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Harm Principle and Marx

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Introduction

The first half of this essay aims to point out the inconsistency of the justification of Harm Principle, provided by Mill in *On Liberty*. Also, it discusses the possibility of justifying Harm Principle under a utilitarian framework. The second half of this essay introduces Marx's theory of estranged labor and human essence, and extends these concepts to establish a better justification for Harm Principle.

Harm Principle and Its Original Justification

J.S. Mill suggested that one should have unlimited freedom if his action does no harm to others. In his words, self-regarding action should never be prohibited. Hence, the **only** justification of using governmental power is to protect the independence of each citizen, and to punish those inflicting harm on others (*On Liberty* I:9). The word "only" indicates that he rejects all other forms of government which exercises its power over this boundary.

As a utilitarian, J.S. Mill argues for the supremacy of freedom based on the utility it will bring. This then involves the issues of what can and should be searched as to maximize our happiness. J.S. Mill contends that the search of truth and the prosperity of individuality are the key to happiness (III:11). In his opinion, it is undeniable that some sensational pleasures also constitute happiness, but what matters is the quality of pleasure instead of the quantity. He then uttered the famous phrase: “It is better to be a human being dissatisfied than a pig satisfied” (*Utilitarianism* II:7). The justification of this phrase is based on his classification of pleasures: the lower one versus the higher one. The higher one, he contended, is unique to human being as it requires the exercise of some “higher” capacity, such as the rational capacity, and so is of greater utility to us (*On Liberty* III:5).¹ The pursuit of truth and the cultivation of individuality belong to this superior category. He then defends the freedom of speech and association by this utilitarian justification.

Inconsistency of the Justification

Nonetheless, the argument provided here remains flawed despite the farsightedness and originality showed in the Harm Principle. On one hand, J.S. Mill proposes that different modes of life should be permitted once they are not harmful to others, on the other hand, he insists that truth is one of the higher pleasures. The inconsistency lies in the fact that mode of life should be an all-embracing concept which includes how subject assesses different pleasures. It is not hard to imagine a man who truly believes that

1 This argument resembles a lot to the discussion of virtues in Aristotle’s *Nicomachean Ethics*.

sensational pleasure (such as food and sex) is the most essential component of his utility. In this regard, we may suspect J.S. Mill is in fact imposing a particular lifestyle to all of us, namely the life of pursuing truth. Imposing onus of truth on others diminishes individuality.

Based on the nearly unlimited freedom given by Harm Principle, everyone has their own right to pursue different lifestyles (III:1). This tolerance of various lifestyles, in my interpretation, is meaningful because it makes no judgments on what kind of life is more worth living. If one already presupposes that some lifestyles are inherently more valuable than others (in this case, life of pursuing truth), then why should he bother at formulating Harm Principle which allows the experimentation of different lifestyles? Why doesn't he try his best to promote this more valuable lifestyle by legislating other more suitable principle which governs the interaction between humans?

Let me elaborate more. Even if the pursuit of truth is a legitimate justification for Harm Principle in terms of generating a higher utility, we have to ask ourselves whether Harm Principle really helps us seek the truth. In daily life, if we doubt any statement, we seek for a proof. As in any mathematics class, reading and verifying a proof is often a hard job but it is easier if the mathematical community regulates the usage of different words for avoiding ambiguity and standardizes how a proof should be presented for clarity. Furthermore, any new mathematical result will be checked by professional peers if it wants to be published in journal. The same applies to nearly every academic journal which undoubtedly is one of the best sources if you want to seek for truth. This observation reveals that only free speech is not enough for truth to be established. Instead, checking from a professional community, regulating usage of different words and

screening when the paper/speech falls below the community standard are more important in establishing truth. A nearly unregulated platform for speech—Twitter, as reader can check, is full of fake news nowadays. Even worse is that you cannot even check whether a news is true, since you do not have the relevant knowledge. At the end of day, you have to rely on the authority of the speaker. The best way for building this authority is the way how professional journal is conducted. That said, Harm Principle is both unnecessary and insufficient for us to pursue truth, as seen in the cases of academic journal and Twitter.

It seems that a slightly changed argument may save J.S. Mill. It may be proposed that the Harm Principle can be justified without the concept of truth but solely on individuality. To maximize utility, we have to recognize that utility is nowhere same as viewed by different people. The preferences possessed by us are not uniform and only through our own discretion and action can we have the most perfect lives. The belief that only the man himself can do the best for him provided that he is rational, if challenged, will make immediate justification to the tyranny of majority and even the tyranny of one.² Truth might be embraced by some and despised by some. But it does not matter since individuality persists in defending the unlimited freedom.

However, this modified argument is not tenable too. **We can argue from the basis of utilitarianism that freedom is permitted to be restricted if it does bring us more utility.** The freedom of not wearing seat belt in a car is limited by law without stirring much controversy in mainstream discussion,

2 For if even rational person cannot decide what is the best for him, we have to resort to some kinds of mysterious entity which determine the good from the bad. This posited entity, no matter in name of god or nationalism, may be used to back a totalitarian state.

not to mention an even larger restriction on personal freedom during desperate times. The reason of setting such paternalistic law is largely based on the utility it can bring, which is its benefit for the public health. Also, the argument given in the previous paragraph is not satisfactory because it cannot capture Mill's distinction of higher pleasure and lower pleasure. This distinction is a central idea which differentiates Mill from previous utilitarian thinkers like Bentham. Readers may then proceed to ask: does it follow that Harm Principle is not valid and not important? None of the above discussions are meant to suggest this. Harm principle is intuitively the most reasonable principle to govern the interaction between persons. What we are intended is to provide a more well-established justification for it.

Marx's Theory on Estranged Labor and Human Essence

As shown, the supremacy of freedom cannot be consistently justified through a utilitarian approach. I venture to suggest that we should argue from another perspective, from what makes us human. Then, we show that Harm Principle is necessary for us to realize the essence of being human. Here we introduce Marx's theory to reconstruct a justification of the Harm Principle.

In "Economic and Philosophic Manuscripts of 1844", Marx proposed that under capitalism, under the exploitation from the employers, workers are extremely miserable because of low wages, long working hours, and four kinds of estrangements.³ In an industrial world dominated by

3 Estrangement here means the separation of two things which belong together. This typically refers to the separation of essence and existence of worker.

capitalism, division of labor is executed to its largest extent for maximizing productivity. Workers are being more specialized in one particular task and such task is becoming increasingly trivial and machine-like (168). Once the product is produced, it no longer belongs to the worker and is estranged from him. It evolves as an opposite force confronting the worker.⁴ This constitutes the estrangement from the product and the productive activity. It follows that labor is no longer treated as an end but merely a means to obtain sufficient resources to live; labor becomes involuntary and external and distasteful for the worker.

More importantly, by the change of nature of working and labor, workers are degraded to animals. It is claimed that human is species-being, whose essence is to “produce freely in accordance with their consciousness in elaborate and unpredicted ways” (Wong) As said by Marx, species-life is productive life; it is life-producing life (Marx 175). What distinguishes human from animal is exactly such free, conscious and productive life activity. Nonetheless, under capitalism, the meaning of labor and production is distorted. Estranged labor degenerates production into a necessary means for worker to live instead of an end itself. Thus, human essence, free producing with consciousness cannot be achieved and only animal essence like sensational desire is manifested in human. This situation can be concluded by *the animal becomes human and he human becomes animal* (174).

Marxian Justification of Harm Principle

In a nutshell, Marx views human as a species-being with consciousness.

⁴ Original text: “The *devaluation* of the human world grows in direct proportion to the *increase in value* of the world of things” (171).

Through **free** producing can human essence be shown. This free producing in accordance with consciousness differentiates human from animals since animals cannot be independent of environmental stimuli and physical needs to produce what they “want”.⁵ However, human essence is not automatically shown by human. Under certain circumstances, for instance, the exploitation from capitalism, human may unintendedly degrade to animals by the twisted form of labor. This twisted form of labor detaches human from his productive activity by making this kind of activity a torment to human. But the manifestation of human essence lies on free producing in accordance with consciousness. Here, I suggest that the concept of labor and estranged labor should not be limited to the tangible producing. In its boarder sense, we are perhaps laboring during all our waking time. In daily life, apart from the usual sense of laboring (to make a tangible product), *intangible products* include the interaction between humans, the development of our virtues and individuality and consequences from our behaviors. This distinction between tangible products and intangible products should be challenged.

If you abandon this distinction and use a broad interpretation of laboring, free producing means that human is aware of his/her consciousness and attempts to conform his/her action to his/her consciousness. Thus, the meaning of human essence as defined by Marx is enlarged: free producing is no longer limited to economic activity; it also consists of social and moral activity. For instance, under this new definition, a man with the idea of being more sociable expresses his human essence only if he at least attempts to talk more in actual life. Suppose he intends to make a political joke which will make him more sociable as viewed by his friends. Nonetheless, the government he lives under is a very restrictive one which bans the utterance

5 It is that difference makes animal cannot literally “want” anything. They do not have such ability.

of all such political jokes. In such a situation that the freedom of speech is not well defended, the human essence of him is unexpressed for him cannot do what he wants in accordance with his consciousness. Again, human is always at risk of being degraded to animals by twisted form of labor, but now the twisted form of labor encompasses one more crucial element: interference on personal freedom.

That said, interference on personal freedom resembles estranged labor. They are both involuntary, external and distasteful. The unnecessary limitation on freedom not only limits one's choice of the variety of economic activities but also limits the possibility for human to conform their action to his/her consciousness. This separates the human existence from its essence as newly defined in above. Unnecessary limitation on freedom is worse than estranged labor. During spare time, workers still have a chance to breathe freely; to express their animal essence; to escape from the confrontation of their own products, whereas interference on freedom is ubiquitous, haunting your mind and suppressing human essence at all time.

Normally when we consider interference on personal freedom, we think of a governmental action limiting our behavior. But it should also be noted that doing harm on others is a special kind of interference on personal freedom. A robber has in his mind the desire to rob, but equally a rich person wants his properties secured. Harm done on the rich diminishes his freedom of not to be annoyed by the robber. If we allow harm-inflicting action not to be limited, we are indeed making the human essence unexpressed more severely. What if a man wants to kill all persons other than himself and he is able to do so? Thus, the most reasonable way is to adopt Harm Principle: to minimize unnecessary limitation on freedom while protecting the opportunity of expression of human essence.

Conclusion

In the modern world, our perception of freedom and even our laws on freedom are largely shaped by the Harm Principle. To investigate the justification of it is to unveil our implicit conception and assumption of freedom. In this article, I argue that the utilitarian justification offered by Mill fails to serve as a robust ground of the Harm Principle. Rather, I suggest a Marxian justification that is a more defensible way to justify the Harm Principle. By challenging and revising Mill's theory, rather than merely accepting it blindly, *On Liberty* is also avoided to become "a dead dogma, not a living truth" (II:21).

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Teacher's comment:

Hui's article offers a very inspiring reinterpretation of J.S. Mill's harm principle. He insightfully locates inconsistencies between the harm principle and the two Mill's famous utilitarian justifications, arguing that both justifications fail to serve as a robust ground for the harm principle. However, instead of abandoning the harm principle, Hui introduces Marx's idea of species-being to construct a new justification for the harm principle. He suggests that, apart from tangible products, free production should also include intangible products, such as the development of individuality. This provides a non-utilitarian justification of the value of individuality. He further offers a Marxist justification of why people, as human beings, should have absolute freedom to live their own ways of life, unless they harm other human beings. In brief, Hui's article explores the exciting possibility of planting Mill's harm principle in the soil of Marx's theory of human nature, showing how true dialogue between classics could happen. (Wong Baldwin Bon Wah)