

JOHN STUART MILL'S LIBERALISM ON DIVERSITY AND CULTURAL CONFLICTS¹

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ABSTRACT

The phenomenon of immigration and the consequences of it, like multiculturalism, is a good test in a global world full of changes and connections, to discuss about universality of rights, rights of minorities and cultural conflicts. John Stuart Mill position on diversity and rights of minorities is coherent with his political doctrine: respect to pluralism, autonomy, and diversity. Main reason is methodological: truth may be discovered through different methods and perspectives. But there are other social and political reasons to take account of his point of view as advancement of civilization or enrichment of political debate.

Keywords: Mill, diversity, rights of minorities, cultural conflicts.

RESUMEN

El fenómeno de las migraciones y sus consecuencias, como el multiculturalismo, es una buena prueba en un mundo globalizado, lleno de cambios y conexiones, para discutir sobre la universalidad de los derechos, los derechos de las minorías y los conflictos culturales. La posición de John Stuart Mill sobre la diversidad y los derechos de las minorías es coherente con su doctrina política: respeto al pluralismo, la autonomía y la diversidad. La principal razón es metodológica: la verdad puede ser descubierta a través de diferentes métodos y perspectivas. Pero hay otras razones sociales y políticas para tomar en consideración este punto de vista, como puede ser el desarrollo de la civilización y el enriquecimiento del debate político.

Palabras clave: John Stuart Mill, diversidad, derechos de las minorías, conflictos culturales.

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1. INTRODUCTION. ON DIVERSITY: THINKING ABOUT FUNCTION AND LEGITIMACY OF LAW

Mill position on diversity and rights of minorities is coherent with his political doctrine: respect to pluralism, autonomy, and diversity. Main reason is methodological: truth may be discovered through different methods and perspectives. But there are other social and political reasons to take account of his point of view as advancement of civilization or enrichment of political debate. The phenomenon of immigration and the consequences of it, like multiculturalism, is a good test in a global world full of changes and connections, to discuss about universality of rights, rights of minorities and cultural conflicts.

My point of view is the significance of diversity as a fact and the importance of its protection in different levels: legal, political, social and moral. Pluralism, and diversity too, as cultural, social and political value are a main ingredient of democracy. Nowadays diversity is considered a conflict more than a fact. Multiculturalism, social fragmentation, increasing of migration... are facts and problems that need some kind of legal and political answer. But probably we need a different reading: solution is not only to find political and legal tools to solve the increasing problems that are coming due to diversity; but to realize that we are the problem. We must clarify our social, legal and political structure in the society we live: What does it mean to belong to a political community? Who is a citizen? Which rights has a citizen? Participation and inclusion of persons, citizens or immigrants, in rights and social and political institutions sometimes demands on special rights to take into account the differences of groups to avoid discrimination, disadvantage and oppression. So a "full citizenship" may be achieved with participation and inclusion of all persons through what is called *differentiated citizenship*. Oppressed or disadvantaged groups should have specific group representation and protection if they are to be fully included in public life. (Young, 1989, 1990, 2000) This point of view is near to the model of *inclusive citizenship* that tries to use an intercultural model and a concept of complex equality, which includes "differentiated equality" (De Lucas, 1999a, p. 42; Añón, 1998, 2000, 2001, 2003; Ruiz, 2001), and that what Kymlicka calls "group-differentiated rights" so that groups can feel accepted by the community (*polyethnic minority groups*) or "special rights to group representation" to increase the presence, participation and voice of ethnic minorities in the legislature and in other institutions (*national minorities within the state*) (Kymlicka, 1995, p. 176 and 181; 1996). So it would be a convenient strategy to reconsider diversity as a point to reflect about how may we consolidate political and legal legitimacy in our societies. (De Lucas, 1998, 280; 1999a, 40 y ss.; 1999b, 18-19; 2003) Taking into account this frame, in this paper I'll take some ideas from

John Stuart Mill trying to answer somehow to actual cultural conflicts in our societies.

2. LIBERTY AND DIVERSITY IN MILL'S SOCIAL AND POLITICAL PERSPECTIVE

Diversity is a consequence of Mill's broad aim to establish the primacy of the individual and the freedom for the growth of his inherent potentialities. Liberty is a right and a principle necessary to protect human individuality and "indispensable to a good condition of human affairs"³ and has as corollaries other rights recognised in modern liberal Constitutions as freedom of thought and feeling, freedom of opinion, free discussion for testing ideas and looking for the truth, freedom for association and share ideas, liberty of expressing opinions, freedom of press to promote public enlightenment and the control of government... As he said:

"No society in which these liberties are not, on the whole, respected, is free, whatever may be its form of government; and none is completely free in which they do not exist absolute and unqualified. The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, or mental and spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest."⁴

His initial interpretation of the concept of liberty is coherent with the British empirical tradition, as an absence of external coercion over individuals. Liberty is the content of exercising our individuality and at the same time the protections needed, through other rights, for the enjoyment of that liberty. This idea is found in some British authors, and clearly in Austin and Bentham treatises.⁵

The sphere of action of society and the State is focused in that which affect to others; but in which affects self-regarding actions, liberty and the scope of action is complete. In this context, individuals may flourish and develop their capacities, and by this reason this is a limit not only

3 J.S. MILL, *On Liberty*, London, Parker, 1859, in *The Collected Works of John Stuart Mill*, Vol. XVIII: *Essays on Politics and Society (I)*; ed. J.M. Robson, Intr. A. Brady, Toronto-London, University of Toronto Press-Routledge & Kegan Paul 1977, [CW], chapt. I, p. 220

4 J.S. MILL, *On Liberty*[1859],chapt. I, CW, vol. XVIII, pp. 225-227, especially p. 226.

5 "In Liberty, the prominent or leading idea is, the absence of legal restraint: whilst the security or protection for the enjoyment of that liberty is the secondary idea. Right, on the other hand, denotes the protection and connotes the absence of Restraint." J. AUSTIN, *Lectures on Jurisprudence and the Philosophy of Positive Law (1861-63)*, Ed. R. Campbell, 2 vols., London, John Murray, (1st ed. 1863), vol.I, lecture XII, 1869, p.366

to political but to social power (Ten, 1980). Principle of majority was a good argument to restrict individual actions and by this reason Mill described which limits has the authority of society over the individual (this is the title of chapter four of *On Liberty*) and which reasons are legitim to justify the jurisdiction of society and State in individual own concern. (Ten, 1968, 32)

Mill influenced partly by Tocqueville and American experience, perceived the principle of majority as an element of tyranny in democracy, threatening the liberties of individuals and minorities. Tocqueville ideas in *De la Démocratie en Amérique*⁶ were transcendental to Mill as he confess in his *Autobiography*.⁷

Despotism and injustice may come from society too (Béjar, 1990, 64 and 80). Homogeneity in public opinion is a symptom of a "close society". Tyranny of majority supposes that

"means of tyrannizing are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates (...) it practises a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself. Protection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those

6 Alexis Clérel de TOCQUEVILLE, *De la Démocratie en Amérique*, 1st. part 2 vols., Paris, Gosselin 1835; 1Ind. part, 2 vols., Paris, Gosselin 1840. Mill commented the two parts of the treaty: "De Tocqueville on Democracy in America I", *London Review*, II (*London and Westminster Review*, XXXI), oct. 1835, pp. 85-129. Partially printed in "Appendix", *Dissertations & Discussions*, vol. I, pp. 470-4. CW, vol. XVIII, pp. 47-90. "De Tocqueville on Democracy in America II", *Edinburgh Review*, LXXII, oct. 1840, pp. 1-47. Printed in *Dissertations and Discussions*, vol. II, pp. 1-83. CW, vol. XVIII, pp.153-204.

7 "This last change, which took place very gradually, dates its commencement from my reading, or rather study, of M. de Tocqueville's *Democracy in America*, which fell into my hands immediately after its first appearance. In that remarkable work, the excellencies of Democracy were pointed out in a more conclusive, because a more specific manner that I had ever known them to be even by the most enthusiastic democrats; while the specific danger which beset Democracy, considered as the government of the numerical majority, were brought into equally strong light, and subjected to a masterly analysis, not as reasons for resisting what the author considered as an inevitable result of human progress, but as indications of the weak points of popular government, the defences by which it needs to be guarded and the correctives which must be added to it in order that while full play is given to its beneficial tendencies, those which are of a different nature may be neutralized or mitigated. I was now well prepared for speculations of this character, and from this time onward my own thoughts moved more and more in the same channel, though the consequent modifications in my practical political creed were spread over many years, as would be shewn by comparing my first review of *Democracy in America*, written and published in 1835 with the one on 1840 (reprinted in the *Dissertations*), and this last, with the *Considerations on Representative Government*." J.S. MILL, *Autobiography*, Longmans, Green, Reader and Dyer, 1873; in *The Collected Works of John Stuart Mill*, Vol. I: *Autobiography and Litterary Essays*, ed. J. M. Robson y J. Stillinger, Toronto-London, University of Toronto Press-Routledge & Kegan Paul, 1981, pp. 199-201 and p. 227.

who dissent from them; to fetter the development, and if possible, prevent the formation, of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own. There is a limit to the legitimate interference of collective opinion with individual independence: and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism.⁸

This dominance or despotism is a fact that undermines the opportunity for variety and originality in man's behaviour and thinking. Diversity is a necessary principle of the improvement of civilisation, said Mill in a comment on Dupont-White's *La centralisation*⁹: "*It stands for the negation of the main determining principle of improvement, and even of permanence of civilisation, which depends on diversity, not unity.*"¹⁰ Civilisation needs the best form of government, that contributes to develop human happiness and virtues of individuals and society. Representative government based on universal suffrage, and the recognition of some rights as freedom of thought and expression is this model that we may find in the advanced States of Europe in comparison with Eastern societies as China or India.

But, what was Mill's position on cultural and religious diversity in his time? It is known Mill professional occupation in the East India Company and there is a connection between his opinions as administrator and as a political philosopher, as shown in *On Liberty* or *Considerations on Representative Government*.

Mill accepted the superiority of British culture, but he denied determinist natural theories and that cultural differences were due to racial differences¹¹ (Harris, 1964; Varouxakis, 1998 and 2002; Habibi, 1999). He think that was not correct imposing practices repugnant to religious feelings of people, like in India by British Government:

"...to force English ideas down the throats of the natives; for instance, by measures of proselytism, or acts intentionally or unintentionally offensive to the religious feelings of the people. This misdirection of opinion in the

8 J.S. MILL, *On liberty* [1859], chapt. I, CW, vol. XVIII, pp.219-220

9 M. DUPONT-WHITE, *La centralisation; suite à L'individu et l'État*, Paris, Guillaumin, 1860

10 J.S. MILL, "Centralisation. A review of M. Dupont White and M. Odilon Barrot's writings on Centralization", *Edinburgh Review*, CXV, apr. 1862, 323-358, in CW vol. XIX, p. 613.

11 J.S. MILL, *The Subjection of Women* [1869], CW, vol. XXI, pp.277, 307, 309-310; *A System of Logic, Ratiocinative and Inductive, being a connected view of the Principles of Evidence and the Methods of Scientific Investigation* [1843], libro VI, capt. iv, sec. 4, en *The Collected Works of John Stuart Mill, (Books IV-VI; Appendices)*; vol. VIII, ed. J. M. Robson, intr. R.F. McRae, Toronto-London, University of Toronto Press-Routledge & Kegan Paul, 1974, pp. 856-860; *Principles of Political Economy, with some of their applications to Social Philosophy*, [1848] libro II, capt. ix, sec. 3, en *The Collected Works of John Stuart Mill, books I-II*, vol. II, ed. J.M. Robson, intr. V.W. Bladen, Toronto-London, University of Toronto Press-Routledge & Kegan Paul, 1965, p. 319

ruling country is instructively exemplified (the more so, because nothing is meant but justice and fairness, and as much impartiality as can be expected from persons really convinced) by the demand now so general in England for having the Bible taught, at the opinion of pupils or of their parents, in the Government schools. From the European point of view nothing can wear a fairer aspect, or seem less open to objection on the score of religious freedom.¹²

Mill opposed all interference with religious practices of the people of India, except such as are abhorrent to humanity:

“...abstaining as they have done from all interference with any of the religious practices of the people of India, except such as are abhorrent to humanity, they have acted not only from their own conviction of what is just and expedient, but in accordance with the avowed intentions and express enactments of the Legislature...”¹³

And which are these practices? Mill was strongly in favour de erradicate barbarous practices as *Sutte*, “or the voluntary burning of widows on the funeral piles of their husbands”, infanticide, slavery, human sacrifices or “other modes of self-immolation practised in India. –by drowning, burying alive, or starvation...” He said that some of them “have been, with equal success, prohibited and suppressed.” Or “by an Act passed in 1856, another great inroad has been made on Hindoo predujides, by legalizing the re-marriage of widows.”¹⁴

But it is true that in some cases, he accepts forms of paternalism, colonialism, despotism or a war in favour of progress and civilization (Habibi, 1999, 132-133; Ghosh, 1988; García Añón, 2004):

“The preceding review of the improvements in Indian administration, completed or commenced during the present generation, cannot more properly terminate than with this interesting piесе of history. It is not pretended that the enumeration approaches to completeness. The instances given are merely some of the most importantt achievements of a Government, of which perpetual striving towards improvement is the vital principle. (...) A Government of foreigners, over a people most difficult to be understood, and still more difficult to be improved, -a Government which has had all its knowledge to acquire, by a slow process of study and experience, and

12 J.S.MILL, *Considerations on Representative Government*, London, Parker, Son and Bourn, 1861; chapt. XVIII, CW, vol. XIX, p. 570

13 J.S. MILL, “*Memorandum of the Improvements in the Administration of India during the Last Thirty Years, and the Petition of the East-India Company to Parliament*”, London, Cox & Wiman, 1858, in *The Collected Works of John Stuart Mill*, Vol. XXX: *Writings on India*, eds. J.M. Robson, M. Moir y Z. Moir; Intr. M. Moir; Toronto-London, University of Toronto Press-Routledge, 1990, p. 81

14 J.S. MILL, “*Memorandum of the Improvements.....* [1858] CW, vol. XXX, p. 121-125

often by a succession of failures (generally, however, leading to ultimate success)- has a right to take pride to itself for having accomplished so much; and most certainly cannot be justly reproached, by any existing Government or people, with not having effected more."¹⁵

3. DIVERSITY AND ITS PROBLEMS: A WAY TO APPROACH TO CULTURAL CONFLICTS.

But, what happens when there is a conflict between laws of a country and the religion of a minority? Which is solution given by Mill? Or using Mill's construction: liberty is a means of achieving the highest of human beings, noble ends. But if with liberty we pursue ignoble ends, corruption, evil... ? I am going to show a case in which Mill tries to solve cultural conflicts, like the prohibition of eating pork to mussulmans, but there are others like the sabbatarian legislation or polygamy.

In chapter four of *On liberty*, Mill takes as an example of conflict between public morality (*moral police*) and individual liberty, that of conflict between mussulman creed of forbiding eating pork and the liberty of doing it. Really he shows a conflict between the majority of society (in this case, mussulman) and the individual, but if it is applied in our societies these are not exactly the subjects of the case and his example may be read in the contrary sense.

Eating pork is an offence against mussulman religion and "their aversion to the flesh of the «unclean beast» is, on the contrary, of that peculiar character, resembling antipathy, which the idea of uncleanness, when once it throughly sinks into the feelings, seems always to excite even in those whose personal habits are anything but scrupulously cleanly, and of which the sentiment of religious impurity, so intense in the Hindoos, is a remarkable example." And in his example, in a country in which the majority were mussulmans, they impose "not permitting pork to be eaten within the limits of the country" and he asks "Would it be a legitimate exercise of the moral authority of public opinion? And if not, why not?" His answer is "The only tenable ground of condemnation would be, that with the personal tastes and self-regarding concerns of individuals the public has no business to interfere."¹⁶

This case is coherent with his liberal and individualistic doctrine and his answer of toleration, or better of recognising individual rights, implies liberty and autonomy in self-regarding concerns. However here, subjects are not only individuals with their personal rights (autonomy, liberty of thought...), but also individuals which liberty of thought supposes including them in a culture, an aggregate of practices, a religion...etc. I mean that some individual rights depends on collective interests and

15 J.S. MILL, "Memorandum of the Improvements...[1858] CW, vol. XXX, p.155

16 J.S. MILL, *On Liberty*, [1859], chapt. IV, CW vol. XVIII, pp. 284-285

their practise is collective too (culture, religion, language...). And in other cases, what individuals as members of a group claim is a collective right, in a strict sense, (e.g. self-determination), though this is not applicable to Mill's example (García Añón, 2001, 2002)

Mill's answer is correct in this case. A confesional or religious State cannot imposes creeds and conducts of this kind to individuals because are against their individual rights of thought and autonomy. And the same argument may be used to minority groups who have a different culture, religion or practices: "with the personal tastes and self-regarding concerns of individuals the public has no business to interfere."

But, how may be read Mill's example in our societies and which would be liberal *millian* answer? In a liberal State, a non confesional and democratic State recognising human rights, which are rights recognised to an individual muslim or a minority group of muslimans living in that country? Or as in the example, what happens if musliman religious observances forbide eating pork meat? Applying the same principles the answer would be the same: "with the personal tastes and self-regarding concerns of individuals the public has no business to interfere."

But, which is the limit of permitting practices against majority? As an example, muslimans only eat *halal* meat, so do this imply the recognition of special rights? Recognising rights implies in some cases exceptions to general rules, or in other terminology *special rights*. Equiparation in liberty of thought in the case of muslimans or jews suposes practices against administrative norms, that must be changed in these special cases, or otherwise general administrative norms would be against a basic or fundamental right as the liberty of thought. In this case practices are permitted against that of majority, but they are *accomodated* in one sense or other. But, what happens if this practice affects the grounds of State or majority of people feelings? Mill explains the case of polygamy permitted to Mormons, Mahomedans, Hindoos and Chinese.

He is against the institution, because "far from being in any way countenanced by the principle of liberty, it is a direct infraction of that principle, being a mere rivetting of the chains of one-half of the community, and an emancipation of the other from reciprocity of obligation towards them."¹⁷ He thinks that it must be legally forbidden, but if the principle of autonomy is respected to women, they may live under what laws they please, in whatever other place if do not commit agression on other nations. Autonomy supposes that this is a voluntary relation as the marriage institution, and "many a woman should prefer being one of several wives, to not being a wife at all". The other requisite of autonomy

17 J.S. MILL, *On Liberty*, [1859], chapt. IV, CW vol. XVIII, p. 290

would be that it is allowed "perfect freedom of departure to those who are dissatisfied with their ways"¹⁸ But if this is not fulfilled, Mill thinks that "any community has a right to force another to be civilized."¹⁹

And I would like to finish with a part of the last paragraph of this chapter, that is completely actual:

"So long as the sufferers by the bad law do not invoke assistance from other communities, I cannot admit that persons entirely unconnected with them ought to step in and require that a condition of things with which all who are directly interested appear to be satisfied, should be put an end to because it is a scandal to persons some thousands of miles distant, who have no part or concern in it. Let them send missionaries, if they please, to preach against it; and let them, by any fair means (....) oppose the progress of similar doctrines among their own people."²⁰

4. CONCLUSIONS

What can we learn of Mill thought to clarify nowadays cultural conflicts? Diversity and its normative concept, pluralism, are necessary ingredients of democracy and a way of social cohesion. Special rights to take into account the differences of groups are normative tools to avoid discrimination or disadvantage and the way of include minority groups in social and political institutions. Pluralism and participation, in a broad sense, implies to facilitate tools to develop one's individuality.

Conditions of diversity described offer guidance about how to create the social conditions required for social cohesion and democratic governance of multicultural societies, as an alternative to homogeneity. The aim is the integration and interaction between minorities and society. What I have tried to show is to value diversity and maintain institutions that allow participation and recognition of all groups.

This point of view leave us with a number of unresolved problems about the way in which social cohesion can be secured in multicultural societies.

Another, in part in contradiction with the preceding, is that although the primary aim is to accommodate the different identities and minorities within the liberal State, in fact, demands that all individuals adopt a liberal identity. In a sense then, social cohesion is achieved once all citizens assume, at least in part, the same identity or values, a minimum of cultural homogeneity. But, this objection may overestimate the importance of social cohesion in relation to other values such as democracy, citizenship or individuality.

18 J.S. MILL, *On Liberty*, [1859], chapt. IV, *CW* vol. XVIII, pp. 290-291

19 J.S. MILL, *On Liberty*, [1859], chapt. IV, *CW* vol. XVIII, p. 291

20 J.S. MILL, *On Liberty*, [1859], chapt. IV, *CW* vol. XVIII, p. 291

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