RHETORIC AND ARGUMENT IN JOHN STUART MILL'S *THE SUBJECTION OF WOMEN*

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Abstract

This thesis uses John Stuart Mill's 1869 work *The Subjection of Women* as the basis for what Bernard Williams has called 'a philosophical description of an historical reality'. The Introduction argues that the 'feminist' political advocacy of the *Subjection* is inseparable from its directly philosophical content. The second chapter describes how Mill's text is best understood in terms of its aims, its constituency of implied readers, and the forms of argument and rhetoric it employs. The third chapter describes how Mill appeals to his readers' desire for consistency as well as to their deepest values and self-image in the course of his arguments. This chapter also examines Mill's use of the rhetorical technique of 'paradiastole', his argument against methodological conservatism, and his skilful use of arguments from analogy. The fourth chapter considers the relevance of Mill's *Subjection* to debates in contemporary feminism. The Conclusion reconsiders the question of how the study of history is relevant to the political philosopher.

CHAPTER ONE: INTRODUCTION

1.1

> Are boys to learn to sew, to keep house, and to cook, and girls to play at cricket, to row, and be drilled like boys? I cannot argue with a person who says Yes.
>
> James Fitzjames Stephen, 1873[1]

The 19th-century judge James Fitzjames Stephen wrote *Liberty, Equality, Fraternity* as a book-length broadside attacking the moral and political philosophy of John Stuart Mill – Mill's liberalism, his socialism, and most vituperatively, what we might at risk of anachronism term his feminism. My project in the following pages was originally motivated by something like the following thought. Stephen claims he cannot argue with a person who says Yes to his question. I am disposed to claim that I cannot[2] argue with one who says No. What strikes him as not only true but obviously true strikes me as not only false, but bizarre, indeed repugnant. I have reason to believe my views on this are far from idiosyncratic. This disjunction suggests the *explanandum* for this thesis.

Some significant transformation has occurred in the intervening 138 years. This thesis attempts to understand this transformation from a philosophical point of view. In this chapter, I will try to say what I mean by this; in other words, I will 'motivate' the problem, argue for what I believe to be its considerable philosophical interest, and say why I take to the writings of John Stuart Mill to be of relevance.

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[1] Pyle (ed.) 1995: 249.

[2] If I were speaking literally, I should say 'find it difficult to'. But there is a rhetorical force to Stephen's claim of incapacity; in that rhetorical sense, it is an incapacity I would claim to share.

1.2

Historians commonly engage in inquiries whose aims can be captured in the general formula 'Why did people in such-and-such an era hold such-and-such a belief'? This project takes on a special interest when the beliefs whose prevalence is sought to be explained are beliefs the historian does not herself share. How, to take an obvious example, shall we explain the ubiquity in the mediaeval period of belief in witches? The historian's interest in such matters grows when she finds that the beliefs in question, whilst by her lights false, were held by the best minds of past ages. Things get more interesting, and more difficult, when the *explananda* cover matters ethical and political. Why did the ancient Greeks think it permissible to kill infants by exposure? Why did the mediaeval Indians think it permissible to burn widows? Why did the Victorians – or a good many of them – think it absurd for women to have the vote?

The fullest possible answer to such questions will have to consider a wide variety of explanations – sociological, economic, political, and psychological, among others – and historians have produced fascinating works that have united these forms of explanation. But it is possible to undertake a different, and complementary, project of explanation that operates at a higher degree of abstraction. Such a project aims to offer, to use Bernard Williams's helpful phrase, 'a philosophical description of an historical reality' which one seeks to recover in order to compare with our own. Such a 'comparison is philosophical, because it has to lay bare certain structures of thought and experience'.[3]

[3] Williams 1993: 4.

An enterprise of this sort rests on the (reasonable) assumption that we must share with our ancestors at least some core beliefs or conventions about the formation of beliefs. We must assume, for instance, that our ancestors did not affirm and deny the same proposition, and that they had deliberative routes by which to use their existing beliefs to derive others.[4] If this is right, then if the Victorians thought it proper for women not to have the vote, it is reasonable to suppose that they must have had other beliefs that made sense of these views. I do not mean that their beliefs on all matters were necessarily in a stable equilibrium; indeed, it will be part of my project in the following pages to argue that this cannot possibly have been the case. Yet, it seems to me reasonable to think that there must have been some network of mutually supportive beliefs that make the Victorians' views on women's suffrage intelligible, beliefs that we can find expressed directly in their writings, or available to us through some process of inference or induction.

In the instances I have given above, the exotic beliefs that constitute our *explanandum* seem to be of considerable interest despite, or perhaps because of, our not sharing them. One part of this interest is the historical project I have described above. But the project is also, as I have said, *comparative.* As such, this is an essay in self-understanding of the sort Bernard Williams thought part of a conception of philosophy as a 'humanistic discipline'. It is worth saying more about this. Williams distinguishes three activities: 'first, the first-order activities of acting and arguing within the framework of our ideas; second, the philosophical activity of reflecting on those ideas at a more general level and trying to

[4] Skinner 2002: 54.

make better sense of them; and third, the historical activity of understanding where they came from'.[5]

There is certainly a sense in which Stephen's challenge has its interest for us today as a first-order question. To ask 'Are boys to learn to sew' (for example) is not an unintelligible question to us, especially when it is cast into more directly philosophical terms, such as: 'Are there differences between the sexes that can justify their being educated under different curriculums?' Our answer will probably differ from the one Stephen expected. Further, our answer will likely invoke grounds Stephen would have rejected. Stephen's question is nevertheless, in some form, still with us. However, it is not with this question that this thesis is concerned.

I am interested in Williams's second, and consequently his third, question: how best to make sense of the fact that we tend not to think it ridiculous for boys to learn how to sow? To put the point more generally, how best can we understand what we affirm in affirming the equality of the sexes – to the degree that we do affirm it? What larger family of ethical, psychological, and metaphysical views might we hold, or be committed to holding, that makes the best sense of this view?

As is often the case, self-understanding of this sort is well served by considering an 'other' from whom the self can be distinguished. We might thus turn to the beliefs of societies today that do not share our view of this matter. Alternatively, we might profitably turn to

[5] Williams 2006: 194.

any period in the history of our own society that evidences a clear contrast with the beliefs and commonplaces of our own. But Williams's third question suggests a further project: if our aim of aiding our self-understanding is to be served by contemplation of the question of 'where [our ideas] came from', then the really interesting historical periods are those of *transition,* where we can perceive a clear internal struggle between two views of the matter.

Williams suggests as much when he doubts that any story of how some beliefs (liberal ones, say) rather than others 'came to be ours' can ever be 'vindicatory'. For liberalism to have 'won', he says, does not necessary imply its having 'won an argument'. This is because for

> liberal ideas to have won an argument, the representatives of the *ancien régime* would have had to have shared with the nascent liberals a conception of something that the argument was about ... They would have had to agree that there was some aim ... which liberal ideas served better or of which they were a better expression, and there is not much reason, with a change as radical as this, to think that they did agree about this, *at least until late in the process*. [6]

I find this view plausible, and to that extent, I affirm a controversial (but by no means unusual) methodological view in the historiography of political thought. However, it is possible to find my project of interest without sharing this view. For my concern is not with how our society came to be liberal. It is rather with the narrower question of how it was that once it started to be, or become, liberal, it began also to reconsider how it treated its female members. The period to which we must turn is the one Eric Hobsbawn has called the 'long nineteenth century', lasting from the year of the French Revolution to the outbreak of the first World War: 1789 to 1914.

[6] Williams 2006: 190; emphasis added.

In the build-up to these years, we find – largely unprecedented – feminist (or 'proto-feminist') sentiments in the work of Jeremy Bentham in the early 1780s. In the early days of the French Revolution, we find the 'Women's Petition to the National Assembly', proposed (but not discussed) at the National Assembly. Two years later, we have the publication of *Déclaration des droits de la femme et de la citoyenne* by the playwright Olympe de Gouges. The next year, we find the publication of Mary Wollstonecraft's *A Vindication of the Rights of Woman*. (It is, I think, important to note how the titles of both works evoke, indeed intentionally echo, those of the *Déclaration des droits de* l'Homme *et du Citoyen* and Wollstonecraft's own earlier *Vindication of the Rights of* Men).

To summarise my argument so far: answering Williams's second question, about the nature of our ideas, can prompt us to ask his third question about their origins. To ask the third requires us to consider the moment in history at which our ancestors were asking themselves the first; in other words, we need to look to the point in history at which the equality of the sexes became a prominent question for first-order debate.

§

There is a small matter to which I must draw attention early on. This is the matter of whom I include in my frequent uses of the word 'we' (and its cognates). We, I have claimed, do not think it absurd that women might be trained to play cricket, and men to sew. We do, I have claimed, think it absurd to deny women the vote. We do not desire a return to the bad old days of the nineteenth century and before. We are distressed and indignant when we find features of those bad old days persisting today in our world.

Sometimes, this fact motivates us to seek redressal in some form. But, it may reasonably be asked, who are we?

In this 'we', I cannot of course include everyone in the world, or even in the West; that would be flatly untrue. A substantial portion of humanity and a sizable minority in Western societies, it can safely be alleged, think no such thing. Yet, my 'we' cannot have an entirely trivial extension, i.e. it cannot be that 'we' are simply those who think it absurd to deny women the vote (et cetera). Nor does it seem right to include only (say) self-identified feminists, or egalitarians, or liberals, though these constituencies will no doubt figure prominent among 'our' number. I am thus tempted to follow Bernard Williams who, in a similar context, suggests that '"we" operates not through a previously fixed designation, but through invitation. ... It is not a matter of "I" telling "you" what I and others think, but of my asking you to consider to what extent you and I think some things and perhaps need to think others'.[7] The implied reader of this work is assumed, or invited, to share most of the views I predicate of this 'we', or at any rate to deny those of their negations I attribute to a historically construed 'them'.

In my discussion of the historical views 'we' do not share, I will inevitably make generalisations. I will use such locutions as 'what people believed in the nineteenth century', or 'what the Victorians thought'. I do so in full awareness of the obvious perils of this way of speaking: to wit, that people in the nineteenth century did not all think the same thing, and sometimes thought not at all about the subjects on which I attribute views

[7] Williams 1993: 171 n. 7.

to them. Indeed, this is part of what I will be saying about them. Yet, I think my use of these crude generalisations defensible. However, these locutions cannot be defended as I have defended my use of 'we', i.e. as functioning 'by invitation', given that there are no Victorians among my readers, real or imagined. Thus, my claims are best understood as referring to statistical regularities: 'many Victorians believed', 'most people in nineteenth-century Britain thought', or 'it was a *publicly* professed norm in the nineteenth century that...' and so forth.

1.3

In answering such a question about the philosophical basis of the social transition from the Victorian age to our own, one would ideally look to a wide range of texts – novels, speeches, memoirs, essays and so forth – in order to reconstruct the outlook of the Victorians in a manner that would reveal its divergence from our own. In part from apprehension at the magnitude of such a project, I have chosen a more modest range of texts. If the argument of the following paragraphs is sound, my choice of texts will achieve much the same end without requiring nearly as ambitious a feat of historical scholarship. The central text is John Stuart Mill's *The Subjection of Women* (1869); occasionally, I will make references to the writings of his contemporary critics and opponents. The debates between Mill and his critics function (as it were) 'synecdochically' – parts of a larger whole that nevertheless evoke, and capture something essential of, that larger whole. In the following paragraphs, I will rehearse some of my reasons for choosing to take this route.

§

For one thing, Mill's arguments have the distinct ring of *familiarity* to us. He invokes values such as freedom and equality and attacks contemporary (circa 1869) institutions for failing to embody those values. He speaks of gender as socially constructed (though he does not of course put it in those terms). He decries the very same things – e.g. marital rape, unequal inheritance laws, the denial of the suffrage to women – that we are minded to decry when we find them to persist today. He denounces them with arguments that take more or less the same shape as our own. Further, he does so in prose that is forceful, vivid, and above all *clear,* to a degree that meets twenty-first-century standards of philosophical rigour, something that cannot always be said of works of advocacy.

Mill writes in a way that does not require us to struggle to piece together what he means. His style does not usually require us to interpret him any more charitably than we would most of our contemporaries because he usually tells us exactly what he means. He is as it were 'our man among the Victorians', and thus a figure of peculiar interest, because he was of course a Victorian himself and as such able to offer us a sympathetic, or at any rate an insider's, account of their ways of thought and feeling that makes those ways of thought and feeling at least intelligible to us, if not congenial. If we are to find a bridge between the moral and political conceptions of the Victorians and our own, we cannot do better than to look to Mill's description of those conceptions. This is not of course the end of the matter. There are many points of difference between what Mill thinks and the orthodox view of twenty-first-century Western societies: sometimes he is as it were more radical than we are and sometimes more conservative. Nevertheless, given that he wrote so long ago, it is his freshness that is striking.

More importantly, Mill's work is an essay in *persuasion.* This is not just in the trivial sense in which *all* his philosophical writings were essays in persuasion, but in the stronger sense that it was a work of political advocacy. This is a significant point in part because it means the *Subjection* offers us a window onto other views than that of its author. Because it aims to persuade, it will have to state and where possible refute common arguments on 'the other side'. Of course we cannot assume that Mill's accounts of his opponents' arguments are entirely charitable, or that he presents his opponents in their most favourable light. By this I do not mean to suggest that Mill was an unprincipled polemicist who blatantly misrepresented his opponents, only that we should not expect to find the fullest and most sympathetic case for denying women the suffrage in the *Subjection.* This would be problematic if it were not for the sizable historical scholarship on the 'reception' of the *Subjection* immediately after its publication. I have quoted in my epigraph from James Fitzjames Stephen on this question, but there were many other critical figures who attempted to clarify or restate their own arguments in response to Mill's account (or purported refutations) of them. Thus, we do not need to rely exclusively on Mill's version of things; the other side of the argument is available to us at first hand.

1.4

Before we proceed, an important objection needs to be addressed. It might reasonably be asked how the project I am outlining fits with a fairly common view of how the history of philosophy ought to be done. It might be suggested that Mill's *Subjection,* insofar as it is a work of political advocacy, is the proper object of attention for the intellectual historian or

literary critic, not the philosopher. This division of labour might appear sensible given that the *Subjection* has a clear philosophical aspect in the straightforward sense. That is to say, its technique is for the most the usual philosophical one of defending conclusions by deriving them from premises. It follows that the usual canons of philosophical reconstruction come into play. These canons assume that texts of this sort present their readers with arguments that their authors may be assumed to believe are, to the best of their knowledge, sound. This calls for the historian of philosophy to engage in a process of 'rational reconstruction', a process that consists largely in making explicit the implicit premises of an ('enthymematic') argument wherever necessary as part of the larger project to say something about whether those arguments are in fact sound. Typically, this process is governed by the principle of charity of interpretation, under which – to state the principle crudely – the interpreter is presumptively to favour, of all the tenable readings, that which is most likely to give the author plausible premises, and by extension, a sound argument. This process acquires a special flavour in the case of the *Subjection,* a work of a man whose claims to the appellation 'philosopher' were unimpeachable in his time and remain so today. Even a cursory reading of the *Subjection* shows it to contain discussions of questions that were then and yet remain of serious philosophical import, e.g. the political (in)significance of gender differences. These questions are often dealt with at a level of abstraction that distinguishes the *Subjection* from any old piece of political pamphleteering, a genre of which Mill's own corpus affords us numerous examples.

Why then, given the richness of the philosophical content of the *Subjection,* do I urge the importance and philosophical relevance of the text's *political* aspect? The simple answer is

that the philosophical and the political aspects of a text are not so neatly separable. The task of reconstructing arguments and evaluating them for soundness is inseparable from the task of evaluating the plausibility of those arguments' premises. However, as I have said in Section 1.2, it is not enough for the historian of philosophy to assert baldly that a premise is true or false, or that she believes it to be so and that this is the end of the matter. This is because part of what it is for us to construe our subject matter *historically* is to do it the courtesy of asking *why* its author might have thought its premises plausible, and indeed *to whom* they might have been thought to be plausible.

Chapter 2 of this thesis will develop this thought in some detail as part of an inquiry in the purposes, forms, and constituencies of arguments in political philosophy. But this inquiry itself has a history which provides the background for my arguments. Thoughts along the lines I have just sketched have been among the most prominent of *cruces* in the heated methodological disagreements among historians and philosophers in the last four or five decades. It is now something of an orthodoxy, one associated with the so-called 'Cambridge School' of intellectual historians, that the 'accumulated evidence of the last 30 years about the historical circumstances surrounding the composition of the great texts ... has made it practically impossible to argue that these texts can be *understood* simply by reading them, regardless of what their authors may have meant by *writing them ... as they did'*.[8] It is a corollary of this methodological view that something of Mill's intentions and circumstances is relevant to how one approaches his writings. In order for this

[8] Runciman 2001, who provides a judicious history of the methodological debates I have mentioned; emphases added.

methodological literature to inform this study in a more direct manner, it will prove necessary to say something of what these circumstances and intentions were, and in what way we may infer that they informed Mill's writings in a manner that calls for a special approach to their study. This will form the content of Chapter 2 of this thesis.

A further clarification: it should not be inferred from my taking the views of the 'Cambridge School' seriously that I conceive of an approach focussing primarily on the texts (rather than their contexts) as a mistake. I do not take such a view because I believe it possible to effect something of a *rapprochement* between the contextualist approach and (for want of a better word) the rational reconstruction approach, engaging them as partners in a quest for the ultimate prize: a full understanding of a complex text. A detailed discussion of this *rapprochement* would require a more detailed treatment than I can give here. But some helpful hints on the likely shape of such a reconciliation are given by T H Irwin.[9] To rehearse the argument briefly, Irwin acknowledges that an intellectual history that aims to find *causal* explanations for why philosophers accept or reject some given view at different points in history would need to consider the influences of social, political, environmental, and institutional factors in addition to purely intellectual ones. But this does not preclude the value of a *partial* history, one that pays special attention to the intellectual factors, i.e. '[a]ppreciation or partial appreciation of the philosophical merits or defects of a particular position', as one of many causal influences, even whilst allowing that there were undoubtedly others.

[9] Irwin 2007: 6-10.

1.5

The historical background I have just adumbrated brings us back to our earlier difficulty with distinguishing the philosophical from the non-philosophical, and how this influences our approach to texts such as *The Subjection of Women.* A helpful way of approaching this question is to think in terms of the literary concept of a *genre.* Our difficulty in settling on an approach to the *Subjection* might be thought to stem from an uncertainty about whether it is a philosophical tract, like Mill's own *System of Logic,* or something more like Mill's *Remarks on Mr. Fitzroy's Bill for the More Effectual Prevention of Assaults on Women and Children,* which his bibliography classifies as 'A pamphlet (a few copies only printed for distribution)'. I use these paradigmatic examples to avoid the difficulty of giving uncontroversial definitions of the two genres in question.

The claims of the *Subjection* to be a philosophical tract like *System of Logic* might plausibly be contested. We have Mill's word for it in his *Autobiography* that the content and publication of the text were closely informed by considerations about its potential political impact, [10] considerations unlikely to have influenced the publication of *System of Logic.* The text's points of emphasis – oppression within marriage and unfair inheritance laws, for example – have a decidedly *topical* character, quite unlike *System of Logic.* However, as I have said earlier, this is not uniformly true of the *Subjection.* Several of its passages contain discussions of deep philosophical questions that have more than topical significance. The style, and degree of generality and abstraction, of these passages is conspicuously unlike that of Mill's pamphlets. The proper answer to the question about the genre of the

[10] See Nicholson in Skorupski (ed.) 1998.

Subjection seems to be that it is a special sort of text, a political polemic in a philosophical mode.

In Chapter 2, I will discuss in detail what I take this genre to be, and how it ought to inform our reading of Mill. I will argue there that Mill's text has two distinct aspects in virtue of the genre to which it belongs, which I label the 'syllogistic' and the 'paradiastolic'.

In speaking of the syllogistic aspect of the *Subjection,* I mean that argument is carried out by means of the usual method of deriving conclusions from premises. But this is not without its interpretative challenges, and cannot be isolated from the political context of the arguments in question. I have spoken earlier (Section 1.2) of how it is not enough for us to consider simply whether we accept some premise of Mill's *simpliciter;* rather, we must consider whether it might have made sense to believe (alternatively, whether it was in some sense *rational* to believe) such a premise given everything else one believed. This point needs to be seen in the light of another important insight of recent debates in methodology: namely, that there has always been in history a deep yet complex relationship between political activity in the most general sense, that is to say the exercise of power, and ideas of *legitimacy*. What Mill seeks to do in the *Subjection,* above all things, is to question the legitimacy of a certain social practice. But in doing this, he cannot have been unaware of how claims to legitimacy require political agents to portray – in good faith or bad – their exercises of power as consonant with normative principles implicit in the reasoning of those on whom power is exercised. By the same token, those who seek to

call into question the legitimacy of some given exercise of power have had to appeal to many of the same normative principles and to show them to have rather different implications than was previously supposed. It is therefore difficult to separate the activity of evaluating argumentative premises for their plausibility from the more general question of what normative principles were commonly invoked in discussions of legitimacy. (This thought will be developed further in Chapter 2.)

However, there is a further aspect to writings of this sort that cannot be captured by an exclusive focus on the structure of arguments. This aspect might be termed, following Quentin Skinner (who derives it from the rhetorician Quintilian), their 'paradiastolic' aspect. Given Mill's immediate political ends as I have described them, it is helpful to regard his enterprise in writing the *Subjection* as that of what Skinner describes as an 'innovating ideologist' seeking to effect a change in how actions, behaviour and states of affairs are regarded. There is no way of understanding writings that aim to do this without thinking carefully about what broader network of beliefs and understandings were being subverted by those writings. Further, it is important to note that shifts of this sort can be effected by means of argument in the usual philosophical (i.e. syllogistic) sense, but they can also involve manoeuvres of a markedly rhetorical character.

Skinner's own analysis of applications of these rhetorical methods in the early modern period have owed much to his readings of 'the classical theorists of eloquence', Aristotle and Quintilian preëminent among them. As Skinner puts it, 'Such changes originate when an action or state of affairs is described by means of an evaluative term that would not

normally be used in the given circumstances'.[11] Consider Quintilian's own example of the method in action: 'you must try to elevate the action as much as possible by the words you use: for example, prodigality must be more leniently redescribed as liberality, avarice as carefulness, negligence as simplicity of mind'.[12] I argue in this thesis that instances of this 'paradiastolic redescription' are rife in the text of Mill's *Subjection*.

Now, we know on the basis of Mill's account of his childhood years in his autobiography, that he had studied both Aristotle and Quintilian with some care. 'I have retained through life many valuable ideas which I can distinctly trace to my reading of [Quintilian], even at that early age';[13] 'Aristotle's *Rhetoric,* which, as the first expressly scientific treatise on any moral or psychological subject which I had read, and containing many of the best observations of the ancients on human nature and life, my father made me study with peculiar care'.[14] Further, we know that he took his journalistic writings with great seriousness, having previously described them explicitly as analogous to the orators of antiquity. In a piece of youthful hommage to the French journalist Armand Carrel, he wrote: 'It is now beginning to be felt that journalism is to modern Europe what political oratory was to Athens and Rome, and that, to become what it ought, it should be wielded by the same sort of men'.[15]

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[11] Skinner 2002: 182.

[12] Ibid.

[13] Robson (ed.) 1981: 24.

[14] Ibid: 15.

[15] Robson (ed.) 1985: 172.

These pieces of evidence do not clinch the case. But it is impossible to prove conclusively that Mill used these techniques in the composition of the *Subjection* in part for the obvious reason that a rhetorical technique that announces itself in advance renders itself thereby ineffective. But what biographical facts we have give us reason to expect him to do so; and, as I shall argue in my Chapters 2 and 3, it is impossible to miss his use of these methods in the text of the *Subjection*.

These rhetorical manoeuvres are of a piece with more straightforwardly syllogistic forms of argumentation. But they respond also to the need for arguments to be persuasive to their readers, and this requires the premises of these arguments to be presented in the most persuasive possible manner. Thus, we cannot understand (and therefore evaluate) Mill's arguments without examining the nature of the process by which he strives to make their premises plausible to his readers. This process, and Mill's interweaving of argument and rhetoric, is the primary subject of this thesis. It is to his own words that I shall turn in Chapter 2.

CHAPTER TWO: APPROACH

2.1

I shall, in this chapter, recommend a certain approach to reading Mill's *The Subjection of Women*. This approach is suggested by a view of how Mill's arguments in the text work. Martha Nussbaum succinctly states a version of this view when she construes Mill as 'support[ing] his argument in part by appeal to *consistency,* saying that liberalism cannot plausibly deny women the rights it vindicates for men.' And again, 'he sees what a *deep violation of basic liberal tenets* is involved in the failure to legislate against marital rape'.[16] The more general form of this argument involves pointing to 'a failure of liberal thinkers *to follow their own thought through* to its socially radical conclusion',[17] or, to put it differently, to fail to see that 'treat[ing] any group or person this way *runs counter to the deepest instincts* of the liberal tradition.'[18]

Nussbaum's characterisations nicely capture three elements of Mill's arguments: crudely, *why* he argues, *to whom* he argues, and *how* he argues, i.e. his arguments' *purpose,* their *constituency,* and their *form*. To these questions, she gives (or implies) these rough answers: Mill argues *in order to* persuade or criticise; he argues *to* 'liberals'; he argues *by* exposing inconsistencies in the thought and practice of the said liberals. These claims are, I think, roughly on the right lines. The rest of this chapter will attempts to explicate them in some detail.

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[16] Nussbaum 1999: 64; emphases added.

[17] Ibid: 65; emphases added.

[18] Ibid: 65; emphases added.

2.2

From his explicit account of his aims in writing the *Subjection,* as he expresses them in the first sentence of his essay, we gather that John Stuart Mill sought

> to explain ... the grounds of an opinion which I have held from the very earliest period when I had formed any opinions at all on social or political matters ... : That the principle which regulates the existing social relations between the two sexes – the legal subordination of one sex to the other – is wrong in itself, and now one of the chief hindrances to human improvement; and that it ought to be replaced by a principle of perfect equality ... [19]

Mill's expression – 'explain ... the grounds' – is an ambiguous one, and our first task in reading the text is to work out what Mill might have meant by it. To know this is to know in what relationship Mill stood to what he had written. It is also to know what 'speech act' he was performing, or trying to perform, in writing the *Subjection.* To know this is to know the proper grounds on which to evaluate his project.

There is a passage in Mill's *Autobiography* that makes a pertinent distinction. In his discussion of his role during discussions in Parliament of the question of landlordism in Ireland, he writes that 'On that bill I delivered one of my most careful speeches, in which I attempted to lay down some of the principles of the subject, in a manner calculated less to *stimulate* friends, than to *conciliate* and *convince* opponents'.[20] Section 2.3 will discuss Mill's contrasting attitude to friends and opponents; my present interest is in the three speech acts he mentions: stimulating, conciliating, and convincing. All three are compatible with his neutral locution: 'explain'.

[19] Robson (ed.) 1984: 261.

[20] Robson (ed.) 1981: 279; emphases added.

It is intuitive enough that the offering of explanations can serve many purposes – it can serve to engender greater certitude in those who already share one's opinions and thereby to enthuse them; it can calm the passions of those who do not share one's opinions by (say) transforming personal antagonism into intellectual disagreement; and it can effect a shift in the opinions and attitudes of those who do not presently share them. All three speech acts – or so I contend – are to be found being performed in the pages of the *Subjection,* as it is natural to expect in the work of a practical reformer, and I shall say more on this as I engage with the substance of Mill's text.

A view of Mill as dedicated practical reformer is hardly a novel one, and modern scholarship is well acquainted with the full range of his causes.[21] A central feature of his reformism was its direct continuity with his intellectual life. Thus, the act of convincing – insofar as it is an intellectual one – could not have been an end in itself, and could not have been a merely academic intervention. For Mill, as for other political reformers, to convince one's audience of the injustice of some institution or practice (e.g. that it 'is wrong in itself, and ... one of the chief hindrances to human improvement') is part of the means to effecting the abolition or reform of the said institution or practice. At the risk of belabouring the point, we might add that this general principle holds to the extent that the continued existence of that institution or practice is dependent on those who uphold it either believing it to be just, or indifferent to its injustice, or not having seen it to be a matter of justice or injustice in the first place (this thought will be developed in Chapter 3).

[21] These are well summarised in Richard Reeves' popular biography, tellingly titled 'John Stuart Mill: Victorian Firebrand'.

It is reasonable to suppose that Mill sought to shape his world along the lines sketched in the radically egalitarian 'ought' of his introductory formulation – 'a principle of perfect equality', as he put it – although not necessarily in his lifetime. We may then see his (contribution to this) persuasive project as part of the intellectual transformation that went hand-in-hand with the social one.

One might add to this point further by considering Mill's uses of the first-person pronoun in the *Subjection*. The 'I' of the text is of course John Stuart Mill, known to a contemporary reader as the author of books on logic and political economy, former member of Parliament for Westminster, and so forth. But it is helpful (or so I intend to show) to think of the 'I' of the text as a sort of 'persona' of the author's, a way of presenting himself to his readers.

The first thing we learn of this 'I' is what he tells us about himself in the opening sentence of the essay, part of which I have already quoted: '

> The object of this Essay is to explain as clearly as I am able, the grounds of *an opinion which I have held from the very earliest period* when I had formed any opinions at all on social or political matters and which, instead of being weakened or modified, has been constantly growing stronger by the progress of reflection and the experience of life. [22]

The persona Mill is adopting here is no doubt that of a radical, as we learn once we learn the content of this opinion ('a principle of perfect equality', etc). But he is at pains to show his radicalism to be born neither of naïveté nor revolutionary fervour. He claims to affirm that rare thing, a radicalism informed by age and experience, and the less easily ignored for that. He is insistent that his views are neither whimsical nor new; he has held them

[22] Robson (ed.) 1984: 261.

from his earliest youth, and they have been sharpened by lifelong observation and reflection.

Subsequent paragraphs reveal more about the way Mill presents himself: for all his age and experience, he remains an embattled outsider. We find evidence for this self-image in his depiction of his task in the *Subjection* as 'arduous', and of himself as 'contend[ing] against ... a mass of feeling':[23]

> Before I could hope to make any impression, I should be expected not only to answer all that has ever been said by those who take the other side of the question, but to imagine all that could be said by them ... : and besides refuting all arguments for the affirmative, I shall be called upon for invincible positive arguments to prove a negative. [24]

It is useful here to consider Mill's conception of his role as – to borrow Stefan Collin's helpful expression – 'public moralist'. All of Mill's political writings, well-known treatises such as *On Liberty* as well as more topical ephemera, are suffused with a keen consciousness of the relative unpopularity of his views. Collini makes the further (plausible) suggestion that 'it may have become important to Mill to *exaggerate* the extent to which he was a lonely crusader, lacking a supporting army (a few white knights aside), sustained only by the righteousness of the cause and the kinship of a scattering of rare spirits'.[25] Hence, Mill's propensity to introduce into the introductory paragraphs of the *Subjection* a note very near to self-pity:

> a cause supported on the one hand by universal usage, and on the other by so great a preponderance of popular sentiment, is supposed to have a presumption in its favour, superior

[23] Robson (ed.) 1984: 261.

[24] Robson (ed.) 1984: 262.

[25] Collini in Robson (ed.) 1984: xiii.

> to any conviction which an appeal to reason has power to produce in any intellects but those of a high class. [26]

But there is more. Mill is a radical, but wants to be seen as an eminently sensible one; he claims to stand 'on the ground of common sense'.[27] He is a plain-speaking man; he 'should like to hear [his opponents] openly enunciating the[ir] doctrine' rather than for those doctrines to be shrouded in insinuation and euphemism. [28] He is clear-sighted man; he has 'no desire to exaggerate', but alas 'the case [does not] stand in any need of exaggeration'. [29] Above all, he is a *reasonable* man; he knows 'that there is another side to the question', but he thinks he can answer it, perhaps even to his opponents' satisfaction.[30]

This last point is the crucial one. As Collini has well said, 'Mill did not in fact stand in such a purely adversary relation to his culture as he sometimes liked to suggest, since he was constantly appealing to certain shared values'.[31] Mill is arguing for a radical conclusion, but his premises – which he generally claims to share with his readers – are not themselves controversial. On what this implies in the way of argumentative method, and on his readers, I will have more to say in Section 2.3 and 2.4. But our concern here is with how he presents himself, and the important fact that he is at pains to emphasise his being broadly in concord with his readers' basic views. This is presumably why Mill thinks it a worthwhile enterprise to go about trying to convince them in the first place. It is also why

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[26] Robson (ed.) 1984: 262.

[27] Robson (ed.) 1984: 276.

[28] Robson (ed.) 1984: 281.

[29] Robson (ed.) 1984: 286.

[30] Robson (ed.) 1984: 289.

[31] Collini in Robson (ed.) 1984: xiv.

he finds their failure to have reached his conclusions on the women's question a fact worthy of condemnation: as Collini puts it, 'where he could not convince, [he wrote] to convict'.[32] Those who will not be convinced or conciliated – for some such there will necessarily be – Mill is willing to regard not merely as dissenters, but as adversaries. The most polemical passages in the essay have Mill writing to *convict* his adversaries, and consequently, to *stimulate* those on his own side to rancour against them.

To these passages, we shall turn later. It is worth noting for the moment that part of what is going on here is something familiar to any reader of the classical textbooks of rhetoric on the way to make oneself sympathetic to one's audiences. As the author of the *Rhetorica Ad Herennium* (historically attributed to Cicero) writes: 'we shall secure goodwill by praising our services without arrogance and revealing also our past conduct toward the republic, or toward ... the audience, ... likewise by setting forth our disabilities, need, loneliness, and misfortune, and pleading for our hearers' aid'.[33] Mill is using the accumulated 'capital' of his life as a public moralist to secure for himself a hearing that would be denied to others who attempted publicly to defend opinions of such a radical sort.

2.3

A second noteworthy aspect of Nussbaum's interpretation of Mill's arguments is whom she takes them to be addressed to: in her words, 'liberals'. I think this is broadly right, but

[32] Ibid.

[33] *Rhetorica Ad Herennium:* 5.

not sufficiently precise for our present purposes.[34] I shall return in my Conclusion to address directly the question of where liberalism fits into my story. For the moment, however, I wish to look directly at how Mill's texts construe (or perhaps 'construct') his audience.

This is in fact a more complex notion than it might seem. I follow Bernard Williams in distinguishing between 'audience' and 'listener': 'between, on the one hand, people who may be expected or hoped actually to read and be influenced by such a text, and the people or person whom, in terms of its content, it purports to address'.[35] The first notion is the more straightforward one, and we now possess the historical scholarship required to give it a satisfactory answer. Mill was, by 1869, a celebrated intellectual figure, a reputation he owed largely to his widely read *System of Logic* (1843) and *Principles of Political Economy* (1848). His works were thus likely to be read by contemporary intellectuals, university graduates, radical reformers, senior politics, and readers of the well-respected review publications of the day. The *Subjection* was read by members of all these constituencies, and was reviewed widely in the popular press as well as the more rarified 'review' publications of the day. Further, we know that it was widely distributed among and read by women activists and suffragists into the early twentieth century and regarded by them as both 'a compendium of key arguments', and a source of reassurance that their cause

[34] An explicitly historical discussion such as this one is inevitably constrained by the need for sensitivity to the vocabulary actually used in the texts and periods on which I am commenting. This is, of course, compatible with a carefully judged use of anachronistic terminology that helps make sense of the texts under advisement without necessarily belonging to the world of those texts. But these uses need to be argued for, especially if the use of anachronisms threatens to occlude part of precisely what we hope to explain, i.e. the nature and extent of the differences between our outlook and theirs.

[35] Williams 2005: 56.

and its justice were intelligible to influential men. [36] This understanding of Mill's constituency further explicates what I have argued in my previous section about Mill's threefold aims – persuasion, conciliation, and stimulation.

However, I am just as interested in the second sense of a text's audience I have just described. Who is the implied 'listener' of the *Subjection?* Is this listener construed as male or female, rich or poor? What beliefs is this listener presumed to have? Where is this listener 'situated' – geographically, socially, temporally?

To the question about sex and class, it appears safe to see the listener as both sexless and classless. Mill speaks of both men and women in the third person; the listener is asked to imagine him/herself into the positions of both. Similarly, Mill speaks with detachment of 'men of the cultivated classes',[37] not implying that they alone are being addressed.

To the second question, about beliefs, an answer is suggested by the following passage in the third paragraph of the essay:

> ... in practical matters, the burthen of proof is supposed to be with those who are against liberty; who contend for any restriction or prohibition; either any limitation of the general freedom of human action, or any disqualification or disparity of privilege affecting one person or kind of persons, as compared with others. The *a priori* presumption is in favour of freedom and impartiality.[38]

The context for this passage is the lengthy series of protestations about the arduousness of Mill's task in attacking 'an almost universal opinion'. We find attributed to the implied

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[36] Nicholson in Skorupski (ed.) 1998: 483.

[37] Robson (ed.) 1984: 324.

[38] Robson (ed.) 1984: 262.

listener an 'a *priori* presumption in favour of freedom and impartiality'. By 'a *priori',* I understand Mill to be saying 'in advance of argument'. His listener does not need to be *argued* into the view that freedom and impartiality are presumptive (though defeasible) goods; he believes this already. Again, attributing this belief to the listener serves a dual function with respect to Mill's actual audiences. On the one hand, a good part of that audience explicitly shares such a presumption, and is thus being included in Mill's constituency of shared values. To those whose commitment to such a belief is but inchoate, Mill's assertion serves as a sort of invitation to them to affirm explicitly what has implicitly lain behind much of their normative reasoning. And to those who reject that presumption, it serves as a challenge. By not arguing for it, Mill provocatively places the presumption beyond the realm of argument, making it clear that the onus is on those that reject the presumption to make good their belief. This is the sense in which Nussbaum is right to read Mill as addressing his argument to 'liberals'.

But is the listener of the *Subjection* supposed to hold an antecedent belief about the normative question under consideration? If the listener is already on Mill's side, most of Mill's arguments would be superfluous; if the listener were actively hostile, Mill's attempt at reasoned explanation would be futile. The overwhelming impression of the text is that its implied listener is construed not so much in terms of the beliefs she or he might hold on the subject at hand, but in terms of her or his *reasonableness.* In other words, the listener is taken to be amenable to persuasion by rational argument.

It might be clarified that Mill's construing his *listener* in this way is entirely compatible with his actual *audiences* being either sympathetic or hostile; the point is that its intended impact on those actual audiences – 'stimulation' for the one, persuasion for the other – is achieved by indirection. The technique is an entirely familiar one: consider by way of example how a teacher might chastise an unruly student by pointedly praising the good behaviour of the child's neighbour, or indeed *vice versa.* Mill addresses a reasonable listener who is willing to hear out his explanations and judge them on their merits. But he is aware that other parties – the unreasonable, or the already convinced – might be listening in on the conversation, and makes sure his explanations have something for them too.

We can infer other features of this implied listener by considering the various sorts of people Mill treats as 'other', that is, by seeing whom he excludes from his uses of the first-person plural. The two classes of people he clearly leaves out of his 'we' are people from non-European countries and people from pre-modern European societies. Evidence for the former can be found in his remark about how 'the women in the harem of the Oriental ... do not complain of now being allowed the freedom of European women. *They* think *our* women insufferably bold and unfeminine'.[39] There is an even clearer instance of this when Mill, in the course of arguing against interpreting St Paul's Epistles as being hostile to his views, builds up to this peroration:

> There have been abundance of people, in all ages of Christianity, who tried ... to convert *us* into a sort of Christian Mussulmans, with the Bible for a Koran, prohibiting all improvement: and

[39] Robson (ed.) 1984: 321. Like others of his time, Mill's arguments often invoke what we today might regard as disturbing Orientalist stereotypes. I will not address this question in this thesis, but I hope my treatment of the *Subjection* throws some light on philosophical structure of arguments that invoked these stereotypes.

> great has been their power, and many have had to sacrifice their lives in resisting them. But they have been resisted, and the resistance has *made us what we are, and will yet make us what we are to be.* [40]

'We' is understood as having an extension that is European, at least nominally Christian, and, in a loose sense, liberal. A third passage affirms this thought with a different emphasis:

> *We now live – that is to say, one or two of the most advanced nations of the world now live* – in a state in which the law of the strongest seems to be entirely abandoned as the regulating principle of the world's affairs: nobody professes it, and as regards most of the relations between human beings, nobody is permitted to practise it. [41]

This, Mill says, is part of 'the progress of civilization, and the improvement of the moral sentiments of mankind'.[42] The liberalism is re-affirmed here, but understood not only as a presumption in favour of liberty but one against the exercise of power being its own justification. The implied contrast is again with the despotisms of the non-Western world where this is not the case, but equally – as the temporal qualifier at the beginning of the quotations suggests – with a pre-modern European past. Collini helpfully glosses these passages as involving Mill 'portray[ing his] opponents as committed to defending a quite arbitrary stopping-place along the route of progress', an argument that 'had a particular resonance when addressed to an audience of mid-nineteenth-century English liberals who regarded such moral improvement as the chief among the glories of their age'.[43]

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[40] Robson (ed.) 1984: 296.

[41] Robson (ed.) 1984: 264-5.

[42] Robson (ed.) 1984: 264.

[43] Collini in Robson (ed.) 1984: xiii-xiv.

2.4

Given this picture of Mill's aims and audiences, we can now ask how he set about pursuing those aims with respect to these audiences. One model for how he might have gone about doing so might be described as 'deductive' in character, where institutions and practices are justified in terms of principles derived from a fully worked-out general normative theory. And indeed, a fully worked-out theory of the sort described was readily available to Mill in the form of his utilitarianism, such that he might simply have shown his position on the 'subjection of women' to follow naturally from a sparse set of utilitarian premises. But the folly of this is immediately obvious given Mill's aims as I have construed them. To put it crudely, Mill was addressing (and hoping to win over at least part of) an audience not all of whom were utilitarians. Given this, for his views to have the slightest purchase on these members of his audience, he could not rely exclusively on abstract premises that he alone endorsed *simpliciter*.

The fact that Mill can only assume so much in his readers generates a powerful set of constraints on his manner of argumentation. In responding to these constraints, as we see when we turn to the text, Mill adopts a wide range of argumentative techniques, from the subtle to the crude, always ready to admit the unpopularity of his views, yet arguing, cajoling, sometimes hectoring, his (real or invented) opponents into accepting them or at any rate acknowledging their force. He does this knowing full well that his stature as public moralist would give his views a wider audience than was ordinarily afforded to the sorts of views he was given to defending. The reason views of that sort were unlikely to receive a sympathetic hearing had much of course to do with the perceived legitimacy of

the *status quo.* This perceived legitimacy derived on the one hand from the absence, or relative inconspicuousness and ineffectiveness, of challenges to it, and on the other, from the ease with which any such challenges could be addressed (or dismissed) by appeal to, say, 'nature' or 'tradition'. Defenders of the *status quo* vis a vis women could, on the rare occasions on which they were called upon to produce a justification for that *status quo,* simply defer to a range of normative concepts commonly invoked in political reasoning.

The question I address in this section (and in Section 3.1 and 3.2) is that of how Mill deals with these kinds of resistance. My first answer is implicit in what I have said about Mill's construal of his constituency in Section 2.3; my second implicit in my view of him as innovating ideologist (as set out in Section 1.5). The rest of this section will elaborate these points.

§

Given that the 'deductive' model of argument was unlikely to serve Mill's purposes, the obvious alternative is to adopt an 'inductive' model. Under the inductive model, to describe it in crude strokes, the process of justification seeks local inconsistencies among the principles invoked by one's interlocutors in normative debate with a mind to resolving them in favour of one's preferred equilibrium. What rescues this form of argument from being 'merely' cynical, or sophistical, is the fact that – as we have seen – there was substantial agreement between Mill and these audiences. Even if they were not (all) utilitarians, they were not wholly out of sympathy with it, or the considerations that motivated it. Indeed, as Mill is frequently at pains to remind us in *Utilitarianism,* utilitarian morality was already implicit in much commonsense moral reasoning.

Of course, the *Subjection* is 'pitched' at a different level of abstraction. Its subject is not the fundamental principles of morality, but what he takes to be a specific injustice. Mill is alert to the possibility that this injustice might have a plurality of grounds (i.e. there might be a range of plausible accounts of what makes it unjust), and consequently, that conclusions about its injustice might be derived from a wide range of premises. But the most basic feature of his argument is their *negative* aspect, their attempt to show the inadequacy of the best available arguments for the contrary conclusion.

Nussbaum (in the article from which I quote in Section 2.1) attempts to capture this negative project with a variety of locutions. Most simply, it is a matter of inconsistency: to affirm the justice or acceptability of women's subordination can be shown to be inconsistent with other beliefs affirmed by those same people who deny its injustice. But not any old inconsistency will do: their views in the particular instance need to be shown to be inconsistent with certain deep and non-negotiable principles or instincts that his interlocutors cannot jettison except at considerable cost.

It is useful to start with the commonsense thought that people would rather have their belief-sets consistent than not. But the moralist cannot rely entirely on this desire for consistency. For one thing, one's opponent might simply reconcile herself to living with contradiction. For another, of the two possible resolutions to a contradiction, this opponent might choose quite the 'wrong' one. If abortion is wrong, we might argue, then so is capital punishment, expecting our interlocutors to abandon their indulgence of capital

punishment rather than condone the horror of abortion, only to find them doing exactly the opposite and reconciling themselves to affirming the permissibility of abortion. Something like the following syllogism captures the thought behind this: if consistency were the only value that counted, *any* resolution of an inconsistency would be permissible ('One man's *modus ponens* is another's *reductio');* not all resolutions are equally acceptable to a committed moralist; therefore, consistency cannot be the only value that counts.

If not consistency, then what? [44] Or, to put the question differently, on what grounds might we distinguish between – from the moralist's perspective – acceptable and unacceptable resolutions of inconsistencies? Mill's own *System of Logic* offers one way of doing so, with its account of how one might go about 'correcting one generalization by means of another, a narrower generalization by a wide', a method employed in ordinary reasoning albeit amenable to being engaged in with greater self-consciousness and precision. Mill, in his discussion of this method, chooses to use an explicitly normative example:

> We may have inferred, from historical evidence, that the uncontrolled power of a monarch, of an aristocracy, or of the majority, will often be abused: but we are entitled to rely on this generalization with much greater assurance when it is shown to be a corollary from still better established facts ... It is at the same time obvious that even these more general facts derive an accession of evidence from the testimony which history bears to the effects of despotism. The strong induction becomes still stronger when a weaker one has been bound up with it. [45]

There are many ways in which we might explicate the notion of 'strength' in the context of inductions. One way of doing so is to think of a strong induction as being one affirmed

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[44] Truth, for one. But it is a notorious difficulty of the (crudely Socratic) form of argument I have described to bridge the gulf between consistency and truth. This is not to mention the usual metaethical difficulties of giving an account of what sort of thing truth would be in a normative context such as this (could the wrongness of denying women the vote be part of what J L Mackie called 'the fabric of the universe'?) But these epistemological and metaphysical worries need not worry us if the account of the force of this form of argument given the main text that follows is along the right lines.

[45] Robson (ed.) 1973: 320.

with a higher degree of *certitude.* To return to our earlier example, it might be that our interlocutor is *more certain* about the rightness of capital punishment than she is about the premises of any argument to the contrary, and thus has at least this *pro tanto* reason against resolving the inconsistency in the direction of accepting its wrongness. But this cannot be the end of the story, because the 'bite' of this argument, as it were, is a purely intellectual one. It suggests that someone who chose to abandon their views on the wrongness of abortion in order to maintain their views of capital punishment was guilty of a mere error of logic or reasoning. The moralist in this case needs the accusation of inconsistency to have a certain *moral* bite in order for it to do the persuasive work she requires it to do. That moral bite might be thought to consist in an impugnment of one's interlocutor's *integrity.*

To cast this in the terms of Mill's *Logic,* we might think of strong inductions as being those with which one is most closely *identified.* A variant on our earlier example will help make this case. Let us now consider an ardent anti-abortionist who is sanguine about the institution of capital punishment. There is an accusation of inconsistency to be made here: 'how can you claim to care about the lives of unborn babies if you are insensitive to the potential execution of innocent people who could not afford a better defence lawyer' (for example). But the moral bite here comes from the suggestion that the anti-abortionist in question is failing to live up to her own deeply held moral convictions and instincts – to her belief, say, in the 'sacredness of life'.[46]

[46] This is not meant to rule out the obvious retorts available to the anti-abortionist, e.g. that the justice system does not on the whole execute innocent people, or that the state ought to make provisions for better public defenders.

Yet another notion that captures something of this moral force is that of *hypocrisy*. Modern scholarship has revealed much about Victorian preoccupations with the figure of the hypocrite,[47] the person who makes arbitrary (and often convenient) exceptions to rules he otherwise professes fervidly and judges other people by. To use our earlier example, the anti-abortionist who will not stand up against capital punishment is open to the charge of making an arbitrary exception to her general principle of valuing life; further, it opens her to the charge that her profession of deep principle had been cynical all along, motivated not by genuine commitment but by something less exalted – say, its being the 'party line', or its being a useful stick with which to attack opponents.

Thus, Collini argues that

> Mill—it is one of the few things about him one can assert with reasonable security against contradiction—was not Nietzsche. He was not, that is, attempting fundamentally to subvert or reverse his society's moral sensibilities, but rather to refine them and call them more effectively into play on public issues.[48]

But there is one difficulty that Collini's summary, and my own account above, has left out. The examples used all involve the putative inconsistency being raised without being argued for, i.e. without any further account offered for why they might be *thought* inconsistencies. The particular examples chosen might well have left this fact obvious, but anyone who has ever participated in this sort of moral or political argument will recognise that the most difficult part of such argument consists in forcing one's interlocutor to *perceive* an inconsistency in the first place. Thus, while Mill was most certainly not Nietzsche in Collini's sense, some characteristically Nietzschean stratagems are in play in

[47] Chapter 6 of Runciman 2009 discusses this trope in Victorian thought in some detail.

[48] Collini in Robson (ed.) 1984: xiv.

Mill's attempts to force attention onto particular inconsistencies in the contemporary commonsense. The best analogy, as I have implied above, is a *perceptual* one. It can hardly be enough baldly to assert that society's treatment of women runs counter to its own deep instincts: surely society could have worked that fact out for itself. The fact that it has not suggests – from Mill's point of view – some deep failure of moral perception that must be remedied through the use of the best rhetorical methods at his disposal.

I have alluded earlier to Quentin Skinner's concept of the 'innovating ideologist'. Part of the ideologist's métier is the sort of 'public moralising' I have described above. But Skinner has argued for the ideologist effecting persuasion in a subtler way. The paradigm case is that of the courtroom orator or defence attorney, who effects persuasion by 'replacing a given evaluative description with a rival term that serves to picture the action no less plausibly, but serves at the same time to place it in a contrasting moral light'.[49] This sort of attempted re-description – the 'paradiastolic shift' – is tantamount to a claim that the behaviour or institution under advisement 'possesses a different moral character from that which our dialectical opponents may have assigned to it'.[50]

In Mill's case, in order for his argument from inconsistency to get off the ground, his interlocutor must be made to 'see' the treatment of women as he himself does, viz. as a violation of deeply held principles of liberty and impartiality. The task for us is then to understand how Mill went about the task of convincing his audience that 'in spite of

[49] Skinner 2002: 183.

[50] Ibid: 183-4.

appearances, the term [of opprobrium could] properly be applied – in virtue of its ordinary meaning – to the case in hand', thus prompting them 'to view the behaviour in question in a new moral light. An action they had previously regarded as commendable', or indeed as merely indifferent, 'may come to seem worthy of condemnation'.[51] This is the task of Chapter 3.

[51] Ibid.

CHAPTER THREE: RHETORIC AND ARGUMENT

3.1

Mill's biographer Alexander Bain would come to characterise *The Subjection of Women* as a sustained exposition of Mill's traditional concern with the abuse of power. It is a plausible characterisation of the *Subjection,* but it places before us an intriguing question: how does Mill succeed in making the legal status of women a question about the abuse of power? More fundamentally, how does he succeed in showing that it is a question of *power* in the first place – for it was not obvious to his readers, even if it is to us.[52]

Thus far, I have presented an argument for adopting a historically sensitive methodology in studying Mill's *Subjection,* in part for the insight it gives us into some distinctive features and the contemporary philosophical relevance of Mill's argument. I have urged a view of Mill's aims as those of an 'innovating ideologist', attempting to redescribe the institutions and laws of his time in order to show them to have a different moral character from the legitimacy imputed to them by the contemporary common sense. What it is for the legitimacy of some practice to be part of the common sense of the age can of course be that the practice in question is successfully justified by the commonsensical normative concepts. Alternatively, it consists in that practice being wholly outside the sphere of justification. Thus, the task for the innovating ideologist is that of bringing some given institution into the sphere of justification in the first place, by forcing one's audiences to perceive it as such. What comes afterwards is relatively straightforward: once the

[52] There is a crucial respect in which the matter is not obvious even to us: I mean the extent to which the *family* is as much a site of injustices as (say) the state, a point made at length in Okin 1989.

'women's question' can be seen to involve an exercise of power, Mill's position is a relatively comfortable one, because it has come by his time to be something like the orthodox ('Enlightenment') view that the exercise of power always calls for justification.

Of particular interest in this regard is Mill's attempt to resist a suggestion that would no doubt have suggested itself to many among his contemporaries when confronted with this question about contemporary institutions: that there was something problematic not simply about Mill's answer to that question, but about asking it in the first place. In other words, Mill's first task here is to establish that the legal position of women circa 1869 was *in need of* a justification. The significance of this move cannot be underestimated, and would need to precede any further attempt to show that no such justification was forthcoming. As Jonathan Lear writes in a discussion of a very different philosopher: however disturbing to contemporary morals Aristotle's defence of slavery might be, Aristotle was nevertheless 'the first political thinker to realize that slavery needed a defense',[53] and inadvertently demonstrated by the sheer inadequacy of his case that no such defence might exist.

Mill lacked the conservatism that (on one view of Aristotle) might have explained why Aristotle did not seem to see the weakness of his own argument in this regard. He was also fully prepared to take the next step and live out the consequences of holding the views that he did. Nevertheless, the conservative impulse to regard the justificatory demand as itself a risible form of rationalist fetishism was the first of Mill's concerns. This

[53] Lear 1988: 197.

sort of impulse is not wholly absent from twentieth-century debates among political philosophers.

The conservative thinker Michael Oakeshott did not mention John Stuart Mill by name in his well-known essay on the 'rationalist' disposition. Yet, it is easy to see something of the Mill of the *Subjection* in Oakeshott's characterisation of this disposition – that it abhors all prejudice, custom, habit, and forms of authority except that of (or grounded in) reason.[54] All of this is of a piece with the first paragraph of the *Subjection* that we have read earlier. Oakeshott continues: 'To the rationalist, *nothing is of value merely because it exists* (and certainly not because it has existed *for many generations'*. [55]

Was this indeed Mill's view? I will argue shortly that Mill's view is not reducible to this caricature. However, the early passages of the *Subjection* do sometimes give this impression, such as when he writes that

> there are so many causes tending to make the feelings connected with this subject the most intense and most deeply-rooted of those which gather round and protect old institutions and customs, that we need not wonder to find them as yet less undermined and loosened than any of the rest by the progress of the great modern spiritual and social transition; nor suppose that the barbarisms to which men cling longest must be less barbarisms than those which they earlier shake off. [56]

On the evidence of this passage, it might appear reasonable to infer that Mill regards as irrelevant to his justificatory purposes the fact of an institution's longevity, i.e. exactly the claim that Oakeshott and other anti-rationalist conservatives want to deny. One opponent,

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[54] Oakeshott 1991: 6.

[55] Oakeshott 1991: 8; emphasis added.

[56] Robson (ed.) 1984: 261.

Ann Mozley, writing shortly after the work's publication, summarises this part of Mill's essay as claiming that 'Custom ... however universal ... affords no presumption, and ought not to create any prejudice, in favour of woman's subjection to man'.[57] Indeed, a number of Mill's contemporaries would seize upon this aspect of his argument, protesting against his 'dismissing the teaching and experience of past ages as of no value in the discussing of the question'.[58] Mozley trenchantly compared Mill to 'the lunatic who proved logically that all the rest of the world was insane'.[59] We might cast this objection in a philosophical form thus: Mill is wrong to deny the epistemic value of tradition. Is this a valid objection? And was Mill vulnerable to it?

In assessing this objection, we might start by noting that (pace Mozley) Mill was not asserting baldly the irrelevance of experience in the manner of Oakeshott's rationalist. Rather, his was a closely reasoned account of the *countervailing* considerations that might be brought to bear on any invocation or interpretation of such experience, and in a quite striking move, he found those countervailing considerations within the very same tradition that his opponents invoked against him.

This might seem a surprising point, but the surprise might be due to the tendency of his (as we have seen in Section 2.2) to exaggerate the extent to which he stood in an 'adversary

[57] Pyle (ed.) 1995: 89. Cf Oakeshott: '[the Rationalist] ... find[s] it difficult to believe that anyone who can think honestly and clearly will think differently from himself' (1991: 6).

[58] Pyle (ed.) 1995: 77.

[59] Ibid: 89.

relation to his culture'. [60] This, as we know, was never the end of the story; an equally important aspect of Mill's political interventions was his constant appeal to values he *shared* with his contemporaries. What he took exception to in his opponents was not the fact that they affirmed a different set of moral principles, but rather that they failed to make what he thought were the correct inferences from them. Similarly, his criticism of contemporary institutions and laws was that they were failing to live up to standards that Mill joined his contemporaries in endorsing. As Mill's reference to 'the progress of the great modern spiritual and social transition' would suggest,[61] such appeals were often underpinned by something like a philosophy of history, one that belonged as much or more to 'the smoking-rooms of mid-Victorian England' than it did to his own philosophical system, on which 'the circle of full moral recognition was gradually being extended to all those hitherto neglected or excluded, whether they were English labourers or negro slaves or ... women'.[62]

A near contemporary of Mill's who shared his views on the subjection of women, Henry Sidgwick, offers a clearer account of the structure of such argument in a passage I quote because its author claims to be simply describing what he took to be the acceptable manner of moral reasoning on practical questions even among non-philosophers. Viz.,

> if in reflecting on the morality of our age we find it to contain palpable inconsistencies; if accepted particular rules cannot be reconciled with equally accepted general principles, or tolerated practices reconciled with accepted rules; if there is an arbitrary inequality, based on no

[60] Collini in Robson (ed.) 1984: xiv.

[61] Robson (ed.) 1984: 261.

[62] Ibid: xiii.

> rational grounds, in the commonly approved treatment of human beings; ... – then in such inconsistencies we may recognize a sure sign of error and need of change in our ethical view. [63]

To accept such a picture of justification does not presuppose the heavier theoretical commitments to utilitarianism that Sidgwick and Mill shared. Also, the reference to 'arbitrary equality' does not presuppose an egalitarianism of any robust sort. It only requires that we see in the existence of an apparent ethical inconsistency a problem that calls for resolution; indeed, perceiving inconsistency of this sort is the usual cause of demands for justification in the first place. The subjection of women *did* seem to pose such a problem: among other things, it constituted a conspicuous asymmetry and was as such in need of being shown to rest on 'rational grounds' – to demand such grounds was not to wrangle in the manner of an unimaginative Rationalist, but simply to follow to its logical conclusion the quest for consistency that was part of the popular morality of the age.[64]

Therefore, when Mill insists that the burden of proof rests properly in this instance not on the would-be reformer, but on the defender of the *status quo,* it is no peculiar reversal of the usual way of things in a manner suspiciously convenient for his purposes. On the contrary, it is an attempt to show that the question of the burden of proof depends on not one fundamental principle, but on two *prima facie* independent ones: the first principle favours the *status quo* by default, but the second holds the most important value to be a sort of presumptive (and minimal) sort of equality or impartiality. How to reconcile these two principles – call them 'conservatism' and 'rationalism' – is itself a further

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[63] Sidgwick 1909: Lecture II.

[64] Of course, Oakeshott believed that the ubiquity of the rationalist impulse was one of the pathologies of the modern age, but then, his holding this view (as I shall shortly argue), paradoxically, marks *him* out as the radical and Mill as the conservative.

epistemological question with no answer to be found clearly immanent in common sense itself.

§

A brief interlude. This is a good point at which to discuss briefly a second way in which Mill makes his justificatory demand, one that is best understood in terms of my characterization of him as an 'innovating ideologist' attempting to effect a shift in which normative concepts are used to describe the social institutions and practices under advisement. There are many such attempts at conceptual shifting in the *Subjection,* few more obvious than Mill's audacious choice of title. There is a lexicographical question here, about the meanings of the word 'subjection', deserving of more attention from historians of political thought than it has hitherto received. For our present purposes, it will suffice to entertain the following piece of speculation about the rise in uses of the word: that this rise coincided with the parallel growth in the literature on European colonialism in Asia and Africa. Certainly, a large number of recorded uses of the word in this period speak of 'subjection' in the context of the nature and consequences of military conquests. The plethora of examples in the Oxford English Dictionary's entry on the word are informative in this regard, as is the definition offered: 'The act or fact of being subjected, *as under a monarch or other sovereign or superior power;* the state of being subject to, or under the dominion of, another'. The concept of 'subjection' is then understood in the nineteenth century as the exercise of power by the strong over the weak. This makes it a paradigm case for the applicability of political morality as the thinkers of the nineteenth century construed the term. The word was, needless to say, not one that Mill's contemporaries were given to using in their appraisals of the law as it then pertained to

women. However, it was one they were happy enough to use in appraising (and justifying) the relationship of British colonialists with their native subjects. For Mill to persuade his opponents to see the objects of his concern in these terms would be equivalent to showing them to be the appropriate objects of normative justification.

§

Having said this, the worry about 'rationalism' of the undesirable sort still remains. Even if Mill's argument turns out to be addressed to an audience of Victorians who widely shared his moral intuitions and view of history, this fact only shows him to be sensitive to received opinion on one abstract point. Or, to use Ann Mozley's idiom, it meant he was like the lunatic who showed that his manner of lunacy was to be found outside the madhouse among the great and the good. Further, it would have been all too easy for an opponent of Mill's to urge that the concept of 'subjection' was a positively perverse way of looking at things. How might Mill have responded to these objections?

It is worth noting first that on the epistemological question, we know that Mill had expressed thoughts earlier in his life that his conservative opponents might have found entirely congenial. For example, he remarked in his youthful essay on the poet Coleridge that the proper question to ask to ask of a received tradition was not 'Is it true?' but 'What is the meaning of it?'[65] This principle reappears in the *Subjection* when he expressly allows that 'the generality of a practice is in some cases a strong presumption that it is, or at all events once was, conducive to laudable ends'. However, this principle is immediately qualified: 'This is the case, when the practice ... *was grounded on experience* of the mode in

[65] Quoted in Himmelfarb 1974: 180.

which they could be most effectually attained.'[66] This point for Mill makes all the difference. For all the Romanticism of his youth, it is the empiricist in Mill that eventually wins out.[67]

What might such experiential grounding look like? Mill describes it thus:

> If the authority of men over women, when first established, had been the result of a conscientious comparison between different modes of constituting the government of society ... — the government of women over men, equality between the two, and such mixed and divided modes of government as might be invented — it had been decided, on the testimony of experience, that the mode in which women are wholly under the rule of men ... was the arrangement most conducive to the happiness and well-being of both; its general adoption might then be fairly thought to be some evidence that, at the time when it was adopted, it was the best ... .[68]

However, as he would go on to argue at some length, one had no historical evidence to think this to have been the way of things. Indeed, quite the contrary was true: the origins of the *status quo* lay in some primordial display of brute force, the threat of whose exercise remained necessary for the maintenance of the said *status quo.* This would prove a 'strange thought to ordinary ears', especially to those who professed themselves pleased that 'so many other things which came down from the same odious source [sc. brute force] [had] been done away with'.[69]

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[66] Robson (ed.) 1984: 263.

[67] It is to the Romantics that he refers in speaking of 'the reaction of the nineteenth century against the eighteenth, to accord to the unreasoning elements in human nature the infallibility which the eighteenth century is supposed to have ascribed to the reasoning elements. For the apotheosis of Reason we have substituted that of Instinct; and we call everything instinct which we find in ourselves and for which we cannot trace any rational foundation' (Robson (ed.) 1984: 263).

[68] Ibid.

[69] Robson (ed.) 1984: 264.

An objection to this is expressed forcefully by Gertrude Himmelfarb, who argues that Mill's argument 'did not address itself to Coleridge's question' because that question was based on a view of society as having 'unconsciously and without forethought evolved modes of behaviour that had meaning'. Himmelfarb suggests that Mill's failure to confront this question on the right terms was owed to his feeling that to do so would be to grant a certain 'degree of legitimacy to a practice he found thoroughly abhorrent'.[70]

But this does not seem quite right. For a start, Mill does offer a sort of answer to the question; only his answer turns out to be a disquieting one. The 'meaning' of the subjection of the women, he conjectures, is that it conduces to the continued dominion of the physically strong. In this, he is replicating (perhaps consciously) the structure of contemporary arguments against slavery, in that his answer would have been the same one as that offered by contemporary abolitionists to those asking them to consider the 'meaning' of slavery, rather than its justice. (Much of the *Subjection* was composed while a Civil War was raging in America over this very question). The Coleridgean question – 'what is the meaning of it' – is a question that itself *precedes* the search for justification. In asking it, we do not presuppose that it is even proper to demand justification. However, as we have already seen, Mill clearly does think (and, if the argument of this section is along the right lines, has *shown)* it proper to make such a demand.

Naturally, Mill could, and indeed did, allow that answering the justificatory question could itself require careful historical inquiry. However, it would seem that such inquiry

[70] Himmelfarb 1974: 180-1.

would still have to answer to the demands of rational justification. Mill describes (in the passage quoted above) what would make for a *paradigm* instance of when an account of an institution's or a practice's meaning would also yield a justification of that institution or practice. Himmelfarb is no doubt right to say that Coleridge's question did not assume that 'society engaged in ... conscious deliberations, but rather that it ... without forethought evolved modes of behavior which had meaning and truth'. But something along those lines, Mill suggests, would in the ideal instance have had to have been the case in order for a justificatory account to be derived from it. At any rate, we may conjecture, extrapolating from Mill's words, that something relevantly similar to the paradigm case would need to obtain: e.g. evidence that the history of the human race afforded at least some examples of alternative arrangements being tried, even if not self-consciously, and failing. Else, it is left entirely mysterious what aspect of an institution's longevity is doing the work of justifying it. After all, it cannot be a *necessary* truth on even the most conservative account that every single long-lived institution is for that reason a good thing. It would have been uncontroversial to his readers, as it is to us, that history was full of long-lived institutions that were eventually shown to be unconscionable, absolute monarchy an example with particular resonance in the nineteenth century: why could the subjection of women not be yet another such?

It turns out, then, *pace* Himmelfarb, that Mill did confront the question at hand, and offered an answer to it: the subjection of women owed its persistence to the fact of physical force. This *was* its meaning, in the relevant sense. To the extent that brute force was (on the Victorian common sense we have just discussed) thought no longer to offer an acceptable

moral justification for anything, the persistence of women's subjection could no longer constitute adequate grounds for its perpetuation.

It might be alleged here that Mill is committing the so-called 'genetic fallacy', in this case the view that the legitimacy or illegitimacy of some institution depends in some way on its origins. The obvious response is to point out that Mill was speaking not merely the *origins* of women's present position but of what *continued* to ground and perpetuate it. But we might also point out that here as in many places in the *Subjection,* Mill only brought up the fact of its origins because his opponents had: if the justification for the subjection of women was rooted in history, even assuming this history to be relevant, it was worth asking his opponents to say what they took that history to be, and what feature of its historical origins gave the present state of affairs its legitimacy.

In this respect, Mill was making exactly the arguments that twentieth-century liberals would make in response to the anti-rationalist critique. As Brian Barry put it in his succinct response to Oakeshott, it is necessary to have 'general criteria of the form "value is attached to situations which manifest the following features ..."' in order for political *argument* to be at all possible.[71] Of course, politics for Oakeshott was not in fact a matter for argument but 'intuition' and judgement. The problem for him was precisely the discursive view of the state and justification that lies at the heart of liberalism. But in this, his views are not so much conservative as reactionary insofar as they fail to acknowledge that the concern of liberalism with justification is itself part of a modern tradition with

[71] Barry 1965: 58.

deep roots in Enlightenment thinking. The burden of proof – even on a conservative view of justification – rests with someone affirming Oakeshott's position, to say on what grounds they purport to challenge the wisdom of a long liberal tradition.

What Mill had achieved in these passages was a shift in the terms of argument. He was implicitly inviting his opponents to do one of three things: to challenge his historical story, to posit some other explanation than physical force for the perpetuation of the subjection of women, to argue that an institution based (solely) on physical force did not vitiate its claims nevertheless to be just. But to take on the former two challenges would be to admit that Mill was right to ask what feature of an institution's longevity conferred legitimacy upon it. And to take on the third would, in a neat and surprising reversal, have the consequence of putting the *defender* of the *status quo* in an 'adversary position' to the common sense of Victorian society. Either way, this is as Mill would have wanted it.

3.2

We have seen so far how Mill has tried to bring the subjection of women into the sphere of justification. One aspect of his arguments in these passages on which I have not yet commented is their ingenious use of analogy.

The first mention of slavery in *The Subjection of Women* occurs in the course of Mill's argument against the relevance of a certain sort of 'epistemological' conservatism to the case of women's legal status – the subject of my previous section. Let us recapitulate that argument. The fact that the *status quo* is the *status quo,* he has argued, whatever the merits

of that form of argument in other contexts, is simply irrelevant to the instance under consideration. The subjection of women, he will try to show, owes its 'existence to other causes than [its] soundness', and has 'derived [its] power from the worse rather than the better parts of human nature'.[72] This is made good to some degree when Mill posits a sort of 'genealogy' for the *status quo* in question.[73]

According to this genealogical story, it is a 'physical fact' that 'every women (owing to the value attached to her by men, combined with her inferiority in muscular strength was found in a state of bondage to some man'.[74] When people in this 'primitive' condition make the transition into 'systems of polity' regulated by laws, these laws inevitably 'begin by recognising the relation they find already existing between individuals ... convert[in]g what was a mere physical fact into a legal right, giv[ing] it the sanction of society'.[75] Whence, says Mill, the origins of the institution familiar to him and his contemporaries.

To the reader of the classical textbooks on rhetoric, this will appear as a neat application – or rather analogy – of a process often described (and recommended) to the courtroom orator. As Quintilian puts it, 'you should restate the facts, but not at all in the same way; you must assign different causes, a different state of mind and a different motive for what

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[72] Robson (ed.) 1984: 263.

[73] It is an interesting question whether Mill intends his genealogy, as I have called it, to be a plausible albeit speculative piece of history or something more akin to a 'Just So Story'; I cannot go into his question here, but am inclined to favour the former account.

[74] Robson (ed.) 1984: 264.

[75] Ibid.

was done'.[76] Mill more-or-less owns to adopting a procedure of broadly this sort, though needless to say he is not cynical about such a ploy (needless to say, he would – to use the terms of the rhetoricians – have thought his 'cause' a 'just' one): 'I consent that established custom, and the general feeling, should be deemed conclusive against me, unless that custom and feeling ... can be shown to have owed their existence to other causes than their soundness, and to have derived their power from the worse rather than the better parts of human nature'. The form of argument described here is a demonstrative one ('can be shown', etc). However, as a careful reading of the paragraph of Mill's that follows the above claim will reveal, there is something rather subtler going on at the same time, namely a recurrent use of the 'paradiastolic' technique I have mentioned earlier, consisting in 'replacing a given evaluative description with a rival term that serves to picture the action no less plausibly, but serves at the same time to place it in a contrasting moral light'.[77]

The four paragraphs that build up to the one where Mill first compares the subjection of women to slavery afford us at least two examples of this technique at work. '[O]ld institutions and customs' are, by a sly sentential symmetry, redescribed as (or at any rate associated with) 'barbarisms', a reliance on 'feelings' and 'Instinct' as 'idolatry', 'the most pernicious of the false worships of the present day'. But most significant of all is the subtle manner in which Mill varies the terminology with which he describes what he is criticising.

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[76] Quoted in Skinner 2002: 183.

[77] Skinner 2002: 183.

Mill's variant terminologies for his target in this paragraph reward close reading. First, it is 'the *authority* of men over women' to which Mill directs his readers' attention. Then, he begins to speak of 'the mode in which women are wholly *under the rule of* men'. Soon he has begun to speak of 'the present system ... which entirely *subordinates* the weaker sex to the stronger'. Suddenly, he switches to more loaded phrasing: 'this system of *inequality'*. Mill does not argue in turn for each terminological variant; he simply uses them, in successive sentences. And his readers suddenly find themselves squarely in the province of the sort of thing that (under prevailing moral principles) cannot be accepted without justification. The *status quo,* he writes, has its origins in a premodern, antediluvian condition in which women were in 'a state of *bondage'*.

Mill does of course give us the demonstrative (or 'syllogistic') argument he had promised, but just as interesting in these sentences is their paradiastolic aspect. From bondage, it is a short step to talking of slavery; when he finally states his analogy explicitly, we find we have been expecting it already. And even though Mill is quick to grant that the historical phenomenon of 'the slavery ... of the female sex has been gradually changed into a milder form of dependence', that is no extenuation. For this milder form of dependence is simply 'the primitive state of slavery lasting on', and not yet free from 'the taint of its brutal origin'. To hear this asserted baldly, Mill allows, must be 'strange to ordinary ears' and has 'the effect of a paradox'. But this fact is, as we read earlier, 'creditable to the progress of civilization, and the improvement of the moral sentiments of mankind'.[78]

[78] Robson (ed.) 1984: 264.

It is worth taking a sideways glance at what Quintilian says on this subject:

> The favor of the judge we shall conciliate, not merely by offering him praise (which ought indeed to be given with moderation ...), but by turning his praises to the advantage of our cause. In behalf of the noble, we should appeal to the judge's dignified station; in behalf of the humble, to his justice; in behalf of the unfortunate, to his pity; and in behalf of the injured, to his severity, using similar appeals in other cases. [79]

To reiterate, and reinforce, some of the argument of my Section 3.3: I understand Mill here, as in the other places earlier mentioned, to be appealing subtly to the moral self-image of his fellow mid-Victorians, or to an aspect thereof: i.e. a strong aversion to accept the bare fact of something's being the case as justification, especially when that fact is more likely than not owed to its being the product of physical force. '[N]obody professes it', says Mill in reference to this doctrine, by which he of course means that no one offers it as explicit justification, implying a widely accepted public norm to that effect.

Indeed, we might think of Mill as having offered a historical story – speculative in places but broadly accurate – of the origins of what we today might term political normativity. He traces the slow evolution of societies, at least those of Western Europe, from a world in which 'the law of superior strength was the rule of life' to the slow stages by which considerations of expediency induced 'a feeling of obligation in a superior to acknowledge any right in inferiors'. This, he says, was the beginning of the process by which 'a portion of human relations [was] fenced round, and placed under the dominion of another law than that of force'.[80]

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[79] *Institutio Oratoria:* 4.1.1.6.

[80] Robson (ed.) 1984: 266.

Mill's claim here is not reducible to the more general methodological claim about explanations of the action of political actors in terms of the norms they professed. He is speaking here of a distinct way in which Britain over the course of the nineteenth century had begun to invoke and affirm its norms in a highly distinctive manner. On one possible view of things, if the rhetoric of political moralism was the cynical bequest of early modernity to the Victorians, the Victorians paid their benefactors the surprising compliment of taking that rhetoric literally. Mill's was a generation that cared deeply about its own slogans, a belief they professed in claiming themselves (as Mill put it) 'to be regulated according to [a] moral law'. [81] Once such a claim is made, and thought to be the basis of one's legitimacy and one's superiority to those who make no such claim, a certain precedent has been set, a convention established, for what *sorts* of reasons and justification might legitimately be used in politics. Purely cynical or self-interested ones will no longer pass muster; something more explicitly moralised will be called for.

Thus, the further task for Mill is to force upon the attention of his readers the implications these norms have for his present cause. In its most straightforward form, this project will involve a deductive argument where the case of women will appear in the 'minor premise'. Such an argument will crudely take the form:

P1. Institutions based purely on force are unjustifiable (under current morality);

P2. The subjection of women is based purely on force.

C: The subjection of women is unjustifiable (under current morality).

[81] Robson (ed.) 1984: 267.

The serious challenge for Mill is to show P2 to be true, or perhaps to make his readers 'perceive' its truth, and his analogy with slavery was meant to do just that. We have seen him offer a historical defence of the premise appealing to the 'tainted' origins of the institution (an argument that Mill knew as well as anyone else would be vulnerable to a charge of having committed the 'genetic fallacy' if not supported by further argument). Elsewhere in the text, we will see him fending off a whole range of counter-arguments that purport to have found some other rational basis for the subjection of women (e.g. that it is natural), the point of those arguments presumably being to show that even if it is the case that the subjection of women is *presently* based on force, it might be possible for it to be based in something else, for example, a widespread acceptance of it as the natural (and therefore necessary) way of things. This thought is considered at some length in Section 3.4.

3.3

If Mill can make his analogy between the legal status of women and slavery 'work', then he has an unusually forceful argument in favour of what I have labelled P2. Thus, when Mill describes the legal status of women as 'the primitive state of slavery lasting on, through successive mitigations ... occasioned by the same causes which have ... brought all human relations more under the control of justice and the influence of humanity', he wants to tell a story of moral progress on which the reforms he recommends appear not as radical and disruptive, but as the obvious next step along a road that his contemporaries are already walking.

Mill had long held this view, and invoked it in his thundering response in *Fraser's Magazine* to Thomas Carlyle's *Occasional Discourse on the Negro Question* (1849)

> The history of human improvement is the record of a struggle by which inch after inch of ground has been wrung from these maleficent powers [sc. which demand tyranny and injustice], and more and more of human life rescued from the iniquitous dominion of the law of might. Much, very much of this work still remains to do, but the progress made in it is the best and greatest achievement yet performed by mankind, and it was hardly to be expected at this period of the world that we should be enjoined, by way of a great reform in human affairs, to begin *undoing* it. [82]

This Whiggish history of moral progress might reasonably be challenged; indeed it frequently has been. But it is not my purpose here to follow that line of thought. My concern here is with the *Subjection* as an essay of persuasion. As such, its historical story needs to be not accurate according to the strictest canons of historical scholarship, but rather able to command some loyalty from its readers, to carry a certain resonance.

There are, however, serious risks in employing so repugnant an analogy. For one thing, it might strike one's readers as too patently absurd to be worthy of serious consideration. There are some good reasons for thinking this, reasons that are worth recounting if only to give Mill's opponents their due. If the image one associates most strongly with slavery is that of the appalling living conditions of chattel slaves on plantations in the American South – an image oft invoked by abolitionists – then it will come as a surprise to hear the existence of (say) a woman of the British upper classes in that period compared with them. Indeed, the analogy will seem an overwrought, even offensive, one that denies the moral seriousness of chattel slavery.[83]

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[82] Robson (ed.) 1984: 87.

[83] The reaction of twentieth-century liberals to the attempt by right-wing libertarians to compare income tax to slavery makes for an instructive comparison.

One way of responding to the allegation that one is making a facile and insulting comparison is to replicate the move of the abolitionists by elaborating on the privations of the life of women, even those of the comfortable classes, in such a manner as to make the relevant parallels apparent and undeniable. In other words, what is called for is not further argument, but the simple facts, expressed as vividly as possible. The later chapters of the *Subjection* have Mill carry out this project in some detail, laying out the pertinent facts in all their gruesome glory, daring his readers to deny that they are injustices. Mill points out, in a passage of virtuosic prose, how aspects of women's lives deny them rights that even chattel slaves in the American South could take for granted: e.g. a small but within those limits inviolate private sphere (even '"Uncle Tom" ... had his own life in his "cabin"'), no protection against rape within marriage ('the lowest degradation of a human being, that of being made the instrument of an animal function contrary to her inclinations') where slaves had at least in principle the right to refuse sexual congress with their owners, no legal rights to the children she has borne, and nothing equivalent to the right recognised 'in some slave codes' that a 'slave could, under certain circumstances of ill usage, legally compel the master to sell him' because the law could grant divorce based on 'ill usage' only if adultery could also be proved.[84]

There is, however, a more basic difficulty that Mill needs to address, one partially motivated by his attempt to derive his conclusions from the morality of the age. That difficulty is this: if it is indeed the case that he shares with his contemporaries an antipathy

[84] Robson (ed.) 1984: 284 ff.

towards unjustified institutions, and that the legal status of women is one such institution (indeed, one that makes comparisons with slavery appropriate), then it can seem somewhat baffling that Mill's views are not more widely shared. After all, those of women's experiences to which Mill refers do not occur in exotic faraway locations, but in people's homes. How could it be that those very people whose moral sensibilities Mill has lauded so effusively in his exordium could fail to observe so serious an injustice in their midst? Might it not then be that it is Mill who has misperceived the facts of the situation? (Recall Ann Mozley's words about the lunatic.)

This is a difficulty that Mill confronts squarely, and he has two kinds of response to it. The first is to point out that other peoples of cultivated moral sensibilities – preëminently the Greeks – had failed to perceive similarly serious injustices in their midst. As he puts it, 'many ages elapsed, some of them ages of high cultivation, before any thinker was bold enough to question the rightfulness, and the absolute social necessity [of slavery]'.[85] His second response is to point to the unprecedented character of women's situations: 'how very rarely those who have obtained legal power because they first had physical, have ever lost their hold of it until the physical power had passed over to the other side',[86] says Mill. A violent rebellion of women did not however seem likely; therefore, if there was to be any hope of change, it could not come from the moral case being prosecuted by (the threat of) violent means. Their case had to be shown to be inescapable in a quite different sense. The case of women posed a special challenge to human moral capacities: to

[85] Robson (ed.) 1984: 264.

[86] Robson (ed.) 1984: 265.

recognise the legitimacy of a claim purely on moral grounds, without that claim having to be defended in acts of physical violence. In other words, it suggested the possibility of a just cause winning the battle *by winning the argument.*

The way to win the argument was simply to confront honestly the character of an institution, and to see its incompatibility with 'the general character of their laws and customs'. The only problem was a failure of perception, a failure partially owed to the characteristic occlusions of (to use a word Mill himself did not) *ideology*. '[S]o long as it does not proclaim its own origin,' he said, 'and as discussion has not brought out its true character, is not felt to jar with modern civilisation, any more than domestic slavery among the Greeks jarred with their notion of themselves as a free people.' The point then was to have the sort of discussion that would 'bring out its true character', and reveal that true character to 'jar with modern civilisation' and its deepest values.[87]

3.4

Mill's passing mention of the Greeks suggests a promising line of thought. Recall Mill's question: how puzzling it appears that an age of such 'high cultivation' should have lacked thinkers 'bold enough to question the rightfulness, and the absolute social necessity' of slavery. And recall his answer: it was because it did not 'proclaim its own origin', and 'discussion [had] not brought out its true character'. But this, as I will shortly show, does not capture the whole picture.

[87] Ibid.

Let us start by distinguishing the two quite different things that Mill accuses the Greeks (among others) of failing to question: the *rightfulness* of slavery and its *necessity*. Bernard Williams's discussion of this point (though not in connection to Mill) is helpful:

> The Greeks had the institution of chattel slavery, and their way of life, as it actually functioned, presupposed it. (It is a different question whether as an abstract economic necessity they needed it: the point is simply that, granted the actual state of affairs, no way of life was accessible to them that preserved what worthwhile to them and did without slavery.)[88]

Let us consider this point at greater length. First, we might note that claims about the necessity of institutions (as opposed to, say, the truth of propositions) are nearly always elliptical. In other words, for an institution to be necessary is for it to be necessary *(in order) for something* to be possible. To speak of 'absolute social necessity' as Mill does above is to refer to the limiting case of such necessity, presumably what Williams above terms 'abstract economic necessity'. But there are other, 'conditional', necessities – things that are necessary *in order to* attain ends deemed worthwhile by some relevant constituency. One preliminary way of glossing what Mill means by rightfulness is, then, to think of it in relation to this conditional sort of necessity: an institution is rightful if it is necessary for the realisation of worthwhile ends.

The reason this can only be a preliminary formulation is made clear if we introduce a crucial third concept to the stage, one that figures in the conceptual lexicons of both Mill and the Greeks: justice. It might be that Mill is treating rightfulness as synonymous (and interchangeable) with justice, a word that he uses frequently in the *Subjection*. However, it gives (as I will shortly show) a better sense to the argument if we understand rightfulness in the sense of 'right or acceptable, all things considered', where justice and necessity are

[88] Williams 1993: 111-12.

among the values that need considering in the course of making a judgment of rightfulness.

Mill is suggesting that it is easy to confuse elliptical invocations of necessity ('this institution is necessary for X') with invocations of necessity *simpliciter.* The way to reveal this confusion is to reveal the institution's 'true character', i.e. to reveal its injustice, in such a manner as to force its defenders or apologists to reconsider their view of its necessity. If it is claimed that some institution is necessary *and therefore* rightful, the proper move to make against such a claim is to point to the institution's being unjust. This claim might of course be disputed, and much normative argument rests on the conclusion of such a dispute. But the opponent might concede an institution's injustice and yet insist that it is necessary, and hold that this brute fact renders irrelevant any moral(istic) qualms about justice. The natural next step for one who wants to resist such a move is to interrogate the defender's claim about necessity. What is this institution necessary *for?* What worthwhile ends does it serve? Might these ends be mutable? This move is a crucial one, and certainly the history of the twentieth century is replete with instances of its application.

Consider – to pick an example at random – the history of the campaign against factory farming on the grounds of the suffering it causes to animals. The structure of the argument is nigh identical: a general aversion to causing suffering is appealed to; animals are held to belong to the circle of beings whose suffering is of moral significance. So far, the argument is amenable to one of two resolutions: either we find some means of rearing animals that

does not cause suffering, or we abandon the products of the institution. Which way we go on this will depend in large part on (1) the possibility of eliminating the suffering whilst keeping the institution, and (2) the *necessity* of the suffering. If the first option appears not to be viable (for technological or economic reasons), we are forced to consider the necessity claim. Is factory farming *necessary?* Which is of course another way of asking: what is factory farming necessary *for?* The answer to this turns out to be, roughly, that factory farming is necessary in order for people to continue to have cheap meat available in supermarkets. But we can reasonably ask about the necessity of cheap meat, and the campaign against factory farming does exactly this. What is revealed is that cheap meat is not necessary in any strong sense, but it might be thought necessary in a range of weaker senses – e.g. it is necessary to continue eating as we do whilst living within our means. To use Williams's idiom, it might turn out that there is no way to preserve what is worthwhile to us and to do so without perpetuating what we acknowledge to cause great suffering. What then? We might do nothing and simply reconcile ourselves to the distasteful basis of our gustatory culture and try not to think about it if we can. As an individual matter, we might – in response to (what Mill calls) 'twinges of conscience' – reconsider what is worthwhile to us: change our tastes to the extent that this is possible, or accept that we shall be making life inconvenient for ourselves and others by making this ethical decision. Or as a collective matter, perhaps society can – to put it crudely – modify its requirements, and its ethos. The ends for which factory farming appear 'necessary' might turn out on reflection to be eminently mutable ones.

But what if there is a straightforward disanalogy between the example I have just given and the subjection of women? Might it not be urged that the subjection of women is necessary in some far deeper sense than the instrumental one just discussed? Before we consider this possibility, we might note that it is a considerable argumentative achievement of Mill's to have given the argument such a shape. If his opponents had thought it would suffice for Mill's purposes to show the subjection of women to be necessary in some instrumental way, Mill has shown this to be far from sufficient. In requiring them to show the *status quo* to embody some 'deeper' necessity, he has again (recall my argument in Section 3.1 and 3.2) succeeded in getting his opponents to play the game by his rules.

When Mill brings up Aristotle's now notorious justification of slavery, it is in the context of a discussion of the 'natural', a notion that – if it can be plausibly brought to bear in this context – might serve for the sort of deeper necessity that Mill requires. The well-known passages of the *Subjection* where he shows the multiple confusions involved in most invocations of the 'natural' in moral argument have him apply the high standards he has set for a successful argument from necessity to a common line adopted by his opponents, and finding that line wanting. Further, he hints pointedly that arguments against the emancipation of women are in some way tarnished by their sharing their form (and a number of crucial presuppositions) with arguments for slavery that no one, by the mid-nineteenth century could take at all seriously. Mid-Victorian Britain was a moral landscape in which it could no longer be asserted that slavery was necessary, or more precisely, that it was necessary (and therefore proper) that certain people be slaves, because slavery was

not a 'natural' condition in any relevant sense. Mill wanted to take this thought forward to encompass a distinction between the condition of *being a woman* – a condition that might plausibly be thought a 'natural' (and therefore in the important sense a necessary) one – and that of having a certain subordinate legal status. Even if it was in some sense natural and therefore necessary that some human beings be women, it by no means followed that their legal status and social position were equally a matter of nature or necessity.

This thought is the one Mill invokes when he points out that 'the disabilities of women are the only case ... in which laws and institutions take persons at their birth, and ordain that they shall never in all their lives be allowed to compete for certain things'.[89] This might be a slight exaggeration, but the point is well made. As Mill wrote in his response to Thomas Carlyle from which I have quoted earlier, 'the great ethical doctrine of the Discourse [on the Negro Question], than which a doctrine more damnable, I should think, never was propounded by a professed moral reformer, is, that one kind of human beings are born servants to another kind'. [90]

We can readily find in Mill an excitement about the Enlightenment project to mitigate the extent to which lucky accidents of birth and upbringing alone determine the course of human lives. As he continues in his response to Carlyle:

> As well might it be said, that of two trees, sprung from the same stock, one cannot be taller than another but from greater vigour in the original seedling. Is nothing to be attributed to soil, nothing to climate, nothing to difference of exposure—has no storm swept over the one and not the other, no lightning scathed it, no beast browsed on it, no insects preyed on it, no passing stranger stript [sic] off its leaves or its bark? If the trees grew near together, may not the one

[89] Robson (ed.) 1984: 274.

[90] Robson (ed.) 1984: 87.

> which, by whatever accident, grew up first, have retarded the other's developement [sic] by its shade? [91]

As Bernard Williams puts it, 'The real difference ... between modern liberal ideas and the outlook of most Greeks lies ... in ... that liberalism ... hopes ... that ... necessity and luck ... should not take the place of considerations of justice'.[92] In Mill's writings, we find as a succinct and forceful a statement of this hope, and a vivid consciousness of just how historically unprecedented it is.

[91] Robson (ed.) 1984: 93.

[92] Williams 1993: 128.

CHAPTER FOUR: RELEVANCE

4.1

I present the following in the way of a long coda to discuss a question prompted by some of the argument of the preceding sections. I have offered a reading of Mill on which he derives his feminist conclusions from premises that he believes himself to share with an at least notionally indifferent or antipathetic audience. Where such premises are not available, I have argued, he uses his rhetorical facility to force onto his readers' perceptions an alternative way of conceptualising their social worlds, and consequently, attempts to reorder their affective orientations towards that social world. This places him in a space between two sorts of arguments often to be found on these questions: arguments that invoke universal norms and principles whose *truth* (rather than their acceptability to one's interlocutors) is appealed to as settling the argument decisively, and arguments that invoke only the known beliefs and principles of the said interlocutors.

One way of reconstructing this argumentative procedure is to think in terms of the contrast often made in twentieth-century philosophy between 'internal' and 'external' reasons, or rather, between two ways of construing what it is that an agent has reason to do. On the internal construal, to say an agent has reason to do something is to say that he 'could arrive at a decision to [do that thing] by sound deliberation from his existing ... set of desires, preferences, evaluations, and other psychological states in virtue of which he can be moved to act', i.e. the agent's 'subjective motivational set'; [93] on the external construal, no reference to the agent's subjective motivational set is necessary. I will not

[93] Williams 2006: 109.

here discuss the controversy on whether all reason-giving is necessarily internal; I invoke the contrast only to suggest it offers us a helpful means by which political argument and rhetoric may be modelled.

On this model, we can understand Mill's activities as a 'public moralist' as consisting in a species of reason-giving. When he attempts to derive his radical conclusions from what he believes to be the common sense of the age, we can understand him as trying to trace and make explicit a sound deliberative route to those conclusions from beliefs and attitudes that are widely shared among his contemporaries, and figure in their subjective motivational sets. This also gives us two models for understanding his rhetorical manoeuvres. On the first, it consists in a species of *external* reason-giving: appealing to justice and right are methods of grounding his conclusions in ways that show that his readers have reason to accept them even if there is not presently a sound deliberative route to those conclusions from their existing beliefs and motivations. Alternatively, it might be thought that Mill is engaged in a species of what Williams calls 'optimistic' reason-giving, where certain beliefs and attitudes are *introduced* into his readers' subjective motivational sets as a result of their being invoked in a rhetorically effective manner (hence his use of 'paradiastolic' methods).

If anything of what I have argued is along the right lines, then it becomes immediately apparent that it provides us with the conceptual apparatus to make a helpful intervention in a uniquely vexed debate in contemporary political philosophy (and praxis): the debate among feminists on universalism and relativism. This is of course not only a debate

among feminists, but we might treat the feminist front of this debate as 'synecdochic' of the wider debate.

There are two distinct questions to which this sort of argument has much to contribute. The first is the question of how liberal societies can be properly sensitive to women's interests, especially when social norms exemplify or perpetrate serious injustices on them. The second is the question of how people in liberal societies are to understand and respond to the cultural practices of non-liberal societies with regard to women. I will argue in the next two sections that Mill's arguments, as I have read them, offer us a helpful model for such engagement.

4.2

The stylised contrast I have drawn between the situation of women in nineteenth-century Britain and today has perhaps risked implying that women in the West today face no injustices at all. Without denying the several conspicuous formal injustices have been eliminated in the intervening 150 or so years, it must be clarified that this stronger claim, as any number of feminists have pointed out, is plainly false. One does not need to identify as a feminist to believe that large pay differentials in industry, the absence of women in positions of political power and influence, and the persistence of sexual violence against women – to pick three obvious examples – constitute injustices that remain to be remedied. Perhaps one does not even need to identify explicitly as a 'liberal' to think this. All one needs is to have one's eyes open, and to share a basic set of intuitions

about human beings and their moral worth. [94] As an empirical fact about the actual beliefs and 'subjective motivational sets' of citizens of modern western societies, the prevalence of such intuitions can generally be taken for granted; even when individuals do not share them, we see them exemplified in the publicly professed norms of our most important social institutions. It is in virtue of these facts that our societies can be called 'liberal' at all.

Therefore, a common line of feminist argument can be captured in the phrase, 'If you're a liberal, how come you're so sexist?' The point here is that the question of justice for women is a particularly pressing one for a self-professed liberal; and it is an obvious ground for complaint in a liberal society. Liberal beliefs, particularly when expressed as matters of fundamental principle, have implications that are difficult to suppress. This thought is at the heart of feminism in its liberal variants. A liberal feminist resists the view of liberalism as 'totally inadequate to the needs and aims of women, and in some ways profoundly subversive of those aims';[95] rather, she believes (or rather hopes) that 'its radical feminist potential is just beginning to be realized.'[96]

There is much to be said on the question of liberal feminism and whether it can address the sceptical concerns of non-liberal feminists, but this is not the place to say it. My intervention here is a narrower one, and is concerned with what resources are available to

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[94] One statement of the content of these intuitions is given by Nussbaum 1999: 57: 'all, just by being human, are of equal dignity and worth, no matter where they are situated in society, and that the primary source of this worth is a power of moral choice within them, a power that consists in the ability to plan a life in accordance with one's own evaluation of ends ... [and] that the moral equality of persons gives them a fair claim to certain types of treatment at the hands of society and politics.'

[95] Ibid: 56.

[96] Ibid.

a feminist (of whatever stripe) in a society that identifies as liberal. My point has been that the members of such a society, to the extent that they are not alienated from its values, share a certain set of moral intuitions that feminists can appeal to in argument. In other words, some set of liberal values will feature – sometimes explicitly or self-consciously, more often in some less determinate form – among their concerns. Engaging in social criticism, for liberal feminists, will involve using as premises in argument beliefs and motivations that they *share* with their interlocutors. For feminists who do not share these basic liberal commitments, this form of argument will usually take the form of what Marxists have called 'immanent critique'.

And this is indeed what one does find in the writings of feminist activists. Consider for example some of the following quotations from the non-academic writings of the feminist Germaine Greer

> (1) Within our own countries we are the unexplored, undeveloped, speechless population, systematically undeveloped by *our conquistadorial society*. We are the 'Third World' at home... [97]

> (2) Despite the fact that all the nations represented at the United Nations oppress women in all degrees and in all manners, many to the point of slavery and mutilation, and are truculently uninterested in forfeiting the privilege, some good guys at the Secretariat decided that 1975 should be International Women's Year. It is typical of the special brand of UN Pollyannaism that they did so regardless of the fact that hiring policies at the Secretariat are grossly discriminatory. So pervasive is *woolly-headed hypocrisy* in the corridors of the UN ... [etc][98]

> (3) ... the treatment of this bill [sc. William Hamilton's bill to outlaw discrimination against female employees] in debate should provide reason to tremble for the Tories, for *pseudo-democracy and the so-called rule of law*. (171) [99]

[97] Greer 1986.

[98] Ibid: 194.

[99] Ibid: 171.

Greer's prose can profitably be read as attempting to perform the same speech acts as Mill: to persuade her opponents if she can, to condemn them if she cannot, and to keep the home team inspirited either way. Its methods should now be familiar to us: the deliberately provocative comparison with the Third World (recall Mill's analogy with slavery, and his remarks about 'Christian Mussalmans' discussed in Section 2.3), the accusations of inconsistency and ('woolly-headed') hypocrisy, and the invocation of the professed values of her opponents in order to convict them for their failure to live up to them ('pseudo-democracy and the so-called rule of law'). Indeed, the first quotation above gets part of its force from its 'paradiastolic' aspirations – Greer is trying to force her readers to consider their own society in a different light with her vivid metaphors of speechlessness and conquistadors.

Further examples might be found in the feminist literature of the twentieth century. Consider the writings of campaigners against pornography such as Andrea Dworkin and Catherine McKinnon. The values appealed to are again ones that their opponents may be assumed to share with them: an antipathy to exploitation and violence, a respect for autonomy, and a concern with sexual integrity. However, there are disagreements to be overcome. Some of these disagreements are factual: about the nature of the pornographic industry, its psychological effects on consumers, and whether this is a causal link with sexual violence. Some disagreements are normative: how to interpret (e.g.) the right to free speech and expression, the nature of exploitation, and so on. Here again, Mill offers some hints as to how we might understand what is going on.

Consider this paragraph from Andrea Dworkin's *Pornography: Men Possessing Women* (1989):

> ... feminists in the antipornography movement ... don't want to debate "free speech." Like [the former slave and abolitionist] Frederick Douglass, they are fugitives from the men who made a profit off of them. ... The Constitution has nothing for them – no help, no protection, no *dignity,* no solace, no *justice.* The law has nothing for them – no recognition of the *injuries* done them by pornography, no *reparations* for what has been taken from them. This changes the nature of the women's movement. It must stop *slavery.* The runaway slave is now part of it.[100]

Various elements of contemporary feminist arguments against pornography are in evidence in the paragraph just quoted. Dworkin may be understood as offering a deliberately provocative invitation to interlocutors to consider what it is to be committed to values such as dignity and justice. If it turns out that these values are in some sense in tension with a commitment to liberty (as defenders of keeping pornography legal sometimes claim), then it is not unfair to ask whether, in what sense, to what degree, and at what cost, one is committed to liberty in the first place. Further, these arguments' use of the language of violence and slavery to describe the effects of pornography are clearly paradiastolic in their intent. Such arguments attempt to take a widespread social phenomenon – the consumption of pornography – and attempt to reverse people's attitudes towards it, from indifference or acceptance to the revulsion and indignation they ought to inspire instead. Reading Mill suggests that such argument need not be treated as 'rhetoric' in a sense that excludes them from philosophical respectability; on the contrary, it shows why the nature, structure, and aspirations of feminist rhetoric is itself a deep question in feminist philosophy.

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[100] Dworkin 1989: *Introduction;* emphases added.

In Iris Murdoch's aphorism, '[m]an is a creature who makes pictures of himself and then comes to resemble the picture'.[101] People since the time of the Enlightenment have painted a certain picture of human society, but the process of coming to resemble this picture can be a punishing one. A century and more later, descendants of the Enlightenment still struggle to match their realities to their inherited self-image. The liberal premises that the twentieth century inherited from the nineteenth would continue to carry something of the Victorians' claim to moral rectitude (which I have discussed in Section 3.2). The historically unprecedented phenomenon of liberal 'guilt' – a sentiment that stems from affirming principles one is incessantly aware of failing to live up to – must have its origins in exactly this claim. By contrast, what Mill most rued in his contemporaries was their ability to affirm the most rigorous of principles whilst showing a talent for casuistry that left them for the most part guiltless and carefree. It is unwise to overestimate this tendency: not everyone in modern Western societies is equally racked with liberal guilt, but the thing exists, and can be a force for good.

4.3

Consider this pamphlet from 1818, entitled *A Conference between an Advocate for, and an Opponent of, the Practice of Burning Widows alive.* The author is Rammohan Roy, an Indian reformer of formidable scholarship in oriental and European languages, who was – along with the the British Governor General William Bentinck – instrumental in the legal abolition of the practice of 'sati' (sometimes spelt 'suttee') described in his pamphlet's title. A few quotations will suffice to give some us some flavour of his argumentative style (NB.

[101] Murdoch 1992: 75.

the 'you' refers to the advocate of sati, and the speaker is the opponent; the emphases have been added):

> (1) As to their [sc. women's] inferiority in point of understanding, when did you ever afford them a *fair opportunity* for exhibiting their *natural capacity?* How then can you accuse them of want of understanding? ... as you keep women generally void of education and acquirements, you cannot therefore, *in justice* pronounce on their inferiority ...'
>
> (2) You charge them [sc. women] with want of resolution, at which I feel exceedingly surprised: for we constantly perceive, in a country where the name of death makes the male shudder, that the female, from her firmness of mind, offers to burn with the corpse of her deceased husband; and yet you accuse those women of deficiency of resolution. ...
>
> (3) ... the woman is employed to do the work of a slave in the house, such as, in her turn, to clean the place very early in the morning, whether cold or wet, to scour the dishes, to wash the floor, to cook night and day, to prepare and serve food for her husband, father and mother-in-law, brothers-in-law, and friends and connections!
>
> (4) If, unable to bear such cruel usage, a wife leaves her husband's house to live separately from him, then the influence of the husband with the magisterial authority is generally sufficient to place her again in his hands; when, in revenge for her quitting him, he seizes every pretext to torment her in various ways .... These are facts occurring every day, and not to be denied. [102]

I find many aspects of these passages, and a number of others in the same text, of peculiar interest. Certainly, we can see in aspects of Roy's vocabulary and style the effect of liberal ideas imbibed from his acquaintance with the European intellectual tradition; his mentions of 'justice' and 'fair opportunity' give his argument a distinctly Enlightenment quality. The concern with education recalls the concerns of the feminist writings in 1790s Europe – Wollstonecraft, et al – and the concern with legal reform and the rights of married women directly parallel and anticipate arguments that Mill will make in a few decades.

However, there is a wider vocabulary of humanitarianism being appealed to that is not obviously liberal. Further, the particular circumstances being described are identifiably non-European – the description of the wife living with her husband's extended family, the particular quality of her domestic chores, and of course the uniquely gruesome institution

[102] Collet 1988 (1900): 94-6.

of widow burning. But even here, the form of the arguments will be entirely familiar to those of us who have read Mill: the suggestion that one's opponents can be condemned out of their own mouths.

I have, in the previous section, discussed how feminist argument can proceed from a basic set of assumptions widely shared in liberal societies. The paragraph above, however, speaks to the more difficult question of whether the prevalence of such assumptions is a *necessary* condition for the possibility of feminist argument. The pamphlet quoted above might be thought to suggest that the answer to that question is no. Indeed this is a familiar enough thought among feminists of many stripes who conduct their activism in non-liberal societies. However, it is worth making explicit what my reading of Mill might imply for this question.

The first insight is of course that of the promise of arguments from contradiction or hypocrisy. Liberalism has no monopoly on *claims* to embody the true theory of justice.[103] Consequently, the theories of justice and right implicit in the normative reasoning of people living in non-liberal societies are as a general rule likely to express an aspiration to nobler ideals than those societies can embody. Feminists will seldom fail to find argumentative resources in the gulf between what societies say and what they do.

The most obvious example of this phenomenon can be seen in the attempts of feminists in the Muslim world to stress the incipient concern for the status of women in the history of

[103] I take no position on whether the 'true' theory of justice must be a liberal one.

Islam itself. Sometimes, this can involve an appeal to the way in which the early history of Islam shows evidence for a considerable improvement in the status of women from pre-Islamic times, in allowing women a right to inheritance and in its regarding marriage as a contract to which all parties are required to consent. Further, the evidence of important female figures in Islamic history taking an active part in business and education make for precedents that contemporary feminists can invoke when faced with opponents who would deny women entry to these spheres, ostensibly on a scriptural basis.[104]

A further insight we get from Mill's efforts in this regard is that arguments of this form work best when they come from *within* the tradition rather than without. For all his radicalism, Mill, as we have seen, was not fundamentally out of sympathy with the temper of his society and time, and his ability to give voice to what he takes to be the spirit of the age is part of what gives his arguments their authority. Arguments made in non-liberal societies carry greater authority for coming from those whose commitment to the values they invoke is sincere rather than merely strategic. This ought to give pause both to the more strident liberal universalists and those who pronounce confidently from outside the tradition of what the 'true meaning' of Islam might be. More hopefully, this suggests that arguments made by reform-minded outsiders works best when it appeals to elements of an overlapping consensus between liberal and non-liberal societies, either on universal facts about human experience (when these are pertinent) or more restricted areas of agreement.

[104] Lindsay 2005, Watt 2000.

A second, and related, insight that Mill's arguments offer us is an openness to the possibility of 'plural' grounding – that feminist argument can proceed without a fully developed normative theory, and derive its conclusions from a range of (not necessarily compatible) premises. For example, feminists can argue against sexual violence directed at women by showing it to be incompatible with male chivalry without thereby endorsing the idea of chivalry as the only model for relations between the sexes. Or, feminists can appeal to the self-image of individual cultures – as committed to modesty, or respectful to the vulnerable, or opposed to violence – to show how their actual treatment of the female members of their societies fails to meet their own standards.

A third insight has to do with appeal to cultural universals. The problem for liberals in arguing with people from non-liberal societies often consists in them (i.e. liberals) having tied themselves into knots by simultaneously affirming both the rights of women and the autonomy of cultural groups. When these come into conflict,[105] the liberal is thrust into difficult territory – both as a theoretical matter about the most basic commitments of liberalism and as a matter for practical political negotiation. There are of course deep problems here that stem from the inevitable difficulty of accommodating group rights into liberal individualism. But a helpful suggestion of Mill's essay is that it is possible for conversation and argument to find a meeting ground in certain verities of human experience, such as the badness of physical pain, hunger, and thirst.

[105] The essays collected in Cohen, Howard, Nussbaum (eds.) *Is Multiculturalism Good for Women?* contain a wide range of liberal perspectives on this question.

A further point involves the value of argument invoking abstract concepts such as justice or equality even in the face of interlocutors who cannot be assumed either to use those concepts, or to accept a liberal conception of them. I have alluded earlier to what Bernard Williams calls 'optimistic' reason-giving: mentions of human rights, dignity, autonomy, and so forth, can be usefully understood in this way. The point of using these concepts in interactions with non-liberal communities or cultures need not be understood as either assuming their prior use by members of those cultures; nor need it be thought to involve an imperialist attempt to foist alien values onto an unwilling people. It can express merely – on the one hand – a confidence in the values being invoked on the part of those invoking them, and a hope (rather than demand) for them to find fertile soil in another culture.[106]

There is an alternative, less apologetic but more controversial, way of thinking about this sort of argumentation. This is suggested both by Mill's use of the techniques of the classical rhetoricians, and Williams's own forceful remark that 'in hoping that public political discussion should be moderately rational and should address the reasons of individuals and groups, we are not committed to the nonsense of supposing that it could be transcendentally airlifted out of the world of persuasion and power'. [107]

The thought behind Williams's remark has been expressed by some with imperialistic designs, it is true, but that is not sufficient reason to clothe it in euphemism. If speaking of rights and justice is coercive – and we need not deny that there is an important sense in

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[106] It might be added there is always the possibility of Western liberals gleaning feminist insights from listening with an open mind to the voices of people in non-liberal societies.

[107] Williams 2006: 117-8.

which it is – it is coercion of a sort that liberals (or those of them with backbone at any rate) can defend with a straight face, and in good faith. There is no shame in liberals presenting the best possible case for their values as they pertain to women's situations, and to back them up with the full rhetorical arsenal at their disposal. The problem – not least from a liberal point of view – emerges only when the rhetorical arsenal is backed up by a literal arsenal.[108]

My speaking of hopes rather than demands suggests a final insight. Perhaps the clearest message we get from reading Mill is the sheer *difficulty* of projects such as his, and the hurdles faced by feminists even in liberal societies ostensibly in ripe condition for their sort of activism. Political oughts imply political cans, and it is possible to take a grown-up attitude to the limits of immediate political possibility whilst remaining true to one's deepest values. The proper response to the sometimes frustrating slowness of reform in these matters might then be to remind oneself of the brute fact that it was ever thus.

[108] Cf. Sreenivasan 1998: 171: 'the exporting community cannot know, simply in virtue of its own warranted acknowledgment of the "imported" good, that the conditions that make its criticism of the importing community rational actually obtain. Confidence on this score can only be redeemed by a serious engagement with the importing community and its ethical outlook. Thus while the goods that inform the exporting community's ethical life may indeed have a "latent global reach," their title to be acknowledged throughout this domain cannot be established at the imperial seat.'

CHAPTER FIVE: CONCLUSION

5.1

> I have been accustomed to see that the crotchet of to-day, the crotchet of one generation, becomes the truth of the next and the truism of the one after. (Cheers.) I have lived long enough to see the three steps of this process taking place with a number of my opinions. I have told you a number of my crotchets now, and perhaps they will be truisms by-and-by. (Hear, hear.)
>
> John Stuart Mill, Speech to the electors of Westminster, July 3rd 1865[109]

In these concluding remarks, I hope to return to the question that I raised in Section 1.2, of Williams's scepticism about 'vindicatory' histories.[110] I have argued in this thesis that an analysis of the arguments between Mill and his opponents reveals that there was in fact considerable common ground between the two sides, a 'conception of [what] the argument was about', and some view of the aims and principles that both sides thought their view served better than others. Thus, even if Williams is right about the impossible of writing a vindicatory history of the triumph of liberalism, it is possible to write a more modestly vindicatory history of the progress of *feminist* ideas within a broadly liberal framework, in part because (as Williams expressly allows) these debates on feminism occur fairly 'late in the process'.

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[109] Robson and Kinzer (eds.) 1988: 5.

[110] One way of understanding the aim of this thesis is that it is engaging with a particular text of a canonical figure in the history of philosophy using all the available resources of historical scholarship and 'cutting-edge' methodological insights. Another way of understanding it is that it is attempting to contribute to a contemporary historical-philosophical project associated with figures such as Bernard Williams and Quentin Skinner by considering themes, thinkers, texts, periods, and ideas with which they did not themselves engage directly. This description is itself ambiguous between two possible construals: on the first, I am fully convinced of the worth of their project and attempt to continue it further whilst assuming the truth of their methodological suppositions; on the second, I find their project promising but my own thesis does not so much assume the truth of their claims as attempt to assess their claim to general validity by applying them, in a conjectural way, to areas of history (etc) to which they have not hitherto been applied. For what it is worth, I believe this latter formulation best captures my own intentions.

I am hinting here at questions far deeper than I can treat in a work of this length, but these are some of the questions that have motivated it, and give it its wider relevance. On the view of things just sketched out, feminism was partly responsible for liberalism's coming to a more explicit consciousness of itself and its deepest commitments. On a stronger version of this view, we might think of feminism as having determining the *content* of those commitments themselves. In other words, social movements such as feminism effected a transformation not only in the self-perception, but in the *nature* of liberalism. From being a set of essentially indeterminate tendencies and half-hearted motivations inherited from the rhetoric of the Enlightenment, liberalism was transformed into a doctrine, one that had emerged from its encounters with its critics more determinate, more precise, and fully in command of its own theoretical resources.[111]

I should clarify here that I am not making a naïve causal claim about Mill's influence. For one thing, such a claim would require a more ambitious project of historical scholarship to defend it. For another, the obvious facts suggest that any influence Mill had was indirect, and slow to take effect. Women, as we know, were not enfranchised in Britain until 1919, 46 years after Mill's death. And it is open to question whether Mill's ideal of 'perfect equality' is even close to a reality in the early twenty-first century. In any case, it is difficult to estimate exactly what causal role these texts played in the subsequent history of the women's movement; it is possible that they had little impact. It is also possible that these texts are 'merely' epiphenomenal, and reflect deeper transformations in (say) the material

[111] This thought too might helpfully be translated into the language of reason-giving and subjective motivational sets.

base of society. But this need not matter. We can remain agnostic on the direction of causation, i.e. on whether these texts and arguments caused the social change or merely reflected it, and still take them seriously as capturing something of the philosophical aspect of that change.

Some final words on the nature and value of such an inquiry. In seeking explanations for our finding repugnant what the Victorians thought plain common sense, it is tempting to adopt towards the matter an attitude of smugness, of regarding the alien ways of the Victorians with self-congratulatory arrogance ('What absurd and offensive things they thought about women!') This has the dangerous effect (as I have argued in Chapter 4 of this thesis) of numbing us to the injustices and absurdities of our own views. It helps to focus the mind on this point if we allow ourselves to wonder how people in the late twenty-second century will regard our morals. In a different way, it can – in stressing the putative absurdity of our ancestors' views – draw attention away from the fact that those views were held by respectable and serious thinkers whose views on other subjects we regard highly.

Further, we see that engaging in philosophical debates without a sensitivity to their history carries the danger of coming to believe that our inherited concepts and methods are the only ones there are. An inquiry of the sort I have undertaken has the salutary effect of clarifying whether, and to what extent if at all, this is in fact the case: e.g. how people who had views on a range of other moral and political subjects that resemble ours in the relevant respects could differ on the matter of women. Such an inquiry, as I have tried to

show in Chapter 4, has the potential to illuminate the way in which we regard other cultures today with attitudes to women we do not share.

If the attitude I have just described stems from our confidence that we are right and they were wrong, there is a second possible attitude to the disjunction between our views and theirs, one of anxiety, stemming from the fear that *they* were right and we are wrong. If such be our fear, a study in the history of philosophy such as this one allows us to appreciate how our ways of thinking about our values, as Quentin Skinner has aptly put it, 'reflect a series of choices made at different times between different possible worlds'. It does not follow from an acknowledgement that we might have thought differently that we must therefore reconsider our commitment to our values. I certainly do not mean to suggest that our present views on the equality of the sexes compare unfavourably with those of the Victorians, and am not calling for us to reinstate them into our lives. Nevertheless, as Skinner points out, this 'awareness can help to liberate us from the grip of any one hegemonal account of those values', thus allowing us to 'stand back from the intellectual commitments we have inherited and ask ourselves in a new spirit of enquiry what we should think of them.'[112]

In order to see what I mean, it will help to start at the end (as it were) of one such story about our concepts. An influential idea among mainstream political philosophers today is that an abstract egalitarian principle represents 'a kind of plateau in political argument';[113]

[112] Skinner 2005: 116-7.

[113] Kymlicka 2002: 4.

substantive disagreements in political philosophy when they occur are in significant part disagreements about the proper interpretation of this egalitarian principle and its demands. And in one sense, elements of Mill's arguments for the equality of the sexes and its relation with justice have been in circulation at least since Book V of Plato's *Republic*. Indeed a very thin sense of justice as 'treating like cases alike' endures through the history of moral and political philosophy. Consequently, the task of moral and political argument has been not so much to contest this unobjectionable principle as to offer some insight on the question of what treating like cases alike would entail in specific cases, and of what cases could plausibly be taken to be alike and in what respect.

For those who find such a story plausible, the peculiar interest of *The Subjection of Women* lies in its attempt to exploit this minimally egalitarian intuition to ends so radical and full of significance for the lives and circumstances of women ever since. Studying the *Subjection* thus gives us an arresting portrait of a historical moment in our recent past when we were presented with one such choice between possible worlds, and offered reasons for going one way rather than the other, culminating in a world like our own in which biological sex rests securely, by some tacit consensus, on our list of morally irrelevant attributes.[114]

I think that we can, and in this case should, continue to affirm the values we do affirm, but with a greater self-consciousness of what those values commit us to, and indeed what they

[114] At least in the publicly stated commitments of Western societies and political institutions: for none of this is to imply that our world meets the highest standards of egalitarian justice, only that the basic intuitions underlying such a standard of justice may safely be assumed without being argued for on every given occasion.

do not commit us to. By doing this, we might be brought to see more clearly that our present values are themselves hardly the end of the road.

In this claim, I mean of course to include the feminist exhortation not to regard the equality of the sexes as a *fait accompli.* But my point is a deeper one about the nature of our egalitarian commitment: truly to follow through on it might require more radical a social transformation than we had imagined. Votes for women, certainly, but perhaps also the abolition of the nuclear family, if it is found to be incompatible with our egalitarianism. Alternatively, we might find ourselves understandably reluctant to take such a view of the nuclear family, in which case we might want to think carefully about whether the nuclear family could be a more egalitarian institution than it presently is. Or perhaps we might want to reconsider whether, in what sense, and to what degree, we are egalitarians at all.

Doing this can inform our attitudes to cultures other than our own who affirm views on women in relevant ways like those of the Victorians. In Section 4.3, I have attempted to draw some broad conclusions from a consideration of aspects of an 'alien' historical past that have bearing on how we ought to consider 'alien' aspects of the present. And this returns us to to the ('humanistic') thought with which we started. If my views are along the right lines, then they will have gone some way towards 'making sense of the others in relation to ourselves – and hence of ourselves in relation to them'.[115]

[115] Williams 2006: 195.

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