

The Early J.S. Mill on Marriage and Divorce

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Abstract: This paper discusses Mill's early essay on marriage and divorce (1832) and gives two possible sources of influence for it: Plato's arguments on the appropriate scope of the law in book IV of his *Republic* and Unitarian ideas on motherhood. It demonstrates that Plato's *Republic* and Mill's essay both emphasize the crucial role of background conditions in achieving desirable social aims. Similar to Plato's claim that the law should provide only a rough framework and not concern itself with questions of etiquette (*Republic*, 425d), Mill envisions a society in which men and women meet as equals and hence are in no need of marriage laws. Besides, this paper will relate Mill's essay on marriage and divorce to Unitarian ideas on the social role of women to account for his reservations about the gainful employment of married women and mothers. Mill's claim that the rightful employment of a mother is "the training of the affections" (Mill 1970, 76) is fueled by the Unitarian conception of women as the moral educators of future citizens.

Keywords: divorce, John Stuart Mill, marriage laws, Platonism, *Republic*, Unitarianism.

I. Mill as 'Platonist'

In calling himself a Platonist, Mill appropriated a term which used to define two very dissimilar groups: for one, it denoted scholars who adhered to "the established tendency to treat Plato primarily as a metaphysician." (Demetriou 1996, 15) Deeply influenced by Neoplatonism, they pursued a theological agenda in construing Plato as a forerunner of Christian transcendentalism (Demetriou 1996, 15). Additionally, there were scholars who did seriously engage with Plato's philosophy, but mainly to establish "an intellectual movement against the rationalistic mainstream of the Victorian period," (Demetriou 1996, 16) i.e. the rise of individualism and positivistic science, all of which these critics saw embodied in Utilitarian ethics. Thinkers like William Sewall made use of the sharp conflict between Platonic philosophy and sophistic teaching to frame the Utilitarians as modern representatives of sophistic reasoning. This served the purpose of discrediting their political projects (Demetriou 1996, 17). Yet the Utilitarians felt more obliged to Plato's philosophy than their opponents cared to believe. Specifically, they considered Plato "a negative and inquisitive mind" and valued him because of his "dialectical method of inquiry." (Demetriou 1996, 36) This was especially true of James Mill. In his *Autobiography*, J.S. Mill emphasizes that his father admired Plato's works and mode of thinking: "There is no author to whom my father thought himself more indebted for his own mental culture, than Plato." (Mill 1971, 14) It comes as no surprise that Mill's own education had a

strong dialectical bend, for his father “trained [him] to argue both sides of every question and taught that you had no right to a belief unless you understood the arguments for its opposite.” (Rose 1983, 103f.)

Moreover, “[i]n a draft of his *Autobiography*, John Stuart Mill professed himself a pupil of Plato ‘beyond any modern I know of except my father and perhaps beyond even him.’” (Nordquest 2016, 19) Yet Mill’s deep admiration for Plato does not imply that he agreed with all aspects of Plato’s philosophy. Especially Socrates’ argument given in the *Gorgias* that the just person who suffers severe disadvantages or maybe even death is better off than the unjust person strikes Mill as implausible (Mill 1978, 417ff.). Nevertheless, it has been established that the *Gorgias* inspired some key arguments of Mill’s *On Liberty* and *Utilitarianism* (Nordquest 2016). In this paper, I want to show that Mill’s political ideas have been influenced by another Platonic dialogue, the *Republic*. Specifically, I will relate Mill’s essay on marriage and divorce (1832) to Plato’s *Republic* to demonstrate that both works argue for a macro-level approach by emphasizing the crucial role of background conditions in achieving desirable social aims.

II. Plato on the Appropriate Scope of the Law

In book IV of his *Republic*, Plato specifies how and why the kind of education he has developed for the guardians will enable them to maintain his ideal city on a self-regulating basis: “Once it gets off to a good start [...] our regime will be a kind of virtuous circle. If you can keep a good system of upbringing and education, they produce naturally good specimens. These in turn, if they receive a good education, develop into even better specimens than they predecessors.” (424b) The crucial point is to avoid any change in the educational system. Plato expects the guardians to be especially vigilant when it comes to musical education. He holds that music is the most obvious gateway for unwanted innovations that put the moral accomplishments of his ideal city in jeopardy: “Changes in styles of music are always politically revolutionary” and music is “certainly a place where breaking rules can easily become a habit without anyone realising.” (424d) Plato considers the preservation of the educational system the most important task of the guardians. Its accomplishment is the only thing necessary to ensure social order in his ideal city. If the guardians succeed, their city does not need any further legislation. Instead, Plato expects that the citizens of his ideal city will “easily develop most of the necessary legislation for themselves.” (425e) This covers not only questions of etiquette, like the appropriate behavior towards one’s elders, but also business dealings like “[t]he contracts various parties make with one another in the market place” as well as “the general regulation of the markets, city or harbours.” (425d)

Plato argues that the instructions necessary to regulate human interactions “aren’t the result of spoken or written rules” and, even if they were, they would not last (425c). To illustrate this idea, Plato compares the desire to regulate every detail of human interaction to “people who are ill, and who lack the self-discipline

required to give up their unhealthy way of life.” (425e) As long as people follow the wrong diet, it is pointless for them to try medicaments. Sustaining health requires an integral way of living. Similarly, citizens can live a morally valuable life only under very specific background conditions. Hence, sovereigns will not succeed in setting up ‘correct’ rules if they neglect the “first and great commandment.” (423e). Rather than trying to fix the effects of poor political circumstances, leaders should seek to establish and maintain a political order that shapes subjects to such a degree that the desirable conduct becomes second nature to them. To use modern terminology, Plato advises the political leaders of his ideal city to pursue a macro-level approach. The aim of this approach is to make citizens act on internalized values and thereby preclude moral conflict on the micro-level. Plato’s ideal city is hence in no need for regulations because its citizens know what kind of conduct is appropriate in which situation.

In the following section, I will show that the young Mill has a very similar approach in his social philosophy. In his early essay on marriage and divorce (1832), Mill maintains that marriage laws simply tend to the repercussions of an unjust social order. They will become unnecessary as soon as the greater evil is abolished, i.e. if society has established gender equality. Like Plato, Mill pursues a macro-level approach to prevent social evils on the micro-level, which would otherwise call for legislation. The social philosophy of both Plato and Mill builds on a specific conception of man, which is claimed to do justice to human nature and make possible their conception of the good life. Plato’s utopian scheme starts from the question of what man ought to be and what kind of life is truly valuable. In a similar vein, Mill underlines that the “question of marriage cannot properly be considered by itself alone. The question is not what marriage ought to be, but a far wider question, what woman ought to be.” (1970, 73)

III. Mill’s Essay on Marriage and Divorce

Mill’s essay on marriage and divorce was probably written in early 1832, two years after he has met the married Harriet Taylor, née Hardy, at a dinner party of their mutual acquaintance, Unitarian minister William Johnson Fox (Rossi 1970, 19). Their letters from 1831 onwards show that Mill and Taylor had formed a close intellectual friendship – apparently close enough to contemplate “the problem of divorce and provision for the children of divorce” (Rossi 1970, 20) in two essays they wrote for each other. The essay by Harriet Taylor is not only significantly shorter¹ but also more radical in its demands. Both Taylor and Mill hold that women should receive a thorough education which enables them to earn their living. But whereas Mill argues “that a woman’s goal would continue to be marriage to a man she loved” (Rossi 1970, 23) and that only unmarried women should be expected to sustain themselves, Taylor insists 1) that all women be

¹ It’s less than four pages in modern print compared to the sixteen pages of Mill’s essay. See Alice S. Rossi’s edited volume *John Stuart Mill and Harriet Taylor Mill: Essays on Sex Equality* (1970).

granted free choice of occupation irrespective of their marital status and 2) married women be wholly responsible for the maintenance of their children. Mill's essay is noteworthy for its sophisticated social analysis and Platonic ring.

At the beginning of his essay, Mill ponders the origins of popular morality and states that it represents "a compromise among conflicting natures." (1970, 68) Yet a compromise on moral issues is nothing laudable or desirable per se. Mill underlines that only moral beliefs which achieve social conciliation "with the least sacrifice of the happiness of the higher natures" (1970, 68) are truly valuable. Mill uses the term 'higher natures' to refer to persons who are most capable of feeling and bestowing happiness due to their natural as well as acquired talents. He seems to have in mind particularly altruistic persons when he writes that those higher natures bestow happiness in two ways: Either by "being beautiful to contemplate," which makes them objects of love and admiration, or by being devoted to increasing the happiness of all who fall within their range of influence. However, these higher natures are in the minority and hence easily outvoted by 'inferior natures.'

Mill considers these 'higher natures' to be the real victims of social compromise because, in bowing to public opinion, they give up what would bring them real happiness, whereas average people are deprived only of lesser gratifications and enjoyments which would "bring no real happiness" (1970, 68) anyway. Yet, despite these divergent dispositions, Mill holds that the morality entertained by higher natures is equally suitable for 'inferior natures.' (1970, 69) Besides, the acknowledgment of the superior morality by 'inferior natures' would, according to Mill, even preclude moral conflict, which in his view stems solely from "the conflict which continually arises between the highest morality and even the best popular morality." (1970, 70) This moral clash becomes most obvious in laws on marriage and divorce, which in Mill's eyes are the result of another moral compromise to the disadvantage of higher natures. These laws embody the popular belief that marriage is only entered into for physical pleasure. They hence do not allow for the idea that marriage might offer more than that, namely, real intellectual friendship. Mill emphasizes that laws on marriage and divorce are dispensable if it were not for the concession to 'popular morality':

If all, or even most persons, in the choice of a companion of the other sex, were led by any real aspiration towards, or sense of, the happiness which such companionship in its best shape is capable of giving to the best natures, there would never have been any reason why law or opinion should have set any limits to the most unbounded freedom of uniting and separating. (1970, 70)

Yet, as it now stands, the law of marriage "has been made *by* sensualists, and *for* sensualists, *to bind* sensualists." (Mill 1970, 70, emphasis in the text) Because of an erroneous conception of human nature, society provides wrong incentives and thus prevents its members from attaining true happiness. Yet, given the internal logic of this scheme, both men and women consider the regulation of their intimate relations as the only viable option: if man is indeed an unstable and

sensual being, any relations he enters into demand social control, i.e. marriage laws and the ban of divorce. Mill concedes that since most men are “attracted to women solely by sensuality, or at best by transitory *taste*; it is not deniable, that the irrevocable vow gave to women, when the passing gust had blown over, a permanent hold upon the men who would otherwise have cast them off.” (1970, 71, emphasis in the text) Similarly, a man who no longer feels attracted to his wife continues to feel responsible for her simply because she is *his* wife. An indissoluble marriage hence increased the social status of women and made them less vulnerable. According to Mill, this is also the reason why women feel stronger aversion towards divorce than men do. Women conceive divorce as a challenge to their dearly bought position: “They have a habitual belief that their power over men is chiefly derived from men’s sensuality; and that the same sensuality would go elsewhere in search of gratification, unless restrained by law and opinion.” (1970, 71)

In the light of women’s dependence on a man for subsistence, Mill concedes that their aversion towards divorce is understandable. Yet their attitude is the result of practical constraints, and reasonable only from a particular vantage point. Mill seeks to broaden the picture when he denounces “the absurdity and immorality of a state of society and opinion in which a woman is at all dependent for her social position upon the fact of her being or not being married.” (1970, 72) Moreover, women’s dependency is rendered “artificially desirable” by denying them an education worthy of the name (rather, they are “being educated to *be* married” – 1970, 72, emphasis in the text), which in turn deprives them of the possibility to make a living on their own. Consequently, to provide women with an education which allows them independence from husband and father is an ‘indispensable step’ to improve their situation. Yet, even though women should be made capable of earning their own keep, Mill does not think “that a woman should *actually* support herself.” (1970, 74, emphasis in the text)

This has partly to do with economic considerations; Mill cautions that if women took to work, the labor market would be burdened ‘with a double number of competitors,’ (1970, 75) which would cause a decrease in wages. We find a similar argument in Mill’s later *Subjection of Women* (1869), where he holds that “[i]n an otherwise just state of things, it is not, therefore, I think a desirable custom that the wife should contribute by her labour to the income of the family.” (2008, 532) Mill has been severely criticized for this view (Annas 1977; Okin 1979; Tulloch 1989), yet this argument is not necessarily inconsistent with Mill’s feminist thought. Rather, it is based on the ‘wage-found theory’ doctrine of income Mill has developed in this *Principles of Political Economy* (Smith 2001). There, Mill asserts in a wording very similar to the one in his *Subjection of Women* that

It cannot, however, be considered desirable as a permanent element in the condition of a laboring class, that the mother of a family (the case of single women is totally different) should be under the necessity of working for a living, at least elsewhere than in their place of abode. (1965, 394)

However, Mill's main argument for merely *enabling* women to earn their living rather than expecting them to actually do so rests on his ideas on the 'natural task' of a wife "to adorn and beautify" life. This does not mean that Mill sees women's accomplishments as being purely ornamental. Rather, he expects wives to see to the *moral* education of their children. The emphasis on 'moral' is important insofar as Mill underlines that women neither can nor should be expected to take the place of a professional teacher or governess. For one, it would be highly inefficient to ask wives and mothers to each carry out a job "on a small scale, what a much smaller number of teachers would accomplish for all, by devoting themselves exclusively to it." (1970, 75) Secondly, it would not do justice to the professional requirements of teaching, since the average mother could never compete with "persons trained to the profession." (1970, 76) According to Mill, the only educational objective of a mother "is the training of the affections," which is achieved by spending time with the child, catering to its needs to make it "happy, and therefore at peace with all things," and by checking bad habits (1970, 76). This argument builds to a large extent on Unitarian ideas on women's social role, which I will detail in the next section.

IV. Mill and Unitarianism

A dissenting Protestant group, the Unitarians bought heavily into Lockean philosophy and psychology (Gleadle 1998, 10). Locke's conception of the human mind as *tabula rasa* void of any innate ideas offered a wholly new outlook on man, for it drew attention to the crucial role of a person's surroundings on the development of her character and abilities. This implied that inequalities and differences between human beings are social and alterable. The Unitarians hence believed in the perfectibility of *all* human beings, and "their strong naturalist psychology saw man as a bundle of potentialities to be developed." (Watts 1980, 275) This also made them take the formative years of early childhood into account – and, as such, reconsider the role of women and mothers. Lant Carpenter (1780-1840), renowned Unitarian minister and educational theorist, emphasized that "the education of infancy and childhood and much of the most important moral culture of the more advanced period will be derived, if obtained at all, from the female sex." (Carpenter 1820, *Principles of Education*, 202, quoted in Watts 1980, 280) It was a widely shared belief among Unitarians that women's task was to "lay the foundations of the future patriot and Christian," promote "just and large views of life" and increase "human happiness." (Le Breton 1874, *Correspondence of Dr. Channing and Lucy Aikin*, 192, quoted in Watts 1980, 281)

However, this does not mean that Unitarians entertained 'feminist' ideas in the modern sense of the word. Rather, their emphasis on the importance of 'right' mothering for a person's moral and intellectual growth reveals their focus on the domestic sphere. Women were considered "relative creatures," (Gleadle 1998, 24) beings who did not live for their own benefit or fulfillment but that of others, i.e. their family. Even the excellent education some of the Unitarian women received

was expected to be put to use within the limits of meeting and advancing the interests of their husbands (Rose 1983, *Parallel Lives. Five Victorian Marriages*, quoted in Gleadle 1998, 25). In these respects, the Unitarian notion about the role of women shares many characteristics with the conception of 'Republican motherhood' in America (Kerber 1976; Zagarrri 1992): it implied an elevation of women in its recognition of the wider social and political implications of mothering, but it also contributed to women's confinement to the domestic sphere.

Mill was familiar with Unitarian thought due to the comparatively close ideological and personal connections between Unitarianism and Utilitarianism (Gleadle 1998; Mineka 1944). The political strife for reform of both groups built on a very similar conception of man, which in turn was influenced by Scottish Enlightenment thought (Rendall 1985).

Personal ties between Unitarians and Utilitarians began to form in the 1820s. John Bowring, like Mill, member of the Philosophic Radicals, and editor of their newly founded *Westminster Review*, knew Unitarian minister William Fox from his work on the committee of the Unitarian Fund. On Bowring's invitation, Fox wrote the leading article for the first issue of the *Westminster Review* (Mineka 1944, 186). Mill was hence already acquainted with Fox in the early years of the *Westminster Review*, but "[u]ndoubtedly it was through Harriet Taylor that the tie between the two men became strengthened." In the wake of this, Mill also became a regular contributor to Fox's seminal journal, *The Monthly Repository* (Mineka 1944, 272).

But, as mentioned above, there are significant differences in the essays by Mill and Harriet Taylor on marriage and divorce. These differences can be accounted for by a shift in Unitarian thought. This shift becomes particularly evident in the stance Fox and his Unitarian group took on women's rights. Due to their proto-feminism, this group would become known as the Radical Unitarians. The demands Taylor makes in her essay suggest that she subscribed to the ideals of the so-called Radical Unitarians around Fox (Rossi 1970), whereas Mill seems to adhere to the more conservative notions of the 'regular' Unitarian denomination, which sees women solely as moral educators.

Nevertheless, Mill does not confine women per se to the domestic sphere (for details on Mill's ideas on women working outside the home, see McCabe 2018). Even though he considers the moral role of wives and mothers essential, Mill holds that women ought to be enabled to choose between marriage (and thus, material dependency on a man), or to remain unmarried and financially independent. The crucial point is that the material dependency of a wife should be a *voluntary* one, i.e. a woman ought to be able to choose whether or not she wants to rely on a husband for support. Only then can marriage become "wholly a matter of choice," (1970, 77) which Mill considers important for social progress.

V. Mill on Divorce

For reasons of social progress, Mill likewise demands divorce to be allowed and easily attainable. He offers two arguments for this. The first invokes a different, more sophisticated idea of man by illustrating what an interdiction of divorce at worst entails: the liability to perform 'conjugal duties' despite one's antipathy towards the spouse. Mill appeals to man's self-understanding (maybe even vanity) by declaring: "No one but a sensualist would desire to retain a merely animal connexion [sic!] with a person of the other sex, unless perfectly assured of being preferred by that person, above all other persons in the world." (1970, 78)

In his second argument in favor of divorce, Mill refers to the usual background conditions of an ordinary marriage, like a young and inexperienced couple who barely know each other and meddling parents. Given such "complicated disadvantages," (1970, 79) couples very probably will not find "happiness in a first choice." (1970, 80) In addition, if a person does not have the possibility to revise a poor first choice, this very likely "embitters existence." (1970, 80) Divorce is hence a pragmatic solution to increase (the chance of) human happiness. After all, "[m]arriage is really, what it has sometimes been called, a lottery: and whoever is in a state of mind to calculate chances calmly and value them correctly, is not at all likely to purchase a ticket." (1970, 78) Likening marriage to a game of chance highlights the unpredictability of its success. In calling attention to our fallibility, Mill's second argument in favor of divorce harbors an epistemic quality.²

To summarize, Mill holds that the laws of 19th century England provide the wrong incentives for marriage: women marry for subsistence, men for physical pleasure and dominance. Both sexes hence believe that their only tie consists in their sensuality. This narrow understanding is the result of a much larger misconception: the idea of the superiority of the male sex, which has led to the disenfranchisement of women in the first place. Thus, marriage laws simply mend the repercussions of an unjust social order that precludes women from making a living. Women's poor qualification and financial dependency require that marriage, as their only alternative to destitution, be indissoluble. Mill therefore demands that women receive an education that enables them to make a living on their own. The idea is to turn marriage into one option among many to achieve equality between the sexes. Yet Mill does not stop here: according to him, marriage should also be as terminable as any other contract. Turning marriage from a lifelong obligation into a free and voluntary association has several positive effects: for one, it appeals to the best in human nature, because the chosen partner wants to prove worthy of his/her preference. Additionally, if women no longer depend

² This reasoning is very similar to one of Mill's arguments in favor of free speech in *On Liberty*: "To refuse a hearing to an opinion, because they are sure that it is false, is to assume that *their* certainty is the same thing as *absolute* certainty. All silencing of discussion is an assumption of infallibility." (*On Liberty*, II, 2, emphasis in the text)

on marriage for subsistence and if men can no longer use marriage to increase their dominance, Mill expects marriage to change from a means to regulate an “animal connexion[sic!]” to an intellectual and sincere friendship (for details on Mill’s ideas on an ideal marriage, see Urbinati 1991).

VI. Mill and Plato on the Good Life

To come back to Mill’s claim that “[t]he question is not what marriage ought to be, but a far wider question, what woman ought to be,” (1970, 73) I will now discuss how Plato’s and Mill’s ideas on legislation relate to their general conceptions of society and man. Both Plato and Mill entertain the idea that our conception of human nature affects the way we structure society. Wrong thinking and political injustice are hence closely intertwined. Moreover, neither Plato nor Mill confines his social analysis to side contradictions. Instead, they identify a principal contradiction which needs to be done away with in order to make possible the kind of society and way of life they consider desirable.

The shared starting point of Mill and Plato is the idea that the good life depends on certain background conditions. If these are not met, any other attempt to achieve one’s goal is pointless, as Plato makes clear in his simile of the sick who try to offset their bad diet with medication (*Republic*, 425e). Similarly, Mill considers marriage laws as a futile remedy to a deeply unjust social order. To discern the background conditions necessary for the good life, we need to ask us how we see ourselves, what kind of life we want to lead, and whether our current society is consistent with our self-conception. Both Plato and Mill point out that we don’t ‘walk the talk’. Mill especially holds up a mirror to his contemporaries by asserting that English society is unjust and anti-rational in making people conform to rules which have “been made *by* sensualists, and *for* sensualists, *to bind* sensualists” (1970, 70) – an exposing observation of a society which prided itself on its rationality and foresight (Briggs 1994). Mill argues that English society fails to live up to its self-imposed standards. Like the sick man in Plato’s allegory, English society is ignorant of what it really takes for a healthy life and contends itself with superficial measures to keep its comfort zone: rather than doing away with its key problem of gender inequality, English society merely tries to offset the negative repercussions of that gender inequality by regulating its citizens’ most intimate relations. In contrast to this, Mill demands his contemporaries to reconsider what kind of life they actually envision for both men and women. His ideas on divorce are part of a larger utopia.

VII. Conclusion

I have discussed Mill’s essay on marriage and divorce (1832) and gave two possible sources of influence for his arguments: Plato’s *Republic* and Unitarian notions of motherhood. Specifically, I have related Mill’s essay to the fourth book of Plato’s *Republic* to show that their political philosophies have an important

aspect in common: both underline the crucial role of background conditions in achieving desirable social outcomes. Moreover, Plato and Mill pursue similar aims: both want to realize the 'good life' – Plato via a specific education, Mill by abolishing gender inequality. They hold that such makes any further legislation unnecessary because the social structures they aim to establish allow people to gain insight into what is socially appropriate and what not.

The idea that moral failure is linked to wrong conceptualizing features especially in Mill. He maintains that gender inequality results from a very limited view of human nature and of human relations. This narrow view makes people oblivious to how unjust and anti-rational their social order is. Yet neither Mill nor Plato dwells on how their schemes could be put into practice. Although Mill appeals to the self-understanding of his contemporaries, it remains questionable whether doing so carries enough weight to foster a social change from which men have so much to lose. Like his great exemplar, Plato, Mill seems to overstate the rational element in man.

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