

Thoughts on 'FREEDOM OF EXPRESSION'

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I shall argue that 'Freedom of Expression' is personally and socially very desirable, but it needs to be accompanied by a responsibility to avoid unjustifiable offence and/or harm. This includes respect for others to express their views.

Just to try to clarify terminology:

- I understand 'freedom' to mean lack of constraint, and/or feeling of constraint or limitation, on thought or action
- I understand 'expression' to mean the pursuit of an external action that may influence others – intentionally or otherwise. This may be physical, visual, vocal, written, etc.

How can one justify 'offence'? I guess, perhaps, by having in mind a line of argument to support the benefit reasonably expected to arise. Can it be justified to poke fun at someone else's beliefs or behaviour where there is no real recourse? I am doubtful. My own view is that the best way to achieve persuasion, and to change things, is to try to achieve mutual understanding. Attacking someone's views encourages them to be defensive – which is most likely to cause rejection of your intention.

The following is taken from an assignment I did on John Stuart Mill as part of an OU Philosophy course (A211).

John Stuart Mill believed that adults should be free and encouraged to pursue their own 'experiments in living' as the most effective way for individuals and for society to develop and to provide maximum overall happiness. His argument was based on a number of premises:

First premise: that the pursuit of maximum overall happiness is an appropriate objective for the way society should operate. This will be the best expression of the human characteristic of being able to make choices.

Second premise: that the maximum happiness of the population of a society is achieved by ensuring the maximum freedom for, and minimum coercion of, individuals. This is equated to minimizing the 'harm' resulting from actions by individuals. Harm is defined in terms of physical coercion or impeding the opportunity to earn a living. It does not include offence. He equates happiness with the feeling of freedom for individuals to do what they wish. Happiness is not a precise term and Mill puts a higher value on intellectual activities than on more physical pleasures – but he does not indicate any scale of balance over the range or how happiness can be measured or assessed.

Third premise: that the harm principle is equally applicable to justify freedom of expression. Maximum freedom of expression will provide the most effective route for the development of new ideas and for their extension, checking and refinement. Mill thought there should be, in general, no bounds on the freedom of expression in speech or writing, but admitted that this freedom might need to be limited in some

circumstances – such as where words could inflame an angry crowd to cause harm to the body, property or business of an unpopular person.

Mill claims that freedom of expression is required so that ideas, experience and what are felt to be ‘facts’ can be freely examined, tested, refined and kept up to date. If they are not continually challenged then there is the risk of them becoming ‘dead dogma’. Mill cited his feeling that the lack of challenge and serious discussion within the established churches has led to the dichotomy he observed between the lives of church goers and their professed beliefs.

Fourth premise: that the development of ideas that will result from freedom of expression should be expressed in action through the exploration and development of new lifestyles as ‘experiments in living’. Thus ‘experiments in living’ are a practical manifestation of ‘freedom of expression’. Mill felt that a society based on ‘off the peg’, traditions and customs would not be able to develop to its best advantage for enhancing the overall happiness. Mill noted that different people will have different interests and will achieve happiness in different ways. Thus they will enjoy their life to best advantage from the freedom to experiment in the mode of their living.

Fifth premise: that the results of ‘experiments in living’ will be recognized and assessed by others in society and the beneficial features will become assimilated into the ways of living for society in general. In this way ‘experiments in living’ will provide a progressive and self-regulating way for society to develop and to increase the level of overall happiness.

John Stuart Mill therefore concluded that adults should be free to pursue their own ‘experiments in living’ as the best way to ensure the possibility of development of them as individuals and in their society as ‘progressive’ beings. He did however recognize a number of limitations against complete freedom.

For Mill the ‘harm’ principle and associated lack of coercion was not applicable for children or for more backward people or in less developed societies. It was not made clear what criteria justify exclusion from the principle. To modern thinking it is not acceptable to treat people as ‘backward’ unless they are clearly subject to psychological problems. For the case of young children it is right that definite parental guidance and control is entirely appropriate – but Mill does not make clear how the principle is to be adjusted as children grow up?

Mill promoted the first premise of maximizing ‘happiness’ for everyone as the primary goal for the conduct of individuals and society. He did not, however, make fully clear what was meant by ‘happiness’. He drew a distinction between intellectual and sensual happiness. He also promoted diversity, truth and the freedom to live your life as you wish as good attributes in themselves. While saying that his target was the utilitarian objective of happiness it seems likely that Mill’s primary belief is that maximum freedom in one’s life axiomatically links to maximum opportunity for personal and social development.

Mill’s utilitarian objective of maximizing happiness comes close, in the case of individuals, to promoting self-mastery or self-realization - which is more in the province of maximizing ‘positive freedom’ rather than ‘negative freedom’¹.

¹ Negative freedom and positive freedom: ‘Negative freedom’ is freedom from interference by others. ‘Positive freedom’ is a matter of what you can actually do, your control of you life - perhaps for your longer term benefit.

Mill is not successful in defending his views on freedom to experiment because he did not take or create opportunity to assess practical evidence. Mill's approach was basically a theoretical proposition that aimed to be logically sound, fair to everyone and progressive. Mill made a valuable contribution, but his approach has been subject to criticism over the years. It is an approach that does not in itself form a comprehensive basis for guiding and assessing human behaviour or creating the laws appropriate in society.

The proposal that the best social development is associated with maximum 'negative freedom' is not fully born out by practical experience. Geniuses arise and develop even within repressive regimes or situations. An example to illustrate that maximum freedom and/or happiness does not equate with social development is Graham Green's comment in 'The Third Man' that "in Italy under the Borgias they had warfare, terror, murder... and produced Michaelangelo, Leonardo da Vinci... In Switzerland they had brotherly love for 500 years of democracy and peace, and what did that produce? The cuckoo clock!"

Whether the artist who struggles in his studio or the scientist who struggles in the laboratory or office achieves happiness at the time is a mute point. It is also a mute point as to whether the possible subsequent recognition of the work made everyone, or anyone, 'happy' – grateful or enlightened perhaps. 'Happiness' was probably neither the objective, nor the expectation, nor the result.

Mill drew a distinction between public and private actions and activities. He said that what happens in private and with consent does no harm. However, it has been pointed out that in real life there is no clear or absolute distinction between private and public lives. Almost everything anyone does, whenever and wherever that happens, has an effect on others: the effect may be good or it may be harmful – but it has an influence. This distinction between public and private activities became particularly relevant in discussions by Devlin and Hart on the Wolfenden Report on homosexual acts.

Mill did recognize that some actions that are fully acceptable in private should be legally constrained in public. He was probably thinking of consensual sexual acts. The justification here is the offence that will be caused – not the harm. So this is an admission by Mill that his definition of harm needs flexibility.

An area where the harm principle is not readily applicable is in contact sports – notably boxing. These are areas of public actions where harm is either the objective or a likely consequence. If these activities are undertaken by adults with full appreciation of the risks it is difficult to justify legal constraints. However, it is certainly justifiable for people to do their best to dissuade other people from engaging in such activities. Where the line is to be drawn between what is consensually permissible and what is not probably depends on the likely harm from the social consequences of the activity. For example, do boxing or violent films or TV programmes encourage others to use such to model their own attitudes or behaviour?

The view of equating personal development with the need for maximum freedom goes against the experience that not everyone feels safe with maximum freedom – that there are benefits from having boundaries and of knowing where they are. Emile Durkheim investigated the sorts of conditions that lead to suicide. Empirical evidence indicated that the removal of a range of social constraints (i.e. an increase in negative freedom) could lead to a feeling of 'anomie' that could increase the risk of suicide. Knowing of boundaries provides the opportunity and impetus for testing their validity and, if appropriate, of striving to move them. This is certainly an important part of growing up. My own personal experience in my adult life, in research and development

work and in running a physics based company for 25 years, is that good technical ideas and developments often arise from pushing at assumed boundaries of constraint.

Mill proposed that the limits of acceptable actions can be established from the principle of minimizing 'harm' between individuals. Mill thinks of 'harm' mainly in terms of physical actions that damage others or impact adversely on their ability or opportunity to earn and enjoy their lives. Mill excluded 'offence' from the concept of harm. He noted that it is the 'consequences' of actions rather than the 'intention' of actions that is important. Mill proposed that where harm occurs, or would be likely, then coercion to prevent harm is justified. Coercion might typically be by laws laid down by the state.

My personal view is that there is a middle way between full negative freedom, to live your life however it pleases you short of harming others, and accepting any pre-arranged social system. To me it is important to try to avoid offending others – not at any price, but to try. This is a relevant contribution towards social harmony and shows appreciation of the views and feelings of others. While it is good for people to wish to express their feelings and individuality through their ways of living:

a) this can become a formula protest (for example, rather standard 'punk' dress patterns),

b) it is sensible to be aware of your likely impact on others (for example, swastikas on clothing probably mean little to the wearers, but a little thought would reveal their likely offence to those who went through the second world war)

c) that ideas for different ways of living are more likely to be communicated to others and constructively assessed if one can 'speak to the condition' of the audience.

This not a question of legal constraints but of good manners and sensitivity to other members of society. To me this would be a more valid utilitarian view towards maximizing overall happiness – rather than the two extremes noted by Mill. I contend that 'harm', in the way Mill defined it, is not a sufficient criterion to judge the acceptability of actions.