

Mill's 'harm principle'

THE PRINCIPLE

In *On Liberty*, Mill argues for 'one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control' (68). That principle is that '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. His own good, either physical or moral, is not a sufficient warrant.' (68) We may still argue, entreat, and remonstrate with people who seem bent on doing themselves harm (as we judge it) or are simply acting in a way we don't like. But we should not use either the law or moral condemnation to alter their behaviour, unless they are causing harm to other people.

However, the Harm Principle does not apply universally, i.e. there are circumstances in which society is justified in interfering with what someone is doing even when it doesn't harm others. First, it does not apply when the person is a child. Until someone 'comes of age' – whenever society agrees that is – they may need protection against their own actions. Second, it does not apply in 'backward' societies, e.g. when society is barbaric. Both children and 'backward' societies have not yet developed to a point at which force can be replaced by 'free and equal discussion'. Once they have, however, the Harm Principle applies. At this point, to help them to realise what is good for them, we need only talk with them. If they disagree with us, it is not because they cannot understand or respond rationally to what we say, but simply because they disagree with us about what is good for them, and we should not override them with force.

Developing the details

There are several key points about the principle that we need to look at before looking at objections to it.

First, many defenders of freedom today would, at this point, appeal to rights. We have a *right* to freedom, and that is the last word on the matter. But Mill rejects this move, because he is a utilitarian. Instead, he argues that observing the Harm Principle will be better for a society and the people in it than not observing it. However, many philosophers have thought that his utilitarianism conflicts with his statement that the Harm Principle should govern the exercise of power *absolutely*. (See the handout on 'Mill on liberty'.) Mill recognises this potential conflict, so he says immediately that his appeal to utility is to 'utility in the largest sense, grounded on the permanent interests of man as a progressive being' (70).

Second, the Harm Principle states a *necessary* but not a *sufficient* condition for interfering with people's actions, i.e. an action *must* cause harm if it is to be prohibited, but this might not be a good enough reason on its own to prohibit it. And this is where the appeal to utility comes in a second time. Society should only interfere with the harmful action, e.g. outlaw it or declare it immoral, if doing so is in the general interest. There are some actions which harm others, but which should nevertheless be allowed. For example, economic competition leads to some people losing money or going out of business. This is clearly a harm to them, and if someone caused someone else to lose

money by fraud, we would rightly condemn their action. But allowing economic competition, Mill thought, contributes more to the general welfare of society than preventing it. So society should only interfere with someone's actions when they cause harm *and* when interfering with them is in the general interest.

Third, the Harm Principle applies to 'inactions' or 'omissions' as well as actions that harm others. Society can be justified in exercising power of people to get them to perform actions which, if they failed to do, would harm others. More simply, society can compel people to help others under certain circumstances, e.g. in defending society against attack, in rescuing someone in danger of dying (e.g. saving someone from drowning), in giving evidence in court. Not doing these things can be declared illegal or immoral.

Of course, compelling people to act is only justified if their inaction will cause harm; and, once again, if compelling them will lead to better consequences than not compelling them. It may well be that compulsion is not the right response, because it would be better if people are left free to choose, or because compulsion will produce other bad consequences.

HARM AND MORALITY

In *Utilitarianism*, Mill argues that many of the rules of morality are based on the principle of utility. Actions that are not in the general interest we condemn as immoral, while those that are in the general interest are morally permissible. Yet, as in the case of economic competition, we allow some actions that harm other people. Our sense of what is moral has picked up on the distinction between harmful actions we should not allow (because allowing them is not in the general interest) and harmful actions we should allow (because allowing them is in the general interest).

And so morality can help us decide whether or not to allow a harmful action. If the action harms others but is not judged immoral, then we shouldn't interfere with it. It is only those actions that harm others and are also immoral that society should seek to exercise control over.

Now, of course, according to some moral views, there are actions that are immoral that do *not* harm others. Many traditional rules of sexual morality are like this, e.g. rules against masturbation, consensual sex outside marriage, and homosexuality. And there is a class of 'self-regarding vices' – traits of character that harm only the person themselves, such as being rash, conceited, self-indulgent, weak-willed, that some morality think are moral vices for which people may be punished.

Because they do not harm others, Mill argues that such actions should not be thought of as immoral and publicly condemned. Individually, we may nevertheless think them foolish, offensive or degrading. But this is a different matter.

FIVE QUESTIONS

Several issues about the Harm Principle have been debated ever since Mill first published *On Liberty*.

1. What does Mill mean by 'harm'?

2. Is it possible to draw a distinction between harm and other forms of adverse affect, such as offence?
3. Is it possible to draw a distinction between actions that affect others and ones that only affect the agent 'directly and in the first instance'?
4. Is Mill right to claim that the Harm Principle is supported by utility, or do they conflict in particular cases?
5. Is the Harm Principle right – should we never interfere with what someone does if it does not harm other people?

We will discuss the first and third questions in turn over the next few sections in this handout. The second question is discussed in the handout 'Harm and offence', while the fourth and fifth questions are discussed as in the handouts on 'Mill on liberty' and 'The applications of Mill's principles'.

WHAT IS HARM?

Unfortunately, Mill never explicitly defines what he means by harm, and he uses various different words at different times (hurt, damage, loss, injury). However, Chapter 4 (141-6) contains a discussion, which if we read very carefully, provides a sense of what harm includes and what it excludes.

The Harm Principle declares that the only purpose for which power can be legitimately exercised by society over individuals is to prevent harm. Society may use the law to regulate conduct that consists in 'injuring the interests of one another, or rather certain interests which, either by express legal provision or tacit understanding, ought to be considered as rights' (141). And society may use public opinion to regulate conduct that 'may be hurtful to others or wanting in due consideration for their welfare, without going to the length of violating any of their constituted rights' (141). In general, 'As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it' (141).

So, in the first instance, harming someone means injuring their interests. Some of these interests are so important that they ought to be protected by law as rights. Utility dictates that it is the 'permanent interests of man as a progressive being' (70) that should be protected in this way. However, many actions that we recognise as immoral harm other interests, not protected as rights.

Harm, rights and immorality

So is whatever violates other people's rights and whatever is immoral harmful? This *would* be right if society had the *correct* conception of rights and morality. However, society is often wrong about which rights individuals should have, and again, on many moral views, some actions are immoral because they are offensive or because they harm the agent, not other people. Mill wants to use his idea of 'harm' to *change* what society believes about rights and morality. Nevertheless, our usual ideas about rights and morality are a good start. 'Harm' to our interests clearly involves physical injury and death, being confined against our will, having our reputation hurt, financial loss, being coerced through deception or threat, having promises and contracts broken, being unfairly treated, and even, Mill adds, other people's selfish refusal to defend us from injury by a third party (145).

Harm and the Harm Principle

What is harmful per se is broader than what should be interfered with, in two ways. First, according to the Harm Principle, we should not forcibly stop someone from harming themselves. This doesn't mean that we ignore them or don't care about them, just that we don't coerce them.

Second, as discussed above, some conduct that does harm others should not be prevented, e.g. economic competition, because interfering with such actions will do more damage than good. So 'actions that cause harm' is a much wider class of actions than 'actions that should be regulated by society'.

SELF-REGARDING ACTIONS V. HARM TO OTHERS

Self-regarding actions, which should not be interfered with in any way, are ones that affect only the agent 'directly and in the first instance' (71). They may still affect other people, but if they do so, they will affect other people 'through' the agent. He discusses the issue at length in Ch. 4 (146-50).

He first raises an objection: 'No person is an entirely isolated being' (146), so it is impossible that anything someone does that harms themselves will not also harm people close to them. For example, if they harm themselves financially, this will impact on people they support. Or if they harm their minds or bodies, they may become dependent on others. If nothing else, their behaviour will harm others 'by example'.

Mill accepts that harming oneself can cause harm to others and even, in a small way, society as a whole. But *he does not say that all self-harm should be allowed.*

Three restrictions

First, if by harming themselves, someone harms other people by violating their rights, then we can interfere with their actions on this ground. For example, if through being unable to control their spending, someone becomes unable to pay their debts or unable to support their children, then we can condemn and punish them. But it is important that we punish them for being unable to pay their debts or support their children; we do not punish them just for being unable to control what they spend.

Second, a person's specific duties can change self-regarding actions into ones regulated by the Harm Principle. If a doctor or policeman got drunk while on duty, they may be punished, because they have a duty to the public to be capable of doing their job during that time.

Third, if the harm that the person does to themselves 'causes grief to his family' (148), then we can reproach him for not taking their interests and feelings into proper consideration. But again, it is this, not the harm he does himself, that should be the focus of our condemnation. The harm is irrelevant; we can reprimand someone for behaving in *any way*, harmful or not, that would make his family very unhappy.

Mill here allows that we *may* interfere with behaviour that hurts other people's feelings. But other people's feelings only count in the context of what we think *morality* requires of us in relation to our *families*. Family is different from everyone else, including friends, because no one else has to keep our company – if they don't like who we are, they can leave. That option is not as easily open to other family members. And family is different

because we have special obligations to our family's happiness as a result of the nature of the family bond.

However, while we should take their feelings into account, morality may condemn their taking offence rather than our behaviour. If a man is offended that his wife has male friends who are not other members of the extended family, Mill would not say that the wife should give up her friendships. It is the husband's feelings that are at fault. Taking someone's feelings into 'proper consideration' does not mean letting them decide one's every choice, and morality does not require this us. Families must cope with disagreements.

Freedom to harm oneself

The three cases discussed are not the only ways in which actions that 'directly and in the first instance' affect only the agent may nevertheless harm other people. But, Mill says, if the person 'neither violates any *specific* duty to the public, nor occasions *perceptible* hurt to any *assignable individual* except himself, the inconvenience is one which society can afford to bear, for the sake of the greater good of human freedom' (149, my italics).

An example: should people be allowed to climb mountains? It is dangerous, and if they hurt themselves, then other people's interests may be affected in two ways: first, the person will need to be rescued, which involves risk to those who rescue them; second, their injuries will need medical attention, which – under a welfare state that provides at least emergency medical care for free – costs money that must be raised through taxes and could have been spent on something else. A similar example is whether people should be allowed to take 'recreational' drugs, which could lead to their needing medical care.

We may appeal to these effects to argue that society should prevent people from climbing mountains; or at least, refuse to rescue and treat people who injure themselves climbing mountains or taking drugs. But the question here is whether climbing mountains can be considered self-regarding, given that it can have these effects on other people.

Self-regarding actions are not actions that cause *no* harm to others. Instead, first, their effects harm others only 'through' the individual. A person's mountain-climbing risks harming themselves 'directly and in the first instance'; it is only through their injuries that their actions have any consequences for others. Second, their actions don't violate a specific duty or cause a perceptible harm to a particular other person.

Society, Mill says, has the whole of a person's childhood to influence the development of their character so that they know right from wrong, and choose to live in a way that does not harm themselves and involves concern for other people (149). Furthermore, people who harm themselves, or otherwise live in a way that others feel is depraved or foolish, will most likely be disliked and shunned for that reason. These two influences on self-regarding behaviour are enough; society does not need to act coercively in addition.

But what about harming others by example? The points just made apply here. If there is such harm, the actions are very likely to be self-regarding. It is through the effects on themselves that the agent is a 'bad example'. And their actions, if they only cause harm to others by example, are very unlikely to violate any specific duty or produce a perceptible harm to a particular, identifiable other person. But Mill also questions whether any harm

is caused through being a 'bad example' (150). If the action has no harmful consequences for the agent, then in what way is the person's action 'bad'? If, on the other hand, the action has harmful consequences for the agent, surely the lesson that will be learned by others is that acting in this way will cause you harm. This is not a bad thing to learn.