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The Harm Principle

Speaking about the domain of criminal law, it is important to define it . Often, the degree of the committed crime, as well as the verdict of the case, are held based on how particular notions are defined within legislative norms. In such regard, when discussing the harm principle, one should offer a brief background, placing the notion in a historical context. Additionally, the understanding of the idea requires examining it in terms of scope, applications, and limitations. As a result, one will explore the harm principle and its link to limiting liberty, its broad application in the domain of criminal law, and particular limitations that question the notion's validity when there are corrupted premises.

Speaking about the historical roots of the harm principle, John Stuart Mill is the person to mention. In his groundbreaking work *On Liberty*, one of the founding fathers of utilitarianism offered a clear distinction between harm and offense, thus establishing the foundation for the term to be used within the framework of criminal law (Brink). Importantly, to constitute harm, it is crucial to indicate that an action can be defined as harmful when it sets back the interests of specific people as well as inflicts injury. Violation of interests is regarded as harmful based on the premise that individuals have rights for their interests to be preserved in the first place

(Brink). In such a context, appealing to the precise definition of the harm principle, according to Mill, the notion is illustrated as the following: “that is not unjust which is done with the consent of the person who is supposed to be hurt by it” (as qtd. in Brink). One should remember that the principle must be applied when particular variables are met. Specifically, the notion gains eligibility when the interests of a person are breached, as well as harm is inflicted.

As to the essence of the harm principle, the starting point is to explore the notion in the context of its scope. Generally, the approach is designed both to guide actions of people and restrict the authority of criminal law as well as maintain government limitations on the personal liberty of citizens (The Ethics Center). When connecting the harm principle to the idea of liberty, one should say that when one party inflicts harm on another party, society has a jurisdiction to restrict the freedoms of an offending side to the degree proportionate to harm done (Brink). The harm principle is about providing a valid foundation for criminal law, offering particular social and judicial institutions to gain control over one’s liberty when a social contract is breached. The harm principle can be applied when society intends to prevent people from adopting behaviors that cause harm to others (Brink). As a result, the integration of the harm principle into the domain of criminal law was motivated by the urge to prevent immoral and offensive conduct. The harm principle legitimized the restrictions of liberty in the case of immoral and unlawful behavior (Stanton-Ife 3). As a result, the purpose of the harm principle is to prevent people from inflicting harm as well as punishing harmful behavior by limiting one’s liberties.

Another crucial aspect of the harm principle is about its application within the domain of criminal law. Mill argued that the principle should not only be about preventing people from harming while fearing that their liberties will be taken away (as qtd. in Brink). The author of

“Mill’s Moral and Political Philosophy” indicated that the harm principle should necessarily regulate relationships between the government and citizens (Brink). Moreover, the notion should also be applied to the level of familial relations: specific relationships between husbands and wives as well as parents and children (Brink). In such a context, the harm principle must be applied on various levels, thus creating order in society. To support the claim, Mill argued the following: “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” (Stanton-Ife 2). In such a context, the harm principle can be applied equally when the government intends to inflict harm on citizens, as well as parents inflict harm on their children. The proper application of the harm principle allows regulating relationships within a social order. It provides legitimate measures that discourage harmful behavior, showing that avoiding harm is necessary for the preservation of the civic core of society.

Finally, when examining the harm principle, it is essential to mention that there are particular limitations to the notion—ones that can undermine the idea’s validity. The fundamental premise of the approach is that the harm principle is considered as the normative requirement, indicating that particular conduct must be criminalized only when such behavior is harmful to others. While the advocates of the idea often presuppose that direct harm should be inflicted to apply the tenets of the harm principle, the downside of the approach is that there can be indirect victims of harm (Stewart 34). Another significant limitation is about the broad definition of harm itself. Namely, conduct that causes fear, worry, and distress can be considered harmful. The problem is that particular consequences of the action causing fear, distress, and worry are defined by subjective perceptions of a person to whom the conduct was directed. As a

result, when misinterpreted, even harmless behavior can be regarded as harmful, and a person who does not inflict harm but caused fear, worry, and distress can be punished, and one's liberties will be restricted (Stewart 34). In such regard, the main problem with the harm principle is about cases when the degree of harmfulness of particular actions are determined by subjective factors of a "victim" rather than objective observation of the harm caused. When the harm principle is misused, criminalization can hurt people whose conduct was defined as harmful, while in reality, it was harmless.

Considering all of the above, the harm principle is a notion that can be both beneficial and damaging when integrated within the domain of criminal law. Importantly, its benefit or harm is determined by the degree of its implementation. Namely, there should be objective evidence indicating that actual harm was inflicted and the interests of individuals were breached. When there are sufficient reasons to use the harm principle legitimately, it allows imposing particular restrictions on relationships within society. With its broad scope, the proper application of the harm principle brings peace and stability to social order, ensuring that people and the government avoid immoral and harmful behavior. In contrast, when the foundation for the application of the harm principle is determined by the subjective perception of harm, innocent people can be stripped of their liberties—something that can be regarded as a usurpation of law.

Works Cited

- Brink, David. "Mill's Moral and Political Philosophy." *Stanford Encyclopedia of Philosophy*, 2018, plato.stanford.edu/entries/mill-moral-political/#HarPri.
- The Ethics Center. "Ethics Explainer: What is The Harm Principle?" *THE ETHICS CENTRE*, 16 May 2019, ethics.org.au/ethics-explainer-the-harm-principle/.
- Stanton-Ife, John. "What is the Harm Principle For?" *Criminal Law and Philosophy*, vol. 10, no. 2, 2014, pp. 329-353, doi:10.1007/s11572-014-9311-8.
- Stewart, Hamish. "The Limits of the Harm Principle." *Criminal Law and Philosophy*, vol. 4, no. 1, 2009, pp. 17-35, doi:10.1007/s11572-009-9082-9.

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