



## The Harm Principle: Is it truly preventing harm?

Thesis  
Roadmap

Mill claims that the only reason for which power could be exercised over individual members of a civil community is the prevention of non-consensual harm to others. My thesis is that Mill's argument for this claim is not sound. In order to show this, I will first reconstruct Mill's argument, then I will present evidence that demonstrates that most people would not agree with all the consequences that follow from Mill's claim. Finally, I will consider four possible objections to my evidence and argue why they are not valid objections.

Exposition  
Two parts  
Part 1

Mill claims that people should have absolute liberty of action as long as those actions do not harm others because, if this liberty is not granted, then individuality is stifled and individuality is key for both **personal** and **societal well-being**. Mill asserts there are two different types of pleasures: the higher pleasures and the lower pleasures. The higher pleasures are those that engage our intellect or creativity and the lower pleasures are the simpler pleasures. Given this, Mill argues that individuality is important for personal well-being because it develops mental faculties that permit humans to enjoy the higher pleasures. He states that individuality develops mental faculties because, if humans would live their lives by only following customs, they would only need the 'ape-like' (pg. 3) faculty of imitation. On the other hand, a human that has to choose a path for his life is obliged to use faculties like observation, reasoning and judgement. Consequently, he concludes that if a human's individuality is stifled and all his choices are predetermined, he will not cultivate vital critical thinking and thus will be unable to enjoy the

higher pleasures of life. Mill also asserts that individuality is essential for social well-being because, without it, society cannot improve. First Mill explains that, in order for society to improve, change must take place and the people that drive change can only thrive in an environment that welcomes individuality. Consequently, if individuality is condemned, society will become stagnant because less people would strive for innovation and less people would challenge the current norms, even if the norms are wrong. Thus, he concludes that liberty and individuality are necessary for the improvement of society. Consequently, since individuality and liberty are so important for humans to achieve a higher form of happiness, Mill claims that the only justifiable reason for which the government can restrain humans from doing the actions they want is when the action results in the non-consensual harm of others. He specifies that exceptions to these rule are children and mentally unstable adults.

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In summary, Mill's argument for what he calls 'The Harm Principle' can be reconstructed as follows:

## Reconstruction

- (1) There are two distinct types of pleasures: the higher pleasures and the lower pleasures.
- (2) Higher pleasures best promote human happiness.
- (3) Without liberty and individuality, the higher pleasures are inhibited.

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Therefore:

- (4) The only reason for which power should be exercised over an individual member of a civil community is the prevention of non-consensual harm to others.

I think Mill's argument is invalid because the conclusion does not directly follow from the premises. Mill argues that absolute liberty is of utmost importance for human happiness and therefore exercising power over the individual is bad. Thus, he thinks that the *only* circumstances when it could be okay to coerce the actions of individuals is when the outcome of their actions is

non-consensual harm to others. Nevertheless, I think this conclusion is implausible because there are actions that do not involve non-consensual harm to others that should be regulated in order to best promote human happiness. That is, I argue there exists a set of actions  $S$ , such that if action  $A$  is in the set  $S$ , then  $A$  is not an action of non-consensual harm to others, but banning people from doing  $A$  promotes human happiness more than allowing people to engage in  $A$ . If we can find such an  $A$ , then that would be a counterexample to Mill's conclusion and thus we would have disproved it. Here I present two examples that belong in the set  $S$ :

Statement of  
claim

(1) My friend asks me to inject her arm with heroin. She tells me that she is aware of the possible consequences, but that she is just very curious to try it. Even though I know this could have fatal consequences for her, I do it because she gave her consent. After trying it, she becomes addicted.

Counterexamples

(2) A surgeon that wants to practice her technique in operations is looking for a human being that will allow her to practice on his or her body. The surgeon finds a male who is willing to let her practice on him anything that she wants, even if it leads to his death. The surgeon practices for 3 days on the volunteer and after 3 days he dies due to a complication.

These two cases involve only adults and all the actions are consensual. Nevertheless, it seems that the prohibition of these acts would lead to more overall happiness than the acceptance of them. For scenario 1, most people would agree that my friend and everybody who loves her will be happier if she does not try heroin and become addicted. For scenario 2, most people would agree that allowing a doctor to do such a thing spurs violence and unethical ideas, so permitting an action like that does more harm than banning it. Therefore, even though these two actions fall into the category of actions that Mill argues should not be interfered with by the law, most people

would argue that the law should not permit them. Therefore, we easily found two counterexamples for Mill's conclusion.

#### Objections & Replies

Mill could protest this argument with 4 objections: (1) the people involved in these scenarios are not mentally stable, (2) these situations can affect third parties that have not consented to harm, (3) the people involved did not really consent to the consequences (4) the actions in these scenarios should not be banned. Let's analyze each of these objections more closely:

(1) The people involved in these scenarios are not mentally stable, so, these cases fall into one of the exceptions of the harm principle.

This objection is groundless because there is no reason to claim that the people are not mentally stable. It is actually very common for sane people to try dangerous drugs (scenario 1) and scenario 2 is not so far away from euthanasia, which is also common in sane persons. Therefore, if there is no logical argument that shows that people that do drugs or decide to die through euthanasia are mentally unstable, this objection does not work.

(2) These situations can affect third parties that have not consented to harm.

One could argue that the people related to the girl that tried heroin or the male that consented to being a medical guinea pig will be hurt emotionally by the consequences of those actions. Furthermore, one could argue that if situations like that are permitted, this behavior will become more acceptable and then more people will engage in it, leading to their harm both physically and emotionally. The problem with this objection is that, if it were a valid objection, then a lot of actions that were not supposed to be prohibited by the harm principle will now have to be banned because there are very little actions that have absolutely no effect on anybody in any way. That is, if person B harms himself, the people that know person B will be emotionally affected by

it. Similarly if person C agrees to get harmed by person D, the people that know C will be emotionally affected and D may suffer psychological damage afterwards because he regrets the action he did. Therefore, this objection is not valid because it makes the harm principle fall apart.

(3) The people involved did not really consent to the consequences.

One could argue that the people in the presented scenarios did not really understand all the facts about the consequences of the actions they took. That is, maybe the girl trying heroin does not truly comprehend the extent of what heroin can do to her and therefore she did not have all the information she needed to make that decision. Similarly, maybe the male volunteer did not know that he was signing up for dying in 3 days. This objection fails because it is too broad. If only the actions that have *full* consent of the agent, that is, the actions where the agent has *all* the relevant information pertaining to his decision, are counted as consensual, then the majority, if not all, of the actions humans take would fall into the “non-consensual” category. Thus, the harm principle would end up prohibiting many of the actions that it was meant to allow.

(4) The actions in these scenarios should not be banned.

One could argue that even though these scenarios have some negative consequences, it is better to not impose a ban on actions such as these because then liberty and individuality would be hindered, thus leading to a decrease of the higher pleasures. I think this objection is not valid because there are some liberties that can be prohibited such that the outcome of the prohibition promotes happiness more than it hinders it and these counterexamples are one of those cases. For instance, in scenario 1, I think that banning the use of heroin actually leads to the cultivation of more higher pleasures because the use of heroin affects decision-making abilities and the ability to regulate behavior. Therefore, even though banning the use of heroin is taking away some liberty and individuality from people, which could lead to a decrease of  $X$  in overall

happiness, the banning of heroin also results in less people becoming addicted to it which leads to more people being able to use their higher faculties and thus to an increase of  $\mathcal{V}$  in overall happiness where  $\mathcal{V} > X$ . Therefore, it follows that the objection is false since the best way to maximize happiness is to ban this action. A similar argument to the one presented for scenario 1 can be made for scenario 2.

In conclusion, Mill's argument is implausible because it fails to consider a set  $S$  of actions such that if action  $A$  is in the set  $S$ , then  $A$  is not an action of non-consensual harm to others, but prohibiting people from doing  $A$  promotes human happiness and the higher pleasures more than allowing them to do  $A$ .

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