Week 7: Marriage, Inequality, and the False Legitimation of Difference

1. Intro

- Mentioned last week that chapters 2 and 3 of Subjection not Mill’s strongest argumentation.

- Plan today is not to be comprehensive, but to pull out most interesting themes from what is a bit of a jumble, tying some of these to contemporary issues.

2. Chapter 2: Against Marriage Under Victoria Law

- Mill wants to push case for full legal equality of women very strongly on this topic

- 1869, marriage effectively traps women. All property owned by husband; legally subordinate to all his decisions; no right to see or raise children independent of his permission; no right of divorce or separation; no right to prosecute husbands for abuse that happens within the household.

- For Mill, marriage is both the symbolic and actual site of women’s systematic subordination via legal inequality.

- Continues Chapter 1’s analogy with slavery; women’s situation not as extreme, but in some ways more extensive. ‘Even Uncle Tom had his cabin to which he could retire’. Women always under husband’s watchful eye. Legal institution of marriage is a living prison for women trapped in a bad marriage.

- Worthless to point out that some marriages are happy: from a legal point of view we ought to focus on the worst cases and ask how to prevent those.

- Many checks against abuse in marriage are arbitrary, and depend upon the good will and temperament of the husband. Not acceptable from a legal point of view. (Irony that the worst men, the most effective dominators, will be the least susceptible to counter-measures like nagging or scolding that some women might try and deploy.)

- Two points to emphasize:

  1) Marriage in its present form encourages the corruption of its participants (be a dominator, or a nagger – but both act as opposed to each other);
  2) a sort of ‘republican’ freedom being suggested here (see work of Quentin Skinner and Philip Pettit): one is only free if not subject to the possibility of arbitrary interference. Women in marriage are permanently in the position of ‘existential’ unfreedom, because their husbands are always in the position to potentially arbitrarily interfere. And for many women, their condition is experienced as one of actual domination – so the point is not just ‘existential’, but practical.

- A reply: marriage is like miniature government; one must rule and the others follow. Against this, Mill points out that even if this is true, why should it always be the man who rules? And anyway, it’s a rubbish analogy: marriage is (or at least ought to be) a voluntary
partnership, more like a business venture than political rule. In business, one partner may be senior, but the law does not in advance give them absolute command on all matters.

3. Mill’s Positive Argument for Marriage Equality

- Marriage is the site of much social propaganda – a mechanism by which women are manipulated by men. It is used to lock women in states of dependency, then molding their desires and psychologies to make them servile, stunted creatures that men claim that they already were.

- Marriage also corrupts the psychologies of men: it validates and encourages abusive treatment, because this is permitted by legal and social arrangements. The apparent moral permissibility of domination is a product of the legal institution of marriage.

- These two things mean that marriage in its 19th century form is a block to moral cultivation. Mill makes a strong claim about moral progress: that it is possible only amongst equals, in conditions of legal and social equality.

- ‘Primitive’ ages are marked by hierarchy and command; an intermediary age traded this for ‘forbearance and protection’. But it is time to move forward to a third age: ‘We have had the morality of submission, and the morality of chivalry and generosity, let us now have the morality of justice’.

- For Mill wants to stake a very strong claim about the fundamental status of human beings

  ‘The true virtue of human beings is fitness to live together as equals; claiming nothing for themselves but what they as freely concede to every one else; regarding command of any kind as an exceptional necessity, and in all cases a temporary one; and preferring, whenever possible, the society of those with whom leading and following can be alternate and reciprocal’

- This is strong stuff. Mill is claiming:

  a) because human beings are equal, therefore b) they need to be governed by relations of (legal) equality, and in turn c) that this is justice properly considered.

- But insofar as we lack such social arrangements, the family is a mere ‘school of despotism’. Children grow up seeing fathers subjugating mothers, and learn that this is the correct way to interact. Equality is downtrodden rather than upheld.

- Terrible loss for society. If families instead taught equality, this would promote moral progress. ‘The moral training of mankind will never by adapted to the conditions of the life for which all other human progress is preparation, until they practice in the family the same moral rule which is adapted to the normal constitution of human society’

- The principle of equality is not only right in itself, not only right for women (who are men’s equals), but also good for everybody because it promotes social wellbeing and improvement.

4. Compatibility with Christianity?
- Does not Christianity impose a ‘duty of obedience’ on women?

- Not so fast. St Paul, after all, may have said ‘wives, obey your husbands’…but he also said ‘slaves, obey your masters’!

- Mill says that early Christian teaching was designed to allow the religion to progress without antagonizing established political powers and generating backlash. But what was good for middle easterners 2000 years ago no longer holds for advanced British civilization.

- Religions like Islam and Brahmins in India have remained in a condition of relative backwardness precisely because they did not permit social change [Mill’s argument, not mine!]

- Christianity, by allowing social evolution, has developed most effectively and become the ‘progressive’ portion of mankind. Denying female equality is to put Christianity on a level with Islam or the Indian religions.

- This is basically a racist dog-whistle for religious snobbery – but notice how Mill uses the bigotry of his readership in matters of religion to turn them away from the gender-based bigotry they also hold. Not a pretty tactic to modern eyes…but it may have been effective back then. Note again the deeply political nature of Mill’s interventions.

- Chapter 2 concludes with two final insights:

1) Mill mostly argues about marriage equality in terms of legal equality – but this requires a genuine commitment to the equal capacity for men and women to own property. At present, law instantiates a glaring inequality as men own everything. This makes women especially vulnerable as they are entirely dependent upon husbands. Until women can legally own their own property, legal marriage equality will be hollow and meaningless.

2) If anything, women will often rightly be entitled to more than an equal distribution of assets between man and wife. They do disproportionate amounts of household labour and child rearing; men don’t appreciate how onerous this us. Mill is ahead of his time here; he recognizes that this is labour, and even suggests it should be compensated for – a proposal still made by feminists today, but remaining a long way from reality.

- Notice that until women can own property, and are freed from financial dependency and no longer forced to labour for free, they will effectively remain (Mill thinks) in the position of slaves. To end this, women need legal equality.

5. Chapter 3: Women’s Inherent Equality

- Chapter 3 is often maddeningly disorganized and poorly presented. But I think a coherent line can be extracted, roughly as follows.

- Recall Mill’s argument in Chapter 1 that it’s incoherent or just plain dishonest to exclude women from ‘male’ positions and roles. Either they are equals who are being unjustly excluded, or they are not equals and the legal exclusion is redundant.

- Now takes the point further: no intellectual justification for exclusion of women.
- Even if it were true that women were one the whole less fitted for occupying certain roles than men, cannot reasonably claimed that all women are inferior to even the most middling of men. Plainly there have been excellent women in the past – Elizabeth I, Joan of Arc – who possessed talents beyond those of average men.

- This makes a mockery of a priori exclusion of women. If men are better, then men will still get the jobs (etc). But if the women are better, why not let them have the jobs – especially when we have to admit that it is not true that all women are worse than the average man.

- One area women must be granted immediate equality (Mill thinks) is the suffrage, the right to vote.

- Mill argues for this on interconnected grounds:

1) Even if we grant the dubious argument that women are not fit to govern, they nonetheless clearly have an interest in choosing and controlling who will govern them. (Indeed, given their general position of dependency and subjection, they have an especially strong case in this regard.)

2) Arguments against 1) will look very weak when we consider that many if not most men are unfit to govern – and yet by 1869 nobody denied the right of men to vote on that basis. Applying such arguments to women is just hypocritical and inconsistent

3) Given that women stand, under the current laws and social norms, largely as slaves with regards to husbands, they have a very strong interest in securing legal protection, and this can only be done through the ballot box. If not, laws will be written by and for the masters – and that never in human history has turned out well for the slaves.

- It is very telling that the only jobs women are expressly excluded from doing are the sort of jobs that they have already proved they can in fact do! No laws forbidding women to write the works of Shakespeare or compose Beethoven’s symphonies, but there are laws debarring women from political office or the judiciary. Yet Elizabeth I – one of the greatest of all British monarchs – proved that women can do such jobs, at the highest level.

- Note that princesses often grow up to be outstanding queens precisely because in royal families they are often brought up with a similar degree of education, instruction, and latitude for decision-making as male siblings. Unsurprising that when given the chance, some women turn out to be as adept as the best kings.

- Mill’s point is that when you give men and women the same opportunities, women emerge as in no way necessarily inferior to men.

6 Naturalness: Mill's inconsistency?

- Mill let’s himself down after the above neat argumentation, by apparently garbling his case and contradicting what he’d laid down in Chapter 1: that we cannot reliably infer anything about the ‘naturalness’ of women’s characters, abilities, habits, etc., from what we observe in society.
In Chapter 3, Mill appears to argue that certain female characteristics can be discerned—and these count *in favour* of women's being admitted to open competition with men for social and economic positions, and fitting them for particular forms of engagement.

Mill’s overall claim is that women in general are ‘bent towards the practical’—not as good as men at abstract thought, but better at means-ends calculations and getting short term results.

Women can of course go astray and get practical things wrong—but so can men! At any rate, men can gain a lot by receiving the intelligent advice of experienced women. So whilst women and men may be different in their psychological and practical capacities, he denies that this generates any specific *disadvantage or inferiority*.

Best not to get bogged down in Mill’s tortuous (and tedious) discussion of the ways women are allegedly better or worse at certain tasks for applications. More interesting question: is he being *inconsistent*, as alleged by commentators like Julia Annas?

My view is that Mill can be saved from the inconsistency Annas alleges. Seem to me that Mill is claiming that these observed differences are in fact effects of artifice: that given how they are socialized, such differences can be observed.

A little later in the book, Mill emphasizes that popular perceptions of how women ‘really’ are ought to be looked upon with especial skepticism because they not only vary, but outright contradict each other.

Indian women are supposed to be voluptuous by nature, English women cold and withdrawn; French women are supposed to be unfaithful, English women constant to their husband etc.—note of course the racism/national chauvinism at work. Mill’s point here is that it is not nature that is being discerned, but national stereotypes. We are hearing male prejudices, not true insights into the ‘nature’ of ‘woman’.

So one way to read Mill here is to interpret him as offering a sophisticated case: by granting the premises of his opponents, but showing that they do not yield the conclusions claimed for them.

In other words: ‘let’s accept the patriarchal assumption that women have different abilities to men – does patriarchy emerge legitimated as a result?’ This receives a resounding ‘no’. (Example: how could the ‘fact’ that men are better at abstract reasoning possibly justify differences in social and legal standing?)

7. Killing Some Bad Arguments

Objection: Women have smaller brains! The science of phrenology shows that they are inferior!

Reply: 1) Phrenology is pseudoscience; 2) is it even true that women have smaller brains in all cases, as oppose to just on average? 3) why does size matter – or do we think elephants are the smartest beings on the planet? 4) generalizations of brain size can’t take account of *mental capacities* and how these differ amongst individuals; 5) what about other factors like blood flows, number of folds of grey matter, etc.? 6) we just don’t know
enough about brains to infer anything meaningful.

- In other words, ‘brain size’ is a nonsense, distracting from the real issues.

- And I would add – going back to last week - even if brain size were somehow reliably correlated to intelligence, how could that by itself possibly generate an argument for female legal inequality? We’d need to believe that the more intelligent should rule the less intelligent – but that wouldn’t be an argument for patriarchy, because many women are more intelligent than many men!

- Furthermore, nobody really believes in what has come to be called in recent literature ‘epistocracy’ because a) the criteria would be impossible to determine; b) others wouldn’t submit to it anyway (it’s practically infeasible), c) have you met many academics and really smart people? They can barely get dressed in matching clothes in the morning, let alone run a society. Nobody is really committed to an aristocracy of the geniuses, but some people pretend to be because they’ve spent too much time doing philosophy, or are attention seekers (Jason Brenan).

- Anyway, core point is that inequalities of intellectual abilities could not generate patriarchy. Mill, despite some poor presentation, ultimately seeks to argue that even if he grants the faulty beliefs of many of his readers, these do not anyway legitimate the inequality women face in Victorian society.

8. Killing More Bad Arguments

- Objection: women must be inferior to men, because there have been [by 1869] no great women on a par with the great men who have advanced civilization.

- Reply:

1) insufficient experience to make reliable inductions about women’s capacities; barely 3 generations since they’ve been able to advance in the arts – not enough time for genius to emerge (although in the ancient world there was evidence that women could so emerge, e.g. Sappho the poet.)

2) Historical suppression: women have long been prevented from developing genius – so illegitimate to infer anything about female capacities.

3) No education: prerequisite for meaningful shot at development.

4) Male credit-stealing: how can we be sure men haven’t in the past taken the credit for women’s ideas? How many women’s ideas were wrongfully ignored and lost to history?

5) Unfair disadvantage: women do try to contribute to the arts and culture, but they have to do so in their limited leisure time, as amateurs. Ridiculous to compare efforts of enforced amateurs to dedicated professional men. (If we compare amateur men with amateur women, they come out the same.)

6) Appetite for fame: cultivated and encouraged in men, it is socially repressed in women, who are raised to be docile – makes it harder for women to be inventive and push against social norms and boundaries in the development of genius. This isn’t an inherent female
failing, but a function of social artifice.

7) Given the disadvantages women face, reasonable to expect only 1 eminent woman to emerge for every 50 eminent men. But in the past century there haven’t even been 50 eminent men – so it’s hardly surprising or interesting or relevant that there are not eminent women. But time should put a fix to that [as indeed it has].

9. Mill’s Final Arguments

- Men mouth nice-sounding pieties about women being ‘more gentle’ than men, less liable to bad criminal action, etc. But this sort of rhetoric is devious: the ‘fair sex’ are portrayed as kind and gentle and virtuous and better than men – but this use of hollow rhetoric is itself used to legitimate subjecting women to unequal status by claiming that the tough patriarchal protectors will shield the poor fragile virtuous defenseless women from the travails of the world.

- Similarly, hypocritical to exclude women by saying that they are ‘too emotional’, or too psychologically frail, to undertake arduous work. These are not inherent traits of women, but socially-inculcated forms of manipulation. Being emotional and caring is pretty much the only form of life that women are permitted to excel at – to then hold that against them as a way of legitimating their subjugation is deeply duplicitous.

- In both cases, patriarchy feeds off its own false legitimations. It creates a social situation, and then draws on that situation as proof that it is itself justified. But this means that the legitimation is generated by the very thing that is in need of legitimation. Mill is urging us to see that this is therefore no legitimation at all.

- Mill finishes with a sadly all-too-obvious conclusion: the powerful won’t give up power willingly; women, however, are too vulnerable to demand full equality for themselves – they will need the help of men.

- In many ways still a fault-line in feminist debates. Should women encourage men to with feminists to seek feminist goals – or is it imperative that women achieve equality in some measure independently? Difficult questions, that we can’t solve today.