epigram as its starting point, though Mill is both more subtle and more respectful of moral reason.

Many writers recognize Mill's appreciation of a wide range of more-or-less conflicting moral views, but interpret this catholicity as mere eclecticism and lack of originality. The reflections of Plato, Aristotle and Kant, who make scant mention of competing accounts, appear to be more personal and less derivative. But Mill should perhaps more justly be regarded as highly original in that, acutely sensitive as he was to the merits of mu-

tually opposed perspectives, he undertook in all humility to harmonize their various calls upon our moral awareness. That his writings feature such variety is not the result of eclecticism, but the expression of his conviction -perhaps more deeply held than by any other philosopher- that in ethics one cannot legitimately exclude any point of view from adequate consideration.

Mill based his ethics on the identification of the good life with the happy life, an idea that allowed him to advocate, *inter alia*, the effective equality of husband and wife and of employer and employee. This identification was of course no novelty: it had been made by Plato and Epicurus, and if Bentham and Moritz Schlick are right, all systems of moral theory have in fact made happiness the aim of our behaviour, be it happiness here on Earth or in some heaven. Even Kant had to accept universal happiness as a goal for his categorical imperative to make sense, as Mill points out in two passages of *Utilitarianism*. In the first, in Chapter I, he writes:

> It is not my present purpose to criticise *[a priori* moralists]; but I cannot help referring, for illustration, to a systematic treatise by one of the most illustrious of them, the *[Foundation for The] Metaphysics of Ethics, by* Kant. This remarkable man, whose system of thought will long remain one of the landmarks in the history of philosophical speculation, does, in the treatise in question, lay down a universal first principle as the origin and ground of moral obligation; it is this: "So act, that the rule on which thou actest would admit of being adopted as a law by all rational beings." But when he begins to deduce from this precept any of the actual duties of morality, he fails, almost grotesquely, to show that there would be any contradiction, any logical (not to say physical) impossibility, in the adoption by all rational beings of the most outrageously immoral rules of conduct. All he shows is that the consequences of their universal adoption would be such as no one would choose to incur. [Mill's italics]

In the second, in Chapter V, he adds that, in propounding his principle, Kant

> .... virtually acknowledges that the interest of mankind collectively, or at least of mankind indiscriminately, must be in the mind of the agent when conscientiously deciding on the morality of the act for, that a rule even of utter selfishness could not possibly be adopted by all rational beings cannot be even plausibly maintained. To give any meaning to Kant's principle, the sense put upon it must be, that we ought to shape our conduct by a rule which all rational beings might adopt with benefit to their collective interest.

This kind of analysis illustrates a fundamental component of Mill's originality and wisdom: his ability to perceive underlying affinity among supposedly antagonistic theories, his refusal to seek a spuriously original

account of ethics that ignores or attacks the insights of others. And this modesty, this honesty, enables him to understand the concepts of ethics - happiness, desire, impartiality, justice - in a way that does indeed resolve their contradictions. But to see this requires that his moral and political arguments be examined with considerably greater thoroughness, rigour and equity than has been shown towards them by a number of contemporary moral philosophers –notably those whose allegedly fairer, "axiologically neutral" theories of moral concepts facilitate the disguise of privilege as right.

Proper appreciation of Mill also requires willingness to accept that conflicting moral codes can indeed supply ethical insights that complement each other to good effect. Insistence on the incommensurability of different moral codes has favoured (and been favoured by) the growth of what in my book *Más alla de la democracia* I have called "prudential democracies", in which politicians buy votes *a la Schumpeter* in accordance with established rules. It has thereby helped promote increasing dissatisfaction with democracy, in much the same way as the predominance of rhetorical persuasion over rational argument led to Plato's dissatisfaction with Athenian democracy. Alarmingly, one of the best-known criticisms of Mill, G.E. Moore's accusation in *Principia Ethica* that he confuses the desirable with the desired, amounts to saying that he justified prudential democracy, when quite the reverse is the case. In Section 1 below I rebut this accusation. In Section 2 I respond to another rebuke that has been directed at Mill throughout the past century: that he sacrifices welfare to human rights.

2. Desire in Mill's ethics

It must be admitted that in his proof of the Principle of Utility in Chapter IV of *Utilitarianism,* Mill is probably not at his expository best. As many a writer has pointed out, G.E. Moore among them, the analogy between a sound being audible because people hear it and something being desirable because people desire it is not exact. *What ought to* be desired is not necessarily what *is* desired. And yet, as Richard Brandt pointed out, neither is the analogy totally irrelevant:

> Will anybody in fact deny that a certain kind of thing is desirable if in fact everybody would desire it in all circumstances? Or will anybody in fact deny that a thing is not desirable if nobody desire it under any circumstances whatever? (Ethical Theory, p.261)

To resolve the paradox, the kind of desire experienced must in some way be qualified, and this is exactly what Mill does - to think otherwise is to take his analogy out of context. In fact, his greatest contribution to

eudaimonist ethics may be said to be his insistence that the quality of what is desired is as important as the quantity attained, if not more so:

> It is quite compatible with the principle of utility to recognise 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 pleasures should be supposed to depend on quantity alone. (*Utilitarianism*, Chap. II.)

Now, in recognizing quality, Mill links the world of value to the world of fact: the quality of desire or pleasure is not something *a priori* or metaphysical, foreign to human predicaments and needs, but a matter of human experience.

Of two pleasures, if there be one to which all or almost all who have experience of both give a decided preference, irrespective of any feeling of moral obligation to prefer it,'that is the more desirable pleasure. (Ibid.)

And since "few human creatures would consent to be changed into any of the lower animals, for a promise of the fullest allowance of a beast's pleasures" (Ibid..), it is the highest pleasures, those experienced through the exercise of the higher faculties, that have the greatest weight in determining what is desirable. Thus although G.E. Moore had a point in stressing that what is desirable is not what is desired but what is worthy of being desired, it does not follow that it is necessary to adopt his interpretation of "worthy" as an attribute that is independent of, or prior to, the fact of desire. On the contrary, what is worthy can only be determined by reference to desire, for example by the "qualified attitude" method described by Brandt *(Ibid., p.241* and ff.).

An attempt to sidestep the question of what is desirable was made by Schlick, who suggested that this term be eliminated from ethical discourse as meaningless and confusing, and that one should instead concentrate on the psychological, facts of desire, thereby reducing ethics to psychology. But things are not that simple. Clarification of what is worthy of desire requires *more* philosophical investigation, not less, because remittal to psychology does not get around the fact that evil or stupid desires are entertained, at least by some people at some time.

Schlick in fact fell headlong into the naturalistic fallacy, which both before and after being given this name has exercised a powerful fascination over the great majority of moral philosophers, entrapping some (Schlick, for example, and Hume, for whom there is almost no place for reason in ethics) and repelling others (Moore, of course, and Kant, who denied any connection between "animal" and "rational" desires, and preached that "pathological" love, like human feelings in general, must be vanquished in the interests of "practical", or rational, love). Mill is a *rara avis* in that

he is anxious to make room in ethics for both reason and passion, reason and feelings, avoiding both dogmatic rationalism and sceptical empiricism. For him, reason is not aloof from animal desire, but rather constitutes the nexus between feeling and understanding. What human nature shares with other animals should not be ignored or condemned by ethics, but nor should it be ignored that, as human animals, and thanks to our reason, we are capable of developing feelings such as sympathy to a degree that other animals cannot, and of postponing or forgoing immediate pleasure so as to fulfil our higher aims.

A number of Mill's critics have taken his approach to be similar to that of Richard Hare, for whom present desires at a given time and place are valid manifestations of preference. But when Mill uses the word desire he generally means human desire in accordance with his conception of higher human nature, i.e.. desire generated in an environment of enlightenment and impartiality. For Mill, practical reason does not contradict such human feelings as arise naturally in such an environment, and it is the creation and maintenance of such an environment that is the proper purpose of education and of social and economic institutions and provisions:

> [U]tility would enjoin, first, that laws and social arrangements should place the happiness, or (as speaking practically it may be called) the interest, of every individual, as nearly as possible in harmony with the interest of the whole; and secondly, that education and opinion, which have so vast a power over human character, should so use that power as to establish in the mind of every individual an indissoluble association between his own happiness and the good of the whole. (*Ibid.*)

Of course, these enjoinders *imply the* elimination of privilege and the promotion of equal concern and respect for all; and they rankle with those false liberals who resist any sacrifice whatsoever of what they regard as liberty, even (or especially) when it is the liberty of the richest that is to be sacrificed in order to provide a little liberty for the poorest.

In grounding ethics on human nature, Mill shows the influence of Plato. For both, morality is not good *per se,* but as the principal means of happiness. In fact, very few philosophers indeed, even among Mill's opponents, can have denied the relevance of human happiness and human nature when they have concerned themselves with actual moral problems rather than general theories. As we saw above, Mill noted that fleshing out Kant's theory requires attention to "the interest of mankind collectively, or at least... indiscriminately"; and Kant himself admitted the pursuit of others' happiness as a duty or virtue, even though he simultaneously held it to be a duty to suppress one's own desires. If Mill's critics now avoid speaking of happiness when considering human nature in their own proposals, it seems likely to be due to their failing to grasp Mill's misun-

derstanding of the terms "happiness" and "desire"; and this in turn is perhaps because they fail to take Mill seriously and read him attentively, in context.

For Mill, to be happy is not to be content; it is "better to be Socrates dissatisfied than a fool satisfied". And it 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, and having as the foundation of the whole, not to expect more from life than it is capable of bestowing. A life thus composed... has always appeared worthy of the name of happiness. ...The present wretched education, and wretched social arrangements, are the only real hindrance to its being attainable by almost all. (*Ibid.*)

One's own happiness is therefore neither an unworthy nor a facile goal, but the essence of the good life, because its fullest achievement requires discovery of and faithfulness to the highest part of our nature. It is not egoistic, because it involves "genuine private affections and a sincere interest in the public good"; because the enlightened, qualified desire, in the satisfaction of which one's own highest happiness consists, is associated with broad sympathy and cultivated intellect. And the fact that many *who* aspire to such enlightenment fall by the wayside is not a sufficient objection:

> Men often, from infirmity of character, make their election for the nearer good, though they know it to be the less valuable; 'and this no less when the choice is between two bodily pleasures, than when it is between bodily and mental ...Capacity for the nobler feelings is in most natures a very tender plant...Men lose their high aspirations as they lose their intellectual tastes, because they have not time or opportunity for indulging them; and they addict themselves to inferior pleasures, not because they deliberately prefer them, but because they are either the only ones to which they have access, or the only ones which they are any longer capable of enjoying. (*Ibid.*)

Of course, Chapter IV of Utilitarianism is not 'concerned with the quality of desires. Having devoted earlier chapters to arguing that the general quantitative and qualitative happiness of mankind (of oneself and others) is in fact the only ultimate goal of human action, and that recognition of this as an ethical principle would be at least as effective as adoption of any other ethic, Mill devotes Chapter IV to a more formal argument: if all that is ultimately desired is the general happiness, and what is desired is desirable, then all that is ultimately desirable is the general happiness (in particular, virtue is only desirable as a means to that end). But it is his earlier extensive discussion of the superiority of enlightened desire that

constitutes the implicit defence of his formal argument against the criticisms that continue to rain down upon it. It is attention to the quality of desire that makes happiness, as the ultimate end, compatible with virtue, dignity and other concepts, that certain more recent philosophers would sequester for deontological ethics.

3. Justice and moral well-being

Contemporary moral and political philosophy has been concerned with human rights and justice to the virtual exclusion of ideas such as areté, eudaimonia and excellence. However, although both human rights and justice certainly deserve high priority among ethical issues, exclusive concentration upon them results in a deleterious narrowing of the scope of moral philosophy. For example, it is hard to see that a right to liberty has any content except to allow the unfettered pursuit of happiness. No-one has given greater importance to rights and justice as the means of social harmony than has Mill, who, as was noted above, has often been charged with giving them precedence over welfare; but their importance derives from their social utility:

> Justice remains the appropriate name for certain social utilities which are vastly more important, and therefore more absolute and imperative, than any others are as a class ... and which, therefore, ought to be, as well as naturally are, guarded by a sentiment not only different in degree, but also **in kind,** distinguished from the milder feeling which attaches to the mere idea of promoting human pleasure or convenience, at once by the more definite nature of its commands, and by the sterner character of its sanctions. (*Ibid.* , Ch. V.)

A philosopher who has read Mill more seriously and treated him more fairly than most is Ronald Dworkin. In Chapter 11 of *Taking Rights Seriously,* in deploring confusion between the use of the word "liberty" to mean lack of restraint and its use to mean independence, he writes that "Mill's collected works are not the source of that confusion, but its antidote". Yet he appears not to notice that Mill not only distinguishes between these two notions, but reconciles them in a non-arbitrary fashion. Whereas Dworkin, who wishes to reinforce the individual's right to equal concern and respect in response to aggression "justified" by appeals to liberty-as-lack-of-restraint, is unable to offer a philosophical argument against the latter, and resorts to his personal impression ("it seems to me absurd to suppose that men and women have any general rights to liberty at all, at least as liberty has traditionally been conceived by its champions"; ibid., Ch.12, p.267), Mill points to general human nature, which includes the possession of both intelligence and moral feelings (sympathy in particular), as showing that "a human beings is capable of apprehending a

community of interest between himself and the human society of which he forms a part" *(Utilitarianism,* Ch. V). It is the priority of qualified desire that allows him to bridge between *is* and *ought, and to* reconcile a right to liberty with a right to equal concern and respect.

A right is not something *a priori,* or the result of an original convention or contract (although particular rights may of course be acknowledged on the basis of convention or contract), but "something which society ought to defend me in the possession of ....[on the grounds of] general utility" *(ibid.)* -and general utility is not an abstraction. The source of the illusion that right does take precedence over utility is for Mill the extremely fundamental nature of the utility in question, namely, security: "Our notion... of the claim we have on our fellow-creatures to join in making safe for us the very groundwork of our existence, gathers feelings around it so much more intense than those concerned in any of the more common cases of utility, that ought and should grow into must, and recognised indispensability becomes a moral necessity" *(ibid.).* But this is not to say that the moral necessity of justice does not derive from its utility. Dworkin recognizes that for those who seek equal concern and respect for all there is great appeal in utilitarianism, which "treat[s] the wishes of each member of the community on a par with the wishes of any other", and himself rejects utilitarianism for an essentially practical reason: it is impossible to actually determine what each individual prefers for him or herself. However, to think that Mill's utilitarianism is assailable through this kind of practical consideration is to accept the usual caricature of it as a theory that defends dictatorship by the majority. That is not Mill's theory, as careful reading of *On Liberty* and *Utilitarianism* shows.

Another writer who is generally sympathetic towards Mill is Alan Ryan, but he, too, fails to understand Mill's point of view. Firstly, he believes that Mill is mistaken in basing ethics on the maximization of happiness, because "to desire an equal, or a fair, distribution of good is not the same thing as desiring to maximize goods" *(The Philosophy of J.S. Mill,* p.229). Dworkin says something of the same kind: "it need not be part of a responsible strategy for reaching a collective goal that individuals be treated alike" (op. cit., p.88). But although these general observations are true, they do not rule out a situation in which the maximization of some particular good, or the achievement of some particular collective goal, does require equality among all, and this is precisely the situation that Mill envisages. For Mill, human nature is such that, when properly cultivated, full individual happiness is only achieved when all are equally happy, and it is in this situation that the greatest collective happiness is achieved.

Secondly, Ryan asserts that whereas Mill "cannot conceive of natural choice save on the basis of the maximization of a single value", from Pareto "*we* can borrow a picture of rationality which does not require some ulti-

mate single value whose maximization is at issue". Dworkin, too, seems to be heading in this direction when he states that the curtailment of liberty by a prescriptive law must be "justified by some *competing* value, like equality or safety or public. amenity" (op. cit..; p. 262; my italics). But again (and leaving aside the issue of what Mill was capable of conceiving), although situations in which multiple values cannot be combined satisfactorily in one single value may be possible, Mill would no doubt reply that, that is not the case in hand; that when different goods must be balanced against each other, happiness requires and is generated by the achievement of that balance. This position appears to be implicit when he writes that

> to save a life, it may not only be allowable, but a duty, to steal, or take by force, the necessary food or medicine... (Utilitarianism, Ch. V.)

And for those who would say that this is purely a question of the relative priorities of different rights, rather than a question of utility, he continues

> In such cases, ... we usually say, not that justice must give way to some other moral principle, but that what is just in ordinary cases is, by reason of that other principle, not just in the particular case.

But this is just a "useful accommodation of language", by means

> of which... the character of indefeasibility attributed to justice is kept up, and we are saved from the necessity of maintaining that there can be laudable injustice.

Ryan also considers that "far from justice being desired from utility, the greatest happiness .., rests on the prior claims of justice" (ibid., p.224). But it is clear that the principle of justice, in the sense of equity, does not by itself rule out ill treatment, so long as everyone is equally ill treated. It is only when the moral value of happiness is at stake that the concepts of justice and equality acquire moral utility:

> While I dispute the pretensions of any theory which sets up an imaginary standard of justice not grounded on utility [i.e.. happiness; E.G..], I account the justice which is grounded on utility to be the chief part, and incomparably the most sacred and binding part, of all morality. (*Ibid.,* Chapter *V.)*

Even Dworkin, in spite of his anti-consequentialist position, must admit that in considering whether it is right to exercise certain rights the individual "must take into account the various consequences his acts will have" *(op. cit.,* p.196).

Since many critics appear not to have read Mill in a constructive frame of mind, let me repeat: the sufficiency of the principle of greatest happiness for sustaining the claims of equality and justice follows from the facts of human nature.

> To have a right, then, is, I conceive, to have something which society ought to defend me in the possession of. If the objector goes on to ask, why it ought? I can give him no other reason than general utility. If that expression does not seem to convey a sufficient feeling of the strength of the obligation, nor to account for the peculiar energy of the feeling, it is because there goes to the composition of the sentiment, not a rational only, but also an animal element, the thirst for retaliation; and this thirst derives its intensity, as well as its moral justification, from the extraordinarily important and impressive kind of utility which is concerned. The interest involved is that of security, to every one's feelings the most vital of all interests. (*Utilitarianism*, Ch. V.)

Thus

> ...justice is a name for certain moral requirements, which, regarded collectively, stand higher in the scale of social utility, and are therefore of more paramount obligation, than any others. (*Ibid.*)

However, for Mill, as for Plato, justice and happiness also go together, the latter justifying the former, in a more profound sense. The just society and the happy society are two sides of the same coin, since the individual's true happiness requires the development of his or her moral capacities, including a properly directed sense of justice. Even in our current society

> [g]enuine private affections and a sincere interest in the public good, are possible ... to every rightly brought up human being. In a world in which there is so much to interest, so much to enjoy, and so much also to correct and improve, every one who has this moderate amount of moral and intellectual requisites is capable of an existence which may be called enviable; and unless such a person, through bad laws, or subjection to the will of others, is denied the liberty to use the sources of happiness within his reach, he will not fail to find this enviable existence, if he escape the positive evils of life. (*Utilitarianism,* Ch. II.)

Apart from "positive evils" (poverty and disease), it is thus inequality, among persons ("subjection") and injustice ("bad laws") that prevent an "enviable existence". In the happy society, these obstacles to happiness would not exist.

In particular, in the happy society laws would respect individual rights. Given the crucial importance of individual rights as a safeguard of the happiness of the typical citizen,

> 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. (On Liberty, Ch. ,1.)

If this condition is not satisfied, the sacrifice of individual liberty is unjustified, just as, in the case of voluntary sacrifice (which in any society is the case 'of the citizen who supports the law') utilitarianism "considers as wasted" "a sacrifice which does not increase, or tend to increase, the sum total of happiness" (*Utilitarianism*, Ch. II).

4. Recapitulation and final thoughts

In comparison with the sophisticated prose of the likes of Rawls, Mill's writing may seem naïve. It is not. It is thorough and sound. Mill's philosophy aims to contribute to the construction of the best possible world by the best possible people, and to that end he is at pains to make his premises and arguments explicit.

As noted in the Introduction, Mill has sometimes been considered as an eclectic who took arguments piecemeal from other sources. However, the strains of others' arguments that appear in his work are not the symptoms of incoherence, of an urge to follow now one forerunner, now another; they simply reflect the variety of insights that moral philosophers have had in their ethical meditations, and his desire to incorporate in his thought whatever he found useful in all these distinct visions: "every opinion which embodies somewhat of the portion of truth which the common opinion omits, ought to be considered precious, with whatever amount of error and confusion that truth may be blended" *(On Liberty,* Ch. II*).*

In the opinion of most philosophers we are now in a postMillian era. I myself wonder whether we might not be, in many ways, in a pre-Millian time, in the sense that Mill, like Plato before him, was far ahead of most of us in assuming the personal implications of his philosophy, in devoting his life to the ethical improvement of mankind as a thinker, educator and reformer, rather than to academic snugness. And this comes *through in* the energy of his writings. Compared with Mill's essays, even such reputedly well-written texts as *Taking Rights Seriously* seem arid and devoid of the motivating force that one seeks in a work of moral philosophy. This lack of vigour can be traced to their authors' ignoring what Mill well knew, that impartiality, equality and liberty are both promoted and, ultimately, justified by the mutual sympathy of human beings. The men and women behind Rawls' veil of ignorance are not human agents, nor even self-interested beings, since self-interested beings must know what they can obtain by furthering the happiness of others. They are not rational *people,* because human *reason does* not *exist* in an abstract vacuum. They do not know what Agnes Heller knows, that the goal of justice is beyond justice,

and that "whenever people have raised their voices against particular injustices and have made a claim for justice, they have simultaneously made a claim for a better life for someone" *(Beyond Justice, pp. 326-327).*

Besides Heller, there are also a few other authors, such as Amartya Senn and Martha Nussbaum, who are now beginning to pay more attention to people's needs and capacities, albeit rather weakly. To write of equality, concern and respect makes little sense without relating these rights to self-development and the attainment of moral, physical and intellectual gratification - in short, to utility. Dworkin is no doubt correct in assuming that we all accept that government must treat those whom it governs with concern, that is, as human beings who are capable of suffering and frustration, and with respect:

> All great things which this generation is destined to do have to be done by some like you. I do not attempt to instigate you by the prospect of direct awards, either earthly or heavenly... But there is a reward which will not fail you ...the deeper and more varied interests you will feel in life. They will give you tenfold its value, and a value that will last to the end. All merely personal objects grow less valuable as we advance in life: this not only endures but it increases. (Collected *Works,* Vol. XXI.)

I do not believe that Mill's writings are the Bible. If Mill were our contemporary he would probably endorse some of the developments suggested by writers such as Scanlon (who proposes a "third way" between rights-based ethics and consequentialism, while at the same time asserting that in regard to rights this account "has a great deal in common with the view put forward by Mill in the final chapter of *Utilitarianism";* see "Rights, goals and fairness", in *Consequentialism and its* Critics, edited by Samuel Scheffler) . He would probably modify certain aspects of his theory. But he would surely still maintain the need for social reforms that made society a better environment in which to live by promoting the moral development and well-being of its members. He would surely continue to insist that what should ultimately be taken most seriously is not people's abstract rights, important as these instruments of social intercourse are, but people themselves, since it is the happiness of people themselves that gives meaning to their rights. He would surely continue to take ethics seriously.