J. S. Mill, *Of the Liberty of Thought and Discussion*

**Summary**

- Mill’s conclusion is that it is not permissible to prohibit the expression of *any* opinion, however marginal, however pernicious. Mill’s go-to examples — the opinions which were at his time considered so marginal and so pernicious that they could rightly be prohibited — are the opinions that there is no God and that there is no afterlife. In western societies in the present day and age, the kinds of opinions which are likely to be considered so marginal and so pernicious that they can rightly be prohibited are the historical opinion that the Holocaust never occurred or resulted in the death of far fewer than 6 million Jews (Holocaust denial) and the ethical opinion that non-whites do not have equal moral standing with whites (white supremacism). Since Mill wants to take on the hard cases, let’s think about Mill’s arguments with Holocaust denial and white supremacism in mind.

- Mill does not think that Holocaust denial or white supremacism are justly prohibited. Indeed, he writes that:
  
  “If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.”
  
  (p. 20)

- Mill begins by considering — **but not advancing** — the following line of argument:

  **P1** In the past, society has prohibited true opinions. They rejected those true opinions with the same conviction that we now reject Holocaust denial and white supremacism.

  **P2** We are no more infallible than past societies; and our favored opinions are every bit as historically contingent as theirs.

  **C** We should not prohibit Holocaust denial or white supremacism.

- Though he thinks that our own fallibility and historical contingency is an important part of the reason to not prohibit the expression of any opinion, Mill doesn’t think that this argument is valid. After all, it is also true that past governments have passed unjust laws, thinking that they were just. But that certainly doesn’t mean that current governments can’t pass the laws they think are just. While we should recognize that our judgment is fallible, this shouldn’t keep us from using our judgment.
Here is the argument that Mill accepts:

**P1** Humans are fallible enough, and their views are historically contingent enough, that they are only justified in believing that an opinion is false if they have seriously considered all the reasons which their fellow humans would offer in its support.

**C1** If society were to prohibit the expression of an opinion, this would remove its justification for believing that the opinion is false.

**P2** It is permissible for society to prohibit the expression of an opinion only if it is justified in believing that that opinion is false.

**C2** It is never permissible for society to prohibit the expression of an opinion.

- Mill considers someone who objects to **P2** on the grounds that what permits society to prohibit Holocaust denial is not that society is convinced of its falsehood, but rather that society is convinced of its perniciousness.
  
  - He responds that the argument establishes the impermissibility of outlawing the expression, not only of the opinion The Holocaust never happened, but also of the opinion Holocaust denial is not pernicious.
  
  - Perhaps, however, people should be free to dispute whether Holocaust denial is pernicious, even though they should not be free to dispute whether the Holocaust occurred.
    
    * His response: “If we would know whether or not it is desirable that a proposition should be believed, is it possible to exclude the consideration of whether or not it is true?” (p. 25.) To deny the potential disputant the ability to appeal to the Holocaust denier’s veracity is to deny them one of their potentially most powerful arguments.
    
    * Therefore, given **P1**, a law against Holocaust denial would undermine our justification for believing that Holocaust denial is pernicious. But society could only permissibly outlaw Holocaust denial if it was justified in believing that Holocaust denial is pernicious. So society can never permissibly outlaw Holocaust denial.

- Mill notes that all the same considerations which speak against legally prohibiting the expression of certain views also speak against socially stigmatizing the expression of those opinions. Social stigma can be just as effective at robbing humanity of reasons to hold unpopular opinions as legal prohibition.

  "...without the unpleasant process of fining or imprisoning anybody, it maintains all prevailing opinions outwardly undisturbed...A convenient plan for having peace in the intellectual world, and keeping all things going on therein very much as they do already. But the price paid for this sort of intellectual pacification is the sacrifice of the entire moral courage of the human mind.” (p. 35)
Mill then presents an argument meant to show that the defense of Holocaust denial and white supremacism have positive value and thus should be permitted, even granting that those views are false.

P1 In order to for society to know (and not merely truly believe) an opinion about morality, politics, history, etc, at least someone in society must be able to refute the reasons which could be offered in favor of conflicting views.

P2 If it is forbidden to argue against the popular consensus, then nobody will be able to encounter, and thereby learn how to refute, the reasons which could be offered against the popular consensus.

C One consequence of forbidding Holocaust denial and white supremacy is that society loses knowledge that the Holocaust occurred and that all races have equal moral standing.

But surely this knowledge is valuable. We want to be able to know that all persons are equal, irrespective of race. It’s not enough to just truly believe it.

“...the true opinion abides in the mind, but abides as a prejudice, a belief independent of, and proof against argument — this is not the way in which truth ought to be held by a rational being. This is not knowing the truth.” (p. 37)

Often, the situation is neither that the controverted opinion is true and the accepted opinion is false, nor that the controverted opinion is false and the accepted opinion is true. More often, each view has its share of the truth, but the whole truth lies somewhere between the two. In these cases especially, engagement with the controverted view, which has a grain of truth to it, has the additional good consequence of bringing out the respects in which the accepted view is (however slightly) mistaken.

“When there are persons to be found, who form an exception to the apparent unanimity of the world on any subject, even if the world is in the right, it is always probable that dissentients have something worth hearing to say for themselves, and that truth would lose something by their silence.” (p. 49)

One final point: many people advance the idea that we can allow the expression of certain views, but mandate that the manner in which they are advanced be ‘temperate’ (Next Tuesday, Mari Matsuda will suggest that we ought to outlaw racist speech when its presentation is ‘persecutory, hateful, and degrading’). Mill’s response to this is to say that “the denunciation of these weapons [invective, sarcasm, personality, and the like] would deserve more sympathy if it were ever proposed to interdict them equally to both sides.” Moreover, “whatever mischief arises from their use, is greatest when they are employed against the comparatively defenseless.” (p. 54) That is: if we’re going to regulate the manner in which ideas can be expressed, then it shouldn’t matter which ideas are being expressed. To deny the Holocaust denier or the white supremacist the use of invective while permitting their opponents to use invective against them is unfairly stacking the deck against the unpopular opinions.