Mill on the Harm in Not Voting

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Christopher Miles Coope offers a letter, drafted by Helen Taylor but certified by Mill, in which Mill asserts the duty to vote, as evidence that he could not have regarded harmfulness to others as a necessary condition of moral wrongness. But it is clear that Mill regarded the duty to vote as one of imperfect obligation, and the wrongness of not fulfilling it as a matter roughly of not doing enough, in this case not doing one's fair share. He has room for the common-sense harmlessness of staying at home. At the same time he grounds political duties in the harmfulness of neglecting the power of legislation and in the possibility, consistently maintained, that one can harm by inaction. Mill's view, central to his relation between morality and liberty, remains at work here, while also suggesting reflections on the peculiarity of his conception of harm.

I

In a most refreshing article[1] in this journal, 'Was Mill a Utilitarian?', Christopher Miles Coope has shaken up a number of received ideas, and contributed to ongoing revisionism in the interpretation of Mill's moral theory. In this note, however, somewhat ungratefully, I suggest that on one important matter he distances himself unwisely from previous revisionist work.

In his concluding summary of Mill's moral theory, Coope drops the remark: 'A particular action which is wrong need not harm anyone' (p. 65). In the footnote to this claim he writes:

> I mention this *pace* both Alan Ryan ('Art of Living', p. 620) and D. G. Brown ('Mill on Liberty and Morality', *Philosophical Review*, lxxxi (1972), p. 150). Mill can hardly have thought such a thing. He is *very* insistent for example that 'virtuous and rational citizens' – supposing there are such – have an obligation to vote (*Later Letters*, *CW*, xvi.1340). If one of these paragons stayed at home, who would suffer harm?

The interpretations of Mill which he refers to as inconsistent with his own are as follows. The most relevant sentence from p. 620 of Ryan's pioneering essay[2] seems to be: 'To say that an action is immoral is, on Mill's account of it, to say that the action will harm persons other than the agent.' The paper of mine referred to follows in Ryan's steps and tries to develop his important insight, the relevant sentences on p. 150 presumably being Principle V attributed to Mill, 'Conduct is prima facie morally wrong if and only if it is harmful to others', and

[1] Christopher Miles Coope, 'Was Mill a Utilitarian?', *Utilitas* 10.1 (1998), pp. 33–67.
[2] Alan Ryan, 'John Stuart Mill's Art of Living', *The Listener*, 21 October 1965, pp. 620–2.

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the claim that 'Evidently, if he believes that it is legitimate to interfere with any wrongdoing, coherence will require him to exhibit every kind of wrongdoing as the doing of harm.'[3]

The textual evidence Coope offers for his side of this disagreement is Mill's letter of 29 December 1867 to Mary Carpenter,[4] a lady who has declined his invitation to subscribe her name to the General Committee of the Society being formed to promote the enfranchisement of women. While expressing agreement in principle she has said that she does not herself desire a vote.

Now the question whether Mill thought that only conduct harmful to others was morally wrong is fundamental to the understanding of both his moral theory and his theory of liberty, and of the connection between them. Since the letter is also interesting in its own right, it seems useful to consider in detail how well it supports Coope's position on that substantial issue of interpretation.

II

One preliminary is needed. The letter was in fact drafted by Helen Taylor. In a later letter to Mary Carpenter,[5] in response to her request for permission to have the present letter printed, Mill explains this circumstance, and demurs about her request, but for a reason which provides something rare for scholars to find: a forceful confirmation that a letter does convey a writer's view. He says:

> Without this help it would be impossible for me to carry on so very voluminous a correspondence as I am at present able to do: and we are so completely one in our opinions and feelings, that it makes hardly any difference which of us puts them into words. It is often with regret that I see attributed to myself work which I think good and which is chiefly hers. In this case (by no means a solitary one) it happened to be entirely hers; what she wrote expressed so perfectly all I could have wished to say, that I transcribed it unaltered. I am sure therefore that you will appreciate the dislike I feel to consenting that it should be published or even printed under my name.

I conclude that it is entirely fair for both Coope and myself to rely on this text as stating Mill's considered views. What then does the letter say?

[3] I have mined this vein of thought in 'Mill's Criterion of Wrong Conduct', *Dialogue* 21.1 (1982), pp. 27–44, and 'Millian Liberalism and Colonial Oppression', *Canadian Journal of Philosophy*, suppl. vol. 25 (1999), *Civilization and Oppression*, ed. Catherine Wilson, pp. 79–97.

[4] John Stuart Mill, *Later Letters, 1848–1873,* ed. Francis E. Mineka and Dwight N. Lindley, *Collected Works*, vol. XVI (Toronto, 1972), Letter 1167, pp. 1339–41, 29 December 1867.

[5] Mill, *Later Letters*, vol. XVI, Letter 1186, p. 1359, 3 February 1868.

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III

After expressing respect for Miss Carpenter's decision not to subscribe and pleasure that she is nevertheless 'with us in principle', Mill goes on to disagree with 'one or two points in your letter'. He says that the first of these is the most important, because it is a point of moral obligation.

> You say you do not desire a vote for yourself. I have too great a respect for you not to venture to say that in my opinion this is a dereliction of the duty you owe to your fellow creatures. If your vote could affect only yourself, that is to say that you only could be the sufferer, materially speaking, from allowing yourself to be governed by others, it would still be a question whether unless those others govern you with perfect justice, you are entitled to forego the right and power which a vote would give you to force them to do justice, and thereby become themselves better moral creatures. But it is not the fact that the possession of a vote would enable you only to protect yourself. Every citizen possessed of a vote is possessed of a means of protecting those who cannot vote, such as infants, the sick, idiots &c. as well as a means of helping others who can vote to do good in every conceivable way in which just and provident legislation can affect human happiness. (p. 1340)

So far, the dereliction of duty seems to consist in not supporting the extension of the franchise, for example by lending her name to the Society's cause. But the reasons for wanting and for promoting the vote are naturally related to the reasons for exercising it when one has it. The argument of the letter proceeds directly to that matter.

> I am deeply persuaded that nothing but a most regrettable absence of thought on this subject can account for or even partially excuse, for wholly excuse it cannot, the very common neglect of the power of voting which prevails among gentlemen and educated persons. I am certain that a time will come when it will be felt that a man, and I need not add a woman too, because any rational creature, is committing a most gross dereliction of duty when he habitually neglects to make use of this power conscientiously and at any cost of labour to himself. (p. 1340)

Here the dereliction of duty consists in not exercising the vote which one has. It is clear then that Mill is condemning in the strongest terms two forms of wrong conduct. One is neglect of the duty to support the extension of the franchise to oneself or to others who should have it. The other is neglect of the duty to vote on the part of those who can. The latter is the occasion of Coope's claim that Mill here recognizes a kind of wrong conduct which on many occasions in fact does no harm to anyone else. I am willing to agree that there are occasions on which my staying home on election day has no effect whatever on the outcome of the election, or on any other politically relevant causal outcome. I am willing even to agree with Coope's evident assumption that Mill would

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also agree.[6] It seems a matter of common sense. The question to be asked is whether Mill has committed himself to the judgment that my conduct is wrong.

IV

In this letter I do not find the implication that it would be wrong on every particular occasion to fail to exercise one's vote. And to the extent that Mill does enjoin a duty to vote, it seems to me that he rests the duty on the harmfulness to others of not voting.

The dereliction of duty is that of one who has the vote but 'habitually neglects to make use of this power conscientiously and at any cost of labour to himself'. This duty of voting is one that it is essential that 'every virtuous and rational citizen should fulfill steadily and carefully'.

The language makes clear that the political duty in question is one that Mill would class as a duty of imperfect obligation. In the chapter on justice in *Utilitarianism* he writes:

> Now it is known that ethical writers divide moral duties into two classes, denoted by the ill-chosen expressions, duties of perfect and imperfect obligation; the latter being those in which, though the act is obligatory, the particular occasions of performing it are left to our choice; as in the case of charity or beneficence, which we are indeed bound to practice, but not towards any definite person, nor at any prescribed time. In the more precise language of philosophic jurists, duties of perfect obligation are those duties in virtue of which a correlative *right* resides in some person or persons; duties of imperfect obligation are those moral obligations which do not give birth to any right.[7]

It fits this conception of imperfect obligation to define the dereliction of the duty as *habitually* neglecting the duty, and to require that the duty be fulfilled *conscientiously*, *steadily*, or *carefully*, that is, I take it, with consistent due attention to whether particular occasions are the appropriate ones for actual performance of it. Acceptance of the cost of the labor of voting is presumably a requirement flowing from conscientious judgment that the particular occasion is one calling for action. The dereliction is not entailed by each and every occasion of not

[6] The issue being the interpretation of Mill, there is no need to entertain subtle doubts about whether the conduct is actually harmless. I see no reason to suppose that Mill had views on such intricate questions as Derek Parfit, for example, explores in 'Five Mistakes in Moral Mathematics', *Reasons and Persons* (Oxford, 1986), pp. 67–86. And Mill does say in a letter to John Venn of 14 April 1872 (*Later Letters* vol. XVII, Letter 1717A, p. 1881): 'I agree with you that the right way of testing actions by their consequences, is to test them by the natural consequences of the particular action, and not by those which would follow if every one did the same.' Compare my 'Mill's Act-Utilitarianism', *Philosophical Quarterly* 24 (1974), pp. 67–8.

[7] Mill, *Essays on Ethics, Religion, and Society*, ed. J. M. Robson, *Collected Works* vol. X (Toronto, 1969), p. 247 (paragraph 15 of *Utilitarianism*, ch. V).

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voting, but roughly speaking by not doing enough in one's role as voter. But that does nothing to make inappropriate Mill's passion in insisting on the importance of the duty.

One can regret that Mill's example in his explanation of imperfect obligation is drawn from personal beneficence rather than from the duties of a citizen, when this letter itself suggests that he regarded political duties of imperfect obligation as more important. It is nevertheless clear that he has room to accept Coope's common-sense attitude that no-one need be harmed if one of us decides not to vote on a given occasion, *and also* to accept that there is nothing wrong with our doing so, just as he graciously lets Miss Carpenter off the hook for not on this occasion subscribing to his Society (pp. 1339–40).

V

The next question is whether it is the case that the duty to exercise one's vote, considered as a duty of imperfect obligation (and similarly Miss Carpenter's duty to promote the franchise), is one that Mill regards as a moral duty *on the ground that* the wrongful conduct of neglecting it is harmful to others. That seems clearly to be the case.

Referring to those who govern, Mill invokes 'the power which a vote would give you to force them to do justice', and speaks of the vote as 'a means of helping those who cannot vote, such as infants, the sick, idiots, &c', and as a means of helping in all the ways 'in which just and provident legislation can affect human happiness'. These formulations seem to me consistent with a 'maximize' principle but also, I will argue, with a 'do no harm' principle. At a minimum, they cover the consequences of lacking the vote for the suffering and oppression of other people. With respect to those who have the vote, Mill says that its steady and careful exercise by all is 'absolutely essential to the happiness of mankind'.

On both levels here, that of getting the vote and that of using one's vote, he is dealing with the consequences of inaction. Can it be that he counts inaction by which one fails to prevent harm as causing harm or as conduct harmful to others? I have long argued[8] that as a general matter he not only does but must. To cite only the most explicit statement of his view, in the introduction to *On Liberty* we find:

> There are also many positive acts for the benefit of others, which he may rightfully be compelled to perform; such as to give evidence in a court of justice; to bear his fair share in the common defence, or in any other joint work necessary to the interest of the society of which he enjoys the protection; and to perform certain acts of individual beneficence, such as saving a

[8] For example in the paper cited by Coope and those cited in n. 3 above.

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fellow-creature's life, or interposing to protect the defenceless against ill-usage, things which whenever it is obviously a man's duty to do, he may rightly be made responsible to society for not doing. A person may cause evil to others not only by his actions, but by his inaction, and in either case he is justly accountable to them for the injury. The latter case, it is true, requires a much more cautious exercise of compulsion than the former. To make anyone answerable for doing evil to others is the rule; to make him answerable for not preventing evil is, comparatively speaking, the exception. Yet there are many cases clear enough and grave enough to justify that exception.[9]

This is a conception of the causing of harm to others which I could not myself accept. But given that it is Mill's conception, his severe negative moral judgment on the dereliction of either of the duties asserted in the letter will be derivable either from a duty to maximize happiness or from a duty to do no harm. (For the record then, the letter is not evidence *for* attributing to Mill either one of these principles rather than the other.) But neither does the letter undermine the claim that in Mill's view only conduct which is harmful to others is morally wrong.

VI

This same passage from *On Liberty* does however bring to the fore a striking feature of Mill's conception of harm, and invites us to press the question of just how much slack his duty of imperfect obligation will grant to us as voters, and how commonsensical his view finally is. His account of such duties is regrettably underdeveloped,[10] even though the field of application of duties of imperfect obligation must include a very wide range of social interactions, whether in relations of cooperation, competition, coordination, or merely mutual influence. But at least we learn from this passage that the notion of a fair share must often be relevant in determining what particular line of conduct will fulfill an individual's duty of imperfect obligation. Good legislation and good government certainly constitute a joint work necessary to the interest of one's society, and the electoral aspect of that is structured to an unusually high degree. It might seem that a fair share in harm prevention should lead to zero tolerance for stay-at-homes. But we still need to step carefully to assess Mill's view.

[9] Mill, *Essays on Politics and Society*, ed. J. M. Robson, *Collected Works*, vol. XVIII (Toronto, 1977), pp. 224–5 (paragraph 11 of *On Liberty*, ch. I).

[10] I do not find that any version of the distinction known to me, including Kant's, is free from large indeterminacies in the relation between the overall requirement and the decisions on particular occasions. Anyone who is aware of a satisfactory account would oblige me by directing me to it. One thing that is clear is that Mill is willing to rely on such notions as a duty to the public, an obligation to one's society, or a duty to humankind, any of which would require for their fulfillment a wide use of discretion.

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First set aside the fact that anyone can be justified in any non-performance by a weighty enough moral requirement to be doing something else. That is common to any view of the duty to vote, and would leave untouched a counter-intuitive *pro tanto* requirement to vote every time. The interesting aspect of an appeal to fair shares is a different matter. Consider the case in which there is no countervailing moral requirement, and at the same time, to refrain from voting would have no effect on the outcome of the vote, no effect on the fortunes of one's party, and in short on that occasion no negative causal consequences. I have already claimed above that Mill would have the good sense to agree that that could often be the case. But it remains to be determined whether not voting in that case could still be bearing one's fair share in the political enterprise. I have no doubt that Mill's common sense extends to realizing that one is entitled to weigh one's right to act in one's own interest against one's duty to bear one's share. The very question of what a fair share is depends on the degree of inconvenience or disadvantage involved in taking part. So there will be various occasions for saying 'I don't need to this time'. It would seem appropriate to ask whether there would be any harm in everyone's allowing the same degree of self-preference. Perhaps all of us at home with the flu may stay there, but not all of us who just feel tired. But I do not know exactly how Mill would, or how he should, calculate the doing of a fair share. The significant point is that such a conception of imperfect obligation recognizes that a moral requirement can be defeated not only by a contrary requirement but also by a claim of right.[11] So it is clear that Mill would share some of Coope's permissive attitude.

But probably not all. There is one more twist. This same passage makes clear that Mill regards it as morally required for us to do our fair share, and legitimate in principle to compel us to do it – and accordingly, wrong for us not to do it. At the same time, I think it pretty obvious that there will be many occasions when a citizen, by not voting, can fail to do his fair share of the political duty, and yet his not voting that particular time will have no causal consequences harmful to others. Nevertheless, this passage also suggests that, whether he is entitled to or not, Mill counts such failures to do one's fair share as conduct harmful to others. At this point I concede that my defence of Mill's common sense about voting has reached its limit. But at whatever cost in plausibility,

[11] The category of 'defeaters' and the role of permissive defeaters in ordinary morality are identified by Stephen Darwall, 'Abolishing Morality', *Synthese* 72 (1987), pp. 71–89 (pp. 78–81). Phillip Montague, in section III. 2, 'Moral Presumptions and Their Defeaters', of his *In the Interests of Others* (Dordrecht, 1992), refers to Darwall, Nozick, and Rawls, and clearly agrees that permissive defeaters merit further study.

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his position remains solidly consistent that the wrongness of conduct requires harmfulness to others. And that completes my argument that nothing in the letter under examination undermines the attribution of that principle to Mill.

The consideration of fair shares in a common work is evident in his most general and official summaries of the individual's duties to society, and must affect his attitude to a very wide range of questions about social institutions and individual rights. That gives some importance to asking how he can hold that failure to do one's fair share is in principle harmful to others. There seems to be no justification for saddling him with an empirical claim that every such dereliction will in fact prove to lead to some harm to either an individual or the public. I think the most straightforward interpretation is that he takes failing to do one's share to be *in itself* a harm to all those who are part of the joint work. I have complained before about his 'stretching the notion of harm', without being able to say that he actually uses the word 'harm' in a non-standard way. But leaving that matter unresolved, I now point out that he constantly adds to harm 'or *risk* of harm' when it could be argued that a risk of harm is not an actual harm. He includes not preventing harm. Here we have withholding one's fair share. He uses such phrases as 'affects prejudicially the interests of others' and 'concerns the interests of others' and even 'whenever it is a man's duty'. While remaining within utilitarian concern for interests, he gives the impression that the precise shape of his concern reflects ordinary intuitive morality. Harm becomes whatever others might rightfully complain about.

So I think that the argument leads us from the curious case of the letter to Miss Carpenter to the very centre of the strangeness of Mill's moral theory. He is a believer in the utilitarian roots of whatever is sound in common-sense morality. But his substantive moral theory is driven by moral intuitions more Kantian than consequentialist.[12] I conjecture that in his effort, at intense heat, to weld *harmfulness to others* and *dereliction of legitimate reciprocal expectation*, he seems to have become satisfied of their extensional equivalence. If that is his conviction, it can easily become indeterminate whether he has just fallen into an extended use of the term 'harm' or has moved to a more demanding moral principle than his commitment to liberty can properly allow.[13]

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[12] An extended inquiry into deontological tendencies in Mill's moral theory is in preparation.

[13] This note is much indebted to Alister Browne. He raised pointed questions about the first draft, and discussion with him about related interests of his shaped much of the argument. My thanks also to Martin Meissner and Richard Sikora for their comments.

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