

CHAPTER 10

FREE SPEECH AND PERSONAL LIBERTIES: FREE SPEECH, DRUGS, AND ALCOHOL

LEARNING OBJECTIVES

After reading this chapter, you will be able to:

- 10.1 Critically analyze the limits society imposes on free speech.
- 10.2 Articulate the arguments surrounding the legalization of drugs.

10.1 IS FREE SPEECH REALLY FREE?

Our notion of freedom of speech is changing. The Internet, social media, and smartphones have created a situation where the unfiltered rants of almost anyone can find an audience. In some cases, the speech is deliberately made public—the person is taking a stand on a particular issue, yet in other cases the speech is not made in this manner. It is unclear as to whether private correspondence that is later made public ought to be held in the same regard as public free speech. Recent stories, such as the personal rant of the LA Clippers owner, Donald Sterling, make it clear that society has limited tolerance for certain types of speech. Ironically, Sterling was not out in public, say, marching at a Ku Klux Klan rally, when he made his comments about African-Americans. He was talking to his girlfriend, who just happened to be recording the conversation

and released to TMZ on April 25, 2014. A very public saga followed, as advertisers began pulling out of the lucrative deals with the Clippers; the NBA fined Sterling, who sued the NBA in response; and eventually the team was sold on August 11, 2014. Sterling is still a billionaire, but now he is a nationally reviled billionaire because of something he said in his own bedroom.



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Clearly it would be hypocritical to keep your racist loathing to yourself, while maintaining a public image of tolerance and sensitivity. At the same time, none of us is held accountable in a public sphere for the personal views we keep to ourselves or share with those we hold in close confidence. Yet when celebrities have their confidences betrayed

and their personal shortcomings are broadcast to the masses, we hold them accountable for their speech and their actions.

A similar case was the “bullygate” scandal of the Miami Dolphins in 2013. In this instance, voice mails and texts were sent by various players to harass and degrade a member of the team. The player in question was bullied out of the team, and few were surprised by the apparent absence of sportsmanship through the organization, from the coaches to the players themselves. Dan Le Batard, reporting on the scandal for *The Miami Herald*, wrote that “The Dolphins—the guys who actually wear the uniforms and bleed and break for this cause—sided with the bad guys.” Charles Barkley, a retired professional athlete who now is a prominent sports journalist, told *The Miami Herald* that “the locker room is racist, homophobic and sexist, and I miss it.”

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BUT I DON'T REALLY MEAN THAT

Have you ever said something in a private conversation with a friend or family member—or even in a text or tweet—that you would not ever say in public? You are free to say what you want, but would you be embarrassed if your own private conversations were made public?

Is it right to make private speech public?

HATE SPEECH OR FREE SPEECH?

Racism, sexism, homophobia, anti-Semitism, islamophobia, and other hateful attitudes remain part of our social reality. It is unclear as to whether unsavory opinions (regardless of their epistemic value or veracity) are unethical. For example, is it unethical to hold that women are inferior to men (as Aristotle did) or that some people are simply better than others (as according to Nietzsche), or that to cause pain in others is entirely reasonable (as the Marquis de Sade enthusiastically believed)? Should speech promoting such views be limited? If so, how much and how?



Chicago, ILLINOIS-MARCH 11, 2016: Protesters demonstrate against hate-speech outside the Donald Trump rally at the University of Illinois at Chicago Pavilion.

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In the past, children were raised on nursery rhyme “sticks and stones will break my bones, but words will never hurt me.” Now, it seems that words can hurt and that the consequences for their “misuse” can be

severe. Celebrities such as the television celebrity chef and restauratrice Paula Dean have lost millions of dollars in endorsement deals for using a repugnant pejorative for African-Americans in their daily life, while rappers like Dr. Dre have made millions using the very same word in their song lyrics.

The alarming rise of hate speech in public following the 2016 national elections has been noticed throughout the United States. The Southern Poverty Law Center reported hundreds of incidents targeting blacks and other people of color, Muslims, immigrants, the L.G.B.T. community, and women. The Ku Klux Klan held a victory parade in North Carolina days after the election. "This represents a big increase in what we've seen since the campaign, and these incidents are far and wide: we're seeing them in schools, we're seeing them in places of business, we're seeing them in museums and gas stations," Richard Cohen, the president of the S.P.L.C., said to *The New Yorker* magazine. "White supremacists are celebrating, and it's their time, the way they see it."

Other cases push the boundaries of what constitutes free speech as well as further cloud the issue. Julian Assange, founder and editor of WikiLeaks, is now living in exile as a result of his having published secret government documents. The case of Edward Snowden, the NSA contractor who blew the whistle on extensive government spying, raises questions about personal freedom, privacy, and free speech. Is our speech free if the government is listening in? Is it moral to make public what the government is doing? Snowden too is living in exile and would face prosecution in the United States should he choose to return. Neither published anything that was not true, but both broke the law.

Similar tactics were employed by the Soviet Union and Nazi Germany. Protecting freedom of speech may involve defining the freedom of the Internet and protecting the privacy of its users—which at this point means almost everyone. Some argue that in a post-9/11 world we must be willing to give up some of our freedoms in the name of security, whereas others argue that this is the first step toward becoming like the tyrannical societies we decry.



FOCUS ON: *Je suis Charlie*—January 7, 2015

Charlie Hebdo—short for *hebdomadaire*, *Weekly Charlie* in English—is a popular French satirical tabloid founded in 1969, in the wake of the turbulent student riots of 1968. The magazine's spirit then as now was as provocative as it was irreverent. Gleefully aiming their satire at all political factions and religions, decidedly at Jews, Christians, and Muslims, the artists and writers of *Charlie Hebdo* make fun of everyone. Not everyone laughs.

Stéphane "Charb" Charbonnier, a popular cartoonist as well as editor-in-chief of the publication, said about his making ridicule of the Muslim faith in 2009 that "We have to carry on until Islam has been exposed to be as banal as Catholicism."

Charbonnier is dead now. His death was a case of censorship by murder.

On the morning of January 7, 2015, armed religious extremists stormed the *Charlie Hebdo* office in Paris and massacred 12 people, including Charbonnier, his staff, and two French police officers—one of them a Muslim. The killers were later identified as members of an Alai-Qaeda from Yemen. Their offense was about the magazine's printing a cartoon portraying the Muslim prophet Muhammad. The attacks were seen in France and elsewhere as morally repugnant.

"Je suis Charlie," "I Am Charlie,"
Weekly Charlie 2015 became a universal
 slogan for the defense of free speech.

France has a strong separation of church and state that goes back to 1789, and the separation was made stronger still by a 1905 law specifying the rights of *laïcité*, meaning the right not to be restricted by anyone's religion; that principle was enshrined in the French Constitution in 1945 after the liberation from the Nazis. Blasphemy and heresy are not crimes in France. But hate speech is a crime, and in fact France has strict laws that ban promoting racial or religious hatred or inciting terrorism or crimes against humanity.

In France, as in other democratic countries, freedom of speech means just that. If you are offended by a magazine, don't read it. In the case of *Charlie Hebdo*, clearly people were offended. Were the magazine's cartoons hate speech that should be censored or simply free speech that should be protected?



PARIS - JANUARY 8: Peaceful protest in Place de la République against the terrorist attack on Charlie Hebdo journal, promoting freedom of speech in Paris, France on 08 January 2015

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10.2 DRUGS: MY BODY, MY FREEDOM, MY CHOICE?

The United States has more people in prison than any other country, 2 million in prisons and an additional 5 million on probation, according to the U.S. Department of Justice. Twenty percent of inmates are in prison for drug offenses. The prison population is disproportionately black and Hispanic. The so-called war on drugs has had a major impact on the number of people arrested. But it also has had little, if any, effect on drug use, which has remained constant even as the number of prisoners convicted of nonviolent crimes rises. The moral question is, why are they there?

MORTAL PHILOSOPHERS: JOHN HOSPERS (1918–2011)

A pioneer of the American libertarian movement, John Hospers studied literature at the University of Iowa and philosophy at Columbia University. When he became chairperson of the philosophy department of the University of Southern California, there was no such party as a Libertarian Party in the United States. Hospers' book *Libertarianism—A Political Philosophy for Tomorrow* (1971) became the cornerstone of the party at its founding, and in the 1972 U.S. Presidential election, Hospers himself became the first Libertarian Party presidential candidate.

Hospers was born in a small town near Des Moines, Iowa, and he grew up speaking Dutch as his first language. As his interests in literature and the arts led him to philosophy and politics, he became a friend and sometimes ally of **Ayn Rand**, whose *Virtue of Selfishness* was also influential in the libertarian movement. Yet Hospers' ideas were specifically political and more down to earth than Rand's—something that to this day makes him an inspiration to such former libertarians as **Rand Paul**.

In sharp contrast with utilitarian ethics, which stresses the happiness of everyone often over that of a single individual, Hospers stressed self-reliance and argued that only laws protecting one from others are morally justified, whereas laws protecting one from oneself or laws forcing you to help others are not.

Personal liberties include not only freedom of speech but also, according to the utilitarians, freedom of control over one's own mind and one's own body. Nowhere is this issue brought to the fore as pointedly as in the regulation of drug use. What to do and how to regulate if at all is a burning moral as well as political question.

THE PROHIBITION ERA

The country as whole faced that question before. In 1920, Christian fundamentalists including influential organizations such as Woman's Christian Temperance Union succeeded in getting the Eighteenth Amendment to the U.S. Constitution passed, and the Prohibition began: Manufacture, transportation, sale, and consumption of alcoholic beverages were prohibited in the United States. That Prohibition ended with the ratification of the Twenty-first Amendment, which repealed the Eighteenth Amendment, in 1933. What happened in those few years was interesting.

Americans did not stop drinking, but bathtub gin became very popular, as was rum imported illegally from Cuba. With the right connections, one could always have a cocktail at a backroom speakeasy, with the liquor provided by bootleggers. Today's vast organized crime networks are direct descendants of the Prohibition Era.

Organized crime stayed remained in place after the Prohibition's repeal, and the criminals simply found other stuff to sell. The number of customers for bathtub gin became the same number of customers at a legal liquor store, where the liquor was and is today regulated and taxed, providing revenues for the state. Today, for example, why would anyone want to seek out illegal bathtub gin when it is so easy to buy legally a good cheap bottle on sale at a cornerstore? The number of alcoholics has not gone up or down, though the need for illegal trade has been eliminated.

THE MARIJUANA EXPERIMENT

All of this brings us to marijuana. Colorado became the first state in the nation to allow people to sell and buy marijuana legally in January 2014. Although other states, most influentially California, initially allow the sale of medical marijuana, Colorado's law was the first to allow and license weed for recreational use. Marijuana is regulated, controlled for quality, and taxed. So far, according to CNN and Colorado state government reports, \$53 million has been raised in tax revenues for Colorado



Cannabis leaf.

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from a total sale of \$246 million in recreational marijuana and \$328 million in medical marijuana. Violent crime has gone down, and the police in Colorado have saved in excess of \$7 million in arrests and prosecutions. Barring any so far undocumented bad consequences, the utilitarian argument for legalizing pot seems strong. The only person out of work is the drug dealer, much like the Prohibition Era's bootlegger. Why buy from a shady person in a dark alley or in a schoolyard when you can buy good weed from a store?

At present twenty-six states and the District of Columbia currently have laws legalizing marijuana in some form. Three other states will soon join them after recently passing measures permitting use of medical marijuana, a loosening of regulation that so far has led to legalization of marijuana for recreational use afterwards. Seven states and the District of Columbia have adopted more expansive laws legalizing marijuana for recreational use. With the 2016 November election, California, Massachusetts and Nevada all passed measures in November legalizing recreational marijuana.

The fact that many American prisons are now outsourced private to for-profit institutions goes a long way to explain the dementedly high number of people in prison. It also reveals the biggest lobby opposing the legalization of marijuana: the prison industry, which would make less money if fewer prisoners came their way.

The situation may be changing. In 2015, 35 states and the District of Columbia allow the use and sale of medical marijuana. To make medical and recreational marijuana sales legal in all 50 states, federal action would be needed. On March 10, 2015, a bipartisan trio of senators, Cory Booker, Kirsten Gillibrand, and Rand Paul introduced a bill making medical marijuana legal in all 50 states.

WILLIAM BENNETT VERSUS MILTON FRIEDMAN ON DRUG LEGALIZATION

In the 1980s there was a renewed push by journalist, academics, and social advocates to legalize certain drugs. Milton Friedman was one of the most well-known advocates. Friedman wrote a book in 1972 advocating the legalization of drugs based on libertarian and economic principles. He was also awarded a Nobel Prize in 1976 for economics. He entered into a public debate with William Bennett regarding the

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legalization of drugs. William Bennett served as director of the Office of National Drug Control Policy and as U.S. Secretary of Education. He has continued to advocate for the prohibition of illicit drugs. He argued that legalization was a nonpolicy and would have disastrous social consequences.

TOBACCO AND ALCOHOL

Tobacco, another popular substance people smoke, is legal and is regulated in the United States. It has two verifiable consequences: It gives you bad breath and it gives you cancer. Marijuana does neither of those things, and its consequences as studied so far are nowhere near as damaging—if damaging at all—as those of cigarettes. Like alcohol, which is fine in moderation but also brings bad consequences when used in excess, the use of tobacco is legal because it is up to the individual to choose to do that with his or her body, as long as no one is forced to breathe its smoke. Marijuana could be regulated in the same way. If so, the argument will be strictly utilitarian. What are the consequences and who is affected directly are the main considerations in this or any other argument about individual liberties. The moral arguments go beyond American borders: The Netherlands long has made all drugs legal, whereas several Arab states today ban alcohol, tobacco, drugs, and in one case chewing gum.

The arguments for legalizing marijuana—much like the arguments in most personal liberties issues—fall into a classical utilitarian pattern. That is, who is affected by the consequences of legalizing marijuana? Do those causes happiness or eliminate unhappiness? Are we considering the happiness or unhappiness of everyone affected directly by those consequences in the same way? John Stuart Mill argues that free speech is essential to a democratic society.

Mill, the founder of modern utilitarianism, also argues that free speech and the free exchange of ideas are necessary for social progress. John Locke examines the issue of free speech primarily in reference to freedom of expression and religious belief. Locke felt that unnecessary civil unrest was created by limiting religious expression or enforcing a state religion. There always have been limitations on speech, and such limitations are reasonable. The tough thing is defining how far those limits should go.

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READINGS: JOHN STUART MILL: ON LIBERTY

In his essay, "On Liberty," John Stuart Mill argues for the limits of the maximum power that society can exercise over an individual and analyzes the struggle between individual liberty and political authority. His view is that the individual should be afforded the maximum liberty in actions and ideas—as long he or she is causing no harm to others.

The struggle between Liberty and Authority is the most conspicuous feature in the portions of history with which we are earliest familiar, particularly in that of Greece, Rome, and England. But in old times this contest was between subjects, or some classes of subjects, and the government. By liberty, was meant protection against the tyranny of the political rulers. The rulers were conceived (except in some of the popular governments of Greece) as in a necessarily antagonistic position to the people whom they ruled. They consisted of a governing One, or a governing tribe or caste, who derived their authority from inheritance or conquest; who, at all events, did not hold it at the pleasure of the governed, and whose supremacy men did not venture, perhaps did not desire, to contest, whatever precautions might be taken against its oppressive exercise. Their power was regarded as necessary, but also as highly dangerous; as a weapon which they would attempt to use against their subjects, no less than against external enemies. To prevent the weaker members of the community from being preyed upon by innumerable vultures, it was needful that there should be an animal of prey stronger than the rest, commissioned to keep them down. But as the king of the vultures would be no less bent upon preying upon the flock than any of the minor harpies, it was indispensable to be in a perpetual attitude of defense against his beak and claws. The aim, therefore, of patriots, was to set limits to the power which the ruler should be suffered to exercise over the community; and this limitation was what they meant by liberty. It was attempted in two ways. First, by obtaining a recognition of certain immunities, called political liberties or rights, which it was to be regarded as a breach of duty in the ruler to infringe, and which, if he did infringe, specific resistance, or general rebellion, was held to be justifiable. A second, and generally a later expedient, was the establishment of constitutional checks; by which the consent of the community, or of a body of some sort supposed to represent its interests, was made a necessary condition to some of the more important acts of the governing power. To the first of these modes of limitation,

"On Liberty" by John Stuart Mill, 1909

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the ruling power, in most European countries, was compelled, more or less, to submit. It was not so with the second; and to attain this, or when already in some degree possessed, to attain it more completely, became everywhere the principal object of the lovers of liberty. And so long as mankind were content to combat one enemy by another, and to be ruled by a master, on condition of being guaranteed more or less efficaciously against his tyranny, they did not carry their aspirations beyond this point.

A time, however, came in the progress of human affairs, when men ceased to think it a necessity of nature that their governors should be an independent power, opposed in interest to themselves. It appeared to them much better that the various magistrates of the State should be their tenants or delegates, revocable at their pleasure. In that way alone, it seemed, could they have complete security that the powers of government would never be abused to their disadvantage. By degrees, this new demand for elective and temporary rulers became the prominent object of the exertions of the popular party, wherever any such party existed; and superseded, to a considerable extent, the previous efforts to limit the power of rulers. As the struggle proceeded for making the ruling power emanate from the periodical choice of the ruled, some persons began to think that too much importance had been attached to the limitation of the power itself. That (it might seem) was a resource against rulers whose interests were habitually opposed to those of the people. What was now wanted was, that the rulers should be identified with the people; that their interest and will should be the interest and will of the nation. The nation did not need to be protected against its own will. There was no fear of its tyrannizing over itself. Let the rulers be effectually responsible to it, promptly removable by it, and it could afford to trust them with power of which it could itself dictate the use to be made. Their power was but the nation's own power, concentrated, and in a form convenient for exercise. This mode of thought, or rather perhaps of feeling, was common among the last generation of European liberalism, in the Continental section of which, it still apparently predominates. Those who admit any limit to what a government may do, except in the case of such governments as they think ought not to exist, stand out as brilliant exceptions among the political thinkers of the Continent. A similar tone of sentiment might by this time have been prevalent in our own country, if the circumstances which for a time encouraged it had continued unaltered.

But, in political and philosophical theories, as well as in persons, success discloses faults and infirmities which failure might have concealed from observation. The notion, that the people have no need to limit their power

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over themselves, might seem axiomatic, when popular government was a thing only dreamed about, or read of as having existed at some distant period of the past. Neither was that notion necessarily disturbed by such temporary aberrations as those of the French Revolution, the worst of which were the work of an usurping few, and which, in any case, belonged, not to the permanent working of popular institutions, but to a sudden and convulsive outbreak against monarchical and aristocratic despotism. In time, however, a democratic republic came to occupy a large portion of the earth's surface, and made itself felt as one of the most powerful members of the community of nations; and elective and responsible government became subject to the observations and criticisms which wait upon a great existing fact. It was now perceived that such phrases as "self-government," and "the power of the people over themselves," do not express the true state of the case. The "people" who exercise the power, are not always the same people with those over whom it is exercised, and the "self-government" spoken of, is not the government of each by himself, but of each by all the rest. The will of the people, moreover, practically means, the will of the most numerous or the most active part of the people; the majority, or those who succeed in making themselves accepted as the majority; the people, consequently, may desire to oppress a part of their number; and precautions are as much needed against this, as against any other abuse of power. The limitation, therefore, of the power of government over individuals, loses none of its importance when the holders of power are regularly accountable to the community, that is, to the strongest party therein. This view of things, recommending itself equally to the intelligence of thinkers and to the inclination of those important classes in European society to whose real or supposed interests democracy is adverse, has had no difficulty in establishing itself; and in political speculations "the tyranny of the majority" is now generally included among the evils against which society requires to be on its guard.

Like other tyrannies, the tyranny of the majority was at first, and is still vulgarly, held in dread, chiefly as operating through the acts of the public authorities. But reflecting persons perceived that when society is itself the tyrant—society collectively, over the separate individuals who compose it—its means of tyrannizing are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates: and if it issues wrong mandates instead of right, or any mandates at all in things with which it ought not to meddle, it practices a social tyranny more formidable than many kinds of political oppression,

since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself. 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 compel all characters to fashion themselves upon the model of its own. There is a limit to the legitimate interference of collective opinion with individual independence; and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism.

But though this proposition is not likely to be contested in general terms, the practical question, where to place the limit—how to make the fitting adjustment between individual independence and social control—is a subject on which nearly everything remains to be done. All that makes existence valuable to anyone depends on the enforcement of restraints upon the actions of other people. Some rules of conduct, therefore, must be imposed, by law in the first place, and by opinion on many things which are not fit subjects for the operation of law. What these rules should be is the principal question in human affairs; but if we accept a few of the most obvious cases, it is one of those which least progress has been made in resolving. No two ages, and scarcely any two countries, have decided it alike; and the decision of one age or country is a wonder to another. Yet the people of any given age and country no more suspect any difficulty in it, than if it were a subject on which mankind had always been agreed. The rules which obtain among themselves appear to them self-evident and self-justifying. This all but universal illusion is one of the examples of the magical influence of custom, which is not only, as the proverb says a second nature, but is continually mistaken for the first. The effect of custom, in preventing any misgiving respecting the rules of conduct which mankind impose on one another, is all the more complete because the subject is one on which it is not generally considered necessary that reasons should be given, either by one person to others, or by each to himself. People are accustomed to believe and have been encouraged in the belief by some who aspire to the character of philosophers, that their feelings, on subjects of this nature, are better than reasons, and render reasons unnecessary. The practical principle which guides them to their opinions on the regulation of

human conduct is the feeling in each person's mind that everybody should be required to act as he, and those with whom he sympathizes, would like them to act. No one, indeed, acknowledges to himself that his standard of judgment is his own liking; but an opinion on a point of conduct, not supported by reasons, can only count as one person's preference; and if the reasons, when given, are a mere appeal to a similar preference felt by other people, it is still only many people's liking instead of one. To an ordinary man, however, his own preference, thus supported, is not only a perfectly satisfactory reason, but the only one he generally has for any of his notions of morality, taste, or propriety, which are not expressly written in his religious creed; and his chief guide in the interpretation even of that. Men's opinions, accordingly, on what is laudable or blamable, are affected by all the multifarious causes which influence their wishes in regard to the conduct of others, and which are as numerous as those which determine their wishes on any other subject. Sometimes their reason—at other times their prejudices or superstitions: often their social affections, seldom their anti-social ones, their envy or jealousy, their arrogance or contemptuousness: but most commonly, their desires or fears for themselves—their legitimate or illegitimate self-interest. Wherever there is an ascendant class, a large portion of the morality of the country emanates from its class interests, and its feelings of class superiority. The morality between Spartans and Helots, between planters and blacks, between princes and subjects, between nobles and commoners, between men and women, has been for the most part the creation of these class interests and feelings: and the sentiments thus generated, react in turn upon the moral feelings of the members of the ascendant class, in their relations among themselves. Where, on the other hand, a class, formerly ascendant, has lost its ascendancy, or where its ascendancy is unpopular, the prevailing moral sentiments frequently bear the impress of an impatient dislike of superiority. Another grand determining principle of the rules of conduct, both in act and forbearance which have been enforced by law or opinion has been the servility of mankind towards the supposed preferences or aversions of their temporal masters, or of their gods. This servility though essentially selfish, is not hypocrisy; it gives rise to perfectly genuine sentiments of abhorrence; it made men burn magicians and heretics. Among so many baser influences, the general and obvious interests of society have of course had a share, and a large one, in the direction of the moral sentiments: less, however, as a matter of reason, and on their own account, than as a consequence of the sympathies and antipathies which grew out of them: and sympathies and antipathies which had little

or nothing to do with the interests of society, have made themselves felt in the establishment of moralities with quite as great force.

The likings and dislikings of society, or of some powerful portion of it, are thus the main thing which has practically determined the rules laid down for general observance, under the penalties of law or opinion. And in general, those who have been in advance of society in thought and feeling have left this condition of things unassailed in principle; however they may have come into conflict with it in some of its details. They have occupied themselves rather in inquiring what things society ought to like or dislike, than in questioning whether its likings or dislikings should be a law to individuals. They preferred endeavoring to alter the feelings of mankind on the particular points on which they were themselves heretical, rather than make common cause in defense of freedom, with heretics generally. The only case in which the higher ground has been taken on principle and maintained with consistency, by any but an individual here and there, is that of religious belief: a case instructive in many ways, and not least so as forming a most striking instance of the fallibility of what is called the moral sense: for the odium theologicum, in a sincere bigot, is one of the most unequivocal cases of moral feeling. Those who first broke the yoke of what called itself the Universal Church, were in general as little willing to permit difference of religious opinion as that church itself. But when the heat of the conflict was over, without giving a complete victory to any party, and each church or sect was reduced to limit its hopes to retaining possession of the ground it already occupied; minorities, seeing that they had no chance of becoming majorities, were under the necessity of pleading to those whom they could not convert, for permission to differ. It is accordingly on this battle-field, almost solely, that the rights of the individual against society have been asserted on broad grounds of principle, and the claim of society to exercise authority over dissentients openly controverted. The great writers to whom the world owes what religious liberty it possesses, have mostly asserted freedom of conscience as an indefeasible right, and denied absolutely that a human being is accountable to others for his religious belief. Yet so natural to mankind is intolerance in whatever they really care about, that religious freedom has hardly anywhere been practically realized, except where religious indifference, which dislikes having its peace disturbed by theological quarrels, has added its weight to the scale. In the minds of almost all religious persons, even in the most tolerant countries, the duty of toleration is admitted with tacit reserves. One person will bear with dissent in matters of church government, but not of dogma; another can tolerate everybody, short of a Papist or an Unitarian; another, everyone who believes in revealed religion; a few extend

their charity a little further, but stop at the belief in a God and in a future state. Wherever the sentiment of the majority is still genuine and intense, it is found to have abated little of its claim to be obeyed....

"Over himself, over his own body and mind, the individual is sovereign."

John Stuart Mill

The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is that the sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is self-protection. That 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. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil, in case he does otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to someone else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.

It is, perhaps, hardly necessary to say that this doctrine is meant to apply only to human beings in the maturity of their faculties. We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood. Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury. For the same reason, we may leave out of consideration those backward states of society in which the race itself may be considered as in its nonage. The early difficulties in the way of spontaneous progress are so great, that there is seldom any choice of means for overcoming them; and a ruler full of the spirit of improvement is warranted in the use of any

expedients that will attain an end, perhaps otherwise unattainable. Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement, and the means justified by actually effecting that end. Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion. Until then, there is nothing for them but implicit obedience to an Akbar or a Charlemagne, if they are so fortunate as to find one. But as soon as mankind have attained the capacity of being guided to their own improvement by conviction or persuasion (a period long since reached in all nations with whom we need here concern ourselves), compulsion, either in the direct form or in that of pains and penalties for non-compliance, is no longer admissible as a means to their own good, and justifiable only for the security of others.

...First the opinion which it is attempted to suppress by authority may possibly be true. Those who desire to suppress it, of course deny its truth; but they are not infallible. They have no authority to decide the question for all mankind, and exclude every other person from the means of judging. To refuse a hearing to an opinion, because they are sure that it is false, is to assume that their certainty is the same thing as absolute certainty. 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.

Unfortunately for the good sense of mankind, the fact of their fallibility is far from carrying the weight in their practical judgment, which is always allowed to it in theory; for while everyone well knows himself to be fallible, few think it necessary to take any precautions against their own fallibility, or admit the supposition that any opinion of which they feel very certain, may be one of the examples of the error to which they acknowledge themselves to be liable. Absolute princes, or others who are accustomed to unlimited deference, usually feel this complete confidence in their own opinions on nearly all subjects. People



LONDON, UK - MAY 9, 2006: A statue of the British philosopher and economist John Stuart Mill buried away amongst the foliage of Victoria Embankment Gardens, a public park close to Westminster Bridge.

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more happily situated, who sometimes hear their opinions disputed, and are not wholly unused to be set right when they are wrong, place the same unbounded reliance only on such of their opinions as are shared by all who surround them, or to whom they habitually defer: for in proportion to a man's want of confidence in his own solitary judgment, does he usually repose, with implicit trust, on the infallibility of "the world" in general. And the world, to each individual, means the part of it with which he comes in contact; his party, his sect, his church, his class of society: the man may be called, by comparison, almost liberal and large-minded to whom it means anything so comprehensive as his own country or his own age....

...We have now recognized the necessity to the mental well-being of mankind (on which all their other well-being depends) of freedom of opinion, and freedom of the expression of opinion, on four distinct grounds; which we will now briefly recapitulate.

First, if any opinion is compelled to silence, that opinion may, for aught we can certainly know, be true. To deny this is to assume our own infallibility.

Secondly, though the silenced opinion be an error, it may, and very commonly does, contain a portion of truth; and since the general or prevailing opinion on any object is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.

Thirdly, even if the received opinion be not only true, but the whole truth; unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds. And not only this, but, fourthly, the meaning of the doctrine itself will be in danger of being lost, or enfeebled, and deprived of its vital effect on the character and conduct: the dogma becoming a mere formal profession, inefficacious for good, but cumbering the ground, and preventing the growth of any real and heartfelt conviction, from reason or personal experience.

Before quitting the subject of freedom of opinion, it is fit to take notice of those who say, that the free expression of all opinions should be permitted, on condition that the manner be temperate, and do not pass the bounds of fair discussion. Much might be said on the impossibility of fixing where these supposed bounds are to be placed; for if the test be offence to those whose opinion is attacked, I think experience testifies

that this offence is given whenever the attack is telling and powerful, and that every opponent who pushes them hard, and whom they find it difficult to answer, appears to them, if he shows any strong feeling on the subject, an intemperate opponent. But this, though an important consideration in a practical point of view, merges in a more fundamental objection. Undoubtedly the manner of asserting an opinion, even though it is a true one, may be very objectionable, and may justly incur severe censure. But the principal offences of the kind are such as it is mostly impossible, unless by accidental self-betrayal, to bring home to conviction. The gravest of them is, to argue sophistically, to suppress facts or arguments, to misstate the elements of the case, or misrepresent the opposite opinion...

To determine the point at which evils, so formidable to human freedom and advancement begin, or rather at which they begin to predominate over the benefits attending the collective application of the force of society, under its recognized chiefs, for the removal of the obstacles which stand in the way of its well-being, to secure as much of the advantages of centralized power and intelligence, as can be had without turning into governmental channels too great a proportion of the general activity, is one of the most difficult and complicated questions in the art of government. It is, in a great measure, a question of detail, in which many and various considerations must be kept in view, and no absolute rule can be laid down. But I believe that the practical principle in which safety resides, the ideal to be kept in view, the standard by which to test all arrangements intended for overcoming the difficulty, may be conveyed in these words: the greatest dissemination of power consistent with efficiency; but the greatest possible centralization of information, and diffusion of it from the centre. Thus, in municipal administration, there would be, as in the New England States, a very minute division among separate officers, chosen by the localities, of all business which is not better left to the persons directly interested; but besides this, there would be, in each department of local affairs, a central superintendence, forming a branch of the general government. The organ of this superintendence would concentrate, as in a focus, the variety of information and experience derived from the conduct of that branch of public business in all the localities, from everything analogous which is done in foreign countries, and from the general principles of political science. This central organ should have a right to know all that is done, and its special duty should be that of making the knowledge acquired in one place available for others. Emancipated from the petty prejudices

and narrow views of a locality by its elevated position and comprehensive sphere of observation, its advice would naturally carry much authority; but its actual power, as a permanent institution, should, I conceive, be limited to compelling the local officers to obey the laws laid down for their guidance. In all things not provided for by general rules, those officers should be left to their own judgment, under responsibility to their constituents. For the violation of rules, they should be responsible to law, and the rules themselves should be laid down by the legislature; the central administrative authority only watching over their execution, and if they were not properly carried into effect, appealing, according to the nature of the case, to the tribunal to enforce the law, or to the constituencies to dismiss the functionaries who had not executed it according to its spirit. Such, in its general conception, is the central superintendence which the Poor Law Board is intended to exercise over the administrators of the Poor Rate throughout the country. Whatever powers the Board exercises beyond this limit, were right and necessary in that peculiar case, for the cure of rooted habits of mal-administration in matters deeply affecting not the localities merely, but the whole community; since no locality has a moral right to make itself by mismanagement a nest of pauperism, necessarily overflowing into other localities, and impairing the moral and physical condition of the whole laboring community. The powers of administrative coercion and subordinate legislation possessed by the Poor Law Board (but which, owing to the state of opinion on the subject, are very scantily exercised by them), though perfectly justifiable in a case of a first-rate national interest, would be wholly out of place in the superintendence of interests purely local. But a central organ of information and instruction for all the localities, would be equally valuable in all departments of administration. A government cannot have too much of the kind of activity which does not impede, but aids and stimulates, individual exertion and development. The mischief begins when, instead of calling forth the activity and powers of individuals and bodies, it substitutes its own activity for theirs; when, instead of informing, advising, and upon occasion denouncing, it makes them work in fetters or bids them stand aside and does their work instead of them. The worth of a State, in the long run, is the worth of the individuals composing it; and a State which postpones the interests of their mental expansion and elevation, to a little more of administrative skill or that semblance of it which practice gives, in the details of business; a State, which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes, will find that with small men no great thing can really be accomplished; and that the perfection

of machinery to which it has sacrificed everything, will in the end avail it nothing, for want of the vital power which, in order that the machine might work more smoothly, it has preferred to banish.



Why One And Not The Other?

Can you explain why tobacco is legal and marijuana is not in most states?

How can you decide which drugs should be legalized, if any?

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CHAPTER PHILOSOPHERS

Paul, Randal (Rand) Howard a libertarian currently serving as the junior senator from Kentucky in the U.S. Senate, an office he has held since 2011. He is also a trained ophthalmologist and is the middle son of former U.S. Representative and physician Ron Paul of Texas.

Rand, Ayn essayist and novelist; her *Virtue of Selfishness* was influential in the libertarian movement.

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KEY TERMS

Charlie Hebdo short for *hebdomadaire*, *Weekly Charlie* in English, it is a popular French satirical tabloid founded in 1969, in the wake of the turbulent student riots of 1968. The magazine's spirit then as now was as provocative as it was irreverent to any and all faiths.

Marijuana a preparation of the *Cannabis* plant popular recreational drug, also intended for use for medicinal purposes. Unlike tobacco, it appears not to have harmful effects.

Tobacco the tropical American plant *Nicotiana tabacum* of the nightshade family, widely cultivated for its leaves, which are used primarily for smoking. Nicotine, the drug found in tobacco, is as addictive as heroin. Cigarette smoking kills more than 480,000 Americans each year, with more than 41,000 of these deaths from exposure to secondhand smoke.