CHAPTER IV

THE PRINCIPLES OF INTERFERENCE AND NONINTERFERENCE

A. INTRODUCTION

This chapter is devoted to a specific problem: the problem of the clarification of Mill's general Principle of Liberty. This Principle can be thought of as a compound of two Principles:

(a) The Principle of Interference
(b) The Principle of Noninterference.

The Principle of Interference specifies the categories of activities with which it is permissible to interfere and the Principle of Noninterference specifies the categories of activities with which it is not permissible to interfere. The first Principle is the positive part of the Principle of Liberty and the second Principle is its negative part. Sometimes Mill refers to the Principle of Liberty as a whole. Sometimes he refers to only one of its components.

The understanding of Mill's Principle of Liberty presupposes an understanding of certain distinctions. That is because that Principle is put forward by Mill in terms of those distinctions. One distinction which is very important is between self-regarding and other-regarding activities. We must note that Mill does not use the actual phrase "other-regarding activities" but he very much uses the concept denoted by that phrase. In section B it will be shown that Mill draws the above distinction in terms of his theory of interests. That is, an action has to be regarded as self-regarding or other-regarding depending upon the kind of interest served by that action.

Mill also implicitly depends upon a distinction between
"harm" and "hurt." A "harm" is something that necessarily affects only interests, but a "hurt" is something that is not so. Mill’s Principle of Noninterference is used to prohibit interference with certain self-regarding activities alone. These self-regarding activities may or may not harm one’s consistent interests, but in neither case is it permissible to interfere with them. Mill’s Principle of Interference is invoked to interfere with certain other-regarding activities which harm certain interests of others. This is discussed in section C.

Interference or Noninterference is advocated by Mill in respect of both "thought" and "action." He uses these terms in many different senses. Therefore, it is necessary to know exactly in what sense "thoughts" and "actions" can or cannot be regarded as proper objects of interference or noninterference. This will be discussed in section D.

In the light of the background provided by Chapter III as well as the sections B to D above, an interpretation of Mill’s Principle of Liberty will be attempted in section E.

B. THE SELF-REGARDING/OTHER-REGARDING DISTINCTION

There are many accounts of this distinction which Mill consistently uses throughout his works. Mill himself is responsible for this diversity because he himself draws this distinction in several ways. To understand Mill’s Principle of Noninterference and his Principle of Freedom of Thought, we must attain some clarity regarding the above distinction.

Self-regarding activities, Mill says, "concern [the agent] himself" while other-regarding activities "primarily concern others." Mill distinguishes between "the part of a person's life which concerns only himself and that which
concerns others." J.C. Rees takes the word "concerns" (which also occurs in many other passages of Mill) to mean "affects." Therefore he treats Mill's "self-regarding activity" as an action which has no effects on others and "other-regarding activity" as an action which has effects on others. He, and others who accept his account, criticize Mill on the ground that all our behaviour has some effect or other on other people. Therefore they hold that there are simply no self-regarding actions in Mill's sense (i.e. the sense which they attribute to Mill). But, in reality, Mill not only believes that there are self-regarding actions but also maintains that such actions may affect others as well. Therefore, the interpretation of Rees and others is inconsistent with the position actually taken by Mill as indicated by the following passages:

"...A person may suffer very severe penalties at the hands of others, for faults which directly concern only himself; but he suffers these only in so far as they are the natural, and, as it were, the spontaneous consequences of the faults themselves..." 4

"But there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest; comprehending all that portion of a person's life and conduct which affects only himself, or if it also affects others, only with their free, voluntary and undeceived consent and participation. When I say only himself, I mean directly, and in the first instance; for whatever affects himself, may affect others through himself...." 5

"....Each should be bound to observe a certain line of conduct towards the rest. This conduct consists, first, in not injuring the interests of one another; or rather certain interests, which....ought to be considered as rights....." 6

"....the individual is not accountable to society for
his actions, in so far as these concern the interests of no person but himself... But for such actions as are prejudicial to the interests of others, the individual is accountable..." 7

"What I contend for is, that the inconveniences that are strictly inseparable from the unfavourable judgments of others, are the only ones to which a person should ever be subjected for the portion of his conduct and character which concerns his own good, but which does not affect the interests of others in their relations with him." 8

On Rees' interpretation, Mill's distinction of self-regarding/other-regarding actions is a distinction between actions which do not affect the interests of others and actions which do affect the interests of others. We must note here that "the interests of oneself" (i.e. the consistent interests of oneself) do not at all figure in this interpretation. Since there are really no self-regarding actions according to Rees, Mill's Principle of Liberty as well as his Principle of Noninterference (which provides against interfering with self-regarding conduct) become useless principles on Rees' interpretation. In fact Rees thinks that Mill's concept of interest is "vague" and therefore his principle "can yield no clear directive" 9 in deciding controversial issues which Mill very much discusses in Chapter V of his On Liberty.

Rees' interpretation makes Mill's Principles both relative and conservative, but in Mill's own view they are neither relative nor conservative. Wollheim rightly points out that on Rees' interpretation "the proper sphere of individual liberty...will vary markedly from one society to another." 10 This is because Rees thinks that an interest is "a person's claim to.... something....recognized as valid by others, or at least is regarded as worthy of consideration." 11 That is, an interest's characteristic of being
an interest is completely dependent upon its being socially recognised as an interest. Such recognition may vary from society to society. Also, something may not be recognized as an interest unless there is a shift in public norms, although it is a genuine interest. For example, the interest of the black people in getting equal treatment with the whites in South Africa would not become an interest unless it is recognized by the whites of South Africa. Thus, on Rees' interpretation, any interest is relative to social conditions. Since liberty is essentially related to interests, liberty also becomes a relative concept. But Mill never accepted the idea that the liberty he was speaking of was culturally relative. According to him, whatever may be the culture, certain liberties have to be granted to all human beings. For example, any legislation prohibiting the eating of beef in India (because the majority of Indians are Hindus for whom eating of beef is religiously prohibited) would be entirely unacceptable to Mill. Mill also believes that the scope of individual liberty should not be left open for the society to determine. The trouble with Rees is that he conceives an interest in such a way that it depends upon recognition by others. But Mill does not conceive an interest in this way at all. We have already noticed that according to Mill children have interests (and hence, rights based on those interests) which are not dependent upon anyone recognizing those interests. For Mill, an interest is a means to, a necessary condition of, or a part of anyone's conception of happiness. Therefore, the claim that something is an interest is a factual claim. An interest, just because it is an interest, cannot automatically have (moral) value. Selfish interests, as we have seen, have no moral value at all. They have (moral) disvalue. Therefore, corruption cannot become a legitimate interest simply by getting recognized by a bunch of powerful individuals in a society, just as apartheid does not become an interest in South Africa just
because it is "socially recognized" in that country.

For Mill, self-regarding actions are actions that directly affect the interests of the agent alone, though they may also indirectly affect the interests of others. As we have noted above, he says: "...when I say only himself, I mean directly and in the first instance; for whatever affects himself, may affect others through himself..." Rees thinks that if Mill's Principle of Noninterference is cast in terms of direct and indirect affecting of interests, then "immense complication would be bound to arise in the application of such a formula." 12 Perhaps Rees is suggesting that it is not easy to distinguish between direct and indirect effects of actions on our interests. If so, it is partly because Mill himself does not clarify the distinction between direct and indirect effects on interests in his On Liberty. He assumes there that his readers understand this distinction. Only in cases where others believe the actions of an agent to be wrong, the agent's actions can be taken as affecting the interests of others. If no one believes some action to be wrong, it is hard to see how that action can be taken to be affecting anyone's interests either directly or indirectly. Hence we must agree that when the actions of an agent affect his own interest as well as the interests of others, the effects are direct effects. In that case, the agent's actions become both self-regarding and other-regarding. Actions which have an indirect effect on the agent's own interests will have a direct effect on others' interests, and therefore such actions will have to be regarded as other-regarding. If some action of an agent directly affects his own interests only, then its effect on others' interests can only be indirect. It will be so even if we assume that the effects of the actions of an agent will always go beyond that agent. In any case, it follows that direct and indirect effects can be clearly distinguished. The distinction is also not
unícallar in Hill. We may also see that in his statement of the Principle of Noninterference Hill frequently uses the expression "directly." Such an expression can be used only to distinguish self-regarding conduct from other-regarding conduct. Action which never directly affects others is self-regarding action. Actions which affect the agent's interests "in the first instance" are also self-regarding actions. The use of expressions like "directly" and "in the first instance" may of course make Mill's Principles more complex to analyse and understand, but that is a very different matter altogether.

Mill also uses the expressions "chiefly" and "primarily" but these are not equivalent to "directly" or "in the first instance." This is because, actions which primarily affect the agent's interest may also directly or indirectly affect others' interests. Similarly, actions that indirectly affect the agent's interests may also primarily affect others' interests. Therefore, an action can be primarily self-regarding if it directly affects the interests of the agent more than the interests of others. Actions will be primarily other-regarding if they directly affect the interests of others more than they affect the interests of the agent himself. We have seen earlier that actions can be both self-regarding and other-regarding. Moral action is of this kind. Such action affects the common permanent interests and the consistent interests of the agent as well as of others. The extent to which the action affects these different interests may vary. Hence it is possible that some actions have more of self-regarding aspects than other-regarding aspects. In that case, the action will be primarily self-regarding. Likewise, some actions may have more of other-regarding aspects than self-regarding aspects. Then, such actions will have to be regarded as primarily other-regarding in character.
The question of whether an action is primarily self-regarding or primarily other-regarding is very relevant for the application of Mill's Principles of Interference and Noninterference. Before we morally permit an action, we must be able to decide whether that action is primarily self-regarding or primarily other-regarding. For example, when a pilot is not on duty he can drink but he cannot drink when he is on duty. That is because, if he gets drunk when he is on duty flying a plane, it primarily and directly affects the safety and security of life of the passengers on that plane. Since his drinking can cause harm to others' interests, it is correct to interfere with his drinking. But when he is not on duty, and he drinks, it is not correct to interfere with his drinking since he is not thereby harming others' interests. We normally regard drinking as a private matter and it is rightly so. But, when a pilot on duty drinks, it is no more a private matter. When he drinks on duty, the other-regarding aspect of his drinking becomes primary. Therefore it is right to interfere with that drinking. But when he drinks off duty, the self-regarding aspect of his drinking alone is primary, and therefore it is not right to interfere with the drinking.

In the light of the above, we must concede that in Mill, though self-regarding actions are different from other-regarding actions, still there is no strict separation between the two categories. This is because the same action can have both self-regarding and other-regarding aspects. In some circumstances, the self-regarding aspect may become primary. Mill clearly says that a self-regarding action may "also affect others, but only with their free, voluntary and undeceived consent and participation." Hence a self-regarding action, which may also affect others, is permissible if it is freely and voluntarily consented to by others. For example, smoking is a self-regarding activity but since it affects others also, we cannot automatically...
smoke where others are present. But we can smoke if they agree to allow us to smoke.

All self-regarding actions are voluntary. But an other-regarding action may be voluntary or involuntary. It seems to be Mill's view, then, that (1) self-regarding actions are (a) voluntary, and (b) directly affect the agent's interests, and (2) other-regarding actions are (a) either voluntary or involuntary, and (b) directly affect the interests of others. If we combine this with Mill's theory of interests, we get the following:

1) Self-regarding actions are:
   (a) voluntary actions
   (b) actions which directly affect common permanent interests, consistent interests or inconsistent interests of the agent alone (though they may indirectly affect the interests of others).

2) Other-regarding actions are:
   (a) either voluntary or involuntary
   (b) actions which directly affect common permanent, consistent or inconsistent interests of others (though they may indirectly affect the interests of the agent).

This way of looking at Mill's self-regarding/other-regarding distinction has many advantages. The first advantage is that we can understand and explain Mill's view that the classes of self-regarding and other-regarding actions overlap. When one directly affects his own common permanent interests, he directly affects others' common permanent interests also, and vice versa. This is because common permanent interests are common to oneself as well as others. Therefore, actions which affect common permanent interests become both self-regarding and other-regarding. Also, inconsistent interests (of oneself or of others) are
interests that are not in harmony with common permanent interests. Therefore, in directly affecting such inconsistent interests, one also directly affects the common permanent interests. Consequently, actions which directly affect the inconsistent interests also become both self-regarding and other-regarding.

It is only actions which directly affect one's own consistent interests which do not necessarily directly affect the interests of others. Also, actions which directly affect the consistent interests of others alone, do not necessarily directly affect one's own interests. On this basis, we can hold a purely self-regarding action to be an action that directly affects the agent's consistent interests, but does not directly affect the interests of others. But it may indirectly affect the interests of others. Similarly, a purely other-regarding action is an action that directly affects others' consistent interests, but does not, in fact, directly affect the agent's interests. This means that a certain action may indirectly affect the interests of others; it may also directly affect others; but it does not directly affect their interests. Such an action will be purely self-regarding. It is purely self-regarding because it does not directly affect the interests of others. Similarly, a certain action may indirectly affect the interests of the agent; that action may also directly affect him; but it does not directly affect the interests of the agent. Such an action will be a purely other-regarding action. We must note here that "directly affecting a person" is different from "directly affecting the interests of that person." When we punish a wrong doer, we directly affect him through the punishment; but we do not affect or harm any of his interests.

The second important advantage of our way of looking at Mill's self-regarding/other-regarding distinction is that it
fits in very well with his distinction between morality and expedieney. We have noticed that moral conduct concerns either common permanent interests or the consistent interests of others. Hence moral conduct is also both self-regarding and other-regarding (when it directly affects common permanent interests), or purely other-regarding (when only the consistent interests are directly affected). We have also seen that "expedience" (in Mill's special sense) refers to conduct that directly affects either common permanent interests or the consistent interests (of oneself or of others). Therefore expedient conduct also may be both self-regarding and other-regarding, or purely other-regarding, or purely self-regarding. But "simple" expedient conduct is concerned only with the agent's own consistent interests. Therefore this conduct is necessarily self-regarding.

The third advantage of the interpretation is that it is supported by the text we actually find in Mill. We have already pointed out the role played by the expressions "directly" and "in the first instance" in accounting for the existence of the self-regarding/other-regarding distinction in Mill. We must add to it here the cases of Mill using the terms "direct" and "indirect" in the matter of interests also. For example, he says that "there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest..." 15 He again says, in the same work On Liberty that the justification of legislation regarding observing 'Sabbat' by the Jews is grounded on the "direct interest" which others have in each individual's observance of that practice. 16 We find Mill talking in a similar way in many other places in the same work. 17

C. THE CONCEPT OF "HARM"
To understand clearly the meaning of the term "harm" it is necessary to distinguish it from the notion of "hurt." It is not possible to regard the two terms as synonymous except in a common-sensical way. Even then, in everyday usage, the two terms do not have an identical meaning. For example, we can say: "You should not hurt others' feelings." Here, if we replace the word "hurt" by "harm" it makes no sense. The term "hurt" has a more immediate sense of injury and it is applicable to living things. A dog can be hurt, but a dog's cabin cannot also be 'hurt' or even 'harmed.' It can only be 'damaged.' "Hurting" and "harming" are also instances of injuring or damaging, but every case of injuring or damaging is not necessarily a case of hurting or harming. It is possible to harm someone without hurting him. When we are exposed to higher level of radiation, it does not cause any immediate physical pain or "hurt" but it "harms" our body. Our bodies - and our feelings - can be hurt; but our interests can only be "harmed.

Hurts involve pain, but harm need not involve pain; but both of them involve some kind of injury or damage. Therefore, the idea of hurt is not conceptually tied to the idea of interests. We can harm (the interests of) children or poor people without (physically or psychologically) hurting them in any way. When we do not educate a child, this does not produce any pain in him, but he is harmed. The important point is that all hurting is not necessarily harming. For example, a runner may lose a running race. This loss certainly hurts him if he had taken the race seriously, but we cannot say that he is harmed by losing. But, if it turns out that the fellow who won the race had taken some drugs to increase his running power, then the loser is certainly harmed. He is not harmed because he lost; he is harmed because he had to face unfair competition from the drug user. All runners have a common interest
in ensuring fair and just competition, but this interest is harmed by the drug user.

There can also be harming which is associated with some hurt as well. The idea that all harming is not necessarily hurting and the idea that all hurting is not necessarily harming, go together. They also imply that some harming can also involve hurt just as some hurts may also involve harm. The idea of "harm which is also a hurt" is important for our purpose here. Hence we will call any hurt which is also a harm "generic harm" and any harm which is also a hurt "specific harm." Since both hurt and harm involve "injury," we will use the term "injury" to refer to either generic harm or specific harm. Just as we speak of harm to the person or harm to the interests of the person, we will also speak of 'injury' to the person or 'injury' to the interests of the person.

But there is a more interesting sense of "injury" to which Feinberg draws our attention when he discusses the two interpretations of the maxim "volenti non fit injuria."18 According to the first interpretation, this Latin phrase means "No harm [i.e. no specific harm] is done to one who consents." On this interpretation, if a person has agreed to others smoking around him for several years, we must conclude that no harm is done to him. But this is not correct since he could have developed lung cancer which is harmful. Therefore, this famous legal maxim has to be given a second, more proper interpretation. This second interpretation, Feinberg says, does not involve the notion of harm at all, but it involves "injuries." He says, "Rather it is about what used to be called "injuries," that is, injustices or wrongs. To one who consents to a thing, no wrong is done, no matter how harmful to him the consequences may be." 19 On this interpretation, the case of the man with lung cancer becomes understandable. Since the
man had agreed to other people smoking around him for many years, he is himself responsible for the harmful lung cancer he has developed, and the smokers cannot be blamed for it. Since the man had given his consent, no wrong can be said to have been done to him, although clearly, he is harmed.

We can specify more clearly this sense of "injury" if we go back to Mill's theory of interests. In Mill's view, justified moral rules promote either common permanent interests or the consistent interests. Therefore the violation of a moral rule causes generic harm to those interests. Therefore, moral wrongs (i.e. the violation of justified moral rules) produce "injuries" in this new sense. Thus, the injuries caused by the violation of moral rules are a subset of, or a variety of, generic harms. Therefore, when moral rules are enforced on a person, this enforcement harms the inconsistent interests of that person, but it does not "injure" him (in the above sense). That is, morally speaking, no harm is done to that individual. When we punish a thief, the punishment does not "injure" him in the above sense, although he is hurt by the punishment.

This point requires us to formulate a concept of "moral harm" in contrast to any other kind of harm. What is "moral harm" or "moral injury?" We have clearly seen already that harm to an individual is not necessarily harm to his interests, because "harming an individual" and "harming the interests of an individual" are not one and the same thing. Therefore, when we punish a criminal for his crimes by whipping him, we are certainly hurting him, but we are not "harming" him. That is, the punishment causes no injury to his common permanent interests or consistent interests. We are not causing any "moral harm" or "moral injury" by giving him punishment.

Not only this, Mill recognizes even the possibility of
a 'hurt' which does not involve either moral harm or even any 'punishment' in the technical sense of that term. In support of this we may look at the following statement of Mill: "There is a degree of folly and a degree of what may be called (though the phrase is not unobjectionable) lowness or deprivation of taste, which, though it cannot justify doing harm to the person who manifests it, renders him necessarily and properly a subject of distaste, or, in extreme cases, even of contempt...Thus, a person may suffer very severe penalties at the hands of others for faults which directly concern only himself; but he suffers these penalties only in so far as they are the natural, and, as it were, the spontaneous consequences of the faults themselves, not because they are purposely inflicted on him for the sake of punishment." 20

Here Mill speaks of a person who "may suffer severe penalties" (i.e. he may be hurt), but these "penalties" are "natural" (i.e. they are not deliberately imposed on him as punishment). Also, in the above case, the person's behaviour does not "justify doing harm to the person" (i.e. it is not necessary to treat him wrongly or cause him any "moral harm"). His behaviour does not justify any punishment also. This person clearly suffers hurt in some conspicuous way for his behaviour, but he is neither punished nor "morally harmed" for behaving in that way.

But if a person violates the rules of justice, it always results in hurts. Mill says: "I have, throughout, 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. These elements are a hurt to some assignable person or persons, on the one hand, and a demand for punishment on the other." 21
Mill uses the term "injury" here, but it is not used in the sense of specific harm but in the sense of a moral injury. The rules of justice always imply moral rights and the violation of moral rights always involves injury to the common permanent interests. Such an injury is necessarily a moral injury. Damaging another's common permanent interests is a way of morally injuring him. Mill is very keen on upholding the importance of moral rights and therefore he appears to say that the violation of a person's rights always "hurts" him. But this is not so. For example, "mental expansion" is a common permanent interest and proper education leads to the realization of this interest. But a person can be denied such education and his mental development damaged thereby; but that person may not he pained by this deprivation. If he is not thus pained, we cannot say he is hurt, although his interest of mental development is clearly damaged.

Therefore Mill appears to be committed to the view that violations of the rules of justice do not necessarily result in hurts; but he also appears to be committed to the view that, as a general rule, violation of the rules of justice do result in hurts. Thus Mill is not very clear on the question of "hurts" caused by the violation of the rules of justice.

But he is more clear on the question of the violation of non-justice rules and obligations. He says: "The acts of an individual may be hurtful to others, or [that is, "or, if not hurtful"] wanting in due consideration for their welfare without going to the length of violating any of their constituted rights. The offender may then be justly punished by opinion, though not by law." 22

For example, being charitable is a non-justice
There is no law that we should all be charitable. Therefore, if a person is not charitable when he can very well afford to be charitable, he is an offender. But he cannot be punished by law, though public opinion may be against him. But this adverse public opinion need not necessarily involve any hurt to him, although it might sometimes hurt.

Mill is committed to the view that some moral harms do not involve hurts. He is also committed to the view that some hurts do not involve moral harms. This means Mill is thinking on the basis of a distinction between hurts on the one hand and moral harms on the other. But moral harms are a subset of generic harms. Therefore mill is consequently committed to the distinction between hurts and generic harms.

Mill also operates on the distinction between conduct which causes moral harm to others and the conduct which fails to prevent moral harm to others. Hence Mill says, "There are also many positive acts for the benefit of others, which he may rightfully be compelled to perform; such as ... certain acts of individual beneficence; such as saving a fellow creature’s life, or interposing to protect the defenceless against ill-usage... A person may cause evil to others not only by his actions but by his inaction, and in either case he is justly accountable to them for the injury... To make anyone answerable for doing evil to others is the rule; to make him answerable for not preventing evil is, comparatively speaking, the exception." 23

In this passage Mill is clearly speaking of causing moral harm as well as failing to prevent moral harm. He is also speaking of 'positive acts' and 'inaction,' both being different forms of 'conduct.' One may cause moral harm to another through his action as well as inaction; but failure
to prevent moral harm is possible only through inaction. We must note here that if we fail to prevent moral harm to a person, it does not follow that we have caused moral harm. If I fail to save a man drowning in the river, it does not follow that I caused that man to drown. I did not cause any harm but I failed to prevent a harm taking place.

Now we have to see how this discussion fits into our analysis of Mill’s self-regarding/other-regarding distinction. The first point to be noted is that Mill’s above distinction is drawn in terms of his theory of interests. But the notion of hurt is independent of the concept of interest. Therefore, neither self-regarding conduct nor other-regarding conduct necessarily produces either pain or pleasure. Second, we have noticed that conduct which directly affects one’s own interests is self-regarding conduct. Therefore, conduct which “directly harms” oneself also certainly affects oneself directly. Such conduct should therefore be a type of self-regarding conduct. The conduct that directly benefits oneself is another type of self-regarding conduct. There cannot be any other third type of self-regarding conduct which does not either directly harm or directly benefit the agent. That is because any conduct that does not directly either harm or benefit the agent, does not also directly affect his interests. If a conduct does not directly affect the agent’s interests, it is not at all self-regarding conduct.

Similarly, other-regarding conduct also falls into two divisions: the conduct which results in generic harm to one’s interests and the conduct which results in benefit to one’s interests. Lastly, the distinction between causing harm and failing to prevent harm cuts across the self-regarding/other-regarding distinction. Acts of failure to prevent harm may be self-regarding or other-regarding, depending upon whether the interests directly affected by
that failure happen to be one's own or of others.

In this section we have noticed that Mill talks of "action" (and also inaction) which brings about benefit or harm. It is necessary to have some clarity about this concept of "action" in Mill.

D. THOUGHT/ACTION DISTINCTION

Mill uses the term "thought" in both a cognitive and a non-cognitive sense. In the cognitive sense "thought" is used by him as a synonym for "belief" and "opinion." It is only beliefs and opinions that may be true or false. Feelings cannot be classified as true or false. Therefore, when Mill distinguishes between "thought and feeling," 26 "opinions and inclinations," 27 and "judgment and feeling," 28 he is using "thought" in the cognitive sense. Just as this "thought" is an element "in the inward domain of consciousness," 29 "likings or dislikings" 30 and "personal preferences" 31 are also elements of the same inward domain of consciousness. We have a "right" to our personal preferences, likes and dislikes just as we have a "right" to our beliefs and opinions. Mill's Principle of Freedom of Thought grants us such rights. But our likings or preferences are not like our beliefs and opinions because they (also) cannot be true or false (like our feelings). Since Mill defends our likings and preferences also when he defends our freedom of thought, we must assume that Mill recognizes likes and preferences also to be some kind of "thoughts." This is the non-cognitive sense of "thought" in Mill which we spoke of above.

It should also be noted that Mill operates with a restricted cognitive sense of "thought" when he speaks about the freedom of thought. Thought would normally mean any
kind of opinion or belief, but in Chapter II of his *On Liberty* (called "Of the Liberty of Thought and Discussion") Mill is largely concerned only with religious, political-economic and moral beliefs and opinions alone. But Mill is aware that "thought" means *any* belief or opinion because he says he is arguing for "absolute freedom of opinion on all subjects, practical or speculative, scientific, moral or theological. 32

But Mill also uses "thought" in a much larger sense on a few occasions. He contrasts not only "opinions" and "judgments" on the one hand with "conduct" and "practice" on the other, he also contrasts "desires," "impulses," "preferences" and "feelings" on the one hand with "actions" on the other. This means, "desires," "impulses" etc. are *not" "actions." Therefore, they must be included under 'thought." This is the broader sense of 'thought" in Mill.

Not only Mill thus uses "thought" in a broad and narrow sense, he also uses the terms "action" and "conduct" in a broad and narrow sense. In the narrow sense (which is the normal sense as well) action means overt behaviour. But when Mill speaks of the Principle of Noninterference, some of his statements make sense only if we include under "action" or "conduct" what we have included under "thought" in both its broad and narrow sense. For example, Mill says: "...the individual is not accountable to society for his actions, in so far as these concern the interests of no person but himself." 33 Therefore the desiring, liking, preferring and feelings of an individual (which are concerned with the interests of that individual alone) also come within the scope of "action" in the above quotation. But desiring, liking etc. are not "actions" in the normal sense of that word. But desiring, liking, preferring etc. are definitely describable as *activities* and this is really the sense of "action" in the above quotation. Therefore, we
will use the term "action" only to refer to overt behaviour like talking, eating etc. and the term "activity" to refer to desires, likings etc. We will not be unjustified in doing so since "desire" is the result of the mental activity of desiring, "preference" is the result of the mental activity of preferring and so on. The use of the term "activity" instead of "action" (which is most frequently used by Mill) in many cases will remove the ambiguity or strange-ness in Mill's statements and it will also avoid confusion. That is, any "action" that gets included under the category of "thought" will be easily identifiable as an "activity." Since desiring, preferring, liking etc. are really activities of thought or thinking, a clear and unconfused understanding of Mill's views becomes possible.

To conclude, we can say that Mill uses the terms "thought" and "action" in a broad as well as a narrow sense. "Action" in the wide sense (i.e. what we have renamed as "activity" above) covers both "action" (only in the narrow sense) and "thought" (in both its wide and narrow sense). Probably it also covers the failure of thought or action (i.e. "inaction") because, just as action produces certain effects on interests, inaction also produces certain other (contrary) effects on interests. Therefore, just as actions come up for moral scrutiny, failure of action or inaction also should come up for moral scrutiny.

"Actions" in the narrow sense may be either purely self-regarding, purely other-regarding or both self-regarding and other-regarding. Only actions which have either a self-regarding aspect or an other-regarding aspect (or both) directly affect (i.e. harm or promote) certain interests. Also, actions may result in pleasure or pain (or neither) either to oneself or to others (or both). It is also possible that some actions may not have either any self-regarding or any other-regarding character.
E. THE PRINCIPLE OF LIBERTY

It is best to begin the discussion with the statement of the Principle of Liberty and its amplifications and elaborations in Mill. But we have already noted in an earlier chapter that the Principle of Interference and the Principle of Noninterference are the twin constituents of Mill's Principle of Liberty. We have also noted there that these two Principles are stated differently in different places by Mill. Therefore, for a clearer understanding of this Principle of Liberty it is necessary to take note of these variant forms of the Principles in Mill. This is particularly needed because the Principle of Liberty is formulated and stated by Mill only in terms of his Principle of Interference and the Principle of Noninterference. As different statements of the Principle of Liberty are connected with the different formulations of the Principles of Interference and Noninterference, we must gradually unravel these formulations. For this purpose, we shall proceed by initially choosing certain passages in Mill and then identify the formulations stated or implied by those passages. Since we choose several passages we will have to identify the passages themselves. We begin with this passage identified as A.

"As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it, and the question whether the general welfare will or will not be promoted by interfering with it, becomes open for discussion. But there is no room for entertaining any such question when a persons' conduct affects the interests of no persons besides himself, or needs not affect them unless they like (all the persons concerned being of full age, and the ordinary amount of understanding). In all such
cases there should be perfect freedom, legal and social, to
do the action and stand the consequences." 34
This passage contains one statement of the Principle of
liberty and in the process of clarifying this statement Mill
further says:

"Whenever, in short, there is a definite damage, or a
definite risk of damage, either to an individual or to the
public, the case is taken out of the province of liberty,
and placed in that of morality or law." 35
He continues this clarification by saying,

"But with regard to the merely contingent, or, as it may be
called, constructive injury which a person causes to
society, by conduct which neither violates any specific duty
to the public, nor occasions perceptible hurt to any
assignable individual except himself; the inconvenience is
one which society can afford to bear, for the sake of the
greater good of human freedom." 36

In passage A Mill speaks of "conduct [which] affects
prejudicially the interests of others." Passage B clarifies
what kind of conduct it is, viz. conduct which involves
"harm" ("damage") or "risk of harm" ("risk of damage") to
others. But this harm or risk of harm is to the interests
of others as is evident from passage A. Therefore the
conduct which Mill speaks of in passage A is conduct which
harms or risks harm to the interests of others. In passage
C also he speaks of harm ("injury") but he speaks of
"constructive injury." The conduct which causes such
"constructive injury" is neither a violation of a "specific
duty to the public" nor does it produce "perceptible hurt to
any assignable individual except [the agent] himself." He
says that society must tolerate such conduct "for the sake
of the greater good of human freedom." Clearly, the harm he
is referring to in passage C is indirect in nature and the
We must note that any action that risks harm to the interests of others is also mentioned by Mill. To risk harm is not to actually cause harm. Therefore passage A refers to two kinds of conduct: conduct which directly harms the interests of others and conduct that could possibly directly harm (i.e., risk harm) the interests of others. Society has "jurisdiction" over both these types of conduct or classes of activities. That is, it may or may not be permissible to interfere with any activity falling into these two classes. Having "jurisdiction" means having the power to interfere and it does not mean society should necessarily interfere in such activities.

But which are the interests that are directly prejudicially affected by these types of activities? Obviously, the interests Mill has in mind are the common permanent interests and consistent interests of others. Hence the activity that affects such interests must be other-regarding. That is because there is no room for entertaining any questions of whether general welfare will or will not be promoted by interfering with an activity when that activity affects the interests of the agent alone. This point is very clear from passage A. Therefore, in passage A Mill is proposing the following Principle of Interference, PI-1. (Since there are different formulations we will number them this way for convenience of reference.)

PI-1: It may be permissible to interfere with (a) other-regarding conduct which is harmful to the common permanent or the consistent interests of others, or (b) conduct which risks harm to these interests.
In passages A and C Mill has also talked about the activities which should not be interfered with and should also be tolerated by society. Therefore he is also proposing the following Principle of Noninterference, which we will number as PNI-1, again for the sake of convenient reference, as there are varying formulations of it in Mill. PNI-1: It is impermissible to interfere with (a) purely self-regarding conduct, and (b) conduct which (voluntarily) risks harm only to the consistent interests of the agent alone.

But there are passages in Mill which may appear to go against the above formulation of the Principle of Liberty. Here are just two of them. For the sake of easy reference we will continue to alphabetically label them.

D

"[The two maxims which together form the entire doctrine of this Essay....] are, first, that the individual is not accountable to society for his actions, in so far as these concern the interests of no person but himself. Advice, instruction, persuasion and avoidance by other people if thought necessary by them for their own good, are the only measures by which society can justifiably express its dislike or disapprobation of his conduct. Secondly, that for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subjected either to social or to legal punishment, if society is of opinion that the one or the other is requisite for its protection." 37

"What I contend for is, that the inconveniences which are strictly inseparable from the unfavourable judgment of others, are the only ones to which a person should ever be subjected for that portion of his conduct and character which concerns his own good, but which does not affect the interests of others in their relations with him. Acts
injurious to others require a totally different treat-
ment." 38

In the above passages Mill appears to be saying that it
is permissible to interfere in certain ways (i.e. by
advising, instructing, persuading etc.) with purely self-
regarding conduct. Then, does this contradict PI-1? No,
because when society "expresses its dislike or disapproba-
tion" it does not thereby enforce the individual either
legally or morally to modify his conduct. Interference is
justified intervention, and therefore such intervention has
to have the backing of law or morality. When an individual
is subjected to social dislike or disapprobation, no doubt
he is being punished in a way, but it is "social" and not
"legal" punishment. Mill also has the notion of moral
disapprobation, but this notion does not apply in the above
case. To be morally disapproved, an activity must be such
that it comes within the range of moral rules. Only
activities which are other-regarding or both self-regarding
and other-regarding come within the range of moral rules.
Purely self-regarding conduct does not come within the range
of morality and therefore such conduct cannot be subjected
to moral approval or disapproval. In fact, there is a clear
distinction in Mill between moral approval/disapproval and
non-moral approval/disapproval. This can be seen in the
following passage: "The likings and dislikings of society,
or of some powerful portion of it, are thus the main thing
which has practically determined the rules laid down for
general observance, under the penalties of law or opinion.
And in general, those who have been in advance of society in
thought and feeling....have occupied themselves rather in
inquiring what things society ought to like or dislike, than
in questioning whether its likings or dislikings should be a
law to individuals." 39

It is clear here that there is a distinction between
what society simply likes or dislikes and what the society ought to like or dislike. But, unfortunately, what a powerful section of society likes or dislikes is made into law i.e. into what everyone ought to like or dislike. But this should not happen. If we do not like some activity which is purely self-regarding, then we must try to advise, instruct or persuade the individual to desist from such activity, rather than brutally interfering with it by bringing that activity under an unjust law. Since certain self-regarding activities cannot be interfered with at all, resorting to advice, instruction etc. has to be advocated. These are also modes of expressing our opinions. And as modes, they could have objectionable forms although their content cannot be objectionable. Persuading or advising as such cannot be objectionable in itself; what could be objectionable is the manner or mode of persuading or advising. The mode of advocacy may sometimes be "objectionable," i.e. morally impermissible.

Advising and instruction may result in "inconveniences" i.e. hurt to others, but it is permissible to be engaged in them as long as we are engaging in them in an unobjectionable manner. Hence it is impermissible to interfere with such activities.

But the scope of the Principle of Interference (PI-1) requires widening when we examine the passages such as these quoted below, numbered as Passage 1, 2 and so on.

**Passage 1:** "That principle i.e. the Principle of Liberty, is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient
warrant." 41

**Passage 2:** "There are also many positive acts for the benefit of others, which he may be rightfully compelled to perform; such as to give evidence in a court of justice; to bear his fair share in the common defence, or in any other joint work necessary to the interest of the society of which he enjoys the protection; and to perform certain acts of individual beneficence, such as saving a fellow creature's life, or interposing to protect the defenceless against ill-usage, things which whenever it is obviously a man's duty to do, he may rightfully be made responsible to society for not doing." 42

**Passage 3:** "...Everyone who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest. This conduct consists, first, in not injuring the interests of one another; or rather certain interests, which either by express legal provision, or by tacit understanding, ought to be considered as rights; and secondly, in each person's bearing his share (to be fixed on some equitable principle) of the labours and sacrifices incurred for defending the society or its members from injury and molestation. These conditions society is justified in enforcing, at all costs to those who endeavor to withhold fulfilment." 43

In the passage above Mill implies that it may be permissible to prohibit (i.e. interfere with) any conduct which "fails to prevent harm to others," i.e. to their common permanent interests or consistent interests. Such conduct will be other-regarding conduct which is harmful to others' interests as well as conduct risking such harm. But there can also be conduct which (a) neither harms others' interests, nor (b) risks harm to others' interests, but still (c) fails to prevent harm or risk of harm to those
interests. It must be permissible to interfere with such action because it fails to prevent harm or risk of harm to others' interests. But PI-1 as formulated earlier does not recognize the possibility of existence of such activities. Therefore PI-1, as it stands, does not enable us to interfere with activities that fail to prevent harm or risk of harm. Let us now recognize this omission and amend our PI-1 as follows:

PI-2: It may be permissible to interfere with (a) other-regarding conduct which is harmful to the common permanent or the consistent interests of others, (b) conduct which risks harm to these interests, and (c) conduct which fails to prevent harm or risk of harm to these interests, excluding (a) and (b) above.

In passages 2 and 3 above, Mill gives examples of activities which may be interfered with. Some of them fall into category (b) and some into category (c) of PI-2 as amended above. For example, a drowning man is already in danger, and if we fail to take action to save him, such failure compounds the risk the man is already subjected to. But failure to give evidence in a court or failure to share in the common defence are also failures of action, but they are not necessarily omissions dangerous to others. Even though they are not dangerous, Mill appears to say in passage 3 that "society is justified in enforcing" such actions on men. But why? We cannot say that by failing to give evidence in a court or by failing to do compulsory service in the army, we are indirectly harming the interests of others. PNI-1 permits purely self-regarding actions, and such action, by definition, may indirectly harm others' interests. Only if a self-regarding activity directly harms others' interests, it is fit to be interfered with. We cannot also argue that such conduct indirectly risks harm to others' interests. When indirect harm itself is allowed, the mere risk of indirect harm must definitely be allowed.
Then, where is the justification for interference?

If we examine passage 2 more carefully, we get an answer. Here, Mill speaks of "things, which whenever it is obviously a man's duty to do, he may rightfully be made responsible to society for not doing" (Emphasis added). These are obviously cases of failing to take "positive" action or cases of omissions pertaining to a duty. Therefore, they are not the same cases where one just fails to do something. "Failing to do something" and "failing to do something which is a duty" are very different. So, Mill clearly implies here that when I fail to do something which is my duty, I may be forced to do it. Mill does not mean that we must give evidence in a court whenever we are asked to do so; he means that only if we have a duty involving the giving of evidence in a court, then we can be made responsible to society for failing to perform that duty. The same applies to joining in the common defence. I can be punished for the non-performance of an activity only if the performance of that activity happens to be a duty. This is what is meant by Mill when he says that a person may cause evil to others not only by his action, but by his inactions also.

This means that according to Mill there are duties which require us to take action and duties which require us to refrain from certain activities. This is supported by passage 3 where Mill says that we should not injure certain interests of others and that we should not refrain from performing certain duties. But this passage, or passage 2, contains nothing about conduct which fails to prevent harm or risk of harm, i.e. they do not lend support for clause (c) of PI-2 above. But there is another well-known passage which supports the inclusion of some third category of activities under the Principle of Interference and the passage is as follows:
"...There are many acts which, being directly injurious only to the agents themselves, ought not to be legally interdicted, but which, if done publicly, are a violation of good manners, and thus coming within the category of offenses against others, may rightly be prohibited. Of this kind are offenses against decency; on which it is unnecessary to dwell, the rather as they are only connected indirectly with our subject, the objection to publicity being equally strong in the case of many actions not in themselves condemnable, nor supposed to be so." 44

Here Mill appears to be saying that there are some purely self-regarding activities which neither cause harm nor risk harm to others; but it is permissible to interfere with them. Such purely self-regarding activities cannot be accommodated in the category (a) of PI-1 because this category involves only other-regarding conduct; they cannot also be accommodated in the category (b) of PI-1 because such activities neither cause harm nor risk any harm to others' interests. Therefore we will be required to revise PI-1 to include a third category of activities which are purely self-regarding, but still may be interfered with. We can see that is not easy since all purely self-regarding activities are protected by the Principle of Noninterference and the Principle of Interference cannot itself interfere with the scope of the Principle of Noninterference. To see whether there is any way out of this difficulty, we have to pay close attention to this passage where Mill talks about prohibiting activities that violate the norms of "good manners."

In the above passage Mill is saying that activities which violate "good manners...may rightly be prohibited." These actions may not cause harm or risk harm to others; they may also "not [be] in themselves condemnable." They are activities that offend others only when done publicly.
"Offences against decency" (like walking nude in a public place) come under this category. Mill of course does not want to permit interference with all and every activity that offends others. For example, the advocacy of atheism certainly offends the believers in God, but we cannot interfere with the advocacy of atheism on that ground. Only certain modes of advocating atheism, like calling the gods thieves and adulterers who elope with the wives of other gods and men, may be objectionable.

For Mill, offensiveness in itself is not a good reason for interference. Even public offensiveness cannot always be a good reason for interference. Public advocacy of atheism is certainly offensive to the believers in God. But it is also possible for the believers to avoid offense by not listening to the atheists or by not reading the works of atheism. Therefore, we cannot say that public advocacy of atheism is a violation of "good manners." Those known for their "good manners" usually manage or sincerely try to avoid situations that give offense. Therefore, whenever there is a genuine "violation of good manners," probably there is a situation where offense cannot be avoided in any way. For example, if an atheist chases a believer who is running away from him, catches him and shouts abuses of gods into his ears, it is a very clear case of "violation of good manners." Similarly, drunkenness in a public place, playing music very loudly and such other activities may cause unavoidable offense. Such activities can of course be more effectively checked socially rather than legally. But the important point is that activities which cause unavoidable offense to others need to be interfered with even if those activities are purely self-regarding in nature.

Therefore, both PI-1 and PNI-1 require to be modified suitably as PI-2 and PNI-1 do not take care of the
situations involving "violation of good manners." If we modify them, we will now have our third version of the Principle of Interference and a second version of the Principle of Noninterference. They will be as follows:
PI-3: It may be permissible to interfere with (a) other-regarding conduct which is harmful to the common permanent interests or the consistent interests of others, (b) conduct which risks harm to the common permanent interests or the consistent interests of others, and (c) actions which cause unavoidable offense to others.
PNI-2: It is impermissible to interfere with (a) purely self-regarding conduct, (b) conduct which (voluntarily) risks harm only to the consistent interests of the agent, and (c) actions which cause avoidable offense to others.

Mill is not at all objecting to offensive conduct as such, but only to the unavoidability of offensive conduct. That is, we cannot offend a person against his will, as the atheist does when he catches the believer and and shouts into his ears. Therefore, it is not the fact of being offended that matters to Mill. What matters really is going against another's consent. Therefore PI-3 and PNI-2 have to be further modified to include the vital point of offending someone against his will or consent. Such offense may directly affect people (i.e. may cause pain to them), but without affecting any of their interests. Mill wants to permit interference with all intrusive activity whether it causes pain or even pleasure. He says, "The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people." 48 Therefore, Mill would readily agree if we modified PI-1 and PNI-1 to be finally read this way:
PI-4: It may be permissible to interfere with (a) other-regarding conduct which is harmful to the common
permanent or consistent interests of others, (b) conduct which risks harm to the common permanent or consistent interests of others, and (c) conduct which directly affects others against their consent.

PNI-3: It is impermissible to interfere with (a) purely self-regarding conduct, (b) conduct which (voluntarily) risks harm only to the consistent interests of the agent, and (c) conduct which directly affects only oneself with his consent.

This way of construing Mill's Principle of Liberty is fully supported by the text of his work, but it is open to two very powerful objections. First, suppose that we accept P1-3 and PNI-2, or P1-4 and PNI-3 (i.e. the revision we have made just now, and the previous set of revisions immediately before that). In both cases, such acceptance will be inconsistent with Mill's claim contained in the beginning of his *On Liberty*, that "the sole end" that demands any interference is the "prevention of harm to others." Therefore, if we accept the third category of activities in P1-3, P1-4, PNI-2 or PNI-3, it goes against the "sole end" which Mill is speaking of here. That is because purely self-regarding activities (even when they violate "good manners") do not either directly harm or risk harm to others. Since Mill says that all interference is to be done with "the sole end" of "preventing harm to others," there will be no justification whatever to interfere with purely self-regarding activities.

The second objection could be this. The Principle of Liberty is a moral principle. Any system of morals is a set of rules that are concerned with the common permanent or consistent interests of others. But the third category of activities has nothing to do with these interests. If we extend the range of moral rules into regions where no morally relevant interests (like common or consistent
interests) are involved as in the case of the third category of activities, such extension corrupts the nature of moral rules as a whole. That is, Mill would not be able to argue for the Principle of Liberty on moral grounds alone. If the Principle of Liberty is a genuinely moral principle, then our extensions of Pl and PNI to include a third category of activities will be totally unjustified. That is, our revision of these Principles to accommodate interference on grounds of "violation of good manners" has to be rejected. Thus, it appears that if we should preserve the purity of the moral character of the Principle of Liberty, then we must ignore Mill's very famous passage concerning what is to be done in the case of "violation of good manners." On the other hand, if we take the famous passage on "violation of good manners" seriously enough, then we should no more pretend that we can argue for the Principle of Liberty on moral grounds alone.

In brief, the problem appears to be that the passage concerning violation of good manners conflicts with Mill's basic stand that interference is permissible only to prevent harm to others. But it is possible to reconcile these two elements in Mill's thought. Mill thinks that moral principles pertain only to certain interests, i.e. common permanent and consistent interests. Therefore, if we can show that a person may have a consistent interest in consenting to certain types of conduct, such conduct can be brought within the scope of the Principle of Interference. That is, the conduct must be limited to activities that directly affect only oneself. Conduct directly affecting the individual's common and consistent interests must be excluded. When a person consents to such conduct, his common permanent interests are not directly affected. His consistent interests are also not directly affected. Therefore an individual can be said to have a consistent interest in consenting to such conduct.
If so, it becomes permissible to interfere with the "violation of good manners." That is because the "violation of good manners" does not directly affect the common or consistent interests of the man who is behaving badly; but it may harm another's consistent interest in consenting to such conduct whenever such conduct directly affects him. On the other hand, if a person has a consistent interest in consenting to some conduct which directly affects him, it is not permissible to interfere with such conduct. It is not permissible, because such conduct does not directly affect the person's common permanent or consistent interests. In this way we can remove the pressure on Pl-1 and PNI-1 to expand its scope. We can also resist the temptation of incorporating some kind of an "offense" principle into Mill's Principle of Liberty just in order to take care of violation of good manners.

But there is also another important passage where Mill appears to face the problem of interference with some purely self-regarding conduct. Signing contracts is purely voluntary and hence it is a purely self-regarding activity. Therefore, a person may voluntarily sign a contract to be the slave of another person. Can we interfere with the signing of this contract which is a purely self-regarding activity? If we cannot, then the enforcing of this contract by the slave-holder on the person who agreed to be his slave will also be an activity with which we cannot interfere. How can the Principle of Liberty allow such brazen violation of personal liberties that are permitted by slavery contracts? Moreover, Mill complicates the matter by suggesting that any slavery contract is simply not enforceable even when a person had voluntarily signed such a contract. Since this is a matter of basic importance concerning liberty, it is necessary to look at the passage of Mill in some length and also analyse it at some length.
The long, powerful passage is as follows:

"It was pointed out in an early part of this Essay, that the liberty of the individual, in things wherein the individual is alone concerned, implies a corresponding liberty in any number of individuals to regulate by mutual agreement such things as regard them jointly, and regard no persons but themselves. This question presents no difficulty, so long as the will of all the persons implicated remains unaltered; but since that will may change, it is often necessary, even in things in which they alone are concerned, that they should enter into engagements with one another; and when they do, it is fit, as a general rule, that those engagements should be kept. Yet, in the laws, probably, of every country, this general rule has some exceptions. Not only persons are not held to engagements which violate the rights of third parties, but it is sometimes considered a sufficient reason for releasing them from an engagement, that it is injurious to themselves. In this and most other civilized countries, for example, an engagement by which a person should sell himself, or allow himself to be sold, as a slave, would be null and void; neither enforced by law nor by opinion. The ground for thus limiting his power of voluntarily disposing of his own lot in life, is apparent, and is very clearly seen in this extreme case. The reason for not interfering, unless for the sake of others, with a person's voluntary acts, is consideration for his liberty. His voluntary choice is evidence that what he so chooses is desirable, or at least endurable to him, and his good is on the whole best provided for by allowing him to take his own means of pursuing it. But by selling for a slave, he abdicates his liberty; he foregoes any future use of it beyond that single act. He therefore defeats, in his own case, the very purpose which is the justification of allowing him to dispose of himself. He is no longer free; but is thenceforth in a position which has no longer the presumption in its favour, that would be
afforded by his voluntarily remaining in it. The principle of freedom cannot require that he should be free not to be free. It is not freedom, to be allowed to alienate his freedom. These reasons, the force of which is so conspicuous in this peculiar case, are evidently of far wider application; yet a limit is everywhere set to them by the necessities of life, which continually require, not indeed that we should resign our freedom, but we should consent to this and the other limitation of it. The principle, however, which demands uncontrolled freedom of action in all that concerns only the agents themselves, requires that those who have become bound to one another, in things which concern no third party, should be able to release one another from the engagement: and even without such voluntary release there are perhaps no contracts or engagements, except those that relate to money or or money's worth, of which one can venture to say that there ought to be no liberty whatever of retraction." 47

The traditional and common interpretation of this passage is that Mill is backing out of his Principle of Noninterference here. It is argued that when Mill says the slavery agreement should not be allowed, he is advocating that we must interfere with a purely self-regarding activity like entering into a slavery contract. This interpretation assumes that Mill regards the selling of oneself into slavery as morally impermissible, even though the act is voluntary and affects the interests of the seller alone. In short, Mill is held guilty of holding the view that interference in a purely self-regarding activity is morally permissible. This is Feinberg's interpretation. Feinberg says that Mill is inconsistent in opposing a person selling himself into slavery while upholding that person's all other (purely self-regarding) actions. Feinberg says, "Mill's earlier argument...implies that a man should be permitted to mutilate his body, take harmful drugs, or commit suicide,
provided only that his decision to do these things is voluntary and no other person will be directly and seriously harmed. But voluntarily acceding to slavery is too much for Mill to stomach."

This interpretation is mistaken and the charge of inconsistency brought against Mill is wrong. Mill's opposition to a person selling himself into slavery is consistent with his general position that it is impermissible to interfere with any purely self-regarding activity. We devote the rest of this section to examine the most important question that is possible to be raised about the Principle of Liberty: the question whether the Principle of Liberty can negate itself, whether a man's freedom includes "the freedom not to be free" (i.e. to be a slave).

Let us suppose that two persons make, between themselves, an elaborate agreement of slavery. A agrees to be a slave of B and do anything wanted by him from an agreed date for an agreed one-time payment of a huge sum. This agreement is absolutely voluntary and is also made when both the parties to agreement are in full possession of their senses and wits. What is the status of this agreement or contract vis-a-vis Mill's theory of Liberty and also what he is saying in the long passage quoted above?

Before we go into the above question, certain important points must be noted. First, we must distinguish between what Mill himself treats as distinct viz. the act of making or executing a contract of slavery, and the act of enforcing this contract. Now, the act of making a slavery contract is undoubtedly a purely self-regarding activity. But, is the act of enforcing that contract also an equally self-regarding activity? Surely, it cannot count as a purely self-regarding act. The question of enforcing a contract arises only when one of the parties to the contract
is not willing to abide by it or refuses to act according to
the terms of the contract. Such enforcement necessarily
involves resorting to some action in accordance with some
justified moral rules. If there is no justified moral rule
requiring contracts to be honoured, no contract can be
validly enforced. But we must also note that any action in
accordance with any moral rule will be necessarily oth-
Regarding, because there are moral rules only in the case of
other-regarding conduct. In Mill's conception, morality
concerns only common permanent interests or the consistent
interests of others. Hence any action affecting such
interests will be other-regarding. Therefore, although the
act of making a slavery contract may be purely self-
regarding, the act of enforcing that contract will be other-
regarding.

Second, we must note that in the passage we have
quoted, Mill makes very clear the main purpose of entering
into contracts. This purpose is to protect both the parties
from the problems that may follow if one of the parties to
the contract changes his mind and refuses to act as agreed
to earlier. The assumption behind entering into a contract
is the fear on the part of each party that one party may
change his mind suddenly and thus cause harm or
inconvenience to the other party. But the more important
assumption is that the contract is enforceable. If there is
no such assumption on the part of either or both parties, no
contracts will be made. No one wishes to enter into a
contract which he clearly knows to be unenforceable, parti-
cularly when he fears that the other party may not wish to
abide by the contract.

Third, we must find it worth emphasising that Mill
notices certain situations in which no problems are
generated by contracts in respect of the Principle of Non-
interference. One such situation is where "the will of all
persons' implicated remains unaltered." When neither party backs out of the contract, there is no ground for interference. The second situation is where both parties to the contract change their minds and agree not to abide by the terms of the contract. Mill refers to this situation as "voluntary release" (from a contract). This means that where any contract is honoured or terminated by mutual consent, there is no ground for interference. But there is also a third situation where the Principle of Noninterference operates which Mill does not mention in the above passage. That is the situation when one of the parties refuses to perform (as per the terms of the contract), but the other party suffers no adverse effects because of the failure to perform by the other party. In this situation a person has no reason to demand enforcement of the contract because he loses nothing by the non-enforcement of the contract. It is a situation where no adverse consequences happen to the willing party to the contract because of the refusal to perform by the unwilling party.

Therefore, problems would arise for Mill's Principle of Noninterference only in a situation where the refusal to perform by the unwilling party has adverse consequences for the other party. Therefore, in the case of the slavery contract between A and B, if A refuses to honour the contract and work as a slave of B, and this refusal results in adverse consequences to be suffered by B, then it would become a case where the Principle of Noninterference cannot be invoked. We must note that a slavery contract may be enforced on a person who sells himself as a slave much against his will. Likewise, a slavery contract may also be enforced on the buyer against his will. Out of these two possible situations, Mill considers only the first in his passage on slavery.

In the same passage Mill says that it is within the
power of an individual to voluntarily limit the amount or type of freedom that he wants. He speaks of "the necessities of life" as a reason for voluntarily limiting one's freedom. For example, a company may require that its employees should not drink or smoke. Any person who wants to be employed by that company has to voluntarily restrict his personal freedom by agreeing not to drink or smoke. Since smoking or drinking is a purely self-regarding activity, it is fully within the power of individuals either to smoke or not to smoke, and if one badly needs a job and if only the above company has jobs, "the necessities of life" will compel an individual to voluntarily limit his personal liberty in order to make a living. If a person thinks that the restriction on smoking and drinking is an interference with his personal liberty, then he is at liberty not to seek or accept a job in that company.

In Mill's view, when one chooses to limit his purely self-regarding activities (as in the case of a person who accepts a job in the company mentioned above), there arises a presumption that "what he so chooses is desirable, or at least endurable, to him." But a person may not limit his freedom this way, but choose to "resign" that freedom totally, as A does when he enters into a slavery contract with B. But in such a case, the above presumption also disappears completely. In the sort of slavery contract Mill has in mind, an individual does not surrender just that part of his freedom which is not interferable by others; he surrenders his whole freedom. That is, when A sells himself into the slavery of B, not only he allows B to interfere with his own purely self-regarding activities, but he also allows B to interfere with all his activities. To put it more clearly, the slavery contract not only entitles B to interfere with the individual consistent interests of A, but also entitles him to interfere with the common permanent interests of A. If we agree that there is nothing wrong
with such a slavery contract, we have to agree that there is nothing wrong if B just kills off his slave A. There will also be nothing wrong if B just goes on torturing A for no reason at all. It will also be not wrong if B asks A to kill C and A does it, because A will be doing the killing as per the contractual obligation. Neither A himself nor any other person on his behalf can legitimately object to the torturing of A by B or interfere with it, because we have initially agreed that there is nothing wrong with the slavery contract.

In other words, A who sells his freedom to B, would be required to resign that part of his liberty which consists in others' noninterference with his purely self-regarding activities. That is, if B asks him not to smoke, he should not smoke. Not only this, A would also be required to resign even that part of liberty which would prohibit others' interference with his (morally required) other-regarding activities as well. That all the interests of A now stand surrendered to B of course goes without question.

This is surely a very ugly situation. But can we defend A regarding his entering into a slavery contract with B on the assumption that he did so involuntarily and not knowing the full consequences of his action? Is he not like a man who is about to cross a dangerous bridge which may collapse any moment? We ought to warn such a person and prohibit him from crossing the bridge. Similarly, should we prohibit persons from entering into slavery contracts? But Mill does not say in the slavery passage that people ought to be prohibited from voluntarily entering into, and voluntarily acting according to, such slavery contracts. Since entering into any contract and acting according to it is purely voluntary and is a purely self-regarding activity, it is not permissible to interfere with anyone entering into any contract. Actually, Mill upholds such freedom in that
passage. Therefore, the rationality or defensibility of entering into any contract (including slavery contracts) cannot be questioned according to Mill. What is questionable is the rationality or defensibility of enforcing such a slavery contract. In the slavery passage Mill's argument is precisely that a slavery contract cannot be enforced, although it is not at all impermissible to enter into such a contract.

To understand this point properly we need to understand the subtle difference between permitting self-regarding activities and enforcing self-regarding activities. For this purpose let us compare the case of A who enters into a dangerous slavery contract with B, with the case of the man who is about to cross a dangerous bridge. Both of them are endangering their lives by their action. The danger to their lives is similar, but what we are supposed to do to prevent the danger to them is quite dissimilar. In the case of the man, we should not permit him to cross the bridge; but in the case of A we should not compel him to abide by the slavery contract. This difference is indeed very important. In the case of the man (wishing to cross the bridge) we do not permit a self-regarding activity (which directly affects the interests of only that man and no one else). But in the case of A we do not compel him to perform a self-regarding activity (like acting according to the terms of his contract which directly affects his own interests and of no one else). Therefore, the point under question in the case of the man is whether it is rational to permit him to perform a self-regarding activity (like crossing the bridge). The point under question in the case of A is whether it is rational to compel him to perform a self-regarding activity (like acting according to the terms of the slavery contract). If we keep this very important distinction in mind, it will be possible to follow correctly Mill's thinking as well as arguments contained in
the slavery passage. Only then it will also be possible to show why Feinberg's charges against Mill are not correct.

There is an unstated assumption in Mill's above passage on slavery. The assumption is that when A refuses to perform any activity as per the slavery contract, his activity of refusing is a purely self-regarding activity. That is, if A's assent to the contract is fully voluntary and if it is also a purely self-regarding activity, then his later refusal to abide by the contract would also be an equally self-regarding activity. In other words, agreeing to perform a fully self-regarding activity is itself a purely self-regarding activity. From this it follows that not to agree (i.e. to refuse) to perform a purely self-regarding activity is also a purely self-regarding activity. Any purely self-regarding activity concerns only the agent's own interests and not of others. Therefore, we have to grant a presumption in favour of A that A's refusal to perform best promotes his own good. When it is so, we can compel or force A to perform according to the slavery contract only by showing that the honouring of the contract is for his own good.

Of course, a contract is entered into by two parties on the presumption that it is enforceable. In the case A and B it is ordinarily only B who will be required to enforce the contract in case A is unwilling to abide by it. Therefore, as we observed earlier, if it is the enforcement of the slavery contract that is under question, it is the responsibility of B to show that the contract is really enforceable. To show that the contract is really enforceable, B must show that the presumption in favour of A (which was referred to a little earlier) does not hold. That is, he must show that the enforcement of the contract on A is for the good of A himself. But this is something we know it is not easy to do because the best judge of what is
good for A is usually A himself when A is a person capable of voluntary decisions and actions.

Since B cannot easily establish that the enforcement is for the good of A, he may resort to arguing that its non-enforcement is bad for himself, i.e. B. Suppose B argues that the refusal of A to be his slave has upset all his plans and has caused great inconvenience to himself. It may also be actually so. But this entitles him only to seek compensation for the inconveniences and losses caused by A's refusal to perform. It does not entitle him to force A to be his slave. It will of course be proper to compel A to compensate for the losses suffered by B on account of the breach of the contract, but it will not be proper to compel A to act according to the contract, if he is not willing to do so. If A fails to suitably compensate B for his losses as determined by the law applicable to contracts, A can also be punished (i.e. he may be sent to jail), but still he cannot be compelled to become a slave of B as per his original contract.

Suppose A returns all the money he had received from B for agreeing to become his slave, even pays interest on that money and also pays up reasonable compensation for not honouring the slavery contract. This will of course leave B unhappy and disappointed. But this disappointment is not sufficient ground to rebut the presumption in favour of A and to ask for the enforcement of the contract. That is, B cannot argue by saying, "You see, A has caused great unhappiness and disappointment to me by not honouring the contract. Therefore, he must be compelled to become my slave." B cannot also argue, saying, "I do not want my money back; I do not also want interest on it or any compensation for the breach of contract. I simply demand that A become my slave as agreed to earlier." It is easy to see that such arguments would be totally unacceptable.
The point now clearly emerges: if A thinks that it is not good for him to become the slave of B as agreed to by him earlier, and therefore refuses to perform according to the terms of the contract, there is simply no way to demonstrate that it is really good for A to become a slave of B and thus compel A to be the slave of B. In short, the presumption in favour of A can never be overcome by B.

What is the reason for this? Mill gives the reason, though not in a very straightforward way. He says that in the case of a man who agrees to be a slave "the principle of freedom cannot require that he should be free not to be free." The Principle of Freedom, if it is a meaningful Principle, must provide for the freedom of the individual. This freedom is really also the freedom to be free. Therefore, if it is held that it is proper to enforce the slavery contract on A, we will have to hold that it is proper to use the Principle of Freedom to deny all freedom to A. But using the Principle of Freedom itself to deny all freedom is inconsistent. Therefore such a use of the Principle of Liberty cannot be upheld as proper and legitimate.

The Principle of Noninterference provides protection against such a use of the Principle of Freedom to deny all freedom. That is, the Principle of Noninterference expresses a prohibition against interference with the purely self-regarding activities of individuals. It functions to discourage the non-participants in purely self-regarding activities from interfering with those who do participate in such purely self-regarding activities. The Principle does not discourage any particular self-regarding activity; on the other hand it serves to protect all kinds of purely self-regarding activities. That is why it protects the refusal of A to perform according to the slavery agreement, which refusal is a purely self-regarding activity as shown
Now we come to the most crucial point. If B wants to enforce the slavery contract on A, there is only one way he can do it: he has to show that A's refusal to perform according to the contract is not really a self-regarding activity (though it very much appears to be), but is really a kind of interference with some purely self-regarding activity of his own, i.e., B's. If A's refusal is really a kind of interference in the purely self-regarding activity of B, then A can be compelled not to so interfere, i.e. he can be forced to honour the contract. B can try to argue that A's refusal to perform is not a purely self-regarding activity in the following way: "After A signed the contract to be my slave, that very moment he has mortgaged all his freedom to me. Anyone must be free in order to engage in a self-regarding activity, but A is no longer free. Therefore, A who has agreed to be my slave and has signed the contract also, has no more freedom of any kind. Since he is not a free agent any more, his refusal to honour the contract cannot be counted as a purely self-regarding activity. Therefore, I demand that A be compelled to become my slave." Not only this, he may do something worse. He can quote the following passage from Mill in support of his above argument, because Mill says: "But by selling himself for a slave, he abdicates his liberty; he foregoes any future use of it beyond that single act. He therefore defeats, in his own case, the very purpose which is the justification of allowing him to dispose of himself. He is no longer free...." So

The argument based on this passage could be that since A has sold himself into slavery, "he is no longer free" and therefore no longer capable of voluntary action, and therefore no longer capable of engaging in any purely self-regarding activity, including the activity of refusing to..."
perform as per the contract. Surely, this argument depends very much upon the phrase "he is no longer free." This phrase can be understood in two different ways, but neither of them is feasible or proper.

The first way of understanding the phrase is literal. That is, after entering into the slavery contract, A cannot perform any action which is capable of being described as a "voluntary action" because "he is not free." This is quite false because he can sit, eat and sleep at times although this may be interfered with by his master. This very interference goes to show that A's actions were voluntary, which the master tried to curb.

The second way of understanding the phrase is to suggest that the contract is enforceable against A and therefore he is no longer free to refuse to perform. We have already noticed that when two persons enter into a contract, they assume that it is enforceable. But a contract does not become enforceable just because it has been assumed to be enforceable. It is perfectly possible to assume an unenforceable contract to be enforceable, and many people assume that way in real life and also pay dearly sometimes for making this assumption. Therefore, if we say that A is "no longer free" after entering into the slavery contract, it cannot mean either that he is incapable of voluntary action or that the contract is enforceable on him.

Therefore, A's refusal is a purely self-regarding activity and the presumption that he can refuse for his own good cannot be rejected. At best, B can claim compensation from A but not any specific performance from A as per their contract. Since A's refusal is a purely self-regarding activity it follows from the Principle of Noninterference that his refusal cannot be subjected to any interference. Actually, any activity of forcing A to perform according
to the contract amounts to interfering in the purely self-regarding activities of A! Therefore, Mill's Principles of Interference and Noninterference cannot be used by B to enforce the slavery contract on A. In reality, the slavery contract is an *illusory* contract because it binds neither A to conform, nor enables B to enforce. The slavery contract is one that need not be honoured; it is also one whose honouring cannot be enforced. It is a contract that is illusory or "null and void" as Mill himself forcefully describes it in the passage on slavery.

So far we have examined several passages which seemed to require us to revise PI-1 and PNI-1, but we have seen in detail that the problems presented by those passages are not serious. Therefore, the revisions we made are not strictly necessary. But there are several passages in On Liberty which do necessitate some modification of PI-1. These are passages that concern the scope of the Principle of Interference. For instance, Mill says: "......This doctrine is meant to apply only to human beings in the maturity of their faculties. We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood. Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury. For the same reason, we may leave out consideration of those backward states of society in which the race itself may be considered as in its nonage." 54

Mill clearly says here that it may be permissible to interfere with the actions of those who are not capable of voluntary action like children, invalids or madmen. In all such cases interference is permissible provided it benefits the common or consistent interests of those persons. But in none of these cases the interference would constitute a violation of the Principle of Noninterference. It is
because we are interfering in the actions of children etc. only to affect, i.e. to benefit, their common or consistent interests alone. We are not interfering in their purely self-regarding conduct so as to attract the provisions of the Principle of Noninterference. Therefore, we must modify PI-1 in such a way that we can interfere with conduct which could have been voluntary but which is not in fact voluntary. That is, we need to include in PI-1 all activities which would be protected under PNI-1 if those activities were to be voluntary, i.e. if the agent were to be capable of voluntary conduct.

Since children etc. are not capable of well-informed and voluntary self-regarding actions, they will lose the protection of the Principle of Noninterference which protects such self-regarding actions alone. Since their self-regarding activity is not protected, the related interests of such activities are also unprotected. Since they cannot protect their own interests, someone must interfere in order to protect those interests. But the Principle of Interference alone decides what could be interfered with. Therefore this Principle of Interference must now be modified. This modification must be limited to bringing into its scope only those activities which would have been normally protected by the Principle of Noninterference, if the persons were really capable of looking after their own interests.

Therefore, our final version of the Principle of Interference would be like this:

**PRINCIPLE OF INTERFERENCE**

it may be permissible to interfere with (a) other-regarding conduct which is harmful to the common permanent or the consistent interests of others, (b) conduct which risks harm to the common permanent interests or the consistent interests of others, or
(c) conduct which would be either purely self-regarding or the voluntary assumption of a risk which could harm only the agent’s consistent interests, were the agent capable of voluntary conduct.

But PNI-1 does not require any modification. It will remain

**PRINCIPLE OF NONINTERFERENCE**

It is impermissible to interfere with (a) purely self-regarding conduct, and (b) conduct which (voluntarily) risks harm only to the consistent interests of the agent.

These two Principles together constitute the Principle of Liberty. Only the types of actions covered by the above two Principles fall within the scope of human liberty. These Principles describe only the *general* features of all activities with which interference or noninterference is permissible. The *specific* activities with which it is permissible or impermissible to interfere or not interfere (like thought, discussion etc) have also been elaborately discussed by Mill. But these do not come within the province of the *concept* of liberty; they all fall within the province of the *objects* of liberty. The discussion of what kinds of things ought to be freely allowed is as important as the discussion of what freedom or liberty itself is. But their discussion falls outside the scope of this little piece of work

Mill’s greatness lies in his efforts of deeply investigating into both these important areas.