

## **politics and humanities episode 2**

[00:00:00.09] TOM MERRILL: Hello, and welcome to Politics and the Humanities. This is episode two of our podcast. Politics and the Humanities is a podcast out of American University that's concerned with books, ideas, and liberal education.

[00:00:12.84] I'm Tom Merrill. I'm a professor in the Department of Government at AU. And my colleague, Sarah Marsh, who is a professor of literature also at AU, is my colleague and co-host.

[00:00:24.99] Today we're lucky to have a guest, John McGowan, who is the John W. and Anna H. Hanes distinguished professor emeritus at the University of North Carolina, is going to be joining us. We're going to be spending our time talking about John Stuart Mill's *On Liberty*.

[00:00:43.29] And so we'll talk a lot more about that in a second. I should say about John that he has many interests. He's published on postmodernism, Hannah Arendt, but also, maybe more importantly for this conversation, American liberalism and the American liberal tradition. And he has a book on that, which you should go out and buy right now on Amazon.

[00:01:05.01] Before we turn to Mill, I just want to note-- I think Sarah and I both want to note-- that our colleague Andrea Tschemplik, who was a professor of philosophy and religion, passed away very unexpectedly this past week. We're recording this the first week of class. And we just want to note that this is a real blow for liberal education. She was someone who was a great friend to many of us who care about these things. So we want to remember her for a second.

[00:01:33.60] But to get into the conversation, we are going to be talking about John Stuart Mill's *On Liberty*. I know that some of my students are reading this book in class right now. And hopefully this conversation will be of interest and of use to them as they think about it.

[00:01:47.61] Mill is best known, of course, for his harm principle, which we'll be talking about, which is our ultimate destination in this conversation. But we're going to start where Mill starts, with the idea of social tyranny of the majority in the introduction. And, Sarah, do you want to start by reading a passage about social tyranny of the majority so we can just wrap our heads around what he's talking about?

[00:02:09.42] SARAH MARSH: Sure, Tom, thank you. And, John, thanks for being with us. We're excited to have you. So I'll be reading the definition that Mill is working with of the social tyranny of the majority.

[00:02:23.94] He's really thinking hard about how to balance individual independence and social control, particularly in the context of thought and discussion of the kind that we're caught up in at the University as our primary project. So this is what Mill writes.

[00:02:47.40] He says, "Some rules of conduct, therefore, must be imposed by law, in the first place, and by opinion on many things which are not fit subjects for the operation of law. What these rules should be is the principle question in human affairs. But if we accept a few of the most obvious cases, it is one of those which least progress has been made in resolving.

[00:03:19.29] No two ages, and scarcely any two countries, had decided it alike. And the decision of one age or country is a wonder to another. Yet the people of any given age and any country no more suspect any difficulty in it than if it were a subject on which mankind had always been agreed. The rules, which obtain among themselves, appear to them self-evident and self-justifying.

[00:03:51.71] This all but universal illusion is one of the examples of the magical influence of custom which is only, as the proverb says, a second nature but is continually mistaken for the first. The effect of custom in preventing any misgiving, respecting the rules of conduct which mankind impose on one another, is all the more complete because the subject is one on which it is not generally considered necessary that reasons should be given either by one person to others or by each to himself.

[00:04:29.51] People are accustomed to believe and have been encouraged in the belief by some who aspire to the character of philosophers that their feelings on subjects of this nature are better than reasons and render reasons unnecessary. The practical principle which guides them to their opinions on the regulation of human conduct is the feeling in each person's mind that everybody should be required to act as he and those with whom he sympathizes would like them to act."

[00:05:07.54] TOM MERRILL: Thank you, Sarah. I guess one way of starting the conversation is, what does Mill mean when he says that custom is a second nature?

[00:05:19.64] JOHN MCGOWAN: So one of the things that's interesting here is the notion that on a level of human and unexamined intuition we have a sense of the rightness of certain kinds of things. One of the ways I talk about this with my students is say, look around the classroom and look at how you're all dressed. And where did this dress code come from, about not being too informal when you come to class?

[00:05:46.77] They don't usually come in their pajamas. At the same time, they also don't wear dresses and ties. So we take for granted we've learned somehow, absorbed from our society, what's appropriate. And we don't have any way of articulating where that came from or really what the reasons for it are.

[00:06:07.92] TOM MERRILL: Right, nobody stands in front of their closet in the morning and deliberates, is today the day that I go without clothes?

[00:06:17.24] JOHN MCGOWAN: And I think with Mill, one of the interesting things is that he believes that reason can offer a universal standards or at least a reason to give us ways of discussing between conflicting intuitions or conflicting feelings or conflicting customs, rationales for actually adopting them.

[00:06:43.65] TOM MERRILL: But the clothes example is a good example because it's a very powerful one, but it's also not one that is in some way very problematic, right? It doesn't bother us. We don't feel that we're being done an injustice.

[00:06:59.43] And maybe there are nudists out there who do feel that way. But I mean, this concept that he has of custom or second nature or social tyranny of the majority, it goes to deeper things than that, than just wearing of clothes and other social practices of that kind. Isn't that right?

[00:07:21.84] JOHN MCGOWAN: So this is where-- I hate to bring it up so quickly since I didn't really mean to-- where Mill's imperialism comes in, because I always say to my students that one of the hallmarks of modernity is that it doesn't allow you self-inclusion. But once the distances in the world became short, once Europeans encountered non-Europeans, then the fact that customary social and cultural differences was brought forward.

[00:07:50.06] And so any particular way of life was no longer self-evident, that in fact you had to realize there were other ways for people to live. And the fact of the matter is in many cases we respond to those other ways with disgust or incredulity or just moral outrage. And the fact that Mill can be so dismissive of the claim of non-European cultures is troubling in relation to his attempt to distance us from our own cultures.

[00:08:24.98] TOM MERRILL: Of course, that's completely right because he does say that there's some peoples that are not ready for liberty. And perceptive students pick up on that. And they ask a question about that. And I guess, you know, maybe that's a question that we should ask ourselves is, how does that change our feeling about what he's saying here?

[00:08:47.56] SARAH MARSH: I think that Mills' imperial sensibility is like a lot of Anglo and Anglo-American imperial sensibilities are caught up in the notion of progress or improvement. It was the way that the empire justified itself in any number of different contexts. And so what Mill is saying here about the way that progress is a justification for the kinds of social conduct he wants us to all take up is really interesting because it's not, in fact, universal if you situate it historically.

[00:09:33.70] JOHN MCGOWAN: So I mean, I think one of the great things about Mill, and I think of this as a hallmark of liberalism, is precisely the concern about concentrations of power. So Mill is calling our attention to a different source of power, this power of the majority through social ostracism or just the fact that we want to be liked by our fellows.

[00:09:58.64] So he's calling attention to that kind of concentration of power. And you know, Mill was also wonderful about-- you get a little bit of this in this essay; but of course you get it much more strongly in his essay on the subjection of women and also on his writings about slavery-- that power corrupts, that power, in fact, does horrible things to the person who holds the power as well as to the people who are subject to that power.

[00:10:27.91] TOM MERRILL: I mean, I guess I always think about this question because it's a regular question that, when you teach this essay, it comes up. I mean, it could be the case that Mill has identified a real thing about human beings, that we tend to go with whatever the opinion is that's around us.

[00:10:44.52] But he hasn't yet freed himself completely from it, that he's partially freed himself from it. And that might be a sign that there's still more work to do, even if you took Mill's premise as a correct premise that this is the beginning of a labor that is not easy and doesn't get done in a single day and that just requires continual self-attention to the ways in which we rely on opinions that we've gotten without ever thinking about what their unjust consequences might be.

[00:11:19.82] JOHN MCGOWAN: Yeah, I think that's really interesting to talk about the work that needs to be done, because in fact it's sort of surprising that Mill is not particularly interested in tolerance. So it's not a virtue that he wants to spend a lot of time talking about.

[00:11:36.19] So it's not just that you're supposed to cultivate a kind of indifference to or willing to agree to disagree with other customs in other cultures. He really does want you to work in examining your own culture by light of what other cultures deem as appropriate or proper behavior.

[00:11:58.03] TOM MERRILL: Correct, and he even says that we oftentimes-- the only time that we're really able to tolerate other people is when we don't really care about the issue that we disagree about, which is another way of saying that it's not really a live issue, which just goes to show, I think, the real problem of trying to talk about these opinions that we have that shape our worldviews but that also need to be examined and questioned in the light of alternatives.

[00:12:27.37] JOHN MCGOWAN: Right, so we'll get to Sarah here, I think, with the classroom. I mean, this is a way of saying, if the discussions in the classroom don't shake you to the core, then we haven't done our job.

[00:12:39.05] TOM MERRILL: Yeah, I guess one question we might ask is, do you think our students-- they probably don't know the phrase "social tyranny of the majority." But do you think that they know the thing? You think that's part of their lived experience?

[00:12:52.81] JOHN MCGOWAN: They've all been to high school.

[00:12:54.89] [CHUCKLING]

[00:12:58.53] TOM MERRILL: Well, you know, I always ask students at American University-- you know, I've been teaching there for a decade now. And I always ask innocently, is there social tyranny of the majority at AU? And invariably-- invariably; you don't have to prompt them in any way-- they will say, well, everyone knows conservatives are not allowed to speak, which is a funny thing because it's part of the folklore of the modern university, right?

[00:13:26.98] And the fact that they all say it means that there's something there. But it also means that it can't completely be true, right, because I think the pure definition of social tyranny of the majority is something that you're not even aware that there's an alternative.

[00:13:39.52] SARAH MARSH: Mhm.

[00:13:40.17] TOM MERRILL: And in this case, we're all very aware that there are alternatives. And it makes us uncomfortable. But that's something that's slightly different, I think, than what Mill's talking about.

[00:13:53.45] SARAH MARSH: Hm. So I think about this issue most commonly with my first-year students when we talk about what the atmosphere in class ought to be like, right? What kinds of things will we discuss together? What sorts of words will we say? What sorts of words will we not say?

[00:14:18.98] And I have been convinced by my work with AU students that they are seeking guidance on the ways to have difficult conversations. But they are not that other myth about the university of liberal snowflakes who do not want to engage with discomfiting topics.

[00:14:44.30] I have found, in my experience, that students tend to want to go toward difficulty. And I think it takes a pedagogy of prompting students in those directions and to encourage them to be curious, not about stuff that they are super comfortable with but maybe about things that they haven't thought of at all before or particular pieces of history that they just don't know.

[00:15:20.08] TOM MERRILL: I mean, I guess one question that one could ask-- and we'll have to talk more about the classroom because I think the classroom is the venue in which all of these tensions are being worked out on a continuous basis. But the question that I'm interested in is, let's say that you've recognized that there is something like social tyranny of the majority. There's a custom, there are social constructions that we've naturalized or reified. We've made them into what is seemingly eternal essences when really they're decisions that human beings made.

[00:15:51.93] Once you've recognized that, how could you possibly know that you're not a victim of social tyranny of the majority, right? Because if the definition is that it's something that you take for granted or that seems self-evident to you, how do you know that you're able to get out of it?

[00:16:13.62] JOHN MCGOWAN: I thought you were going in a somewhat different direction with that. I was thinking in terms of costs. So one way to try to overcome the tyranny of the majority is to lessen the costs of being a nonconformist. And of course that's why tolerance is so important to so many liberal thinkers.

[00:16:38.97] But it's interesting with Mill because Mill seems to be saying that the way that we get out of the cost is by having society recognize the positive contributions that nonconformity brings. And somehow you can argue society into recognizing that in fact nonconformists are a necessary part of the social vitality.

[00:17:04.61] TOM MERRILL: Right, well, that's part of the work of the book as a whole, is to make that case. But I guess I still just want to dwell for a second on the concept of social tyranny of the majority.

[00:17:16.36] I mean, it does seem to me that-- I mean, Mill wants to take it in the liberal direction. But the concept could go in a more radical direction, that this idea that somehow we've

internalized social constructions. And it could lead you in the direction of feminism, of radical feminism, of Marxism. Certainly many texts that we read in the University that have to do with race are dealing with similar concepts.

[00:17:43.42] And the experience of realizing that perhaps you've been having opinions for your whole life that are not good for you and maybe not good for other people, but that you have never even reflected on, that's a powerful experience, it seems to me. And so the question of how do we think about getting out of it or what would it mean to get out of it, that's the logical question that a person should ask.

[00:18:14.12] SARAH MARSH: Mhm. And it's a strange enterprise to undertake, for example, during the first semester of your first year of college with people you don't know. We show up in these rooms together or in, this semester, Zoom classrooms together. And we dive in to these really deep questions about who we are and where we've come from, and why is there suffering, and what should we do about it, with people we don't know yet.

[00:18:46.99] And so to me, the process of forming an intellectual community in the class really sets out the parameters for what the discussion can be. And that, to me, is why the undergraduate classroom is such a vital place to undertake the project. But that also comes with a ton of uncertainty, which is it's difficult to navigate but nevertheless necessary to what we're trying to do.

[00:19:21.26] JOHN MCGOWAN: Yeah, it is interesting about how to set this up. I mean, in listening to your first podcast, it made me want to go back into the classroom and think about the things that I perhaps never made explicit enough for my students in terms of the larger goal but also, as you're saying, setting the parameters for the discussion.

[00:19:42.98] I mean, one of the things I think I would now say to them is, the first 12 years of your education through high school were basically socialization. And the job at college now, as you've been filled with all these beliefs and information and things the culture wanted you to learn, now your job is to question them all.

[00:20:05.68] TOM MERRILL: Correct. So even if we're doing the same text or going over some of the same material, we're going over it in a different spirit than presumably students did when they were in high school, right?

[00:20:19.33] So I guess we should say, just to make a transition, so Mill gives us this problem of social tyranny of the majority. It's a problem that shows up in many other thinkers across time and space. And then in chapter 2 of *On Liberty*, he gives us a kind of solution, which is this idea of liberty of thought and of discussion and especially the idea that you have to seek out people that you disagree with in order to test your beliefs against what they think.

[00:20:49.21] And I thought I would just read a quote. And maybe we can talk about what we think the quote means and how it plays out in the classroom. This is from about halfway through chapter 2.

[00:20:59.04] Mill says, "The beliefs which we have most warrant for have no safeguard to rest on but a standing invitation to the whole world to prove them unfounded." And it often seems to me that one could give a long commentary on each phrase of that sentence. But what do you think that means for the classroom?

[00:21:21.90] SARAH MARSH: Well, just to say a few words about the transition from high school to college, right-- and this is, I think, a continuation of what John was saying-- the project of education in elementary school and middle school and high school-- and I think we've all got kids who have gone through those systems, so we've watched them-- the project does not seem to be dialectic in nature.

[00:21:52.21] It seems to be a project in imbibing or internalizing certain kinds of information. And I think there are some disciplines that lend themselves toward dialectical thought in primary and secondary education more than others.

[00:22:12.09] But then students arrive at the university. And that whole project is exploded. And instead of asking students to know stuff about the world and to write that stuff down on exams and in papers, we want them to think about the things they don't know. And that's a massive cultural shift.

[00:22:34.21] And I think we've probably all had that experience of a student coming to us and saying, Professor, what do you want? And it's really hard to demonstrate that the things that we want are for students to take responsibility for their own educations.

[00:22:51.99] And I think the first year is the place where you start to do that work. But the project is really a four-year long endeavor. And I don't know that it necessarily always happens because the training of those early years is so formative, right? It's custom. It's the custom that Mill's talking about.

[00:23:10.11] TOM MERRILL: Right, it might be longer than four years actually.

[00:23:12.92] SARAH MARSH: Right, right.

[00:23:16.28] JOHN MCGOWAN: So it's interesting that one way of approaching that problem, I assume-- it seems like this is your way, Tom-- is to give them Mill, which is an explicit argument and description of what it would mean like, what it would feel like and be like, what you need to do. So do you find being that explicit useful?

[00:23:40.29] TOM MERRILL: I do. I mean, I guess I just feel like you don't want to let things go unstated in the hopes that people pick up on. I mean, there is something that's-- what happens in the classroom is an activity. And we're trying to get students to engage in that activity. And you need to give them pointers.

[00:24:01.77] I mean, one way of thinking about what's going on in this chapter in particular of On Liberty-- there are no answers here. This is a how-to book. This is like a series of exercises

that you would have to do in order to get the benefit from, more than something that you could sort of passively ingest and then appreciate.

[00:24:23.97] So yeah, I think it helps to give them kind of a goal, or this is the kind of activity that we're engaged with. And that's the theory on which I give them this as one of their first texts that they read.

[00:24:39.55] JOHN MCGOWAN: Yeah, I mean, similarly I have, the last couple of years, used the Kant essay, "What Is Enlightenment?" in the same way of setting up, here's this charge to you. Think for yourself.

[00:24:51.82] TOM MERRILL: Right.

[00:24:52.59] [CHUCKLING]

[00:24:55.12] I mean, there are other texts that could do the same thing-- I mean, Socrates and The Apology, something like that. But just because we've, for the past several years in the academy, been so worked up about free speech, about cancel culture, about how to speak to each other, and why we need to speak to each other, that this seemed like a way in. I'm not sure that I think that Mill was the ultimate goal. But it's a way into the activity that we do.

[00:25:24.11] I just wanted to dwell on this quote for a little while. He says, "the beliefs which we have the most warrant for have no safeguard to rest on." There's a possibility in that sentence that our beliefs have no safeguard to rest on, right? That's the [? operative ?] that's in the background.

[00:25:46.76] And I think that's important to note and to be explicit about because when you recognize that there is something like social tyranny of the majority in the world, it's a very natural thought to think, well, there's no way of discerning between better and worse. You have your way. Or you know the old statement-- your society has your gods, we have our gods, and never the twain shall meet. There's nothing to talk about here.

[00:26:13.27] But that's not Mill's premise, right? He says that the only safeguard that we have for the beliefs that we should believe the most is "a standing invitation to the whole world to prove them unfounded." Can we just talk about, what would a standing invitation to the whole world to prove them unfounded look like?

[00:26:34.44] JOHN MCGOWAN: It's supposed to look like the ideal vision of peer review in science, right? This is proper, the idea that anything can be possibly falsified and that you go through a process by which the truths or the statements or the hypotheses are continually tested against their possible consequences, the fact that whether they actually pertain in the world or not.

[00:27:06.17] SARAH MARSH: I always tell my first-year students, who are in writing classrooms and we're talking about the project of peer review not just as something they're doing because it was an assignment I dreamed up but because this is the institutional practice of

academics, to make sure that the things that we think that we know are really the best of our knowledge, and I always tell them that this is why we keep the universities open, because we are constantly skeptical of what we know as being the best of what knowledge could be.

[00:27:44.41] And I think that that is [CHUCKLES], it's a little disconcerting, I think, as a first-year university student who has been told a certain kind of story about what a university education is for. And then you show up, and your professor is telling you that, well, maybe we'll really never know.

[00:28:04.32] And this is the thing that troubles me the most whenever I think about how a university education is supposed to translate into meaningful action in the world. If we're supposed to keep open the questions and keep asking, when do we stop and do something about it?

[00:28:23.41] And I was wondering if y'all could talk a little bit about that problem. Tom and I have framed it as the difference between, or the continuity between, university intellectual methods and activism. But I wonder if there are other insights that you all want to bring in. And, John, maybe I'll ask you to go first.

[00:28:45.37] JOHN MCGOWAN: Well, of course I have no simple or good answer to that dilemma. I do tend to think that the separation of the university from the real world is to some extent real and that it is for better and for worse.

[00:29:01.70] It obviously has its disabilities. But I think the classroom, like academic research, has a kind of safety built into it, where you can be fearlessly pursuing questions to the ends of their consequences precisely because they're disconnected from direct action. And I think we can see that in the passage I'm going to read in a little while, in the fact that our political discourse at the moment is so corrupted.

[00:29:31.19] And it's so corrupted precisely because it's all about gaining advantage so that there's an I towards the end that's trying to be achieved rather than the process of actually following an idea or an intuition to its full conclusions irrespective of where it might lead you. So I want to stress the enabling fact that the classroom is to some extent insulated from needing to provide immediate returns.

[00:30:05.17] TOM MERRILL: Right, and obviously one reason why the separation is important and one of the good things about it-- obviously there are bad things, as well-- but one of the good things is, so if Mill is right, we have to, as it were, give an invitation to the world to come over and prove us wrong, right?

[00:30:23.75] We have to put a big sign over our front door that says, refute me now, or something like that, like come over to my house, and kick my butt. And that's a scary thing because if we really don't know which of our opinions are merely the product of social tyranny of the majority-- and some of them might be opinions that we care about a lot, but we can't know in advance before we've started to look-- there's a kind of inherent anarchism in what we do that is just part and parcel of the process of trying to figure out what you think about the world.

[00:31:00.22] Now, obviously that's not such a good idea if you're in the practical sphere. If everything is a real experiment with real human beings, then the consequences are going to be dire. So you need a kind of space, a space of imagination in which you can think things through without having to live with all the consequences of what it is that you're thinking. I think that's part of the purpose.

[00:31:28.66] SARAH MARSH: And it makes me think again of where we started with Mill's imperialism, right? I mean, it's one thing to say that despotism is the best way of governing barbarians, which is, I think, a rough paraphrase of the way Mill articulates the idea in *On Liberty*. It's one thing to write it on the page, and it's another to form colonial polities with real flesh and blood societies that are organized by a concept of hierarchy and subjection with power being exercised not through public opinion but through violence.

[00:32:11.22] And so I think you're right, Tom and John, to say that there are different spheres. And the university is important because it allows us an opportunity to flesh out these questions and problems and to really work on them before we do the flesh and blood version of them out in the world.

[00:32:36.34] One of the other things I wanted to engage you both on is this idea that Tom's been centering our discussion on about an invitation to the whole world to prove these beliefs unfounded. And that, I think, frames the question as one between the individual and everybody else.

[00:33:03.06] But I also think there's an ideal kind of inquiry where that debate or that invitation is sort of internalized and one is grappling with oneself about the ideas in question. How do you cultivate that kind of work in a classroom or even in individual assignments?

[00:33:28.58] TOM MERRILL: Can I make a stab? And I'm interested to hear what John has to say. I mean, social tyranny of the majority suggests that we see the world through a distorting lens. But it might also mean that we see ourselves through a distorting lens, that we never quite have direct access to our, quote, unquote, "true selves."

[00:33:50.12] So I sometimes think when you're talking with students, and I wonder if this is your experience as well, that you'll meet a student, and you'll realize that the student is wearing a costume, a mental or a spiritual costume, that they don't even realize is a costume, that there's some layer of appearance that's not the full self that they're showing.

[00:34:13.49] And so that's just another way of saying-- I think what you're saying, Sarah-- that's, how do we get ourselves to start trying to work through those things? Is there a way to get, at our, quote, unquote, "true selves" directly? Or is it always a process of make a mistake, trying again, having an approximation, getting a better approximation. John, do you have thoughts about that?

[00:34:34.36] JOHN MCGOWAN: Well, I think the hardest thing as a teacher is to provoke curiosity. I don't know how to do it, but if the students aren't curious, if they don't want to have new experiences and to test themselves, it's very hard to move them.

[00:34:52.41] And so I think the only thing I do, in relation to this, is try not to make diversity a piety, a obligation, a buzzword, but the University trots out at every moment to beat people over the head with. But try to give them a sense that diversity's exciting.

[00:35:13.65] Here's your chance to try out all kinds of new things and meet all kinds of different people. Take advantage of the fact that this is such a diverse environment. But you know, you can lead the horse to water. You can't make it drink.

[00:35:29.24] TOM MERRILL: Well, this is a profound truth about teaching, [CHUCKLES] right, and that which is we all have to remind ourselves every day that the line about, you can lead a horse to water but not make him drink. I think that there's a psychological problem with teaching, right? How do you get people to have the courage to question themselves in a radical way?

[00:35:49.18] And there's no way of testing this. You can't come up with a metric that allows you to say, well, 45% of my class really questioned themselves, which is one of the reasons why all the learning outcomes in metric stuff is not always that helpful.

[00:36:04.28] But it does seem to me that just the statement of, I want to hear what the strongest argument against me, it might feel like you're putting yourself down, but it's actually a tremendously empowering-- I'm strong enough to hear the things that somebody might say about why my way of being in the world is mistaken. And so it's not something that people have or not have. It might be that they develop it over time, that sense of courage and moral agency that it takes to really be open to the process of questioning that we're supposed to be doing in the University.

[00:36:38.68] Can I ask a question? I want to ask a question about free speech. And, John, I'm going to address it to you. Do you think of your classroom as a zone of complete free speech?

[00:36:48.96] JOHN MCGOWAN: So no, and I'm interested in how the two of you do this because I have become-- and again, this is something that's only happened over the last five or six years. But we've become very sensitive to this at the University, the need at the very beginning of the semester to set some ground rules.

[00:37:08.20] And it ends up being talking about ad hominem is not acceptable and also that certain kinds of, I guess you would have to call, bordering on hate speech or prejudicial speech are also not acceptable. So you know, I want my classroom to be an incredibly safe space for totally free speech.

[00:37:33.01] But I also have to recognize that some of my students are more vulnerable than others. And I have to protect them in order to allow them to speak as freely as possible. So I mean, this leads to issues of civility, of mutual respect, and of thinking also about what's within the bounds of a proper discussion and what are outside those bounds.

[00:37:59.10] TOM MERRILL: It might help to remember that the classroom is not-- like, the full activity itself, the classroom is an invitation to the activity and that those two things maybe

are separate. John, I think you had a quote about civility that you wanted to read and have us talk about.

[00:38:14.32] JOHN MCGOWAN: Yeah, just, this is at the very end of chapter 2. Mill actually takes up the question of civility. And he pretty much wants to be a free speech absolutist. He wants to say it's impossible to govern speech, certainly by laws he would be really against.

[00:38:32.93] But even he wants to get away from, I guess you would say, the implicit censorship of certain kinds of notions of what's civil and what's not civil. And it seems to me in this respect he's a bit naive thinking that everyone is entering the conversation in good faith.

[00:38:50.50] And this passage at the very end of chapter 2 shows us his assumption that people will act in good faith. He says, "Undoubtedly the manner of asserting an opinion, even though it be a true one, may be very objectionable and may justly incur severe censure.

[00:39:12.22] But the principal offenses of this kind are such as it is mostly impossible, unless by accidental self-betrayal, to bring home to conviction. The greatest of them is to argue sophistically, to suppress facts or arguments, to misstate the elements of the case, or misrepresent the opposite opinion.

[00:39:34.92] But all this, even to the most aggravated degree, is so continually done in perfect good faith by persons who are not considered, and in many other respects may not deserve to be considered, ignorant or incompetent that it is rarely possible on adequate grounds conscientiously to stamp the misrepresentation as morally culpable; and still less can law presume to interfere with this kind of controversial misconduct."

[00:40:06.16] Well, in an age of disinformation deliberately spread, this is, to say the least, rather naive. And to think that it's never morally culpable-- and I don't know what legal solutions to this do not seem particularly appropriate. At the same time, safeguarding against misinformation is a severe test that our society is trying to struggle with right now.

[00:40:34.13] TOM MERRILL: So, John, you're probably opposed to, when there's a controversy in class, of people who tend to throw their hands up and say, well, there are two sides. We have to hear both sides. And one sees this sometimes in the media.

[00:40:49.92] And it sounds to me like you want to say sometimes to students or to other people, I don't think you're offering that argument in good faith. And I don't believe that that argument is true or valid. Is that correct?

[00:41:06.89] JOHN MCGOWAN: Well, no, I tend not to go in that direction. I tend usually to have the problem of things that are based on false facts, false information. So I could be seen in the classroom often as throwing my weight of authority on one side of the question. But I'm insisting that we be fact-based.

[00:41:29.86] So a favorite example of mine is-- so Hannah Arendt says, we can argue about the causes of World War I till the cows come home. But if you start the argument by saying Belgium

invaded Germany in August 1914, we've got no place to go. And in a world now where people are deliberately sowing false facts and misinformation, I do think it's not outrageous of me as a professor to simply say to people, that's not true.

[00:42:06.18] TOM MERRILL: Right, it also contributes-- I mean, I don't know what your experience of class is like-- but a bad class is one in which everybody feels like everyone has different opinions, and there's no way for a common conversation to get started. And that's a very hard thing as a teacher to know how to handle. I mean, how do you start where people are and allow them to feel like they're actually making progress?

[00:42:30.04] But certainly I would say, I mean, American culture right now feels like it's one of those bad classes where people are just yelling at each other, and everybody says, well, you've got your opinion. I've got mine. And I don't have to give any account to you because we just disagree. That's not civically healthy. And that's certainly not healthy for the kind of life that we're trying to lead in the University.

[00:42:53.59] SARAH MARSH: I think it's true that there are political strategies at play in the public discourse that deliberately cast arguments in absolute, incontrovertible terms, right? And those terms can never be held in common among people who disagree with one another.

[00:43:14.87] And the result is profound intractability. I think about this a lot around the conversation about abortion because I teach classes in women's gender and sexuality studies. And what's so interesting to me is that in this sense, the university classroom can be a kind of bulwark against those highly polarized frameworks and try to think about what is the common set of terms we could use to work through these questions and problems.

[00:43:54.65] And the thing that is really tricky for me is to also think about the classroom as something that has context. And there is power associated with the way a class operates, mostly in so far as I will assign a grade to every person in the room at the end of the semester. And you know, I do think grades are kind of a thorn in the side of critical pedagogy. But that's maybe another discussion.

[00:44:27.41] So yeah, I think that it's ideal to treat the classroom as a place where we can try to find common ground out of these highly divisive frameworks. But at the same time, it's not as if university classrooms are disconnected from history or from the lived lives of students who are going to have to take a transcript to an employer or a graduate school or what have you.

[00:44:57.88] JOHN MCGOWAN: So let me-- can I be concrete about this for a moment? So at the end of your last podcast, Sarah, you also made a plea coming out of the Douglass passage for the universal and for mediating between opinions that seem, what, irreconcilable.

[00:45:19.75] But there is the fact that Douglass does take one irreconcilable stand, which is that slavery is evil. And he's living in a society where there were people who said slavery's [INAUDIBLE]. In fact, they used their religion to justify slavery, as well as other arguments, and had no intention of ending the practice. So what do we do when we come up against those moments of absolute division?

[00:45:51.70] SARAH MARSH: Well, this is probably a good moment to transition into the harm principle, right? I mean that helps us think through the grounds for civil discussion because there, as Douglass' experience points out, the physical and spiritual violence of chattel slavery makes something like dialectics impossible.

[00:46:21.78] It makes conversation impossible because you have these intractable positions. Tom, do you want to say a little bit more about the harm principle and how it can help us think through this issue of absolute moral stances?

[00:46:37.94] TOM MERRILL: Sure, let me try to pose the issue this way, which I think is a restatement of what John just said. So if Mill is right in chapter 2, in order to really own our own opinions we have to have this kind of intellectual anarchism in which we're seeking out the opinions with which we disagree. And in advance we can't know how far that goes, OK?

[00:46:57.75] So that's on the one hand. On the other hand, we live in a society. And as you say, Sarah, in your example of grades, that there's power relations, and we have to make decisions about how we're going to live. We don't have the luxury of the academic of always being able to go back and reconsider decisions because our decisions have real-life consequences. So there's a tension between what the community needs and what the life of the mind needs.

[00:47:23.07] Mill wants to say, knowing that there's a tension there, he wants to say that he's going to give us a principle that's going to help us solve or navigate, which might not be the same thing, that tension. That's the harm principle. And I'm going to read a passage from the end of chapter 1. This is really the thesis paragraph of the entire book. This is on page 8 of the Dover edition.

[00:47:47.55] "The object of this essay is to assert one very simple principle as entitled to govern absolutely the dealings of society or the individual in the way of compulsion and control. Whether the means used be physical force in the form of legal penalties or the moral coercion of public opinion, that principle is that the sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is self-protection, that the only purpose for which power can be rightly exercised over any member of a civilized community against its will is to prevent harm to others.

[00:48:27.66] His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil, in case he do otherwise.

[00:48:58.40] To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to someone else." So that's the harm principle, which is just to say that the only times that we as a community have a right to interfere with someone's action is when they're harming someone else, not when they're harming themselves. John, do you think that's a sufficient, practical principle that allows us to solve this problem?

[00:49:27.41] JOHN MCGOWAN: This is funny because in some ways it gets us back to the issue of custom. I think it has become a common sense principle, that there is fairly widespread agreement within our society. So it's an easy place to fall back on to at least start the conversation.

[00:49:45.18] So the obvious example is drunkenness. So we feel as if society has no right to tell you you cannot get drunk. But we're very comfortable with the fact of society having strict penalties for drunk driving, because once you're drunk driving, then you're possibly causing harm to others, not just to yourself.

[00:50:06.11] So I think that's gotten baked into our common sense, and that it works for some cases to help understand the rationales for our legal structures. There are obviously difficult cases it doesn't work so well for.

[00:50:22.56] TOM MERRILL: Well, let me give a counter-example that sometimes people give in class. So let's say that you're doing some unhealthy behavior that ends up with hefty health care costs. In a world in which health care is at least partially socialized, health care costs, don't those things carry weight for other people?

[00:50:48.15] So if I'm a smoker, you might think, well, I'm only harming myself. I'm not endorsing this argument. But this is the way the argument goes. But because there are the long-term health costs of you having lung cancer and society having to support you on that, isn't the line between public and private kind of messy?

[00:51:10.03] JOHN MCGOWAN: Absolutely, and I think not only is the line messy, but I think it will be continually redrawn as different sensibilities rise to the fore and different arguments are made. So the one example obviously is the issue of domestic violence.

[00:51:27.02] So for many, many years domestic violence was seen as private. The husband, the father, was a fairly absolute control of the home, of his castle. And partly in response to feminism, it became much more appropriate and accepted for the state to interfere in cases of domestic violence. And in fact, obviously lots of people would argue the state still doesn't interfere as fully as it should in such cases.

[00:51:56.71] You know, the smoking argument's an interesting one because there's one point in On Liberty, and I think it's when he's talking about gambling, that Mill accepts that there are social costs. And he falls back on the argument of, well, you know, but prohibition won't work. You could try to prohibit people from smoking, but you'll never succeed.

[00:52:18.71] And so basically he just says, we try everything we can, including higher tax bills, which he reluctantly accepts, to discourage the practice. But prohibition would be ineffective and so not a good way to go. But that's a fallback argument. That's not an argument on the principle of the public--

[00:52:41.33] [INTERPOSING VOICES]

[00:52:41.74] TOM MERRILL: Yeah, that's an empirical argument based on the consequentialist argument, based on what are experience and what happens if you try to prohibit. But one thing that's striking to me in those last chapters of *On Liberty*, is that it turns out that the social coercion turns to-- he has more positive things to say about it in the latter half of the book than he does in the first half, that that's a legitimate way for society to send people messages about what society thinks is better or worse.

[00:53:12.94] JOHN MCGOWAN: Well, even in the passage that you just read at the very beginning, he says remonstrances are perfectly allowable.

[00:53:20.67] TOM MERRILL: Right, yeah, that's exactly what I'm thinking of, that sometimes-- but maybe there's a distinction between trying to persuade your erring brother that he has messed up in some way and using coercion on that person. That's a distinction that Mill very much wants to build, that he's not suggesting that we just have to sit back and accept whatever everyone else does in the world without making any judgments. That would be an inhuman thing. But, Sarah, do you have thoughts about this?

[00:53:58.62] SARAH MARSH: So I do have thoughts about-- I want to pivot back to the example of domestic violence, which is something that Mill talks about in *The Subjection of Women*. So the problem with prosecuting domestic violence, Mill says, is that often the legal remedies for the problem merely deliver the victim right back into the location of her brutalization.

[00:54:36.48] And so I think whenever we're talking with students about these issues, which I think, broadly construed, we could say are sort of like tensions between the individual good and collective good, I think it's really helpful to try to sift down and be as granular as we can be about the lived realities of these experiences, because it's one thing to frame the discussion in a particular way and say, well, you know, smoking is only bad for me. But then it would potentially have these other collective effects, right?

[00:55:20.43] Even the advent of something like a pandemic changes the stakes of a conversation like that, where we carry individually these new kinds of exposures, these new kinds of risks. And being together socially is a kind of danger.

[00:55:43.41] And so I do think that, again, it's really hard. And it's a constantly evolving conversation with students to properly contextualize what we're talking about, but also to bring up the intricacies of these problems, which is not something we're particularly good at in our public discourse.

[00:56:08.32] JOHN MCGOWAN: So one of the ways I think about this and one of the places where Mill falls down is the notion that I pick up from John Dewey, but other liberals in the 20th century obviously are interested in, of effective freedom.

[00:56:25.24] So if we think of your domestic violence example, it's not only that the state has some kind of responsibility to punish the perpetrator, but the state then has a responsibility to provide the resources for the victims of that violence so that they can actually go on with their

lives in a way that shelters them from the violence. So there are positive resources that are needed in order to actually act on the kinds of freedom that Mill is trying to convey.

[00:56:56.71] TOM MERRILL: John, I wonder if that connects back with some of the things we're talking about with issues in the classroom, that, if I understand Mill correctly, freedom is a very great good. What puts a person in a position to be able to use that good effectively and in a way that's going to help their life flourish?

[00:57:18.92] And those questions, I think, are much harder to see because I think that there are material conditions. There are also spiritual conditions or a sense of self-confidence in the world that allows you to question yourself, that if you start out in a place where you feel that you're completely bereft and you have no resources, it can be very hard and scary to say, well, maybe justice isn't what I thought it was. So that question about what are the conditions that allow this activity to be good, I think, is a hard one to answer in Mill's framework.

[00:57:58.87] JOHN MCGOWAN: And also, going back to Sarah's point, Mill does seem to bypass questions of power. So concentrations of power are not always governmental concentrations of power. And there are cases where you want to enlist the state in fact to guard against or dismantle or at least curb the effects of concentrations of power that are non-state actors, obviously economic power being a crucial one.

[00:58:29.46] SARAH MARSH: Mhm.

[00:58:30.42] TOM MERRILL: Right, right. I mean, Mill seems to assume that everybody can just start using liberty and that we're all basically in the same position and nothing else has to be done. But that may well not be the case for all kinds of historical injustice reasons.

[00:58:50.69] JOHN MCGOWAN: Right, and we need to think about concentrations of power in relation to certain ethnic and racial groups, as well.

[00:58:56.80] TOM MERRILL: Of course, of course. I mean, I guess another way of saying or bringing this back to the original point about social tyranny of the majority and then using some kind of dialectics or process of questioning as a way of getting out of that, if Mill is right, if he's right in that part of his argument, then what we should do is be attacking him or at least looking for places where his argument doesn't go far enough.

[00:59:26.54] And that's part of, if the activity is the key thing, then the specific conclusion or the specific place where you draw the line between public and private might be more contingent and more open for discussion as part of that same process that Mill, as it were, unleashes in the opening chapters of *On Liberty*. And I guess, for me, that's the part that's really the living part of this book, is that he's giving you a kind of initiation into a certain activity, a certain mode of being in the world, that that's what the university's supposed to be, I think.

[01:00:07.47] JOHN MCGOWAN: Amen to that.

[01:00:09.12] SARAH MARSH: [CHUCKLES] [INAUDIBLE].

[01:00:13.48] TOM MERRILL: Well, we should wrap up. Do we want to make any closing comments here? Sarah, do you want to say something?

[01:00:20.75] SARAH MARSH: Sure, so what I would like us to continue to do-- and this is part of my own research interests in the origination of chattel slavery, of racial chattel slavery, in Anglo America, both during the colonial period and then in the early national era-- I want to just put a pin in the conversation we've been having about Douglass and power and the way that white supremacy and other kinds of structures of domination are constitutive of the notion of liberty and that liberty itself is an idea that really ought to be historicized as something that did have a racial element in the 17th century and in the 18th century.

[01:01:22.54] And I do think that we are living out the consequences of that history, which is constitutive of our current moment, where the country is riven again with these questions about police brutality, about the extrajudicial killing of unarmed black men. And I think that the notion of liberty is something that we can draw through to those very particular political concerns that have incredibly deep roots in our national consciousness.

[01:02:01.21] TOM MERRILL: One great thing that I hope happens in classes is for people to be able to make the connection that when Mill's talking about social tyranny of the majority, a big example of that for us as Americans is racism, right? That one doesn't really get a sense of what he's talking about unless one is able to see that in our own lives in that way.

[01:02:21.04] SARAH MARSH: Right, and I think the degree to which racism has inflected our knowledge practices in the United States is really worth talking about. And we don't have time to do that now. But I would really like to bracket that as the subject for a future discussion. It's incredibly important for people inside the University who are participating in those knowledge practices to talk about the relationship of racism to the production of knowledge.

[01:02:59.35] TOM MERRILL: That's Interesting. John, what do you think?

[01:03:03.11] JOHN MCGOWAN: Well, thank you so much for having me. I really enjoyed being part of this conversation. My only final thought is just that, with Mill's emphasis on freedom, which is obviously a highly sought after political good, it's interesting that he barely ever mentions-- I think maybe only once or twice-- the notion of justice. And I think that the conversation about what we're seeking in a political society changes radically when the focus moves over towards justice as opposed to freedom.

[01:03:37.45] TOM MERRILL: And do you think that he doesn't have it fully fleshed out or fully enough fleshed out? I mean, you would want to supplement his theory in some way?

[01:03:45.22] JOHN MCGOWAN: Well, again, I think he's just naive about the impediments in the way of people achieving their individual self-development. He's very clear that, for him, the prime social good is a society that allows people to self-develop to their fullest extent.

[01:04:04.45] And justice raises the question of, what are the impediments to that? And what can the state do to alleviate those impediments? And racism is just an obvious example. And so that's where it seems the conversation needs to go next.

[01:04:24.07] TOM MERRILL: Right, would you see that as overturning Mill or completing Mill?

[01:04:29.14] JOHN MCGOWAN: Well, I think it becomes the development of 20th century liberal thought from people like John Dewey to John Rawls, et cetera. And it's also obviously central to the current political debates in our country, where social justice is an epithet of disgust and outrage on the political right at this moment. To be a social justice warrior is somehow despicable, as if it were a threat to freedom rather than a way to make freedom available.

[01:04:59.75] TOM MERRILL: Right, right, right.

[01:05:01.99] SARAH MARSH: Right.

[01:05:02.39] TOM MERRILL: Well, I think we're out of time for today. There's lots of topics that we should go on and talk more about. But I just want to thank John McGowan. John, thanks. It's been great having you. And we really appreciate just your expertise, as a scholar and as a teacher, that you've brought to this conversation. So thanks so much for taking the time to be with us.

[01:05:27.50] JOHN MCGOWAN: Well, absolutely. Thank you for having me. It's been a pleasure.

[01:05:30.50] SARAH MARSH: Thank you.

[01:05:31.21] TOM MERRILL: And, Sarah, we're looking forward to being together and talking again about similar topics sometime soon, isn't that right?

[01:05:37.55] SARAH MARSH: That's right.

[01:05:39.62] TOM MERRILL: We're not going to make any promises because that would commit us to too much.

[01:05:43.37] [CHUCKLING]

[01:05:44.65] SARAH MARSH: Teaching online is a different animal. So, right, we'll take that into account as we plan the frequency of our forthcoming episodes.

[01:05:56.96] TOM MERRILL: That's right, that's right. OK, guys. Well, it's been great. Thanks so much. We'll look forward to talking again soon.

[01:06:02.43] SARAH MARSH: Thank you, both.

[01:06:03.06] JOHN MCGOWAN: Yep, bye bye.

[01:06:04.20] TOM MERRILL: Bye bye.