

MILL AND MILQUETOAST

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1. Toleration

We are fortunate to live under institutions of toleration. Opinions that many of us deem false and pernicious are nevertheless held, and even imparted to others, with impunity. This is so in part because we hold legal rights to freedom of thought and freedom of expression. Not only do these legal rights exist; they enjoy widespread support. Any effort to revoke them would be widely opposed. Those whose opinions were threatened with suppression would find many allies, even among those who most deplored their opinions.

But legal rights are far from the whole story. The institutions of toleration are in large part informal, a matter not of law but of custom, habits of conduct and thought. Even when the law lets us do as we like, many of us do not like to do anything that would make people suffer for the opinions they hold, or hinder their expression of their opinions. We may choose our friends and our casual acquaintances as we please, and we are certainly free to shun those whose opinions we find objectionable; but many of us exercise this freedom half-heartedly, or with a bad conscience, or not at all. An editor or a bookseller has plenty of discretion to assist in the spreading of some opinions and not others, and might weigh many different considerations in deciding what to publish or what to sell; but might very well think it wrong to give any weight at all to whether an author's opinions are true or false, beneficial or dangerous.

Not only do customs of toleration complement legal rights; to some extent, the customs may even substitute for the rights. Doubtless it is a good idea to entrench toleration by writing it into the constitution and the statutes. But the measure of toleration need not be legalistic. The real test is: what can you get away with? What opinions can you express without fear of reprisal? To what extent can you reach your audience, if it wants to be reached? What can you read or hear without fear of reprisal? If the samizdat circulate freely, and you needn't be a hero to write or produce or read them, that is not yet good enough. But it is very much more than nothing. A country where banned books become contraband best-sellers is worse off than a country where books cannot be banned at all; but their difference is not great when we compare them both with a country where banned books really do disappear.

Toleration need not be everywhere to be effective. An atheist is not welcome everywhere—who is?—and if he cannot find toleration in the place he most wants to be, to that extent he suffers for his opinions. But if there are many

and varied places where an atheist is perfectly welcome, then he doesn't suffer much. Likewise, it is essential that there should be some magazines where atheism may be published; it matters little that there are many others where it may not. Even a handful of urban and rural bohemiae can go a long way toward making toleration available to those who have need of it. So if an intolerant majority do not bestir themselves to clean up the bohemiae, then even they are participating in the institutions of toleration.

2. Mill's Project

That is what toleration is. Now, what is it good for? In his *On Liberty*, Mill undertakes to give it a utilitarian defence.¹ That is, he undertakes to show that its expected benefits outweigh its expected costs. But he is no simplistic Benthamite: '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.' (p.14) So whatever commitments Mill may incur elsewhere, here we needn't worry whether matters of human flourishing somehow translate into a common currency of pleasure and pain.

All the same, we had better not take utility in *too* large a sense. 'I forego any advantage from the idea of an abstract right as a thing independent of utility.' (p.14) So it will not do to claim that the infringement of such 'abstract' rights is itself one cost to be weighed in the balance as a component of 'utility', whether with infinite weight (as a 'side constraint') or just as one consideration among others.

There seems to be another rule to Mill's game, unannounced but manifest in his practice. Let us make it explicit. It is the rule of *neutrality*. Suppose we have a dispute, say between believers and atheists, and suppose the believers want to suppress what they take to be the false and dangerous opinions of the atheists. Some utilitarian atheist might defend toleration thus: in the first place there is no God, therefore no harm can come of holding beliefs offensive to God. Nor can the spread of atheism do harm in any other way. Therefore suppressing atheism has no benefits to match its costs. Therefore toleration would be better. This defence is utilitarian, sure enough; but unMillian. The Millian defender of toleration makes his case without taking sides in the dispute. Of course he may argue from factual premises—no utilitarian could go far without them!—but not from factual premises that are part of the very dispute between the suppressors and the suppressed. It is Mill's ambition to defend toleration even when questions remain disputed, therefore it will not do to require some settlement of the dispute before the case for toleration can be completed.

The neutrality of Mill's practice goes further. Some utilitarian might say to the believers that according to their opinion toleration maximises utility because God is offended more by the cruelty of inquisitors than by the impudence of atheists; and might argue to the atheists that according to

1. John Stuart Mill, *On Liberty* (London: J. W. Parker & son, 1859); page references here are to the edition edited by C. V. Shields (Indianapolis: Bobbs-Merrill, 1956).

their opinion toleration maximises utility because there is no God to be offended. This playing both sides of the street is a valid argument by separation of cases: *A* or *B*, if *A* then toleration maximises utility, if *B* then toleration maximises utility, therefore toleration maximises utility in either case. But however valid it may be, this too is unMillian. In a Millian defence of toleration, not only must the factual premises be common ground between the two sides; also a uniform and non-disjunctive argument must be addressed to both. The Millian invites both sides to assent to a single, common list of the benefits of toleration and costs of suppression. This common list is supposed to have decisive weight in favour of toleration. One or the other side may have in mind some further costs and benefits that obtain according to its own disputed opinions, perhaps including some that count in favour of suppression; but if so, these considerations are supposed to be outweighed by the considerations on the neutral common list.

Why do I ascribe a rule of neutralism to Mill? Only because I never see him violate it. Not because he states and defends it—he does not. And not because it is in any way essential to his project of defending toleration by appeal to utility. On the contrary. To decide whether he himself should think that toleration maximises utility, Mill must sum up all the relevant costs and benefits according to his own opinions. To persuade me that toleration maximises utility, he must sum them up according to my opinions (perhaps my original opinions, or perhaps my new opinions after he is done persuading me). It is irrelevant whether the opinions are disputed or undisputed. But Mill is not doing his private sums, nor is *On Liberty* addressed to some one person in particular. It is meant to persuade an audience with varied opinions. It's hard to play both sides of the street when you're writing for both sides at once! Better for Mill if he can address the whole of his case to the whole of his audience. He can do so, if a neutral common list suffices to outweigh whatever other disputed costs and benefits there may be. Hence the rule of neutralism. It makes no sense as a constraint on utilitarian argument *per se*, but plenty of sense as part of Mill's strategy of persuasion.

3. Self- and Other-Regarding

The main principle of *On Liberty*, second only to the ultimate appeal to utility in the largest sense, is that 'the sole end for which mankind are warranted . . . in interfering with the liberty of action of any of their number is self-protection.' (p.13) It is notoriously difficult to get clear about the requisite line between self- and other-regarding action. But it is worth a digression to see why the principle and the difficulty need not concern us here.

First, and decisively, because the protection of self-regarding conduct is in any case derived from the ultimate appeal to utility. It has no force of its own to justify toleration if the direct appeal to utility fails.

Second, in addition, because if an opinion is not held secretly, but is expressed in a way that might persuade others, that *is* other-regarding: both because of the effect that the opinion may have on the life of the convert

and because of what the convert might do, premised on that opinion, which might affect third parties.

Mill is confusing on this point. 'The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people; but, being almost of as much importance as the liberty of thought itself and resting in great part on the same reasons, is practically inseparable from it.' (p.16) What kind of argument is this? Other-regarding conduct is not in general protected by reason of inseparability from private thought, as will be plain if someone's religion demands human sacrifice.

4. *Mill's Tally*

I do not believe that a utilitarian defence of toleration, constrained by Mill's rule of neutralism, has any hope of success. I make no fundamental objection to broadly utilitarian reasoning, at least in such matters as this. It's just that I think the balance of costs and benefits will too easily turn out the wrong way. When we tally up the benefits of toleration that can be adduced in a neutral and uniform way, they will just not be weighty enough. They will fall sadly short of matching the benefits of suppression, calculated according to the opinions of the would-be suppressors.

I begin the tally with the items Mill himself lists.

Risk of error. True and beneficial opinion might be suppressed in the mistaken belief that it is false and harmful.

Mill says just 'true' and 'false'; the utilitarian argument requires that we say 'beneficial' and 'harmful'; there's no guarantee that these coincide, but for simplicity let's suppose they do.

Mixture. Truth and error may be found combined in one package deal, so that there's no way of suppressing the error without suppressing truth as well.

Dead dogma (reasons). Unless received opinion 'is suffered to be, and actually is, vigorously and earnestly contested, it will . . . be held in the manner of a prejudice, with little comprehension of its rational grounds.' (p.64)

Dead dogma (meaning). Further, 'the meaning of the doctrine itself will be in danger of being lost or enfeebled, and deprived of its vital effect on the character and conduct . . . cumbering the ground and preventing the growth of any real and heartfelt conviction from reason or personal experience.' (p.64)

Mill counts deadness of dogma as a harm only in case received opinion is true. But perhaps he should also think it worse, from the standpoint of human flourishing, that error should be held as dead dogma rather than in a real and heartfelt and reasoned way.

Mill's guess about what will happen if received opinion is vigorously contested seems remarkably optimistic. Will there be debate at all, and not

just warfare? If there is debate, will it help the debaters think through their positions, or will they rather throw up a cloud of sophistries? If they think things through, will they discover unappreciated reasons or bedrock disagreement?

5. *The Tally Extended*

Mill's list so far seems too short. Why not borrow from the next chapter of *On Liberty* also? Then we could add—

Individuality. If diversity is of value, and thinking for oneself, and thoughtful choice, why aren't these things of some value even when people think up, and thoughtfully choose among, diverse errors?

Building character. The more chances you get to think and choose, the better you get at it; and being good at thinking and choosing is one big part of human flourishing. Freedom as a social condition offers exercises which conduce to freedom as a trait of character. Practice makes perfect.

This too seems more a piece of armchair psychology than a firm empirical result. Travelers' tales suggest that the hard school of the east sometimes does better than the free and easy west at building just such character as Mill rightly values. If we like guessing, we might guess that when it comes to building character, freedom and competent repression both take second place—what does best is repression bungled, with gratuitous stupidity and cruelty. That speculation seems at least as likely as Mill's—but responsible utilitarian calculation should put little faith in either one.

We noted that truth and error might be found combined in a package deal. Then if we suppress the error, we lose truth as well. But the same thing can happen even if the error we suppress is unmixed with truth.

Transformation. Future thinkers may turn our present errors into truth not just by filtering out the false parts but in more complicated ways. They may find us standing on our heads, and turn us on our feet. They may attend to old questions and give them new answers. They may borrow old ideas and transplant them into new and better settings. They may put the old errors to use in metaphors and analogies. If we suppress errors that might have been the germ of better things to come, we block progress. Does progress conduce to utility?—We may hope so, at least if it is 'utility in the largest sense, grounded on the permanent interests of man as a progressive being'.

Mill's lists of harms and benefits feature the high-faluting, interesting, speculative ones. He omits the obvious.

The insult of paternalism. If I paternalise over you, and in particular if I prevent you from being exposed to some seductive heresy, my action is manifestly premised on doubt of your competence, and on confidence in my own. You are likely to take offence both at my low opinion of you and at my pretension of superiority. No less so, if you acknowledge

that I am indeed more competent than you are to govern your life. Bad enough it should be true! Do I have to rub it in?

(This is a different thing from the alleged insult of denying that you have rights. For (1) no similar insult is given when Bentham tells you that natural rights are nonsense upon stilts, yet he denies that you have rights more clearly than any paternalist does; (2) the insult may still be there even if you too are of Bentham's opinion; or (3) if you think that you once had rights but have freely given them away to me.)

More obviously still, there are —

The secret police. To do an effective job of suppression, it is necessary to build a system of informers and dossiers. Once in place, the means of suppression may be taken over and turned to new purposes. They might be used to advance the ambitions of a would-be tyrant—something all would agree (before it began, at least) in counting as a cost.²

The dungeon. If you wish to express or study proscribed opinions, and someone stops you, you will be displeased that your desires are frustrated. And if you are determined to go ahead, the only effective means of stopping you—the dungeon, the gulag, the asylum, the gallows—may prove somewhat unfelicitic.

This completes our neutralist tally, our list of considerations that are meant to be accepted by all parties to disputed questions. One way or another, and even if we receive Mill's armchair psychology with all the doubt it deserves, we still have some rather weighty benefits of toleration and costs of suppression. But of course that's not enough. Mill wins his case only if the benefits of toleration outweigh the costs—and not only according to his own opinions, but according to the opinions of those he seeks to dissuade from suppressing. The cost of toleration, lest we forget, is that dangerous errors may flourish and spread.

6. *The Inquisitor Reads Mill*

McCloskey has written that 'many Christian liberals appear to be especially muddled, for, as Christians, they regard eternal salvation and moral living as being of tremendous importance and as being goods as valuable as freedom. Yet many of them deny the state even the abstract right to aid truth, morality, and religion and to impede error and evil, while at the same time they insist on its duty to promote the good of freedom. Their implicit value judgment is so obviously untenable that one cannot but suspect that it has not been made explicit and considered in its own right.' In the same vein, Quine: 'If someone firmly believes that eternal salvation and damnation hinge on embracing his particular religion, he would be callous indeed to sit

2. Another possibility is that the means of suppression might be turned to a new purpose which, like the original suppression, serves utility according to the opinions of some but not of others. The Informer of Bray, like the Vicar, might serve his new masters as willingly as he served the old. But this danger, however weighty it might seem to some, is inadmissible under the rule of neutralism.

tolerantly back and watch others go to hell.³ To dramatise their point, I imagine the Inquisitor: a thoughtful Christian, benevolent by his own lights, far from muddled and far from liberal. Can Mill persuade him to change his intolerant ways?

The Inquisitor, as I shall imagine him, is the very man Mill ought to be addressing. He agrees completely with Mill that the ultimate appeal is to utility in the largest sense. He claims no infallibility. Indeed his faith is infirm, and he is vividly aware that he just might be making a tragic mistake. He is satisfied—too quickly, perhaps—that Mill is an expert social psychologist, who knows whereof he speaks concerning the causes of dead dogma and the causes of excellent character. In short, he grants every item in the neutralist tally of costs and benefits.

His only complaint is that the tally is incomplete. He believes, in fact, that the included items have negligible weight compared to the omitted item. Heresy, so the Inquisitor believes, poisons the proper relationship between man and God. The heretic is imperfectly submissive, or sees God as nothing but a powerful sorcerer, or even finds some trace of fault in God's conduct. The consequence is eternal damnation. That is something infinitely worse than any evil whatever in this life; infinitely more weighty, therefore, than the whole of the neutralist tally. Further, damnation is not just a matter of pain. (Hellfire is no part of it, just an inadequate metaphor for what really happens.) Damnation is harm along exactly the dimension that Mill wanted us to bear in mind: it is the utter absence and the extreme opposite of human excellence and flourishing.

The Inquisitor also believes that heresy is contagious. The father of lies has fashioned it with all his cunning to appeal to our weaknesses. There is nothing mechanical about it—those never exposed to heretical teachings sometimes reinvent heresy for themselves, those who are exposed may withstand temptation—but still, those who are not exposed are a great deal safer than those who are.

The Inquisitor also believes that if he is ruthless enough in suppressing heresy, he may very well succeed. Not, of course, in eradicating heresy for all time; but in greatly reducing the incidence of exposure, and consequently in saving a great many souls from damnation.

Note well that the Inquisitor does not think that he could save the souls of heretics by forced conversion. He accepts the common wisdom that this cannot be done: forced conversion would be insincere, so it would be worthless in the sight of God. He knows no way to save the heretics themselves. What he could do by suppressing heresy, so he thinks, is to save many of those who are not yet heretics, but would succumb if exposed to heretical teachings.

The Inquisitor does not relish the suffering of heretics. As befits a utilitarian, he is moved by benevolence alone. He hates cruelty. But he heeds the warning:

3. H. J. McCloskey, 'The State and Evil', *Ethics* 69 (1959), p.190; W. V. Quine, *Quiddities: An Intermittently Philosophical Dictionary* (Cambridge, Massachusetts: Harvard University Press, 1987), p. 208.

'if you hate cruelty, remember that nothing is so cruel in its consequences as the toleration of heresy.'⁴

Therefore the Inquisitor concludes, even after discounting properly for his uncertainty, that the balance of cost and benefit is overwhelmingly in favour of suppression. Mill's case for tolerating heresy is unpersuasive. In fact it is frivolous—serious matters are at stake! You might as well oppose the suppression of heresy on the ground that dungeons cost too much money.

Mill has lost his case.

This is not to say that the Inquisitor stumps utilitarianism itself. Mill was trying to bring off a *tour de force*: to abide by his self-imposed rule of neutralism, and yet win the argument against all comers. A more modest utilitarian might proceed in any of three ways.

One way for the utilitarian to deal with the Inquisitor is not to argue with him at all. You don't argue with the sharks; you just put up nets to keep them away from the beaches. Likewise the Inquisitor, or any other utilitarian with dangerously wrong opinions about how to maximise utility, is simply a danger to be fended off. You organise and fight. You see to it that he cannot succeed in his plan to do harm in order—as he thinks and you do not—to maximise utility.

A second way is to fight first and argue afterward. When you fight, you change the circumstances that afford the premises of a utilitarian argument. First you win the fight, then you win the argument. If you can make sure that the Inquisitor will fail in his effort to suppress heresy, you give him reason to stop trying. Though he thinks that successful persecution maximises utility, he will certainly agree that failed attempts are nothing but useless harm.

Finally, a modest utilitarian might dump the rule of neutralism. He might argue that, according to the Inquisitor's own opinions, there are advantages of toleration which are more weighty than those on the neutralist tally and which the Inquisitor had not appreciated. Or he might start by trying to change the Inquisitor's mind about the facts of theology, and only afterward try to demonstrate the utility of toleration. He might try to persuade the Inquisitor to replace his present theological opinions by different ones: atheism, perhaps, or a religion of sweetness and light and salvation for all. Or he might only try to persuade the Inquisitor to be more sceptical: to suspend judgement on matters of theology, or near enough that the uncertain danger of damnation no longer outweighs the more certain harms that are done when heresy is suppressed.

7. *The Assumption of Infallibility*

Mill does at one point seem to be doing just that—supporting toleration by supporting scepticism. If he did, he would not be observing the rule of neutralism. He would be putting forward not an addition to whatever

4. Spoken by the just and wise inquisitor in George Bernard Shaw, *Saint Joan* (London: Constable, 1924), p.77.

his reader might have thought before, but rather a modification. And he would be a fine old pot calling the kettle black. Part of his own case rests on far-from-certain psychological premises.

But the appearance is deceptive.⁵ Mill's point when he says that 'all silencing of discussion is an assumption of infallibility' (pp.21-22) is not that we should hesitate to act on our opinions—for instance by silencing discussion we believe to be harmful—out of fear that our opinions may be wrong. For Mill very willingly agrees with the hypothetical objector who says that 'if we were never to act on our opinions, because those opinions may be wrong, we should leave all our interests uncared for, and all our duties unperformed . . . There is no such things as absolute certainty, but there is assurance sufficient for the purposes of human life. We may, and must, assume our opinion to be true for the guidance of our own conduct.' (pp.23-24) Mill's real point is that if we are duly modest and do not assume ourselves infallible, we should have confidence in our opinions only when they have withstood the test of free discussion. A sceptic is like a traffic cop: he admonishes us to slow down in our believing. Whereas Mill is like the traffic cop in the tire advertisement: 'If you're not riding on Jetzon tires—slow down!' *That* cop doesn't want us to slow down—he wants us to buy Jetzon tires. Free discussion is the Jetzon tire that gives us license to speed, fallible though we be. To dare to do without Jetzon tires is to overrate your skill as a driver; to do without free discussion is to assume yourself infallible. 'Complete liberty of contradicting and disproving our opinion is the very condition which justifies us in assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right.' (p.24) Mill thus assures us that if we *do* meet the condition, then we *are* justified in acting on our opinions.

Our Inquisitor, if he takes Mill's word for this as he does on other matters, will not dare suppress heresy straightaway. First he must spend some time in free discussion with the heretics. Afterward, if they have not changed his mind, then he will deem himself justified in assuming the truth of his opinion for purposes of action; which he will do when he goes forward to suppress heresy, and burns his former partners in discussion at the stake.

Compare Herbert Marcuse, who advocated 'withdrawal of tolerance from regressive movements *before* they can become active; intolerance even toward thought, opinion, and word, and finally, intolerance . . . toward the self-styled conservatives, to the political Right' during the present 'emergency situation'.⁶ If tolerance is withdrawn only after Marcuse has enjoyed it for many years, Mill cannot complain that Marcuse has not yet earned the right to act on his illiberal opinions.

5. Here I follow C. L. Ten, *Mill on Liberty* (Oxford: Clarendon Press, 1980), pp.124-127, in distinguishing Mill's 'Avoidance of Mistake Argument' from his 'Assumption of Infallibility Argument'.

6. 'Repressive Tolerance' in R. P. Wolff, B. Moore, and H. Marcuse, eds., *A Critique of Pure Tolerance* (Boston: Beacon Press, 1965), p.109.

8. *Dangerous Opinions*

The Inquisitor, apart from his anachronistic utilitarianism, is just an ogre out of the past. Might Mill's defence work well enough, if not against just any imaginable foe of toleration, at least against any we are likely to meet in the present day? I doubt it. To be sure, some of us nowadays are sanguine about dangerous opinions. Whatever harm opinions may do under other conditions, we think they pose no present danger in our part of the world. The neutralist tally is all the defence of toleration *we* need. But others of us think otherwise: they think that some of the people around them hold opinions that are not only false but harmful. I predict that for many pairs of my readers—perhaps a majority of pairs—one of the pair holds some opinion that the other would find profoundly dangerous.

It might be a religious or irreligious opinion that conduces, in the opinion of the other, to contempt for oneself, for other people, for the natural world, or for God.

It might be a political opinion favouring some social arrangement which, in the opinion of the other, is a trap—an arrangement which makes most people's lives degraded and miserable, but which gives a few people both a stake in its continuation and the power to prevent change.

It might be an opinion belittling some supposed danger which, in the opinion of the other, requires us to take urgent measures for our protection. It might be the opinion that we need not worry about environmental hazards, or nuclear deterrence, or Soviet imperialism, or AIDS, or addictive drugs.

It might be an opinion which, in the opinion of the other, is racist or sexist and thereby fosters contempt and oppressive conduct.

It might be a moral opinion (say, about abortion) which, in the opinion of the other, either condones and encourages wickedness or else wrongly condemns what is innocent and sometimes beneficial.

In each of these cases, important matters are at stake. In each case, the stakes involve a great deal of 'utility in the largest sense, grounded on the permanent interests of man as a progressive being.' To be sure, these cases are less extreme than that of the Inquisitor and the heretics. We have no *infinite* outweighing. Still, they are extreme enough. In each case, the disutility that is feared from the dangerous opinion seems enough to outweigh all the advantages of toleration according to the neutralist tally. And this remains so even if we discount all around for uncertainty, duly acknowledging that we are fallible.

In each case, therefore, if effective suppression were feasible, it would seem frivolous for the foe of the dangerous opinion to stay his hand because of any consideration Mill has an offer. If he does stay his hand, it seems as if he lets geniality or custom or laziness stand in the way of his wholehearted pursuit of maximum utility.

9. *Morris*

Take our contemporary, Henry M. Morris. He thinks, for one thing, that 'Evolution is the root of atheism, of communism, nazism, behaviorism, racism,

economic imperialism, militarism, libertinism, anarchism, and all manner of anti-Christian systems of belief and practice.⁷ He thinks, for another thing, that in history and the social sciences, 'it is especially important . . . that the teacher gives a balanced presentation of both points of view [evolutionist and creationist] to students. Otherwise the process of education for living becomes a process of indoctrination and channelization, and the school degenerates into a hatchery of parrots.'⁸ At any rate, he says both these things, and let us take him at his word. Doubtless he mainly has in mind the 'balanced treatment' versus purely evolutionist teaching. But what he says, and his argument for it, apply equally to the 'balanced treatment' versus the purely creationist teaching we might have expected him to favour. So evolution is dangerous in the extreme, yet it is not to be suppressed—it is not even to be left out of the curriculum for schoolchildren—lest we hatch parrots! ('Parrots', I take it, are the same thing as those who hold their opinions as dead dogma.) How can Morris possibly think that the harm of hatching parrots is remotely comparable to the harm done by 'balanced presentation' that spreads evolutionist ideas? How dare he give this feeble Millian reason for tolerating, and even spreading, such diabolically dangerous ideas? Surely, by his own lights, he is doing the Devil's work when he favours balance over suppression.

10. Milquetoast

Mill's defence—who needs it? Perhaps the sceptical who, when told any story about the harmful effects of dangerous opinions, will find it too uncertain to serve as a basis of action? Or perhaps the apathetic, who may believe the story but not think the harm really matters very much? No, because the sceptical and the apathetic will be equally unimpressed by Mill's own story about the harmful effects of suppression. Nor would Mill have wanted to address his argument to the sceptical or the apathetic. That is not how he wants us to be. He wants us to have our Jetzon tires exactly so that we *may* speed. He favours vigour, dedication, moral earnestness.

I suggest that Mill's defence of toleration might best be addressed to Caspar Milquetoast, that famous timid soul.⁹ Doubtless he too is not the pupil Mill would have chosen, but at least he is in a position to put the lesson to use.

Milquetoast *does* have opinions about important and controversial matters. And he does care. He cares enough to raise his voice and bang the table in the privacy of his own house: asked if he wants *Russian* dressing on his salad, the answer is 'NO!' He isn't *always* timid. (p.185) But when he is out and about, his main goal is to avoid a quarrel. All else takes second place. He knows better than to talk to strangers on vital topics: asked what he thinks of the Dodgers' chances, he'd 'rather not say, if you don't mind'.

7. *The Remarkable Birth of Planet Earth* (San Diego: Creation-Life Publishers, 1972), p.75.

8. *Scientific Creationism* (San Diego: Creation-Life Publishers, 1974), p.178.

9. H. T. Webster, *The Best of H. T. Webster: A Memorial Collection* (New York: Simon and Schuster, 1953), pp.158-185.

(p.162) And when his barber, razor in hand, asks how he's going to vote, Milquetoast fibs: 'Why-uh-er-I don't get a vote. I've been in prison—stir I mean—and I've lost my citizenship'. (p.183)

Milquetoast thinks, let us suppose, that it is a dangerous mistake to ignore the threat of Soviet imperialism. He would be hard put to explain why a rosy view of the evil empire is not dangerous enough to be worth suppressing. But he knows that this opinion is controversial. He knows that others think that the Soviet threat is bogus, and that the only real threat comes from our efforts to resist the bogus threat. How horrid to have to dispute these matters—as he surely would if he dared to suggest that the dangerous mistake should be suppressed. What to do? — Solution: bracket the controversial opinions. Keep them as opinions, somehow, in some compartment of one's mind, but ignore them in deciding what is to be done. In questions of suppression and toleration, in particular, appeal to uncontroversial considerations only. Conduct the discussion according to Mill's rule of neutralism. Then all hands can perhaps agree that the neutralist tally is right so far as it goes. And without the airing of disagreeable disagreement, we can go no further. Settle the question without acrimony, then, and we must settle it in favour of toleration. Those compartments of the mind that fear the dangerous consequences of the tolerated opinions should hold their tongues, lest they get us into strife.¹⁰

Milquetoast, of course, is an incompetent maximiser of utility. His conduct may be fortunate enough, if there turn out to be better reasons for toleration than we have yet considered. But his thought is simply shocking—he systematically declines to be guided by the whole of his system of opinions, ignoring the part that would engage him in unpleasant dispute. Nor is he at all keen to improve the quality of his thought by entering into discussion. That is why Mill should not be proud to have Milquetoast as his star pupil.

11. *A Treaty of Toleration*

To see how toleration can find a better utilitarian foundation, let us return to our story of the Inquisitor and the heretics. The Inquisitor thinks that the heretics hold a dangerous opinion—dangerous enough to be well worth suppressing, despite all the considerations on the neutralist tally. Because the Inquisitor thinks this, he in turn is a danger to the heretics. Not only does he menace their personal safety; also, if the heretics think that the spreading of their word will benefit all who embrace it, then they must see the Inquisitor as bringing disutility to all mankind. And the more there are of the orthodox, who think as the Inquisitor does, the worse it will be.

10. Milquetoast may resemble the sort of liberal portrayed in Thomas Nagel, 'Moral Conflict and Political Legitimacy', *Philosophy & Public Affairs* 16 (1987), pp.215-240: 'The defense of liberalism requires that a limit somehow be drawn to appeals to *the truth* in political argument' (p.227). True liberalism 'must depend on a distinction between what justifies individual belief and what justified appealing to that belief in support of the exercise of political power' (p.229). But of course Nagel's liberal is moved not by timidity but by high principle.

It would be best, indeed, if none were left who might someday re infect mankind with the old darkness. Important matters are at stake. And now let us suppose that the heretics, no less than the Inquisitor, are wholehearted pursuers of utility as they see it. (Utility in the largest sense.) In this way the heretics think that the Inquisitor, and all of the orthodox, hold a dangerous opinion—dangerous enough to be well worth suppressing, despite all the considerations on the neutralist tally.

I suppose that some such rough symmetry is a common, though not a necessary, feature of situations in which someone thinks that someone else's opinion is dangerous enough to be worth suppressing.

Devoted as both sides are to utility, and disagreeing as they do about where utility is to be found, what is there to do but fight it out? According to the Inquisitor's opinion, the best outcome will be victory: to vanquish the heretics and suppress their heresy. If this outcome is within reach, going for it is required. Not only is toleration not required by any appeal to utility; it is forbidden. Any restraint or mercy would be wrong. It would be self-indulgent neglect of 'the permanent interests of man as a progressive being', since the foremost of these interests is salvation. Suppose further that there is no hope of changing the Inquisitor's mind about the causes of salvation and damnation. Then there is no way—Millian or unMillian—to persuade him that it is a utilitarian mistake to suppress heresy. He has done his sums correctly, by his lights; we cannot fault them. Of course we can, and we should, fault his premises. They are both false and harmful. But there is no further mistake about what follows.

Likewise, *mutatis mutandis*, according to the heretics' opinion.

If one side has victory within reach, the utilitarian defence of toleration fails. But now suppose instead that the two sides are more or less equally matched. Victory is not so clearly within reach. Neither side can have it just for the asking. Resort to war means taking a gamble. One side or the other will win, and then the winners will suppress the dangerous opinions of the losers. Orthodoxy will triumph and heresy will vanish, at least for a time. Or else heresy will triumph and orthodoxy will vanish. Who can tell which it will be?

In deciding what he thinks of a state of toleration, the Inquisitor must compare it not just with one possible outcome of war but with both. Toleration means that both creeds go unsuppressed, they flourish side by side, they compete for adherents. Many are lost, but many are saved. How many?—It depends. The fear is that the heretics will not scruple to advance their cause by cunning deceit; the hope is that truth will have an inherent advantage, and will benefit from God's favour. Let us suppose that the Inquisitor takes a middling view of the prospect, not too pessimistic and not too optimistic. Then just as he finds victory vastly better than toleration, from the standpoint of salvation and therefore from the standpoint of utility, so he finds defeat vastly worse. According to the Inquisitor's opinion, the triumph of heresy would be a catastrophic loss of utility. The considerations on the neutralist tally have negligible weight, given the enormous amount of utility at stake. Even the pleasures of peace and the horrors of war have negligible weight.

But the risk of defeat is far from negligible.

Likewise, *mutatis mutandis*, according to the heretics' opinion.

The Inquisitor's fear of defeat might outweigh his hope of victory. It might seem to him that suppression of orthodoxy would be more of a loss than suppression of heresy would be a gain (more lasting, perhaps); or he might take a pessimistic view of the gamble of war, and think it more likely than not that the heretics would win. Or he might take a moderately optimistic view of how many souls could be won under toleration. One way or another, he might have reason to prefer mutual toleration, unsatisfactory stalemate though it be, to war. His reason is a utilitarian reason. But it rests entirely on what he takes to be the weighty benefits and harms at stake—not the lightweight benefits and harms on the neutralist tally.

It might happen for the heretics likewise that the fear of defeat outweighs the hope of victory. If both sides think defeat more likely than victory, one side must be mistaken, but even a thoughtful utilitarian might well make such a mistake. If both sides think defeat would be more of a loss than victory would be a gain, there needn't be any mistake on either side—except, of course, the underlying mistake that one or both are making all along about what conduces to utility.

Or the heretics also might hope to do well at winning souls under toleration. The orthodox and the heretics can expect alike to win the most souls, if they believe alike that truth, or the creed God favours, will have the advantage. Their expectations are opposite, and one side or the other will be disappointed, but they can face competition with a common optimism.

It may happen, then, that each side prefers toleration to defeat more than it prefers victory to toleration, and therefore prefers toleration to the gamble of fighting it out.¹¹ Then we have a utilitarian basis for a treaty of toleration. Conditional toleration—toleration so long as the other side also practices toleration—would be an equilibrium. It would be the best that either side could do, if it were what the other side was doing. Toleration is everyone's second choice. The first choice—to suppress and yet be tolerated, to gain victory without risking defeat—is not available; the other side will see to that. The third choice is the gamble of war, and we have supposed that both sides find the odds not good enough. War would be another equilibrium, but a worse one in the opinions of both sides. The worst choice is unconditional unilateral toleration, which means letting the other side have their way unopposed.

In such a case, with two equilibria and a preference on both sides for one over the other—toleration over war—it is neither automatic nor impossible that both sides will find their way to the equilibrium they both prefer. They might get there formally, by bilateral negotiation and

11. I shall be speaking almost as if there were a conflict of opposed aims. Strictly speaking, there is not. Both sides are, *ex hypothesi*, wholehearted in their pursuit of utility. But their fundamental disagreement about how to pursue their common aim is no different, strategically, from a fundamental conflict of aims. We may speak for short of a gain for one side, versus a gain for the other. But what that really means is a gain for utility according to the opinion of one side, versus a gain for utility according to the opinion of the other.

agreement.¹² They might get there by unilateral initiatives and invitations to reciprocate. They might drift there, gradually developing a tacit understanding. They might get there under the influence of non-utilitarian reasons, and only afterward find that they had reached the outcome that maximised utility by the lights of both sides. They might have been there all along, in accordance with ancient custom. In each case, I will say that they have arrived at a treaty of toleration—maybe explicit and formal, maybe tacit.

Some treaties need to be sustained by trust and honour, lest a cheater gain advantage. It is hard to see how such a treaty could work between strict utilitarians; because if a utilitarian thinks it will maximise utility if he gains the upper hand, and if he thinks he can gain the upper hand by breaking his sworn word, then that is what he must do. But if there are no opportunities for secret preparation and a surprise breakout, then unutilitarian means of commitment are not required. The utility of the treaty is incentive enough to keep it. Neither side wants to withdraw toleration, lest the other side should have nothing to lose by withdrawing its reciprocal toleration. Often enough, contractarian and utilitarian defences of social institutions are put forward as rivals. Not so this time—here we have a contract for utilitarians.

The hopes and fears of the two sides may or may not be such as to permit a treaty of toleration. If they are, toleration may or may not be forthcoming—war is still an equilibrium, it takes two to make the switch. But now a utilitarian friend of toleration has a case to make. This time, it is a case meant not for the sceptical or the apathetic, not for the dismayed irreligious bystanders, not for Milquetoast, but for the Inquisitor himself.

It is a thoroughly utilitarian case, but it is unMillian because it flouts the rule of neutralism. It plays both sides of the street. We say to the Inquisitor that a treaty of toleration affords his best hope for preventing the suppression of orthodoxy; we say to the heretics that it affords their best hope for preventing the suppression of heresy. Thereby we say to both that it affords the best hope for maximising utility, according to their very different lights. But there is no common list of benefits and costs. On the contrary, what we offer to each side as the greatest benefit of toleration is just what the other must see as its greater cost.¹³

12. Formal treaties of toleration, specifically between Catholic and Protestant powers, played a great part in the origins of the institutions of toleration we know today. But we can very well question whether those treaties were equilibria in the pursuit of utility in the largest sense, or whether they were just an escape from the horrors of war in the short term.
13. Unfortunately, a parallel case might be made out for a treaty that not only enjoins toleration between the orthodox and the heretics, but also bans proselytising. That might offer the orthodox their best hope for preventing the slow and peaceful extinction of orthodoxy, and likewise offer the heretics their best hope for preventing the slow and peaceful extinction of heresy. It would be bad for toleration, since each side would have to sustain the treaty by curbing its own zealots. But while this might be a third equilibrium, preferred both to war and to toleration with proselytising, it needn't be. Only if neither side has much confidence in its powers of persuasion will it be an equilibrium at all, let alone a preferred one.

12. Closing the Gap

While a utilitarian defence of some sort of toleration has been accomplished, or so I claim, it seems not yet to be the right sort. This grudging truce between enemies, who would be at each other's throats but for their fear of defeat, is a far cry from the institutions of toleration we know and love. Our simple story of the orthodox and the heretics differs in several ways from the real world of toleration.

Cheerful toleration. If we want to uphold a treaty of toleration, and doing our part means letting harmful error flourish, then we have to do it; but we don't have to like it. Why should we? Whereas we are proud of our institutions of toleration, and pleased to see the spectrum of diverse opinions that flourish unsuppressed. Without the ones we take to be harmful errors, the diversity would be less and we would be less well pleased. Our feelings are mixed, of course. We do not wholeheartedly welcome the errors. But we do to a significant, and bizarre, degree.

Thoughtless toleration. In the story, the defence depends on the details of the strategic balance between the two sides. Whereas in the real world, we never stop to think how the fortunes of war might go before we take for granted that toleration is better.

Tolerating the weak. In particular, we tolerate the weak. If our Inquisitor had the chance to nip heresy in the bud, long before there was any chance that the heretics might have the strength to win and suppress orthodoxy, of course he would do it. Whereas we treasure the liberty of the weak, and proclaim that the minority of one means as much to us as any other minority.

Tolerating the intolerant. There is no sense in making a treaty with someone who declares that he will not abide by it. If we tolerate harmful error as a *quid pro quo*, so that others will reciprocate by tolerating beneficial truths, why continue after they announce that they will not reciprocate? Whereas we tolerate the intolerant, no less than the tolerant. We do it; and almost everyone who cares for toleration thinks we ought to do it. After Marcuse said that the time had come to withdraw tolerance, his books were no harder to buy than they were before.

Tolerating the extra-dangerous. In the story, the utilitarian defence may depend also on the exact balance of good and harm that we expect from the several opinions that will be protected by a treaty of toleration. The more danger heresy seems to pose, the less likely our Inquisitor is to conclude that a treaty with the heretics might be advantageous. Whereas we, for the most part, favour tolerating all dangerous opinions alike, without seeking exceptions for the very most dangerous.

One difference between our simple story and the real world, of course, is that in the real world we are not all utilitarians. We may be content to mind our own business, and insist that it is not our business to protect mankind against the harm done by dangerous opinions. Or we may be

devotees of the 'abstract rights' foresworn by Mill; then we may think that the rights of others constrain us not to serve utility by suppressing dangerous opinions, no matter how high the stakes. (Or they may constrain us to renounce only the harshest methods of suppression. But if only the harshest methods could succeed, we will not need any very weighty utilitarian reasons to dissuade us from trying the ineffective milder methods.)

These differences certainly work in favour of toleration—cheerful and thoughtless toleration, and toleration even of the weak, the intolerant, and the extra-dangerous. But let us not rely on them. Let us rather stay with the fiction of a population of wholehearted utilitarians, so that we may retain as much common ground with Mill as possible. Even so, I think we can close the gap between toleration as we find it in the simple story and toleration as we find it in the real world. We need not abandon the idea of a treaty of toleration. Instead, we must find the right way to extend the idea from our simple two-sided case to a complicated case, many-sided and always changing.

In the real world, there are many different factions. They differ in their opinions, they differ in their opinion about one another's opinions, and they differ in strength. As time goes by, factions wax and wane, and split and merge. The weak may suddenly gang up in a strong alliance, or an alliance may break up and leave the former allies weak. The people who comprise the factions change their minds. Circumstances also change. As the complicated situation changes, understanding of it will lag. Nobody will know very well who deploras whose opinions how much, and with how much strength to back up his deploring. In this complicated world, no less than in the simple case, some will find the opinions of others dangerous, and worthy of suppression; and some will think their own opinions beneficial, and will seek to protect them from suppression. Many would think it worthwhile to tolerate the most deplorable opinions, if they could thereby secure reciprocal toleration from others. They would welcome toleration by treaty. But how can they arrange it?

There might be a vast network of little treaties, each one repeating in miniature our story of the treaty between the orthodox and the heretics. Each faction would have protection from its treaty partners, and if it had chosen its partners well, that would give it the protection it needs. Each faction would extend toleration so far as its treaties require, and no farther. Two factions would enter into a treaty only when both thought it advantageous, given the strategic balance between them, their estimate of the fortunes of war, and their estimate of the potential for good or harm of the opinions that would be protected. The weak, who can offer no reciprocal toleration worth seeking, and the fanatically intolerant, who will not offer reciprocal toleration, would of course be left out of the network of treaties. Those whose opinions were thought to be extra-dangerous also would tend to be left out, other things being equal. A treaty would end when either side thought it no longer advantageous, or when either side thought (rightly or wrongly) that the other side was breaking it.

The trouble is plain to see. It would be enormously difficult for any faction to see to it that, at every moment in the changing course of events, it had exactly the treaties that would be advantageous. There would be abundant opportunities to be mistaken: to overestimate one threat and underestimate another; to be taken by surprise in a realignment of alliances; to see violation where there is compliance or compliance where there is violation; to think it open season on some weakling, unaware that your treaty partner regards that weakling as an ally. Too much care not to tolerate deplorable opinions without an adequate *quid pro quo* is unwise, if it makes the whole arrangement unworkable. Then the desired protection cannot be had.

There might instead be one big simple treaty, loose in its terms, prescribing indiscriminate toleration all around. Exceptions to a treaty of toleration—for the weak, for the intolerant, or for the extra-dangerous—seem at first to make sense. But they threaten to wreck the treaty. As new opinionated factions arise, and old ones wax and wane and merge and split, there will be occasion for endless doubt and haggling about what the exceptions do and don't cover. If some suppression is a violation and some falls under the exceptions, then the first can be masked as the second and the second can be misperceived as the first; all the more so, if most of the cases that arise are unclear ones. Then who can know how well the treaty is really working? How confident can anyone be that his own toleration will be reciprocated in the cases that matter? It will be all too easy to doubt whether it makes good sense to remain in compliance.

Therefore, beware exceptions. Keep it simple, stupid—that which is not there cannot go wrong.¹⁴ First, some toleration of dangerous opinions is justified as a *quid pro quo*; then other toleration is justified because it makes the first transaction feasible.

Ought we to say, simply: *no* exceptions? It seems as if an exception that works even-handedly, and not to the permanent disadvantage of any opinion, ought to be safe. If we regulate only the manner of expression and not the content, why should anybody think that he has nothing to reciprocate because his own opinion is beyond toleration? Nobody has an opinion that he can express only by falsely shouting fire in a theatre, or only by defamation, or only by obscenity. Yet we know that even such exceptions as these can be abused. Some clever analogiser will try to erase the line between the innocent even-handed exception and the dangerous discriminatory one. He will claim that denouncing conscription is like shouting fire in a theatre, because both create a clear and present danger. Or he will claim that sharp criticism of the conduct of high officials is defamatory. Or he will claim that common smut is not half so obscene as the disgusting opinions of his opponent. If we put any limit to toleration, it is not enough to make sure that the line as drawn will not undermine the treaty. We also need some assurance that the line will stay in place where it was drawn, and not shift under pressure.

14. The second half is quoted from the instructions for a Seagull outboard motor.

No exceptions are altogether safe; maybe some are safe enough. That is a question only to be answered by experience, and experience seems to show that some exceptions—the few we have now—are safe enough. They have not yet undermined the treaty, despite all the efforts of mischievous analogisers, and there is no obvious reason why they should become more dangerous in future. We needn't fear them much, and perhaps we can even welcome such benefits as they bring. But to try out some new and different exceptions would be foolhardy.

A simple, nearly exceptionless, well-established treaty of toleration could in time become not just a constraint of conduct, but a climate of thought. If, in the end, you will always decide that the balance of cost and benefit comes out in favour of complying with the treaty, why should you ever stop to think about the harm done by tolerating a dangerous error? Eventually you will be tolerant by habit, proudly, cheerfully, and without thought of the costs. You will proceed as if the neutralist tally were the whole story about the costs and benefits of suppression. You will bracket whatever you may think about the harm done by others' opinions. You might still think, in some compartment of your mind, that certain opinions are false and harmful. If the treaty of toleration has become second nature, you might be hard put to explain why these opinions are not dangerous enough to be worth suppressing. But you will never think of the danger as any reason to suppress.

This habit of bracketing might be not just a consequence of a treaty but part of its very content. Not so if the treaty is a formal one, to be sure; that had better regulate action, not thought, so that it can be exact and verifiable enough to permit confident agreement. But insofar as the treaty is an informal understanding, uncodified, growing up gradually, it may prescribe not only tolerant conduct but also habits of thought conducive to toleration. In particular, it may prescribe bracketing. If your compartmentalised habits of thoughts are to some extent within your control—not indeed at every moment, but at those moments when you don't bother to think things through as thoroughly as you might—then you may compartmentalise for a utilitarian reason. You may see, dimly, that when you bracket your fear of others' dangerous opinions, you participate in a custom that serves utility by your lights because it protects opinions you deem beneficial, and that would not long persist if the bracketing that conduces to toleration were not mostly reciprocated.

If a treaty of toleration tends to turn us into Milquetoasts and Millians, that is not wholly a bad thing. It is too bad if we become compartmentalised in our thinking, repressing at some times what we believe at other times about the harm opinions can do. But if we forget the costs of toleration, that makes toleration more robust. And if toleration is beneficial on balance, the more robust the better.

13. Conclusion

What is toleration good for? A proper utilitarian answer need not omit the neutralist tally. After all, it does carry some weight in favour of toleration. But the principal part of the answer cannot be neutral. The main benefit of toleration is that it protects so-and-so particular opinions, true and beneficial, which would be in danger of suppression were it not for the institutions of toleration. When reciprocal toleration protects such-and-such other opinions, false and harmful, that is a cost to be regretted, and not to be denied. When a utilitarian favours toleration, of course, it is because he reckons that the benefits outweigh the costs.

If you think it would serve utility to 'withdraw tolerance' from such-and-such dangerous opinions, you'd better think through *all* the consequences. Your effort might be an ineffective gesture; in which case, whatever you might accomplish, you will not do away with the danger. Or it might be not so ineffective. To the extent that you succeed in withdrawing toleration from your enemy, to that extent you deprive him of his incentive to tolerate you. If toleration is withdrawn in *all* directions, are you sure the opinions that enhance utility will be better off? When we no longer renounce the *argumentum ad baculum*, are you sure it will be you that carries the biggest stick?¹⁵

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