




REPLIES

Principle, Pragmatism, and Piecework in *On Liberty*

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Abstract

In a well-known passage in chapter V of *On Liberty*, J. S. Mill notes that while economic competition is generally socially beneficial and should be permitted, this “Free Trade” doctrine does not follow from the liberty or harm principle because “trade is a social act.” In a largely overlooked passage in chapter IV of the same essay, however, Mill contends that for society to coercively prohibit the practice of piecework – paying workers by the unit rather than by the hour or day – does violate this principle. In this short note, I demonstrate that Mill’s reasoning in these two passages is contradictory.

Introduction

In a well-known passage in chapter V of *On Liberty*, J. S. Mill notes that while economic competition is generally socially beneficial and should be permitted, the “so-called doctrine of Free Trade” is not a consequence of the liberty or harm principle.¹ While the grounds of this doctrine are “equally solid” as the principle’s, they are “different” because “trade is a social act”: “Whoever undertakes to sell any description of goods to the public, does what affects the interests of other persons, and of society in general, and thus his conduct ... comes within the jurisdiction of society.” Mill takes this to illustrate the point that the liberty principle states only a necessary condition for society to be justified in interfering with someone’s conduct, not a sufficient one. Even if some proposed interference would protect others from being harmed without their consent, it is warranted only if its benefits would outweigh its costs. The problem with restraints on free trade is that they usually fail to satisfy this pragmatic requirement.

In a curious passage in chapter IV of *On Liberty*, however, Mill directly contradicts this logic. There he argues against prohibitions on the practice of “piecework” *not* because they are too costly but rather because they violate the liberty principle itself by “asserting” public “authority” over the “individual conduct” and “private concerns” of workers.² I have commented on this inconsistency in passing in prior work, but in subsequent conversations with other Mill scholars, I have encountered some skepticism

¹*On Liberty*, CW XVIII, p. 293. References to Mill’s works will be to *The Collected Works of John Stuart Mill*, 33 vols., ed. by John M. Robson (Toronto: Toronto UP, 1963–91), and will include volume and page numbers.

²*On Liberty*, CW XVIII, p. 287.

about whether Mill's argument in chapter IV really is incompatible with his reasoning in chapter V.³ My aim here is to vindicate this reading of the text.

Mill's endorsement of piecework

Piecework is the practice of paying workers a set amount for each unit they produce rather than paying by the hour or day.⁴ Today piecework is sometimes viewed unfavorably, suspected of lending itself to the exploitation of workers in sweatshop conditions.⁵ An episode of the 1980s American sitcom *Designing Women* even features Julia Sugarbaker in high moral dudgeon over seamstresses being paid for each curtain they complete.⁶ Employers sometimes have reservations about piecework, too, worried for instance that quality will suffer if employees are rushing to complete as many units as possible.⁷

Mill, however, evinces considerable if qualified enthusiasm for piecework. Through piecework, Mill writes, "the workman's personal interest is closely connected with the quantity of work he turns out."⁸ As a result, "judicious employers always resort to it when the work admits of being put out in definite portions, without the necessity of too troublesome a surveillance to guard against inferiority in the execution."⁹

No matter how efficient piecework is, Mill would not think that employers should use it if this would be unjust to workers. Yet, he does not consider its use unjust, at least not by the employers of his day. His view of this is nuanced. Mill might be described as an evolutionary rule utilitarian.¹⁰ The moral rules that obligate us today are those whose general acceptance by our contemporaries would maximize happiness. As a society changes over time, though, which rules it is optimal for people to accept will also change, so the moral code that is authoritative in one period – the code that determines the obligations of people who live in that period – will not be identical with the code that is authoritative in another. Rules or principles of justice, which determine what rights individuals possess, are as susceptible to change over time as any other moral rules.¹¹ Mill famously or infamously contends that the liberty principle itself does

³J. S. Mill: *Moral, Social and Political Thought* (Cambridge: Polity, 2010), p. 122. Ben Saunders also touches on this passage briefly in *J. S. Mill and Market Harms: a Response to Endörfer*, forthcoming in *Economics and Philosophy*.

⁴Mill sometimes spells this "piece-work," and he sometimes instead calls it "taskwork."

⁵See, e.g., Stéphanie Premji, Katherine Lippel and Karen Messing, *We Work by the Second! Piecework Remuneration and Occupational Health and Safety from an Ethnicity- and Gender-Sensitive Perspective*, *Pistes*, 10 (2008), pp. 1–35, <https://journals.openedition.org/pistes/2193> and Pia Pangsapa, *Textures of Struggle: The Emergence of Resistance Among Garment Workers in Thailand* (Ithaca: ILR Press, 2007), pp. 25–26, 135–36, 141–44, 162–63.

⁶Curtains, *Designing Women*, created by Linda Bloodworth-Thomason, season 3, episode 7, Bloodworth/Thomason Mozark Productions, 1989.

⁷See, e.g., Susan Helper, Morris M. Kleiner and Yingchun Wang, *Analyzing Compensation Methods in Manufacturing: Piece Rates, Time Rates, or Gain-Sharing*, National Bureau of Economics Research Working Paper 16540 (2010), <https://www.nber.org/papers/w16540>.

⁸*Chapters on Socialism*, CW V, p. 743. Cf. Mill's October 28, 1864 letter to Edwin Chadwick in which he observes that there are ways for cooperative societies to create "an identification of the interest of every labourer with the prosperity of the concern, more complete than mere piece work will effect" if they offer them more than wages (CW XV, pp. 960–61). Presumably, Mill is thinking here of profit sharing.

⁹*Principles of Political Economy*, CW II, p. 140.

¹⁰For my understanding of Mill's moral theory, see *J. S. Mill*, pp. 79–110.

¹¹*Utilitarianism*, CW X, p. 247.

not apply to “backward states of society.”¹² So when he considers whether a practice is just, his answer is not always a simple yes or no. Sometimes his conclusion may be that the practice is just now but might not be in the future, or vice versa.

Both now and in the future, Mill seems to think, justice demands taking account of workers’ choices about how hard to work or whether to acquire skills. To its credit, piecework is sensitive to these choices. He criticizes trade unions who oppose piecework for seeking to place “the energetic and the idle, the skillful and the incompetent, on a level.”¹³ Indeed, he writes that

One of the most discreditable indications of a low moral condition given of late by part of the English working classes, is the opposition to piecework. When the payment per piece is not sufficiently high, that is a just ground of objection. But dislike to piece-work in itself, except under mistaken notions, must be dislike to justness and fairness; a desire to cheat, by not giving work in proportion to pay. Piece-work is the perfection of contract; and contract, in all work, and in the most minute detail – the principle of so much pay for so much service, carried out to the utmost extremity – is the system, of all others, in the present state of society and degree of civilization, most favourable to the worker; though most unfavourable to the non-worker who wishes to be paid for being idle.¹⁴

However, piecework is also sensitive to other differences between workers, differences that depend on the natural lottery of ability rather than choice. After noting that several socialist cooperatives had initially attempted to pay workers equally but had then been forced to fall back on the practice of piecework instead, Mill writes that

The original principle appeals to a higher standard of justice, and is adapted to a much higher moral condition of human nature. The proportioning of remuneration to work done, is really just, only in so far as the more or less of the work is a matter of choice: when it depends on natural difference of strength or capacity, this principle of remuneration is in itself an injustice: it is giving to those who have; assigning most to those who are already most favoured by nature.¹⁵

Yet he adds that

Considered, however, as a compromise with the selfish type of character formed by the present standard of morality, and fostered by the existing social institutions, it is highly expedient; and until education shall have been entirely regenerated, is far more likely to prove immediately successful, than an attempt at a higher ideal.

We can therefore say that Mill regards piecework as consonant with the principles of justice that are fitting for his day and age, although he also anticipates that at some

¹²*On Liberty*, CW XVIII, p. 224.

¹³*Principles of Political Economy*, CW III, p. 934.

¹⁴*Principles of Political Economy*, CW III, p. 783n. See also Mill’s letters of 14 March and 3 April 1854 to Harriet Taylor Mill about the insertion of this portion of this passage in the fourth (1857) edition of the *Principles* (CW XIV, pp. 186, 195). On the possibility that the piece rate might be set unfairly low, see also *Chapters on Socialism*, CW V, p. 743.

¹⁵*Principles of Political Economy*, CW II, p. 210.

point Western society (or indeed humanity) will have progressed sufficiently that this will no longer hold true. In particular, its members will have learned to be more benevolent and hence more willing to exert themselves for the benefit of others without the material incentives that piecework provides. As long as most workers' motives are predominantly self-interested, compensation schemes that are insensitive to unchosen differences – e.g., paying all workers equally or according to need – will only end up encouraging idleness since they will invariably be insensitive to chosen differences as well. Under these circumstances, for society to instill moral rules that require the use of such schemes would not be expedient. Should the day arrive when we can take for granted that workers will work to the best of their ability, however, then the optimal rules may include principles of distributive justice that preclude paying workers more simply because they are more able.

Herein lies Mill's solution to a dilemma (or trilemma) that he sets out in *Utilitarianism*:

Some Communists consider it unjust that the produce of the labour of the community should be shared on any other principle than that of exact equality; others think it just that those should receive most whose needs are greatest; while others hold that those who work harder, or who produce more, or whose services are more valuable to the community, may justly claim a larger quota in the division of the produce. And the sense of natural justice may be plausibly appealed to in behalf of every one of these opinions.¹⁶

Returning to these contending parties a few pages later, Mill concludes that “Each, from his own point of view, is unanswerable; and any choice between them, on grounds of justice, must be perfectly arbitrary. Social utility alone can decide the preference.”¹⁷ In sum, several inconsistent principles of justice are intuitively appealing. We can choose between them only by asking which principles it would be most expedient for society to adopt and to instill in its members. Mill's treatment of piecework in his political economy reveals both which of these principles he believes would be favored by social utility in his day and age and that he believes that different principles may be favored in the future.¹⁸

Mill's self-contradiction

While Mill criticizes his contemporaries among the working class who reject piecework *tout court*, he is willing to tolerate those who voluntarily band together and refuse to accept payment by the piece as long as they “do not use force, or threats of force, to prevent other workmen from accepting it.”¹⁹ The “best interests of the human race imperatively require that all economical experiments, voluntarily undertaken, should have the fullest license,” even when these experiments involve “combinations to effect objects which are pernicious.”²⁰

¹⁶*Utilitarianism*, CW X, p. 244.

¹⁷*Utilitarianism*, CW X, p. 254.

¹⁸See Helen McCabe, *John Stuart Mill: Socialist* (Montreal: McGill-Queens University Press, 2021), pp. 113–14, 123–24.

¹⁹Letter to Edwin Chadwick (22 December 1867), CW XVI, p. 1335.

²⁰*Principles of Political Economy*, CW III, pp. 933–34. In the first edition of the *Principles*, published in 1848, Mill's tone is rather different. There he treats it as an open question “whether the kind of associations

Yet Mill's tolerance does not extend to workers who coerce their fellows into refusing piecework. These workers are the target of the frequently overlooked passage in chapter IV of *On Liberty* that I introduced previously. The full passage runs as follows:

It is known that the bad workmen who form the majority of the operatives in many branches of industry, are decidedly of opinion that bad workmen ought to receive the same wages as good, and that no one ought to be allowed, through piecework or otherwise, to earn by superior skill or industry more than others can without it. And they employ a moral police, which occasionally becomes a physical one, to deter skilful workmen from receiving, and employers from giving, a larger remuneration for a more useful service. If the public have any jurisdiction over private concerns, I cannot see that these people are in fault, or that any individual's particular public can be blamed for asserting the same authority over his individual conduct, which the general public asserts over people in general.²¹

It will be useful to give this passage a label, and since it appears in the seventeenth paragraph of chapter IV, I will call it "IV17."

IV17 is part of a long series of examples of social encroachments on individual freedom which Mill takes for granted that his readers will oppose. In each case, he argues that the only consistent basis on which one can oppose these encroachments is as violations of the liberty principle, i.e., that to oppose them one must embrace this principle and then object to them on the grounds that they violate it. With respect to a legal prohibition on eating pork in a Muslim-majority country, for instance, "The only tenable ground of condemnation would be, that with the personal tastes and self-regarding concerns of individuals the public has no business to interfere."²² IV17 is another example of the same sort. The key line in IV17 is "If the public have any jurisdiction over private concerns, I cannot see that these people are in fault," i.e., "If the public has any jurisdiction over private concerns, then the bad workmen are not at fault." Mill clearly believes that they *are* at fault, and he assumes that his reader will agree. He intends for the reader to deny the consequence of the conditional, thereby concluding that the public has no jurisdiction over private concerns, i.e., that the liberty principle is true. Of course, this pattern of reasoning works only if the decision whether to accept piecework *is* a private concern – i.e., a self-regarding choice.

Mill's assertion that coercively preventing workers from accepting payment by the piece is contrary to the liberty principle is inconsistent with the reasoning that underlies his discussion of trade in chapter V. To see why, we need to only ask why he regards trade as a social act. If I offer to sell you widgets at a given price, and you agree to buy them, why is this not a private matter between us? Mill allows that the liberty principle entails the freedom of "any number of individuals to regulate by mutual agreement such things as regard them jointly, and regard no persons but themselves."²³ So if our

here treated of can be a proper subject of any other than merely moral repression" (CW III, p. 934n). In other words, at the time that he writes the first edition, Mill firmly believes that workers who participate in these sorts of combination can be met with informal social punishments and is open to the possibility that legal punishments should be employed as well. His thinking seems to have changed quickly, however, as no later editions express the same view.

²¹*On Liberty*, CW XVIII, p. 287.

²²*On Liberty*, CW XVIII, p. 285.

²³*On Liberty*, CW XVIII, p. 299.

voluntary exchange is within society's jurisdiction, subject in principle to regulation, this must be because of its harmful effects on third parties. Mill is presumably thinking first and foremost of my competitors who lose the opportunity to sell to you once our deal is struck; he might also be thinking of *your* competitors, who lose the ability to buy my widgets. The paragraph on trade follows one in which he writes that competition generally results in harm since "whoever is preferred to another in any contest for an object which both desire, reaps benefit from the loss of others."²⁴ If our exchange raises the market price of widgets, then other prospective buyers may also be made worse off.

These same externalities exist in the case of piecework. Mill is happy to speak of workers as competitors and sellers: they "compete for employment" and "sell their labour."²⁵ If the best workers agree to be paid by the piece, inferior workers will be paid less, whether they also have to accept piecework or whether they work for daily wages that are lower than they would be if all workers were paid by the day.²⁶ Notably, Mill never suggests that bad workmen are wrong to believe that it will cost them money if their betters are paid by the piece. If trading in widgets is a social act, in short, so is trading in labor. If IV17 should be read as asserting that forcibly deterring workers from participating in piecework is contrary to the liberty principle, therefore, then it is inconsistent with what Mill says about trade in chapter V.

Just how anomalous IV17 is becomes even clearer when we compare it with a passage in Mill's 1869 essay "Thornton on Labour and its Claims" where he observes that union members may feel "a genuine moral disapprobation" of workers who benefit from unions' activities without joining themselves or participating in activities like strikes. He regards it as not only understandable but justifiable that union members would apply "social pressure" to these free riders, possibly even including "Hooting, and offensive language."²⁷ So here Mill approves of precisely the same sort of moral police being applied to some workers by others that he condemns as a violation of the liberty principle in IV17. The only apparent difference is that Mill determinedly disapproves of bans on piecework while his attitude toward "Trades Unions" is more ambivalent.²⁸

The foregoing gives us reason to want to find some alternative reading of the passage, since we ought to be reluctant to conclude that a philosopher of Mill's accomplishments advances baldly inconsistent claims just a few pages apart. Unfortunately, no other reading fits. The only other candidate as a reading of the passage would seem to be one on which Mill is saying the same thing about prohibitions on piecework that he says about restrictions on free trade more generally in chapter V, namely that while society has jurisdiction over such matters, for it to impose regulations would

²⁴*On Liberty*, CW XVIII, p. 292. If we follow them through consistently, Mill's remarks on competition and trade have implications that may be surprising. For instance, some of the most beloved fiction of Mill's own period depicts intense competition for marriage partners, where the stakes are not only romantic love but also estates and so many pounds a year. Under such circumstances, Mill's view seems to entail that a couple's decision to marry is not self-regarding, at least not when it negatively affects the material interests of disappointed prospective suitors for one or both of them.

²⁵*Principles of Political Economy*, CW II, pp. 216, 364.

²⁶At the micro level, employers will not pay a pool of workers an hourly or daily wage higher than the average productivity of the members of the pool. If the most productive workers are being paid by the piece rather than the hour or day – if they have made, we might say, a "separate piece" with employers – then the average productivity of the workers left in the pool will be lower.

²⁷CW V, pp. 659–60.

²⁸CW V, pp. 659–60. Saunders also notes the relevance of this passage in "J. S. Mill and Market Harms."

generally be imprudent. For Mill to insert that claim at this point in the text would be a peculiar digression; however, it would be discontinuous with the preceding and following pages. Nor does this claim fit the actual wording of the passage, since this claim grants that the public has authority over the individual conduct of workmen. It denies that their decision to accept piecework should be characterized as a private concern.

The conclusion that IV17 contradicts what Mill says about trade in chapter V therefore seems inescapable. As the passage on trade reflects Mill's considered view, one that he expresses in works other than *On Liberty*, it seems fair to identify IV17 as the source of the problem. IV17 suggests a "libertarian" construal of the liberty principle according to which it shields economic exchanges from social interference as long as the parties directly concerned mutually consent, even if others are detrimentally affected through losing opportunities.²⁹ If Mill accepted this doctrinaire libertarianism, however, then his work on political economy would look rather different. In an extended account of the proper role of the government in the economy found in the *Principles*, Mill does say that "*laissez-faire*" is "the general rule."³⁰ However, he also announces a series of exceptions to this rule. Some of these exceptions may be consistent with a libertarian reading of the liberty principle, but some are not.

For example, Mill describes a situation – what we would today call a "prisoners' dilemma" – in which the state of the economy is such that if no one worked in a factory more than nine hours a day then workers would receive "as high wages, or nearly as high, for nine hours' labour as they receive for ten."³¹ However, if the decision of how many hours they are willing to work were left up to individuals, enough workers might agree to work ten hours that anyone who refused to do so "would either not be employed at all, or if employed, must submit to lose one-tenth of his wages." The logic of IV17 implies that if an employer and a worker mutually agree to a ten-hour day, then this is a private matter between them, even if this leaves other workers worse off through having a weaker bargaining position. If Mill were really committed to a libertarian reading of the liberty principle, then it is hard to see how he could countenance public interference with such an agreement. Yet, he does. In every edition of the *Principles* – including the 7th edition, which appeared 12 years after *On Liberty* – Mill says that the state may justifiably choose to benefit workers by legally imposing a shorter working day.³²

The significance of Mill's inconsistency (or the lack thereof)

It is puzzling that Mill should be guilty of such a blatant inconsistency, since the error seems easily avoidable. His suggestion that the only grounds on which we could criticize workers who try to prevent their fellows from accepting piecework is that they are contravening the liberty principle is false by his own lights. We do not have to judge that the bad workmen who coerce their betters into forgoing piecework are interfering with self-regarding choices to find fault with what they are doing. Mill could

²⁹*On Liberty*, CW XVIII, p. 225.

³⁰*Principles of Political Economy*, CW III, p. 944.

³¹*Principles of Political Economy*, CW III, pp. 957–58.

³²The numbers do change between editions of the *Principles*. In earlier editions, Mill suggests that the state might impose a ten-hour day rather than leaving workers free to agree to work twelve. While Mill's framing of this point almost seems to suggest that no one loses by this resolution of the collective-action problem, this is true only if we restrict our attention to workers. The shorter working day comes at the expense of factory owners, who pay roughly as much in wages for 10% less work.

acknowledge that society has jurisdiction over the labor market and still criticize restrictions on piecework for the same pragmatic reasons that he criticizes other restraints on trade. I have just rejected the possibility that Mill might be making this point in IV17. Yet he could easily have written a different few sentences that did make it, and while such a passage would have been a digression in chapter IV, it would have fit neatly into chapter V's commentary on free trade. (Mill could also, of course, criticize those bad workmen who employ a "physical" police for their use of extralegal violence.)

While it would be satisfying to be able to offer some explanation of why Mill did not choose to go this route, I have looked for one in vain. He may simply have been sufficiently unhappy with "bad workmen" that his irritation made him careless. We know that the plan for further polishing of *On Liberty* was interrupted by the untimely death of Harriet Taylor Mill.³³ It is possible that the offending passage would have been struck in a final round of revisions.

Mill's remarks on piecework in IV17 are therefore a mistake. The passage does not reflect his considered or best thinking on the subject, and the essay would be better – more internally consistent, if nothing else – had they been omitted.³⁴ We should not imagine that we can learn anything important about Mill's thought or the liberty principle from it. Yet, the passage is there, and it says what it says. While it is only a minor blemish on *On Liberty*, even those of us who most admire Mill should acknowledge its existence.³⁵

³³*On Liberty*, CW XVIII, p. 216; *Autobiography*, CW I, p. 261.

³⁴As a reviewer for this note observes, an interpreter who encounters an apparent contradiction in a text may respond to it in several ways. They may find some way to render the author's position consistent even if this means departing from what seems to be the clear meaning of the text, they may ascribe it to a change of the author's mind, or they may regard it as an intentional move by the author to stimulate the reader to search for a hidden or esoteric argument. Or they may treat it as a mistake, as I am doing here. I see no remotely plausible way to render Mill's position consistent, nor it is plausible to attribute an inconsistency within a single essay to a change of mind. The reviewer rightly says that if any of Mill's contemporaries had pointed out the inconsistency while he was drafting *On Liberty* and yet it still made it into the final text, this would be strong evidence for seeing it as an intentional move meant to encourage us to seek some deeper meaning in the passage. However, I am not aware that any of them did. Hence chalking the inconsistency up to a mistake seems to be the least unsatisfactory alternative.

³⁵I am grateful for helpful suggestions from Ben Eggleston and two anonymous reviewers.