

John Stuart Mill on Rights

Please read the following selection from John Stuart Mill's *Utilitarianism*. After reading the selection, answer the questions that follow.

23. To recapitulate: the idea of justice supposes two things; a rule of conduct, and a sentiment which sanctions the rule. The first must be supposed common to all mankind, and intended for their good. The other (the sentiment) is a desire that punishment may be suffered by those who infringe the rule. There is involved, in addition, the conception of some definite person who suffers by the infringement; whose rights (to use the expression appropriated to the case) are violated by it. And the sentiment of justice appears to me to be, the animal desire to repel or retaliate a hurt or damage to oneself, or to those with whom one sympathizes, widened so as to include all persons, by the human capacity of enlarged sympathy, and the human conception of intelligent self-interest. From the latter elements, the feeling derives its morality; from the former, its peculiar impressiveness, and energy of self-assertion.

24. 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, 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. An examination of our own minds, I think, will show, that these two things include all that we mean when we speak of violation of a right. When we call anything a person's right, we mean that he has a valid claim on society to protect him in the possession of it, either by the force of law, or by that of education and opinion. If he has what we consider a sufficient claim, on whatever account, to have something guaranteed to him by society, we say that he has a right to it. If we desire to prove that anything does not belong to him by right, we think this done as soon as it is admitted that society ought not to take measures for securing it to him, but should leave it to chance, or to his own exertions. Thus, a person is said to have a right to what he can earn in fair professional competition; because society ought not to allow any other person to hinder him from endeavouring to earn in that manner as much as he can. But he has not a right to three hundred a-year, though he may happen to be earning it; because society is not called on to provide that he shall earn that sum. On the contrary, if he owns ten thousand pounds three per cent stock, he *has* a right to three hundred a-year; because society has come under an obligation to provide him with an income of that amount.

25. To have a right, then, is, I conceive, to have something which society ought to defend me in the possession of. If the objector goes on to ask why it ought, I can give him no other reason than general utility. If that expression does not seem to convey a sufficient feeling of the strength of the obligation, nor to account for the peculiar energy of the feeling, it is because there goes to the composition of the sentiment, not a rational only but also an animal element, the thirst for retaliation; and this thirst derives its intensity, as well as its moral justification, from the extraordinarily important and impressive kind of utility which is concerned. The interest

involved is that of security, to every one's feelings the most vital of all interests. Nearly all other earthly benefits are needed by one person, not needed by another; and many of them can, if necessary, be cheerfully foregone, or replaced by something else; but security no human being can possibly do without; on it we depend for all our immunity from evil, and for the whole value of all and every good, beyond the passing moment; since nothing but the gratification of the instant could be of any worth to us, if we could be deprived of everything the next instant by whoever was momentarily stronger than ourselves. Now this most indispensable of all necessities, after physical nutriment, cannot be had, unless the machinery for providing it is kept unintermittedly in active play. Our notion, therefore, of the claim we have on our fellow-creatures to join in making safe for us the very groundwork of our existence, gathers feelings round it so much more intense than those concerned in any of the more common cases of utility, that the difference in degree (as is often the case in psychology) becomes a real difference in kind. The claim assumes that character of absoluteness, that apparent infinity, and incommensurability with all other considerations, which constitute the distinction between the feeling of right and wrong and that of ordinary expediency and in expediency. The feelings concerned are so powerful, and we count so positively on finding a responsive feeling in others (all being alike interested), that *ought* and *should* grow into *must*, and recognized indispensability becomes a moral necessity; analogous to physical, and often not inferior to it in binding force.

—Mill, *Utilitarianism*

1. What two things does Mill think go into the idea of justice? Does it seem odd to separate these aspects? Do you agree with him that they are separate?
2. According to Mill, what does it mean to have a right?
3. What is society obligated to do if I have a right?
4. How does one justify a right according to Mill? What would one have to ultimately appeal to determine whether something is a right?
5. Does Mill think rights are absolute, or that we only feel that they should be?