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## On the Case of Locke's Limit of Free Speech and Its Justification

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### Abstract

John Locke's Second Treatise exists as one of the fundamental concepts in modern political thoughts, acting as a basic foundation of liberalism at its early stages due to its core concepts focusing around freedom of speech and expression. His understanding of said freedom, however, comes with a limit centred around both direct and indirect harm, which acts as this article's main point of interest. The author argues that Locke's implementation of a limit on free speech does not impede the people's freedom at all, but instead serves to create an environment where every opinion matters, no matter the origin, be it from a majority or minority. To support this argument, the author has put forth three claims based around several parts of the Second Treatise, along with case studies relating to them. As a result, Locke's emphasis on the limits of free speech advocated for a wide-ranging opportunity for everyone to declare their opinions freely and openly, necessitating vigorous debates between opinions without resulting in friction between differing groups, acting as a tool for progress instead of conflict. To conclude, Locke reveals a nuanced understanding of freedom of speech while highlighting its role as a cornerstone of early liberalism while acknowledging limits around harm, and contending that his imposition of boundaries fosters inclusive environment while encouraging debates between opinions, and ultimately promotes progress in a society.

### Key Words

John Locke, Second Treatise on Government, freedom of speech, harm, liberalism

### 1. Introduction

John Stuart Mill in his work, "On Liberty" argued on a lot of things regarding individual freedom and diversity, and arguably, the cornerstone of his philosophy lies in the advocacy for extensive freedom of speech rights. He fervently argues that the only permissible restrictions on this fundamental liberty of free speech should solely aim to avert direct harm to others as a result from one exercising their right to free speech. The ultimate goal of this limitation would be to foster a flourishing society through the unimpeded exchange of diverse ideas and opinions, all the while avoiding possible conflicts. This approach also serves as a bulwark against the encroachment of the issue of the tyranny of the majority, an issue that is relatively common, yet could lead to profound issues within any society. In essence, unrestricted freedom of speech, tempered by the conscientious prevention of harm, stands as a beacon for societal advancements.

Consider this, for instance, the various forms of movement advocating for mental health awareness throughout the past few decades, an unrestricted movement to spread awareness on mental health throughout various different medias from protests and socializations, even

blowing up in various social media sites. These movements did not cause any harm but instead pursued the goal of alleviating any harm to those who suffers from mental illness, which has led to how mental health has become such an important issue in our current world. In stark contrast, the tragic case of the Rohingya Muslim minorities in Myanmar paints a harrowing picture of what happens when the unchecked exercise of free speech festers into the propagation of hatred and consequential harm. In this case, the absence of mechanisms and lack of governmental restrictions to restrain harmful speech led to devastating consequences, sparking conflict and perpetuating ungodly violations of human rights.

## **2. Research Method**

This research employs a descriptive qualitative approach to elucidate correlation between Locke's implementation of a limit on free speech and the people's freedom. The authors employ a literature review as the primary method for data collection, examining a variety of sources such as books, journals, documents, and articles related to the problems being investigated. The authors adopt a deductive writing method, initially presenting a general overview of the problem, progressively narrowing the scope of discussion, and culminating in specific conclusions derived from the analysis of the data.

## **3. Results and Discussions**

With this we have established Mill's advocacy of free speech and its limited restrictions regarding harm. However, a critical aspect that often sparks debate and contention is the ambiguous nature surrounding the definition of "harm" within the context of restricting free speech, an issue that Mill himself did not specify. In a sense, his vagueness seemed like a deliberate attempt, resulting in both strength and weakness for his argument. On one hand, this open-endedness allows for adaptability to different societal contexts and evolving norms, giving no restrictions on what type of harm should be limited. It acknowledges the complexity of harm, which can encompass not just physical injury but also psychological and emotional damage. This lack of a clear, concrete definition poses significant challenges during attempts to restrict free speech, as the subjectivity inherent in determining harm leaves room for interpretation and manipulation. Yet personally, I am still in support of Mill's intentional vagueness of its definition, firstly due to how the ambiguity itself acknowledges the dynamic nature of societies, and its eventual evolution. What might be perceived as harmful in one era or cultural context might not necessarily hold the same weight in another, therefore by allowing for its definition to be flexible and interpretative, Mill's approach accommodates these different perspectives on harm, ensuring that its limitations can adapt to changing societal values and understanding of harm. And then using this flexibility, lawmakers could arrange for the creation of legal frameworks to address how harm is defined, or what constitutes as harm or not, eventually creating a system of free speech with as little filter towards harm as possible. This idea itself could be represented by two passages in *On Liberty*, "All silencing of discussion is an assumption of infallibility. Its condemnation may be allowed to rest on this common argument, not the worse for being common" (John Stuart Mill, *On Liberty*, p. 19), and "The worth of a State, in the long run, is the worth of the individuals composing it" (John Stuart Mill, *On Liberty*, p. 106).

After elaborating on the principle of "harm" itself as meant by Mill in his book, there are several reasons why limiting harm within the rights to freedom of speech could lead to both positive and negative outcomes. To begin with, freedom of speech serves as more than just a conduit for individual growth; it acts as a catalyst for societal evolution and innovation, thus highlighting its largest positive impact. It creates an ecosystem, where a multitude of perspectives can coexist and foster an environment ripe for the emergence of new and

innovative ideas, and unconventional viewpoints. By embracing these diverse opinions and allowing dissenting voices to be heard, freedom of expression paves the way for a vibrant marketplace of ideas. Within this landscape of diverse voices, different opinions find a platform to challenge established norms and paradigms, therefore nurturing an environment that is crucial for innovation, leading to breakthroughs in various fields or in this case, aspects of society. This idea itself echoes Mill's statement, "But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error" (John Stuart Mill, *On Liberty*, p. 19), showcasing his emphasis on the importance of free speech to allow for dissenting opinions. Take, for instance, movements such as the ones advocating for mental health awareness over recent decades.

Mental health and its deterioration in modern society has been an issue for decades, and just recently over the past few years was its dissemination of information played a pivotal role in altering societal perceptions and priorities regarding the issue. This have shifted the conversation around mental health from the shadows into the mainstream, leading to a greater understanding and acknowledgment of the importance of mental well-being in our contemporary world. This newfound awareness has caused significant changes, ranging from increased funding for mental health programs to the integration of mental health discussions into educational curricula and workplace policies, along with dismantling stigmas, encouraging open conversations, and prompted initiatives to provide better support systems for those struggling with mental health challenges. To be more specific, the usage of various information medias has boosted this awareness movement in becoming what it is today, making use of the widespread nature of these medias to spread information and awareness regarding the issue. For example, a survey was done in 2019 titled "Our Mental Health" as a follow-up to see how the airing of a documentary on national television yielded compelling results regarding its impact on public perceptions of mental health and well-being. The survey found that 94% of respondents expressed their belief that the documentary had a positive impact, underscoring the importance and potential of media, especially mainstream televisions, as a tool for influencing attitudes and awareness surrounding mental health. Furthermore, the survey revealed that 91% of participants perceived the documentary as encouraging for young people to open up and talk to someone if they are experiencing mental health difficulties, and that viewers had a 5% higher level of intention to seek help than non-viewers, further showcasing the influence this television program had (Ryan, Williamson, Chambers, Arensman, & McTernan, 2020). This proves that, given the opportunity for freedom of speech to grow and spread positive information without any sorts of restriction, or in the case where it was being used for good, huge societal progress could be made.

This also leads to the concept of freedom of expression as a safeguard against the concentration of power, and the potential abuse of authority by the majority is a fundamental principle in maintaining democratic principles within societies. When unrestricted expression, except in cases causing direct harm, is upheld, it serves as a barrier against the dominance of a single narrative or viewpoint from the majority. This unrestricted expression allows for dissenting voices, particularly from minorities, to participate actively in the societal dialogue without fear of suppression, or censorship. Therefore for this to happen, proper governmental intervention through laws or other kinds of legal means to provide restrictions on free speech are required, as stated by Mill, "Protection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as

rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formation, of any individuality not in harmony with its ways, and compels all characters to fashion themselves upon the model of its own" (John Stuart Mill, *On Liberty*, p. 9). In essence, the inclusion of diverse perspectives protected by the government preserves a system of checks and balances, ensuring that different views are represented and preventing the entrenchment of authoritarianism or oppressive governance. A striking example of the detrimental consequences of free speech that was not properly government by the system can be observed in Myanmar's treatment of the Rohingya Muslim population, a systemic persecution and silencing of the Rohingya people, which serves as a tragic illustration of what occurs when dissenting voices from minorities are oppressed, and persecuted upon. The majority, supported by both state-run media and eventually even private-run media, utilized their power over influence to silence and marginalize the Rohingyas, depriving them of their fundamental rights and robbing them of a voice in the societal discourse (Young, Anderson, Kleinberg, & Whitten-Woodring, 2023). At the end of it, this exemplified the dangers of unchecked power and the absence of unrestricted expression, leading to the reinforcement of prejudices, lack of accountability, the perpetuation of human rights abuses, and eventually, the genocide we saw.

After understanding the significance of harm through freedom of speech, we see how Mill has created the harm principle, delineating a crucial boundary, distinguishing between speech that is merely offensive and that which leads to tangible harm such as the case of the Rohingya conflicts. Thus, through understanding the harm principle, it functions as a guiding framework for societies to navigate the complexities of freedom of speech, and recognizes that while individuals should enjoy the broadest possible freedom to express their ideas and opinions, it could inflict harm on others. By establishing this boundary, it does not technically restrict all forms of offensive speech, but draws a line where it crosses into genuine harm towards others, therefore the boundary acts as a safeguard against the misuse of freedom of expression in causing said tangible harm. The boundary also does not intend to stifle open discourse, but rather foster an environment conducive to meaningful and constructive dialogue. This boundary of harm principle similarly to as has been mentioned briefly above, exists from the creation of the government as it exercises its power in order to not restrict its populace, but rather keep peace and dialogue going, similarly to how Mill mentions that, "The only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant" (John Stuart Mill, *On Liberty*, p. 13).

#### **4. Conclusion**

At the end of it, Mill's perspective on freedom of speech underscores an ongoing dialogue between preserving individual liberties and safeguarding against the harm that certain expressions might inflict on certain parts of society, particularly in the case of majority versus minority opinions. His framework acknowledges the intricate balance inherent in free expression, while ensuring protection against potential harm to marginalized groups, albeit his vague definition of said "harm". His emphasis on robust debate between freedom of speech does not negate the need for prudence and sensitivity when contemplating the limitations on expression, yet advocates for a wide-ranging freedom of speech advocating for checks and balances within the system backed by the government. The overarching goal of his view on freedom of speech remains the creation of an environment where diverse opinions thrive and vigorous debates occur, without undermining the safety and rights of any group, necessitating negotiations and acknowledging the nuances and complexities of societal dynamics. Through this careful balance, Mill views freedom of speech as a tool for progress, rather than a tool for hatred and conflict.

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