

Philosophy 104, Ethics, Queens College, Spring 2006  
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Lecture Notes, April 26

I. Quiz: Describe either Warren's or Marquis's criteria for personhood.

II. The Harm Principle and censorship

Mill bases his argument that censorship is immoral on the harm principle, using a proof by cases:

First case: If the opinion censored is right.

Second case: If the opinion censored is wrong.

If the opinion censored is right:

The censors wrongly assume their own infallibility, and society is deprived of the benefit of a true opinion.

E.g. perhaps violence on television does not cause more violence, but helps engender a healthy attitude toward it.

Or perhaps pornography is not abusive toward women, and can serve the social good.

An objection: Isn't it the public's (i.e. government's) job to protect its citizens in the best way it can?

I.e. doesn't the government have the responsibility to make the assumption that it's right and act accordingly?

And thus censor when it believes the public good is served in this way?

Mill's response: There is a difference between assuming an opinion true because it has not been refuted and assuming it true in order to not permit its refutation.

The government has a responsibility to the former, but not to the latter.

Thus, we must permit free speech, so that we can determine which views are right.

If the opinion censored is wrong:

By censoring we leave ourselves open to the problem of the dead dogma, p 522.

Our beliefs become held as empty dogma instead of live opinions.

"He who knows only his own side of the case knows little of that," p 522.

If we censor, we lose the ground for holding the right opinion.

There is a third possibility: some part of the attempted-to-be-repressed opinion is true, some part of it is false.

This is the most common situation.

Even the most false opinion has a grain of truth.

E.g. Those who oppose restrictions on abortion can agree that abortions should be minimized.

And those who favor gun control can agree that eroding constitutional protections is bad.

Note Mill's assumption that what can or may not be censored is an opinion.

That is, something capable of being true or false.

Contrast this with the common opinion that opinions aren't truth valuable.

Also, contrast with art or pornography: are these opinions?

Mill argues against censorship from the utility of the free exchange of ideas.

Today, in our country, censorship is rarely an issue, since speech is rarely censored.

Even if curses are bleeped, or movies are restricted to adults, ideas are usually not censored by authorities.

Still, free speech does not seem to flourish.

Power in our country arises in large part from access to media.  
Unpopular, uncommon views tend to lack access to major media outlets.  
If your opinion is too complicated to state in a sound bite, it is unlikely to be heard.  
Private media companies choose what to report, and thus shape the issues that affect us.  
Censorship, strictly speaking, is less an issue than access to these powerful media outlets.  
The harm principle, though, is about paternalist intervention in the lives of citizens, and may be inapplicable to issues about access to media.  
What does the harm principle say about drugs, and other clear cases of bad habits for the individual?  
We may talk about the harm, show why such behavior is harmful, discourage it through words or actions.  
But we can not make such behavior illegal or punish the person, p 360.

### III. Szasz and Mill

Szasz emphasizes his Millian liberty in his defense of the legalization of all drugs.  
He discusses both utilitarian considerations and rights, but claims that the real argument is about freedom.  
See p 501.  
Prohibition treats all people the way that we think is acceptable to treat suicidal mental patients.  
We take away anything that is potentially harmful, because we fear that the patient will behave self-destructively.  
Anyway, there are inconsistencies with the ways we deal with cigarettes, alcohol, illegal drugs, and guns.

Rights issues tend to flounder when the utilitarian considerations are overwhelmingly on one side.  
It's hard to find a solid utilitarian defense for drug use.  
There is the old Timothy Leary defense of creativity.  
Free your mind and your ass will follow.  
Still, there is a utility in allowing people freedoms, an argument which confuses the two kinds of defenses.

### IV. Two reasons why people take drugs

Szasz discusses two reasons why people take drugs:

- 1) To help them function;
- 2) To help them avoid functioning.

He says that most drug abuse is of the second type.

This seems like a problem of classification.

If people are using drugs and functioning, then we don't call their use abuse.

Szasz argues that people who favor prohibition confuse the cause with the effect, here.

Those who favor prohibition argue that drugs are a contributing cause of irresponsibility, non-conformity, and other self-destructive behavior.

Szasz argues that drug abuse is better seen as a result of a prior tendency to such behavior.

To believe that the problem is the drugs, he says, is to believe that an illiterate smoker could learn to read if only he would quit smoking, pp 501-2.

“The fear that free trade in narcotics would result in vast masses of our population spending their days and nights smoking opium or mainlining heroin, rather than working and taking care of their responsibilities is a bugaboo that does not deserve to be taken seriously.” (502)

In our current society, we are generally happy to allow people to take drugs to help them function.

We just like the doctors to approve.

So, we take anti-depressants, anti-anxiety medication, viagra, sleeping pills.

Some socially acceptable medications are significantly mind-altering.

Szasz seems to have his sights on the medical profession, p 504.

## V. The utilitarian argument for legalization

The utilitarian arguments for taking drugs are less compelling than the argument against prohibiting them.

Economic: The drug war is expensive, and rehabilitation is good business.

Though this may seem just like moving money around, it does seem that free trade would bring the price down.

Health: legalization would improve regulation and reduce the likelihood of overdose.

Also, it seems likely that the violent crime associated with the drug trade would be reduced.

Szasz also prefers a more direct relation between a person and his body, without the intervention of medical professionals.

Szasz does not ignore the dangers of drugs, but he thinks we should treat them the way we treat tall buildings.

We do not stop building tall buildings, or roads, because we know that some people will hurt themselves.

But we do take some reasonable precautions.

And we prohibit harmful behavior, and even public intoxication.

Note that consistent with Mill, Szasz does not want to extend legalization to minors.

Rather, he thinks we should use our attitudes about alcohol and sex as a model.

We place responsibility with the parents for training children in appropriate use.

And we severely punish those who seduce children.