CHAPTER III

MILL'S THEORY OF MORALITY AND MORAL RIGHTS

A. EXPEDIENCY AND MORALITY

We have already drawn attention to one problem in Mill viz., that his view of certain moral rights being "absolute" seems to conflict with his "utilitarianism." Any utilitarian theory must adopt expedience as a governing principle. In such a theory, if it is found expedient to override some rights of individuals "in the interest of the common good," such overriding of rights must be accepted as justified. But, if those rights are "absolute" in character, their overriding cannot be justified. Therefore it is necessary to examine in some detail what are Mill's views on "expedience" and "morality." It is also necessary to find out whether any conduct which is expedient can or cannot come into conflict with conduct which is moral.

In the commonly understood sense "expedient conduct" means 'conduct useful for producing some desired result,' 'conduct suited to the circumstances or the occasion,' 'conduct which is convenient or advantageous,' 'conduct guided by self-interest' or 'conduct based upon what is of use or advantage rather than what is right or just.' Therefore it is clear that expedient conduct permits the overlooking or disregarding of moral conduct. Therefore, if Mill permits expedient conduct under his utilitarianism, he faces the serious question: How is any moral principle or moral right absolute since it can be overridden on grounds of expedience?

There is a very good analysis of Mill's concepts of expedience and morality by David Lyons. In his article Lyons says that there are two senses of 'expediency' which
Mill fails to distinguish. According to Lyons, "'expediency' is Mill's term for the evaluation of actions in general, neutrally described, that is, without assuming a principle of utility." This is a general sense of the word. In this sense, any action is expedient if it promotes some end or other. Lyons says that moral conduct is a species of expedient conduct in this general sense. On the other hand, Lyons continues, "'expediency' might easily be taken in a utilitarian sense, as Mill sometimes suggests." In this second sense an action is expedient not because it promotes any end whatever, but because it promotes the end of happiness. In his above article Lyons thinks that the first sense of 'expediency' is basic to Mill. But in a later article Lyons says that "Mill distinguishes between evaluations of expediency and moral judgments: the former concern utility, the latter obligation." In this second article Lyons is regarding the second sense of 'expediency' as basic to Mill's distinction between expediency and morality.

Lyons also subscribes to the view of Brown (and others) that the Principle of Utility is an axiological principle. An 'axiological principle' states what has value as an end in itself. Brown argues that the Principle of Utility "should certainly be formulated as the principle that happiness is the only thing desirable in itself." In his A System of Logic Mill identifies this Principle of Utility as the first principle of the "Art of Life." The main categories of this Art of Life are, according to him, "Morality, Prudence or Policy and Aesthetics; the Right, the Expedient and the Beautiful or the Noble, in human conduct and works." The Principle of Utility functions as a standard by reference to which the worth of the particular arts (such as medical arts) are assessed by Mill. This Principle is also regarded by Mill as the first principle of the Art of Life. If it is thus the first principle, we cannot appeal
to the idea of happiness to distinguish between expediency and morality. It is because both these types have the same final end: happiness.

But we can still make a distinction between expedient conduct and moral conduct (according to Mill) on this basis: expedient conduct is essentially concerned with the happiness of the individual agent while moral conduct is essentially concerned with the happiness of others. This is also how Ryan understands Mill's distinction. But it is not correct to think so because, according to Mill, moral conduct is also a form of expedient conduct. Moreover, if we say that moral conduct is concerned only with the happiness of others, then such conduct demands that we must be partial towards others and want them to be happy. But this is not acceptable to Mill. Mill says, "as between his own happiness and that of others, utilitarianism requires him to be as strictly impartial as a disinterested and benevolent spectator." We can avoid the problem only by saying that while morality is concerned with the happiness of both oneself and others, expedient conduct is concerned only with the happiness of oneself. But, then, expedient conduct becomes a variety of moral conduct, and not vice versa. If that be the case, is Mill wrong in holding that moral conduct is a variety or species of expedient conduct? No, because Mill recognises a special sense of "expediency" and if this special sense is accepted, we must agree with Mill that moral conduct is a species of expedient conduct. The passage where Mill uses "expediency" in such a special sense occurs in his Utilitarianism. It is as follows: "Again utility is often summarily stigmatized as an immoral doctrine by giving it the name of "expediency," and taking advantage of the popular use of that term to contrast it with principle. But the expedient, in the sense in which it is opposed to the right, generally means that which is expedient for the particular interest of the agent himself; as
when a minister sacrifices the interests of his country to keep himself in place. When it means anything better than this, it means that which is expedient for some immediate object, some temporary purpose, but which violates a rule whose observance is expedient in a much higher degree. The expedient, in this sense, instead of being the same thing as the useful, is a branch of the hurtful... We feel that the violation, for a present advantage, of a rule [i.e. the moral rule concerning veracity] of such transcendent expediency is not expedient...."

Here Mill is distinguishing between the popular sense of expediency and his own special sense. In the popular sense expedient conduct means "expedient for a particular interest" and "expedient for some temporary object." Here expedient conduct promotes just some end or other and such conduct can clash with moral conduct. That is, "simple" expedient conduct may clash with morality and therefore, as Mill says in the above quotation, "instead of being the same thing with the useful, is a branch of the hurtful." Therefore any expedient conduct which violates moral rules (to achieve some temporary object or interest) may be "expedient" in the popular sense, but it is not at all expedient in Mill's special sense. Mill clearly declares (as we can see in the above quotation) that "the violation, for a present advantage, of a rule [i.e. moral rule] of such transcendent expediency is not expedient" (Emphasis added).

Therefore, in Mill's special sense of "expediency," expedient conduct can never be in conflict with moral conduct. Any expedient action that violates moral rules is not really genuinely expedient, i.e. it is not right action. This is because all right [i.e. moral] actions are also necessarily expedient for Mill in this special sense of expediency. We can understand this special sense of expediency in Mill a little better if we look at it against
the background of his theory of "interests."

B. MILL'S THEORY OF INTERESTS

According to Mill there are two kinds of interests: individual and social. The scope of an individual interest does not go beyond the individual who has that interest. Social interests are also concerning individuals only because society is nothing but a collection of individuals. Therefore a social interest is something which an individual shares in common with other individuals in society. For example, every individual is interested in the security of his life and he shares this interest in security with every other individual in society. Some of such shared interests are regarded as "vital" by Mill. He regards as "permanent" some of the shared interests like "the interests of society," 10 "the general interest of mankind," 11 "a community's interests," 12 "the interest of the nation," 13 "the collective interest of mankind," 14 "the common interest of mankind," 15 "common interest of society," 16 "the public interest," 17 and "joint interests."

Because each individual has an interest in physical security, we can say that a society (made up of these individuals) has an interest in security (of its members). 19 This class or group of interests may be called "common permanent interests." But there are also other interests of individuals which are neither permanent nor necessarily shared by all persons. These interests are called by Mill "personal," 20 "private," 21 or "individual." 22

These interests which are not social but individual, may or may not be consistent with the individual's own interests or with others' common permanent interests. If the interests are incompatible or inconsistent with common
permanent interests, then they will be called "selfish interests," 23 "illegitimate self-interest" 24 or "interests opposed to what is considered as the public weal." 25 That is, these individual interests are not consistent with common interests of all and therefore we may call them "individual inconsistent interests" or simply "inconsistent interests." But there can also be individual interests that do not conflict with common permanent interests. That is, they are consistent or compatible with our common interests. This class of interests may be called "individual consistent interests" or simply "consistent interests." Mill also divides interests into those of the self and those of others, 26 and also into "temporal" and "spiritual" interests. 27 But these ways of classifying interests is not important for understanding Mill's concept of Liberty.

Mill mentions many "interests" and the most interesting are "security," 28 "interest in money," 29 "well-being" 30 "truth and justice," 31 "mental expansion and elevation [of citizens]" 32 and even a "vested interest in each other's moral, intellectual and even physical perfection." 33 Thus, an interest for Mill may be (a) a means to one's conception of happiness (as money might be), or (b) a component of one's conception of happiness (as mental elevation might be), or, even (c) just a necessary condition of realizing one's conception of happiness (as security might be). Such a conception of interest might very well be called ambiguous, but not "vague" as said by Rees. 34 Mill's notion is ambiguous because two different persons can have an "interest" in money in two entirely different ways: for one person money may be a part of his happiness itself (as it is for a miser); but for another person the same money may be just a means to his happiness. Similarly, for one person "security" might be the necessary precondition for the realization of his happiness while for another person such security might form part of his conception of happiness.
Common permanent interests are necessarily related to the conception of happiness of each and every individual. For example, security is a common permanent interest of everyone. That is because security is, for any person, either (a) a means to happiness, or (b) a necessary condition for realizing happiness, or (c) a part of the conception of happiness itself (i.e., security itself is happiness as it is for some people!). There is no one who is not interested in security although one might be interested in it for any of the different reasons above (i.e., (a), (b), or (c) cited above). Everyone may not realize the security he is looking for, but everyone looks for security. Hence security must be counted as a common permanent interest.

Individual consistent interests cannot similarly be regarded as a means to, or a necessary condition of, or even a part of everyone's conception of happiness. This is because consistent interests of different individuals differ very greatly among themselves while the common permanent interests of different individuals do not vary from person to person. For example, an interest in music is a consistent interest of some individuals only since everyone will not—and also cannot necessarily—be having an interest in music. There can be people who dislike every form of music or deaf people who cannot hear and appreciate or dislike any music. But we cannot say that because they have no interest in music, they are not happy or they cannot be happy. Every person needs to be always interested in security, but not in music. Therefore interest in music cannot be regarded as part of everyone's idea of happiness; but it is certainly a part of someone's idea of happiness. Interest in music is neither common to all nor is it a permanent interest.
There are also individual interests which are selfish and are opposed to the common permanent interests. Such interests are called individual inconsistent interests. These inconsistent interests also vary greatly from person to person. All common permanent interests are necessarily linked to the welfare or happiness of all. There are no common permanent interests which contribute to the unhappiness of any individual. Therefore, if some interests are inconsistent with common permanent interests, those interests will also be inconsistent with human happiness. If anyone has such inconsistent interests as part of his idea of happiness, then he has no proper conception of happiness. His idea of happiness is inconsistent because it is inconsistent with his own common permanent interests. A person entertaining inconsistent interests as a part of his idea of happiness has an inconsistent idea of happiness. For example, in USA, there was a group called KKK (Ku Klux Klan) in the last century. This group was killing black people and also catholics in the belief that it was thereby "purifying" the American race. But this "interest in purifying" the American race is in conflict with the interest in security which the blacks and the catholics share in common with Ku Klux Klan members. Therefore the interest in purifying the American race cannot be regarded as a common permanent interest. In fact it is in conflict with the common permanent interest of security. Therefore it is an "inconsistent interest" which should not be recognised or encouraged. KKK may feel happy in their activity of purifying the American race, but their idea of happiness is not correct and consistent.

Keeping in mind the above theory of interests, we can understand Mill's notion of expediency. Actions which are "expedient" in the popular sense are actions which directly affect one's own or others' inconsistent interests. That is why Mill says, "the expedient, in this sense, instead of
being the same thing with the useful, is a branch of the hurtful." Therefore, expedient conduct in Mill's special sense cannot be hurtful as above. Therefore it must be a kind of conduct which affects directly either the common permanent interests or the consistent interests of oneself or of others. If so, expedient conduct, in Mill's special sense, will be both other-regarding and self-regarding (when common permanent interests are directly affected), or it will be only self-regarding (when the individual's consistent interests alone are directly affected), or only other-regarding (when only the consistent interests of others are directly affected). Then, moral conduct, in Mill's view, is conduct which directly affects either the common permanent interests of others or the consistent interests of others. Therefore moral conduct may be both self-regarding and other-regarding (when common permanent interests alone are directly affected), or other-regarding only (when consistent interests of others alone are directly affected).

Now, to put it briefly, According to Mill,

(a) Expedient conduct (in his special sense) may be

(i) both self-regarding and other-regarding
(ii) only other-regarding
(iii) only self-regarding
depending upon the kinds of interests to which it is related.

(b) Moral conduct, according to Mill, may be

(i) both self-regarding and other-regarding
(ii) only other-regarding
depending upon the kinds of interests to which it is related.

Since features (i) and (ii) are common to both moral conduct and expedient conduct, and since expedient conduct has an additional feature (iii), it follows that moral
conduct is a species of expedient conduct. On the other hand, "simple" expedient conduct (which is different from expedient conduct in Mill's special sense) concerns only the individual's consistent interests. Therefore it is necessarily only self-regarding conduct. That is, expedient conduct in the ordinary sense has feature (iii) only and lacks the features (i) and (ii) mentioned above. But moral conduct is always other-regarding since it has features (i) and (ii). Therefore moral conduct is different from simple expedient conduct. This is how we can distinguish between simple expedience and morality on the one hand and also between special expedience (in Mill's sense) and morality.

Since morality is a form of special expedient conduct, the connection between special expedient conduct and happiness must be the same as the connection between morality and happiness. In brief, Mill claims that:

(a) morality is a species of (special) expedience, and
(b) (special) expedient conduct is (though not necessarily always) self-regarding; but
(c) moral conduct is not at all self-regarding but is necessarily other-regarding.

That is, while moral conduct is a species of expedient conduct, it can never be self-regarding conduct (which expedient conduct can very well be). This is what has made many critics think that Mill is inconsistent. But we have shown above that the inconsistency arises only if we accept the notion of expedience in its simple or ordinary sense. If we adopt the special sense of expedience suggested by Mill, there will be no inconsistency in Mill's claims.

C. MILL'S THEORY OF MORAL RULES

David Lyons has suggested that according to Mill, mora-
lity is a system of justified coercive rules and for breaking these rules, guilt feelings, at the minimum, are warranted. It is argued by him that morality is concerned with common permanent interests and the consistent interests of others. Therefore he argues that moral rules are also concerned with the same types of interests. 26 But we have to examine this view afresh because Mill regards morality as a branch of the "Art of Life" and also regards the rules of morality as rules of art.

In his A System of Logic Mill gives a detailed account of the logical form of the rules of art and shows how their contents are related to the various sciences. In that work he also distinguishes between "ideal rules of art" (i.e., rules which are fully justified and to which rules there are no exceptions) and "the actual rules of art" (i.e., conventional rules which are not fully justified and hence to which exceptions are allowed). 27 Mill believes that the sentences of science are in the indicative mood (i.e., they are declarative sentences) while the statements of art are in the imperative mood (i.e., they speak about what should be or what ought to be). Mill says that "every art has one first principle, or general major premise, not borrowed from science; that which enunciates the object aimed at, and affirms it to be a desirable object. The builders' art assumes that it is desirable to have buildings." 28 There is no art in the scheme of Mill which is completely independent of any science. Then, what is the role of science and art in the determination of the ideal rules of art? Mill says the following in this connection: "The relation in which rules of art stand to doctrines of science may be thus characterized. The art proposes to itself an end to be attained, defines the end, and hands it over to science. The science receives it, considers it as a phenomenon or effect to be studied, and having investigated its causes and conditions, sends it back to art with a theorem
of the combination of circumstances by which it could be produced. Art then examines these combinations of circumstances, and according as any of them are or are not in human power, pronounces the end attainable or not. The only one of the premises, therefore, which Art supplies is the original major premise, which asserts that the attainment of the given end is desirable. Science then sends to Art the proposition (obtained by a series of inductions or of deductions) that the performance of certain actions will attain the end. From these premises Art concludes that the performance of these actions is desirable, and finding it also practicable, converts the theorem into a rule or precept."

Thus, ideal rules of art are based on theorems of science. Science simply points out the connection between certain means and ends. "A scientific observer's part is only to show that certain consequences follow from certain causes, and that to obtain certain ends, certain means are the most effective." It is for the art to choose the ends if they are attainable or practicable, and after so choosing, follow the path indicated by science to attain that particular end. Thus ideal rules of art are like hypothetical imperatives: "If you desire certain consequences or effects "E," then do certain actions "X." There is no way "E" can be produced except by resorting to "X," and therefore an ideal rule of art has no exceptions.

But the actual rules of art are different. They are based on "scientific or quasi-scientific generalizations." According to Mill, actual rules of art are "provisional" and are like "landmarks and direction posts." Since actual rules of art are based on generalizations, their form also is a generalization. It will be like: "Generally, doing "X" in circumstances "C" is the most efficient means of achieving "E." If the circum-
stances are normal and not very complex, the generalizations will hold. Otherwise they will have exceptions. The exception is not due to the fact of "E" not following from the doing of "X," which is impossible. The connection between "E" and the doing of "X" very much exists. But still one may not achieve "E" by doing "X" because of the peculiar circumstances prevailing on that occasion. From the proposition "If "E" should be produced, then "X" must be done" we cannot infer: "If "X" is done, then "E" will be produced." For example, if one wants to suddenly get a lot of money, we suggest to him to buy a lottery ticket. But if he buys a lottery ticket, he will not necessarily get a lot of money. This is a case of a person doing "X" but not achieving "E." But this does not falsify the proposition "If "E" is to be achieved, then "X" must be done." Here doing "X" is not only a reason for achieving "E" but it is also a justifying reason. It will also be a fully justified reason when there is no way of achieving "E" except through doing "X."

But it is also possible that there are cases where doing "X" necessarily leads to the achievement of "E." In such cases, the generalization "Generally, doing "X" in the circumstances "C" is the most efficient means of achieving "E" " will not have any exceptions. In such cases, ideal rules perfectly coincide with actual rules. Whenever there is such a coincidence, the theorem on which the ideal rule is based will imply the generalization on which the actual rule is based. Therefore, to invoke an exceptionless generalization to justify an action will be the same as justifying that action on the basis of an ideal rule.

But there may be only imperfect coincidence between the ideal rule and the actual rule. In cases of such imperfect coincidence, actions justified by reference to an ideal rule must be distinguished from the actions justified by reference to an actual rule, because these actions will not
be same. In such cases, actions justified by the ideal rule may also be justified by the actual rule, but not vice versa. There may also be actions justified by the ideal rule, but not justified by reference to an actual rule.

Therefore justified rules of art would fall into two categories according to Mill.

(1) When a rule of art is
   (a) an ideal rule, or
   (b) an actual rule perfectly coinciding with the ideal rule,
then it is a completely justified rule.

(2) When an actual rule only imperfectly coincides with an ideal rule, then that rule is only partially justified.

When the generalization on which the actual rule is based is too wide, it will warrant us to do more actions than can be justified by the ideal rule. But an action not warranted by an ideal rule cannot be justified by an actual rule. That is, an actual rule cannot justify what the ideal rule itself would not justify. Therefore, an actual rule that is too broad (and therefore not perfectly coinciding with the ideal rule) is only partly justified. It is justified only to the extent it coincides with the ideal rule.

Similarly, when the generalization on which the actual rule is based is too narrow, it will warrant us to do far lesser number of actions than the ideal rule would require. But an action required by an ideal rule cannot be regarded as unwarranted with reference to an actual rule. Therefore, an actual rule that is too narrow (i.e. based on too narrow a generalization) also does not perfectly coincide with the ideal rule. Hence it will also be justified only to the extent it coincides with the ideal rule. Therefore, an
actual rule imperfectly coinciding with the ideal rule is only partly justified. We must note here that an actual rule depending upon too wide a generalization will lead to regarding an unjustified action as justified. Similarly, an actual rule depending upon a very narrow generalization will lead to regarding a justified action as unjustified.

In short, a rule of art is fully justified only when the ideal rule and the actual rule perfectly coincide. That is, the actual rule must depend upon a generalization that has no exceptions at all. Also, the coincidence of the ideal and actual rules must not be accidental. The coincidence must be consciously established if that rule of art should be really meaningful.

So far we have looked into what is a justified rule of art according to Mill. Then, what is an unjustified rule of art? It would naturally be an actual rule which warrants actions not justified by an ideal rule of art.

Because morality is an art, the rules of morality are rules of art. Morality is also distinct from simple expediency because it is connected with common permanent interests or the consistent interests of others. Therefore the end of morality is general welfare or general happiness, i.e., the realization of the common permanent interests or the consistent interests of others. The end of any art limits the contents of its rules, i.e., the particular set of rules to be followed to achieve that end. This set of rules is a science. For example, if our end is the construction of buildings, then the set of rules relevant to achieving this end is found only in the science of architecture. In the case of the art of morality, the contents of its ideal rules are determined by the theorems of the science of society; the contents of its actual rules are determined by the generalizations made by the people in that society. But the
generalizations which people make regarding the causal relation between certain actions and general welfare are not always sound. That is because those generalizations are based upon one's own or a few others' limited experiences. Such limited experiences, though valid, cannot act as sure guides to be adopted universally.

According to Mill empirical generalizations follow from the laws of nature and their relation is deductive. So, the laws of nature must be able to explain why some empirical generalizations are faulty. Valid empirical generalizations are confirmed by means of experiences which are necessarily limited. But laws of nature are confirmed to the extent they can explain these valid empirical generalizations. Therefore, the laws of nature (or theorems of science) which connect certain types of actions with general welfare are not limited in the way valid empirical generalizations are limited. While the laws of nature (the theorems of science) have predictive value, the empirical generalizations cannot be used to make predictions.

Like all justified rules of art, the rules of morality also fall into two categories:

(1) Fully justified moral rules, viz.
   (a) ideal moral rules, and
   (b) actual moral rules which perfectly coincide with ideal moral rules.

(2) Partially justified moral rules, viz.
   (a) rules based on very broad generalizations, and
   (b) rules based on very narrow generalizations.

We have seen that rules of art are hypothetical. Only if one wants to build a house, should he follow the rules of architecture, which are the rules of the art of building. If morality is also an art, moral rules must also be hypothetical. But moral rules categorically command us to
do certain actions. Therefore the form of moral rules must be categorical and not hypothetical. In fact, Ryan thinks this way. \(^3\)

But it is possible to explain why Mill says that the form of moral rules is hypothetical. Moral rules are hypothetical commands whose antecedents are always satisfied. The achievement of the common good is the antecedent condition of the moral commands. If common good is not to be achieved, then following the moral commands would not be necessary. But it is impossible to argue that the common good need not be achieved. Common good must be achieved and therefore, to achieve it, moral rules must be followed. Therefore one is not either free or not free to follow the moral rules. In contrast to this, the rules of the art of building do not apply universally since everyone does not have to construct buildings and also not everyone builds buildings. Some people build, and other people live in those buildings.

Mill believes that everyone (at least every moral agent) does desire the general welfare. Therefore the antecedent condition of any moral rule of the form "If one desires general welfare, then one must do "X" " is always fulfilled. Everyone may not fully consciously, and reflectively, desire general welfare. But this general welfare (which includes in it one's own welfare) is always desired by any thinking being. The desire for the satisfaction of the common permanent interests or the consistent interests of others is nothing but a desire for general welfare. Morality is concerned with nothing but the realization of general welfare which is universally desired. Hence moral rules apply universally and the hypothetical commands of morality can require us to act (as if) categorically.
Lyons thinks that according to Mill, under certain circumstances, one moral obligation may "override" another moral obligation. 44 But it is not so. It is impossible that one justified moral obligation overrides or overrules another justified moral obligation. For example, let us take two ideal moral rules: (a) If one desires general welfare, then, in circumstance "C" do the action "F" and (b) If one desires general welfare, then, in circumstance "C" do the action "G." Let us suppose that action "F" is inconsistent with action "G." In such a case, given that both moral rules are ideal, doing "F" must be justified and doing "G" also must be justified. Morally, therefore, it would not matter whether one did "F" or "G" and the obligation to do "F" would not override the obligation to do "G" and vice versa. It will be impossible to say that one must have done "F" rather than "G" (or the other way) because, under the circumstances, doing one of them is as much fully justified as doing the other. Only in the case of partially justified moral rules it will be proper to speak of one moral rule overriding another. That is, a more justified rule can override a less justified moral rule. That means, only actual moral rules (which are not fully justified) may override one another, but not ideal moral rules.

It must also be noted that if an actual moral rule perfectly coincides with some ideal moral rule, then that actual rule cannot be overridden by any other actual rule which does not so coincide with an ideal rule. If two actual rules perfectly coincide with one or more ideal rules, then these actual rules also do not override each other. Any actual rule imperfectly coinciding with ideal rules is partly justified, and one partially justified rule may be more completely justified than another. Therefore, a more completely justified actual moral rule can override another actual moral rule that is not equally completely
justified. In cases of conflict between actual rules of 
morality Mill suggests that we appeal to the "ultimate stan-
dard" of morality to resolve the conflict. 45 This will 
help us to see which rule is more justified in that 
particular circumstance. One partially justified moral 
rule can override another partially justified moral rule 
only if it provides a good justifying reason which the other 
rule does not provide. In a particular case, a justified 
moral obligation can override any less justified or 
unjustified moral obligation. If there is no good 
justifying reason, in a particular case, to follow an 
obligation specified by an actual moral rule, the obligation 
to act as prescribed that rule can be overridden. Therefore 
if there is a justified moral obligation, it cannot be 
overridden either by less justified or even equally 
justified obligations. In short, a properly justified moral 
obligation cannot be overridden according to Mill. 46

Mill also classifies moral rules into those that define 
obligations of justice and those that do not. Obligations 
of justice necessarily involve "rights" and therefore we 
have to next consider Mill's theory of moral "rights." 
Mill's theory of morality (viz. morality as a system of 
justified moral rules) is related to his Principle of 
Utility and also to his (not very detailed) conception of 
the Art of Life. To properly understand Mill's concept of 
moral rights it will be necessary to examine the above 
relationships in a little detail.

Mill divides the Art of Life into three "departments" 
or areas of human conduct: Morality, Prudence and Aesthe-
tics. The Principle of Utility is "the ultimate principle" 
of all these "departments." Sometimes he states this 
Principle of Utility to mean that happiness is the only 
thing that is desirable in itself; 47 but he also says that 
the utilitarian principle means that the test of utility
consists in the capacity to promote happiness. To avoid confusion we shall call the first notion "the Principle of Utility." Since the second notion depends upon the idea of consequences for happiness as the criterion of utility, we will call it "the Consequentialist Principle." Both these notions, when combined, give what Mill calls the "greatest happiness principle." This is the principle which advocates that we should always act in such a manner that it produces the greatest happiness.

The Principle of Utility is thus the general end of the Art of Life. But the "departments" of the Art of Life (viz. prudence and morality) also have what Mill calls their "special aims." We have seen that prudence or simple expedient conduct directly affects the consistent interests of oneself only. Therefore the end or aim of prudence is the realization of these consistent interests of oneself. We have also seen that moral conduct directly affects the common permanent interests or the consistent interests of others. Therefore we can conclude that the realization of these interests is the special aim of morality. Human happiness is made up of a realization of both these ends. We may even say that there are two components of human happiness; one of them is realized through appropriate prudential conduct and the other through moral conduct. Thus, "happiness is not an abstract idea." Therefore the ends of the Art of Life — or of prudence and morality — are not abstract ideas. When the ends are achieved, there is happiness. These ends are achieved through particular actions of men, and it is these actions that make the ends "concrete." Mill not only speaks of the end of the Art of Life as desirable in itself but also speaks of the "special ends" of prudence and morality as being desirable in themselves. That is, the realization of one's own consistent interests, common permanent interests as well as the consistent interest of others is also desirable in
itself. Not only this, he even speaks of the specific actions which serve to realize the above interests also as being desirable in themselves. That is, there is a hierarchy of ends in Mill.

According to Mill, the claim that the end of morality is desirable in itself is "the original major premise" of the art of morality. We have seen earlier that the first principle of an art is of the form "If one desires "E," then do whatever is the most efficient means of achieving "E."" But any first principle of art makes sense only if we assume a further principle, i.e. "Whatever is the most efficient means to achieve "E" should always be preferred to less efficient means." This we may call "the Assumption of Efficiency." Then, actions which best promote some end or the other will be most efficient, and therefore must be preferred to any other actions. There is no alternative except to prefer to do only those actions which serve to realize the ends in the best possible way. Therefore, there is no alternative to doing those actions which best promote the greatest human happiness. That is the only thing that can be done and hence that is also the thing that ought to be done. It is desirable in itself.

In this way, the Assumption of Efficiency and the Consequentialist Principle, when taken along with "the original major premise" of an art, provide us the "form" of the first principles of art.

D. MILL'S THEORY OF MORAL RIGHTS

Mill gives, the most concise and precise statement of his theory of moral rights in Chapter V of his Utilitarianism. The statement runs as follows: "I have through-
out, treated the idea of a right residing in the injured person and violated by the injury, not as a separate element in the composition of the idea and sentiment of justice, but as one of the forms in which the other two elements clothe themselves. Those elements are a hurt to some assignable person or persons, on the one hand, and a demand for punishment, on the other. An examination of our own minds, I think, will show that these two things include all that we mean when we speak of a violation of a right. When we call anything a person's right, we mean that he has a valid claim on society to protect him in the possession of it, either by force of law or by that of education and opinion. If he has what we consider a sufficient claim, on whatever account, to have something guaranteed to him by society, we say that he has a right to it. If we desire to prove that anything does not belong to him by right, we think this done as soon as it is admitted that society ought not to take measures for securing it to him, but should leave him to chance or to his own exertions.  

Two important points about a "right" here are: (a) To have a right is to have a valid claim to something, and (b) The "valid claim" is against society. A claim to a right consists in a claim to protect something which one already has or, if he does not have it, which should be secured or "guaranteed" to him by society." The contents of rights are more clearly specified by Mill in the following statement: "Justice is a name for certain classes of moral rules which concern the essentials of human well-being more nearly, and are therefore of more absolute obligation, than any other rules for the guidance of life; and the notion which we have found to be of the essence of the idea of justice - that of a right residing in an individual - implies and testifies to this more binding obligation."
Moral rules fall into two classes: "justice-rules" and "non-justice rules." The justice-rules are more basic, and therefore more binding, than non-justice rules. It is thoroughly wrong to deny anyone anything that is guaranteed to him by the rules of justice. "The most marked cases of injustice are acts of wrongful aggression or acts of wrongful exercise of power over someone which consist in wrongfully withholding from something which is his due." 

Personal security and autonomy are the "vital" and "the strongest interests." In other words, the contents of rights are common permanent interests. Since only individuals have such common permanent interests, only individuals can have valid moral claims. Therefore, only individuals can have "rights." Even persons who cannot make valid claims have valid claims (i.e. rights) because "having a valid claim" is not the same as "making a valid claim." Mill implies this distinction when he discusses parents' duties to their children in Chapter V of his On Liberty. He says, "It still remains unrecognised, that to bring a child into existence without a fair prospect of being able, not only to provide food for its body, but instruction and training for its mind, is a moral crime, both against the unfortunate offspring and against society..." Thus, children have valid claims for food and education against their parents although those children may not be able to enforce them. Mill believes that others can force the parents on behalf of those deprived children to provide subsistence and education. Therefore, recognition of the right-holder's claim by individuals or institutions cannot be considered an essential feature of a moral right. There are moral rights even if no one recognises them. Moral rights are rights of individuals only. Therefore there are no "general" moral rights although individual rights like right to security may be "common" in the sense that each and every individual has such a right. Though not "general" in character, such rights are generally or universally held by
all individuals.

But though "universal" in the above sense, Mill believes that the moral rights of individuals may, under certain circumstances, be "overridden," or the individuals may "forfeit" those rights. This opinion of Mill is found in an interesting passage in Utilitarianism which reads as follows: "It appears from what has been said that justice is a name for certain moral requirements which, regarded collectively, stand higher in the scale of social utility, and are therefore of more paramount obligation, than any others, though particular cases may occur in which some other social duty is so important as to overrule any one of the general maxims of justice. Thus, to save a life, it may not only be allowable, but a duty, to steal or take by force the necessary food or medicine, or to kidnap and compel to officiate the only qualified medical practitioner." 57

But how is this overriding of a moral right possible? Moral rights which are valid claims are implied only by justified rules of justice. Therefore, how can a moral right be overridden when it follows legitimately from a rule of justice? But this is not really a serious problem. Moral rights are generated only by justified rules of justice and justified rules of justice may not be applicable in particular cases. Where a justified rule does not apply, no corresponding moral right is generated. One may have a right without exercising it because the circumstances under which its corresponding rules of justice would apply, do not exist. Thus, one may have a right to kidnap a doctor in order to save a life, but if circumstances demanding the saving of a life do not obtain, one does not have the right to kidnap the doctor. Similarly, a doctor has the right not to be kidnapped, but under special circumstances where a life is in danger he ceases to have that right to personal freedom. This is even more evident from Mill's statement:
"All persons are deemed to have a right to equality of treatment, except when some recognized social expediency requires the reverse." All social legislation done with a view to improving the lot of labourers, the poor and the downtrodden follows from this principle. The rights of certain persons can be curtailed in order to bring about greater justice and happiness in society. After all, rights exist only to make it possible for everyone to be happy. If a good number of people can be given a chance to achieve their happiness (through giving them special rights) by curtailing a little the happiness of a few (by restricting their rights), it must always be preferred.

If a moral right can be "overridden," how is such a moral right also "absolute?" This is also not a serious problem. What does Mill mean by "overriding?" Since no moral rule is applicable in all circumstances, a case of a moral right being "overridden" turns out to be a case where a justified rule of morality fails to apply. For example, a doctor is free to go or not to go anywhere. But he is not also free to choose either to save or not to save a life. He is committed by the Hippocratic oath to save every life that is possible to save. Therefore, when a life is in danger and when it is his duty to try to save that life, he cannot exercise his right to personal freedom and choose not to go to save that life. That is, his right to freedom is inapplicable in that particular circumstance. Hence, if he does not choose to go to save the life, someone can kidnap him and take him to the patient. Here, the doctor's right to freedom is "overridden," i.e. a right he thinks he has in that circumstance, but which he does not truly have, is "taken away." But in all other normal circumstances the doctor enjoys unrestricted personal freedom and therefore that right is also "absolute." That is, there is no circumstance in which the right to freedom of the doctor is fully justified, but still that right can be taken away.
This means that some moral rights are more basic and some moral rights less basic. Since rights are given to individuals to protect and promote their interests, if some of their interests are more basic than their other interests, then the rights related to the more basic interests will also be more basic than other rights. Mill says, "Security [is something which] no human being can possibly do without; on it we depend for all our immunity from evil and for the whole value of all and every good, beyond the passing moment...." Therefore, the right to security is more basic than any other right, say, the right to privacy. A person's privacy can be invaded in order to protect him from harm or in order to protect others from being harmed by him. There may be many rights that are most basic. For example, both security and autonomy are most basic for Mill.

E. MORAL RIGHTS AND EXPEDIENCY

There is a common objection to utilitarianism in general and even to Mill's version of utilitarianism. It is that (a) moral rights are not taken seriously (as by Bentham), or (b) moral rights are not taken seriously enough (because moral rights can be overridden for the sake of achieving even slightly more utility). For instance, if slavery maximizes the general welfare of a large number of people in a society, then a few individuals can be made slaves. If having slaves serves some particular end (i.e. if it is expedient), then it is right to make someone a slave of others. It can be thought that Mill's moral theory permits this and sometimes critics have thought so. Now let us see whether this view is correct.

We have seen that in Mill's view moral rights are implied by justified moral rules. But we must also note
that there is a distinction between (a) a justified moral rule that applies to a given circumstance, and (b) a justified moral rule, though justified and is applicable in other circumstances, is not applicable in a given circumstance. We have already seen that a moral right generated by (a) above cannot be overridden whereas a moral right thought to follow from (b) can be overridden. Mill does not accept the overriding of moral rights which are justified by the circumstances at hand. The rights that are overridden are rights that are not justified in that particular circumstance, but the critics assume Mill's position to be contrary to this.

Two justified moral rules may be simultaneously applicable to a particular case. But if the first moral rule implies a moral right on that specific occasion and the second rule does not, the second rule is overridden by the first rule. The moral rule that is thus overridden may be a non-justice rule or even a justice-rule. Mill accepts that on some occasions non-justice obligations may override even obligations of justice. That is how, to save a life it may be a duty to kidnap a doctor. The doctor, in this case, does not have an applicable moral right to personal freedom which is overridden by the act of kidnapping. This means Mill has a special view of the overriding of moral rights. When some moral rights are justifiably overridden, in Mill's view, it simply means that those rights are justifiably limited, or those rights are not simply applicable moral rights (i.e. applicable in that specific case). So, the reasons for overriding a moral right are simply the reasons for limiting the scope of that right. If the scope of a moral right is not thus limited in any way, that moral right cannot be overridden at all. That is, a moral right implied by a rule of justice which is (a) justified, and (b) also justified in that particular case, cannot be overridden.
Since there are ideal moral rules as well as actual moral rules according to Mill, a moral right implied by actual moral rules may be overridden; but a moral right implied by an ideal moral rule cannot be overridden. That is, actual moral rights might sometimes be overridden, but ideal moral rights cannot be overridden. The ideal moral rules are "absolute." Similarly, there are actual or conventional rules of justice which imply certain actual rights. There are also ideal rules of justice which imply some ideal rights. Actual rules of justice must in some way follow only from ideal rules of justice. That is because no actual rule of justice can imply a right that cannot follow from an ideal rule of justice. In other words, a right not justifiable with reference to an ideal rule of justice cannot be justifiable with reference to an actual rule of justice. Therefore, when two actual rights collide, at least one of them will not be following from an ideal rule of justice. Ideal rights, of course, cannot come into conflict among themselves. As already observed, if two justified rules demand two different actions "F" and "G" that are contrary to each other, either of them can be done with equal justification. Whenever we are faced with a situation where we have to decide between two competing rights, a decision is possible by rationally inquiring into which of them is justified in that particular case. When two competing rights appear to be equally applicable, only one of them will be actually applicable. Though both the rights are implied by the rules of justice, only one of them will be also justified in that particular circumstance. Therefore only that right will be applicable and not the other.

From the above discussion it becomes very clear that considerations of expedience have no weight against Mill's variety of moral rights, i.e. Millian moral rights cannot be overridden on considerations of expedience. The term
"expedience" has four senses. In the most general sense an expedient action is simply any action that promotes some end or other. In the "popular" sense expedient actions are those that affect directly either one's own or another's inconsistent interests. Expedient actions in Mill's special sense are those that affect directly the common permanent interests or the consistent interests of oneself or others. There is also "simple" expedience (which is a subset of expedient actions in Mill's sense) which is a category of actions which affect directly one's own consistent interests.

It is possible to say that considerations of expedience "outweigh" moral considerations only if the value produced by expedient conduct is greater than the value produced by moral conduct. According to Mill only happiness has intrinsic value (i.e. it is desirable in itself or for its own sake) and anything else has only instrumental value (i.e. it is valuable only as a means to achieve some end). The end of popular expedient conduct is the realization of one's own (or another's) inconsistent interests. It is therefore inconsistent with the realization of happiness. Hence actions of the popular expedient variety produce less value than moral actions which generate the maximum of happiness, which has the highest value. Popular expedient conduct promotes only selfish interests and it is therefore neither prudent nor moral in character. In fact, such conduct lacks all (moral) value and is always undesirable.

Mill, therefore, regards the rules of justice as collectively more important than non-justice moral rules. Rules of justice are concerned with common permanent interests while non-justice moral rules are concerned with the consistent interests of others. Mill also regards the realization of common permanent interests as more valuable than the realization of the consistent interests of others.
Therefore it follows that in Mill's system simple expedient considerations can never outweigh the considerations which justify moral rights. It also follows that non-justice moral considerations can never outweigh the considerations which generate moral rights.

We must also note that for Mill simple expedient conduct is not a segment of morality. Therefore simple expedient conduct has no moral value, although it may have a lot of other kinds of value. Now, can we prefer to adopt simple expedient conduct which produces more non-moral value than some particular moral conduct which produces less value, but this value is moral? The answer is "no." We ought to adopt only moral conduct even if it produces less of other values. Only moral value is relevant to the pursuit of the Art of Life. Considerations of simple expediency are morally irrelevant. Therefore considerations of simple expediency cannot outweigh specifically moral considerations.

What is more basic cannot be overridden by something that is less basic. Mill also regards some rights as more basic than other rights. Therefore, can some moral rights be overridden by others? Does the set of justified rules of justice allow overriding of one member of the set by another member? No, because the set of rules of justice is a set of mutually consistent rules. These rules never come into conflict with one another. Any clash between them is only apparent. A rule of justice may appear to be applicable without being really applicable in a particular circumstance. Such a rule will always appear to be in conflict with another rule which is truly applicable in that particular circumstance. This apparent conflict can always be resolved and overcome. Mill says, "Cases of conflicting obligation ... are overcome practically, with greater or less success, according to the intellect and the virtue of
the individual..." 63

Therefore, the criticism that in Mill's view moral rights are overridden on considerations of expedience is not justified. Also, the criticism that moral rights are not taken sufficiently seriously by Mill's version of utilitarianism is totally unfounded. The inconsistency attributed to Mill is clearly baseless and a close reading of his works will show, as we have tried to show here, that he is indeed very consistent in his views.

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