

John Stuart Mill's Harm Principle Essay Sample



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“ The only freedom [...] is that of pursuing our own [happiness], so long as we do not attempt to deprive others of theirs or impede their efforts to obtain it” – John Stuart Mill. This utilitarian approach brought forth by John Stuart Mill, within his works *On Liberty*, identifies a correlation between freedom and happiness. He essentially states that achieving freedom is most effective when an individual is able to act in ways that promotes their happiness, in so forth that another individual's freedom, is not negatively affected (Dyzenhaus, Moreau and Ripstein 2007). The “ Harm Principle” developed by John Stuart Mill, is one, where he incorporates his view of freedom, into a theory of how society should function. Trying to eliminate the common societal problem of an oppressive government, this principle suggests that in order to achieve and maintain liberty within society, it is essential that individuals are able to act rationally, while being restricted from causing harm to others (Dyzenhaus, Moreau and Ripstein 2007). Incorporating this principle with the relationship between the state and its citizens, the state cannot interfere with the actions of its citizens unless the actions are harmful to others (Dyzenhaus, Moreau and Ripstein 2007).

However, John Stuart Mill's Harm Principle consists of an underlying problem, which is the controversy of what constitutes harm. This controversy can be problematic when applying the principle to society. With this said, the harm principle in its theoretical approach entails that if an action does not cause harm to others, it is not subject to legal sanction or interference from the government or individuals within the society (Dyzenhaus, Moreau and Ripstein 2007). However, applying this principle in society can cause difficulties due to its vague nature and unclear identification of harm. To

begin, John Stuart Mill, a utilitarian philosopher, strives to achieve the greatest happiness for the greatest number of people, by addressing and developing solutions to problems within the social hierarchy present in many societies. Essentially, He is concerned with the lasting struggle between citizens searching for liberty and the state enforcing their power, and how to eliminate this struggle in order to achieve equal political liberty for all (Dyzenhaus, Moreau and Ripstein 2007).

He views the government institution as an oppressive force, which holds a monopoly of power over society, resulting in the acquisition of a low level of freedom for its citizens (Dyzenhaus, Moreau and Ripstein 2007). Such monopoly of power is dangerous in practice, due to its corrupt and tyrannical nature, which can develop, acting as a more negative than positive form of maintaining control and liberty for all. Another concern of John Stuart Mill, is the unequal representation of minorities within the democratic government. He defines the democratic government as being a system, which produces a "tyranny of the majority" (Dyzenhaus, Moreau and Ripstein 2007). What this essentially means is that a democratic government that, in theory is supposed to be a representation of the full population, is rather a system of representation of the majority. As a result it is unfair and oppressive attitude toward to the minority groups. In light of this, it is evident that not only do governments produce a system that underrepresents the minorities, it also creates a system that oppresses minority groups, leaving them with significantly less political liberty.

The underrepresentation of the minority, results in their inability to act freely and express their freedom. The concept of liberty (freedom), is "the state of

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being free within society from oppressive restrictions imposed by authority on one's way of life", and holds great importance within the works of John Stuart Mill (Dyzenhaus, Moreau and Ripstein 2007). Moreover, liberty can be viewed in many different perspectives. The first perspective of liberty "allows individuals to exercise control over their lives" and is most frequently referred to as "positive freedom" (Dyzenhaus, Moreau and Ripstein 2007). Another approach to positive freedom is the ability to do what one desires within the constraints of the law. Negative freedom, on the other hand is "freedom in the absence of coercion" (Dyzenhaus, Moreau and Ripstein 2007). This essentially means, that individuals are free to do what ever they desire without facing oppression due to restrictions, obstacles, or negative influences. Comparing the positive and negative concepts of freedom, it is evident that both share the idea that individuals should be able to act upon their desires. They differ in a sense that negative freedom, suggests that freedom is when one is given the ability to act without the threat of coercion.

Relating the two concepts of freedom to the efforts of John Stuart Mill, it is evident that Mill supports the idea of negative freedom. With strong intuition, Mill holds the position that, people should have individual liberty over the authority of society, in a sense that they should be able to think as they please and have an opinion, which is different from the vast majority (Dyzenhaus, Moreau and Ripstein 2007). Individuals should not be required to assimilate within society, but instead should have a rational choice to do so. Also, individuals should have the freedom to unite into the groups of their choosing and express themselves (Dyzenhaus, Moreau and Ripstein 2007). Evidently, Mill supports the idea that achieving complete freedom is to

eliminate the oppressive components of society. More specifically, individuals should be left alone from the state to do as they wish, which is essentially what the concept of negative freedom entails. John Stuart Mill's Harm Principle has roots in the concept of negative freedom.

His theory focuses on restricting government intervention, as well as eliminating the tyranny of the majority, by maintaining a high degree of liberty for the people (Dyzenhaus, Moreau and Ripstein 2007). It states, " the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others" (Dyzenhaus, Moreau and Ripstein 2007). Essentially, John Stuart Mill's Harm Principle supports his belief that " there should be maximum liberty for citizens and that coercion and the tyranny of the majority should be eliminated" (Dyzenhaus, Moreau and Ripstein 2007). However, in the case that an act does harm others, interference is permitted and a legal sanction might be given to that individual as a punishment. Legal sanctions are defined as " the part of law that is designed to secure enforcement by imposing a penalty for violations of the law or offering a reward for its observance" (Griffiths 2007). The two common forms of legal sanction are criminal and civil sanctions (Griffiths 2007). These sanctions include fines as well as incarceration, respectively.

Relating this to the Harm Principle, although one is free to do what they please as long as they do not harm others, it is crucial that if an act does harm others, that individual is punished. Moreover, the Harm Principle is only valid with individuals who have the ability to act rationally (Dyzenhaus, Moreau and Ripstein 2007). Thus, there are instances in which interference is

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permitted. Mill states that interference is permitted when the action threatens our collective wellbeing (Dyzenhaus, Moreau and Ripstein 2007). This means, one is allowed to interfere with the actions of the government, in the form of expressing opinions through times of disagreements. Other exceptions include infants, as well as people living in “ backward states of society”, which is a state that is not prepared to allow its citizens to have a large amount of liberty due to the consequent instabilities, and thus needs an authoritarian style government (Dyzenhaus, Moreau and Ripstein 2007). Disregarding the exceptions of the Harm Principle, it is evident to say that the claim that “ any action that does not violate the Harm Principle, should not be subject to legal sanction” is valid.

Conversely, if an action does violate the Harm Principle, it should be punished. Unfortunately, the Harm Principle is more of a convention, than one to be practiced and considered as law, due to its many controversies. To begin, the Harm Principle only defines harm as an “ obstruction to liberty” (Dyzenhaus, Moreau and Ripstein 2007). This essentially means that harm is an act that oppresses or restricts one from being free. This is controversial because there are multiple interpretations of what it means to be free, and consequently interpretations of harm will vary. For some, harm may be a direct, immediate response to an act, such as physical pain or emotional distress, which falls consistent with the Harm Principle. However, some might consider harm as an indirect, delayed consequence, which can cause harm in the long run. An example of this, may take the form of being a role model for the rest of society. This is the idea that an action does not have a direct

harmful consequence but can result in long-term harm, which totally undermines the Harm Principle's emphasis on immediate harm.

In addition, still keeping in mind the controversy of what constitutes harm, one might act in a way that they believe not to be harmful, whereas the rest of the society thinks otherwise. It is evident that the Harm principle does not distinguish between intentional and unintentional harm. Thus the controversy of whether or not this individual should be punished, and what the punishment should be, arises. The case *R. v. Malmoe - Levine* as well as *R. v. Caine* clearly depicts difficulties with the practical application of the Harm Principle. These cases raise the issue of whether the criminalization of the possession of marihuana for person use violates ones [liberty] (Dyzenhaus, Moreau and Ripstein 2007). Both cases challenge the legal legislation of Canada. Malmoe-Levine argues that the criminalization of marihuana in both its possession and trafficking aspects is an unacceptable infringement of his personal liberty (Dyzenhaus, Moreau and Ripstein 2007). Caine on the other hand, argues that the imprisonment for possession of marihuana is not justified because it doesn't cause harm. He believes the punishment should reflect the severity of the crime (Dyzenhaus, Moreau and Ripstein 2007).

Relating this back to John Stuart Mill's Harm Principle, it is evident that the consumption and possession of marihuana should be allowed. For one, the prohibition of the consumption and possession of substances is a form of coercion, and is a restriction on the individual liberty of the people. In addition, the consumption and possession of marihuana should not be prohibited because those aren't the factors that cause harm, but rather the

intentions as well as the choices of the actors, which cause potential harm. However, much legislation around the world, acts proactively, rather than a reactive in a sense that the criminalization of marihuana is a proactive law to prevent possible harms, which can occur. Gambling is another great representation of this controversy. This is because most people gamble for amusement and do not expect any harm to become of it. However, if one gambles to the point where they have lost all of their earnings and are unable to support themselves, it is harmful for the one who has lost. In the case of gambling, it would essentially be a crime for the winners, and they should be punished under the Harm Principle.

However, it is evident that the harm principle didn't intend for gambling to be harmful and punished by the government. Furthermore, The debate of whether or not abortion should be allowed is also relevant example of the issues that can arise due to the vagueness of what constitutes harm. It is evident that according to John Stuart Mill's Harm Principle, the debate of abortion would be resolved and anti-abortion campaigns will be eliminated. This is because, in the eyes of John Stuart Mill, the act of having an abortion is not harmful because it does not obstruct ones liberty, due to the fact that the fetus was never free and does not have the ability to be free.

However, in the world today, thinking in this manner will be a violation of the harm principle because it will be restricting one's ability to express their opinions. The practicality of the Harm Principle allows for much debate with some if not all actions, which can be done, due to the multiple perspectives of what constitutes harm. Essentially, every act can be seen as harmful which results in the Harm Principle serving no purpose but a mere image of <https://assignbuster.com/john-stuart-mills-harm-principle-essay-sample/>

an ideal society. In conclusion, it is evident that the theoretical entities of the Harm principle are sound, in a sense that its aims of expanding individual liberty, restricting government intervention and eliminating the tyranny of the majority are clearly defined. Unfortunately, its practical application within societies can cause controversy due to its unclear definition of harm.