



## The Morality of Freedom

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# Freedom and Autonomy

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## Abstract and Keywords

The ideal of autonomy, together with pluralism, underlies the doctrine of political freedom. Autonomy underlies both positive and negative freedom. Toleration is underpinned by the competitive pluralism that is essential to autonomy. Autonomy is consistent with perfectionism, yet also underlies the 'harm principle', which asserts that the only purpose for which the law may use its coercive power is to prevent harm. Perfectionism and the harm principle are consistent with one another because the recommended type of perfectionism abjures coercion, focusing instead on maintaining the framework conditions that are conducive for pluralism and autonomy.

*Keywords:* autonomy, coercion, competitive pluralism, harm principle, perfectionism, toleration

The doctrine of political freedom with which this book concludes is based on the values of pluralism and autonomy which were discussed in the last chapter. My purpose is to show that a powerful argument in support of political freedom is derivable from the value of personal autonomy. This is not a surprising conclusion. It is sometimes thought that the argument from autonomy is the specifically liberal argument for freedom, the one argument which is not shared by non-liberals, and which displays the spirit of the liberal approach to politics. The chapter contributes to an exploration of this view. It does so in two ways.

First, it is sometimes assumed that respect for autonomy requires governments to avoid pursuing any conception of the good life. In other words the ideal of autonomy is used to support a doctrine of political freedom reflecting anti-

perfectionism, the exclusion of ideals from politics. I argued against such views in Chapters Five and Six. The present chapter will reinforce these conclusions.

Another well known liberal argument for freedom is based on the harm principle. This principle, first formulated by J. S. Mill, has found a powerful champion in our times in H. L. A. Hart.<sup>1</sup> The principle asserts that the only purpose for which the law may use its coercive power is to prevent harm. I shall argue that the autonomy-based principle of freedom is best regarded as providing the moral foundation for the harm principle. It explains why liberals are sometimes willing to employ coercion to prevent harm, as well as why they refuse to use coercion for other purposes. Thus viewed the principle helps assess the relative seriousness of various harms, as well as to answer potentially damaging criticisms of the harm principle which claim that it reflects the ideology **(p.401)** of the night watchman state. At the same time it has to be admitted that the interpretation to be here given to the harm principle differs from that it has received at the hands of individualistic liberals.

Before dealing with the core issues, the first section points to a generally overlooked source of intolerance, a source which is of special interest in the context of this book. For, I shall contend, pluralism has an inherent tendency to generate intolerance, a tendency which ought to be guarded against. Section 2 sets out the outlines of the autonomy-based doctrine of political freedom, and points to some of its limitations. Section 3 examines the relations between this doctrine and the harm principle. The argument is continued in the following section which touches on some of the issues raised by the question: to what extent, if at all, should politics and the law support paternalistic measures? The last concluding section compares our conclusions with some other familiar answers to the same questions.

### 1. Pluralism and Intolerance

It is sometimes supposed that value-pluralism by itself, through its approval of many incompatible forms of life, establishes the value of toleration. However, refraining from persecuting or harassing people who possess moral virtues which we lack is not in itself toleration. I do not tolerate people whom I admire and respect because they are generous, kind or courageous, whereas I am not. Toleration implies the suppression or containment of an inclination or desire to persecute, harass, harm or react in an unwelcome way to a person. But even this does not yet capture the essence of toleration. I do not tolerate the courageous, the generous and the kind even if I am inclined to persecute them and restrain myself because I realize that my desires are entirely evil.

Toleration is a distinctive moral virtue only if it curbs desires, inclinations and convictions which are thought by the tolerant person to be in themselves desirable. Typically a person is tolerant if and only if he suppresses a desire to cause to another a harm or hurt which he thinks the other **(p.402)** deserves.

The clearest case of toleration, whether justified or not, is where a person restrains his indignation at the sight of injustice or some other moral evil, or rather at the sight of behaviour which he takes to be of this character. Whether a person is tolerant or not depends on his reasons for action. Himmler did not tolerate Hitler when he did not kill him. But an anti-Nazi may have spared his life out of a misconceived sense of duty to let people carry on even when they are in the wrong.

Notice that to claim to act out of toleration is to claim that one's action is justified, though in fact it may not be, perhaps because toleration is out of place in the circumstances.

I emphasized the tolerant person's view that in being tolerant he is restraining an inclination which is in itself desirable. The typical cases are those in which the intolerant inclination is in itself desirable because it is a reaction to wrongful behaviour. Is it then part of our notion of toleration that only the wrongful or bad can be tolerated? Many writers on the subject assume so. But this view seems unwarranted. To be sure one cannot tolerate other people because of their virtues. But one can tolerate their limitations. A person can tolerate another's very deliberate manner of speech, or his slow and methodical way of considering every issue, and so on. In all such cases what is tolerated is neither wrong nor necessarily bad. It is the absence of a certain accomplishment. This is not an attempt at hair-splitting. The reason people lack certain virtues or accomplishments may be, and often is, that they possess other and incompatible virtues and accomplishments. When we tolerate the limitations of others we may be aware that these are but the other side of their virtues and personal strengths. This may indeed be the reason why we tolerate them.

Toleration, then, is the curbing of an activity likely to be unwelcome to its recipient or of an inclination so to act which is in itself morally valuable and which is based on a dislike or an antagonism towards that person or a feature of his life, reflecting a judgment that these represent limitations or deficiencies in him, in order to let that person have his way or in order for him to gain or keep some advantage.<sup>1</sup>

**(p.403)** This characterization of toleration deviates from the view which is most common in writing on political theory in two respects. My explanation relies on four features. First, only behaviour which is either unwelcome to the person towards whom it is addressed or behaviour which is normally seen as unwelcome is intolerant behaviour. Secondly, one is tolerant only if one inclines or is tempted not to be. Thirdly, that inclination is based on dislike or antagonism to the behaviour, character or some feature of the existence of its object. Finally, the intolerant inclination is in itself, at least in the eyes of the person experiencing it, worth while or desirable.

Political theorists tend to concentrate on one hostile reaction as the only possible manifestation of intolerance: the use of coercion. They are resistant to the thought that an expression of a hostile view, for example, may be intolerant behaviour. Secondly, as was observed above, it is often thought that only if a person judges another or his behaviour to be wrong or evil can he be tolerant of that person or of his behaviour.

I shall say little about the first point. If there is a concept of intolerance according to which only coercive interventions are intolerant, then this is not the ordinary notion of intolerance but one developed by political theorists to express a particular point of view. I know of no reason for sharing that point of view. The ideas of toleration and of intolerance identify modes of behaviour by their grounds and object. They do not identify them by the means employed. Saying this is not saying that all the manifestations of intolerance are either equally acceptable or equally unacceptable. It is merely to point out that here are concepts that identify actions by their motives and not by the means those motives lead to.

I have already explained the reasons for rejecting the view that only the bad or the wrong can be tolerated. The fact that intolerance can be directed at people's limitations and that those can be aspects of some other virtues which those people possess acquires special significance for those who believe in value-pluralism. It provides the link between pluralism and toleration.

Later in the chapter I shall argue that, within bounds, **(p.404)** respect for personal autonomy requires tolerating bad or evil actions. But toleration can also be of the good and valuable when it curbs inclinations which, though valuable in themselves, are intolerant of other people's morally acceptable tastes and pursuits. While pluralism as such need not give rise to occasions where toleration is called for, some very common kinds of pluralistic moralities do. Let us call them competitive pluralistic moralities (there are competitive moralities which are not pluralistic but they do not concern us).

Competitive pluralism not only admits the validity of distinct and incompatible moral virtues, but also of virtues which tend, given human nature, to encourage intolerance of other virtues. That is, competitive pluralism admits the value of virtues possession of which normally leads to a tendency not to suffer certain limitations in other people which are themselves inevitable if those people possess certain other, equally valid, virtues. The traits of character which make for excellence in chairing committees and getting things done, when this involves reconciling points of view and overcoming personal differences, those very traits of character also tend to make people intolerant of single-minded dedication to a cause. And there are many other examples, the prevalence of

which suggests that most common forms of pluralism are of the competitive kind.

It is worth dwelling on this point, for it is often misunderstood. People who come to realize that their intolerant tendencies have to be curbed may conclude that they are bad in themselves, rather than merely in their expression. If they were, no virtue of toleration would be called upon to restrain them. This point applies to tolerating people's bad tendencies as much as to tolerating their limitations. I am not simply wrong in inclining to be intolerant of another person's meanness or vulgarity. These rightly trigger intolerant responses. A person who does not react to them in this way is lacking in moral sensibility. Yet it is a response which should be curbed. This view presupposes a certain conception of moral conflict. It regards some conflicts as real conflicts between independent moral considerations, rather than as merely conflicting partial judgments which simply give way without trace to an all-things-considered judgment. It **(p.405)** further assumes that some *prima facie* moral judgments, and not merely conclusive judgments, may have appropriate emotional or attitudinal concomitants or components.

The question of the appropriate emotional response to moral judgment is still relatively neglected in much of the writing on moral philosophy. It is generally admitted that certain judgments should be accompanied by appropriate emotional responses. Feelings of gratitude, resentment, anger, regret, guilt, and many others, play an important role in sound moral lives. A frequent implicit assumption is that they are properly attached only to conclusive judgments. If one's conclusive judgment is that another person was knowingly or recklessly in the wrong one may feel, and perhaps also display, anger. But if the overall judgment absolves him of blame then the fact that aspects of his behaviour were repulsive does not justify feeling repulsion towards him. This is a mistake in moral psychology. It underestimates the intimate connection between judgment and feeling in various areas of morality.

Those who recognize the reality of moral conflict hold that a judgment that an action is intrinsically bad can be, for example, compatible with a conclusive judgment that all things considered it is justified. It may both be justified and be intrinsically bad. If emotional responses attach to some moral judgments they attach to *prima facie* judgments. Conclusive judgments merely adjudicate between *prima facie* ones. They declare which of the *prima facie* judgments is of greater weight or urgency in the situation. They do not add concrete colour to our moral estimate of the action under consideration. If emotional responses can legitimately attach only to conclusive judgments they can only be undifferentiated feelings of approval or disapproval. The full range of moral emotions is comprehensible only because they attach to *prima facie* judgments. We admire courageous actions, are warmed by generous ones, are repelled by ruthless acts, etc., regardless of whether or not they are justified overall. Nor

should we be expected to erase the emotions once it is established that the judgment to which they attach is overridden and the ruthless, repulsive, or cruel action was justified in the circumstances. Belief in moral conflict means **(p.406)** that its being justified does not necessarily deprive it of these unattractive characteristics. By the same token it does not necessarily deprive the relevant emotions of their aptness. There are genuine and ineradicable conflicts of moral emotions just as there are genuine conflicts of moral reasons.

It is possible that all viable forms of pluralism are competitive. Failing that, it is likely that the variety of valuable options which is required by the ideal of autonomy can only be satisfied by competitive value-pluralism. This view is plausible given the range of abilities many people have. We assume that moral life will be possible only within human communities, and that means that the range of capacities, development of which is to be made possible in order for all members of the community to be autonomous, is greater than the range necessary to assure an individual of autonomy. That is a consequence of the fact that both the genetic differences between people and the social needs for variety and for a division of labour lead to a diversity of abilities among people. The moral virtues associated with the diverse forms of life allowed by a morality which enables all normal persons to attain autonomy by moral means are very likely to depend on character traits many of which lead to intolerance of other acceptable forms of life. All those forms of life are not only morally legitimate but also ones which need to be available if all persons are to have autonomy. Therefore respect for autonomy by requiring competitive value-pluralism also establishes the necessity for toleration.

Even if one rejects my supposition that, given human nature, autonomy can only be realized within a community which endorses a competitive pluralistic morality, even if one thinks that that supposition is based on a misguided view of human nature, that it is perhaps too pessimistic, even if one believes that autonomy and pluralism are possible without conflict, the above conclusion is not undermined. Even on these optimistic assumptions it is still the case that competitive pluralism contributes, where it exists, to the realization of autonomy. Therefore, competitive pluralism provides an argument for a principle of toleration. The only modification is that on the more optimistic assumptions there may be circumstances in which there will be no need **(p.407)** to rely on the principle, circumstances in which the conflicts which activate it do not arise. This does not invalidate the principle of toleration. And of course in our world it is not merely idly valid; the circumstances for its invocation are very much with us.

## 2. Autonomy-Based Freedom

The previous section argued that competitive value pluralism of the kind which is required by respect for autonomy generates conflicts between people pursuing valuable but incompatible forms of life. Given the necessity to make

those forms of life available in order to secure autonomy there is a need to curb people's actions and their attitudes in those conflicts by principles of toleration. The duty of toleration, and the wider doctrine of freedom of which it is a part, are an aspect of the duty of respect for autonomy. To judge its scope and its limits we need to look at the extent of our autonomy-based duties generally.

Since autonomy is morally valuable there is reason for everyone to make himself and everyone else autonomous. But it is the special character of autonomy that one cannot make another person autonomous. One can bring the horse to the water but one cannot make it drink. One is autonomous if one determines the course of one's life by oneself. This is not to say that others cannot help, but their help is by and large confined to securing the background conditions which enable a person to be autonomous. This is why moral philosophers who regard morality as essentially other-regarding tend to concentrate on autonomy as a capacity for an autonomous life. Our duties towards our fellows are for the most part to secure for them autonomy in its capacity sense. Where some of these writers are wrong is in over-looking the reason for the value of autonomy as a capacity, which is in the use its possessor can make of it, i.e. in the autonomous life it enables him to have.

There is more one can do to help another person have an autonomous life than stand off and refrain from coercing or manipulating him. There are two further categories of autonomy-based duties towards another person. One is to **(p.408)** help in creating the inner capacities required for the conduct of an autonomous life. Some of these concern cognitive capacities, such as the power to absorb, remember and use information, reasoning abilities, and the like. Others concern one's emotional and imaginative make-up. Still others concern health, and physical abilities and skills. Finally, there are character traits essential or helpful for a life of autonomy. They include stability, loyalty and the ability to form personal attachments and to maintain intimate relationships. The third type of autonomy-based duty towards another concerns the creation of an adequate range of options for him to choose from.

As anticipated all these duties, though grounded in the value of the autonomous life, are aimed at securing autonomy as a capacity. Apart from cultivating a general awareness of the value of autonomy there is little more one can do. It is not surprising, however, that the principle of autonomy, as I shall call the principle requiring people to secure the conditions of autonomy for all people, yields duties which go far beyond the negative duties of non-interference, which are the only ones recognized by some defenders of autonomy. If the duties of non-interference are autonomy-based then the principle of autonomy provides reasons for holding that there are other autonomy-based duties as well. Every reason of autonomy which leads to the duties of non-interference would lead to other duties as well, unless, of course, it is counteracted by conflicting reasons.

Such countervailing reasons are likely to be sometimes present, but they are most unlikely to confine the duties of autonomy to non-interference only.

These reflections clarify the relation between autonomy and freedom. Autonomy is a constituent element of the good life. A person's life is autonomous if it is to a considerable extent his own creation. Naturally the autonomous person has the capacity to control and create his own life. I called this the capacity sense of autonomy, for 'autonomy' is sometimes used to refer to that capacity alone. That capacity, which involves both the possession of certain mental and physical abilities and the availability of an adequate range of options, is sometimes referred to as positive freedom. That **(p.409)** notion, like all notions which have become slogans in intellectual battles, is notoriously elusive. I prefer to discuss it in relation to the ideal of personal autonomy because positive freedom derives its value from its contribution to personal autonomy. Positive freedom is intrinsically valuable because it is an essential ingredient and a necessary condition of the autonomous life. It is a capacity whose value derives from its exercise. This provides the clue to its definition.

One's positive freedom is enhanced by whatever enhances one's ability to lead an autonomous life. Disputes concerning the scope and content of positive freedom should be settled by reference to the contribution of the disputed element to autonomy. Since autonomy admits of various degrees so does positive freedom. Since the impact of various courses of action on autonomy is incommensurate so is their impact on positive freedom. This 'imprecision' explains many people's exasperation with such 'woolly' concepts, and their reluctance to use them when engaged in serious theoretical or political arguments. Such reluctance would have been in place had these concepts been blocking our view of something more precise behind them. They do not. They mark features of life which are intrinsically valuable. The imprecision they import is ultimate imprecision. That is it is no imprecision at all but a reflection of the incommensurabilities with which life abounds.

Can negative freedom, i.e. freedom from coercion, be viewed as an aspect of positive freedom, i.e. of autonomy as a capacity? This view is liable to mislead. Autonomy and positive freedom relate primarily to pervasive goals, projects or relationships. The autonomous person freely develops friendships and other ties with people and animals. But that he is not free to talk to Jones now does not diminish his autonomy. The autonomous person chooses his own profession or trade. He may be denied the chance to cut down trees in the next field without any diminution to his autonomy. In other words, autonomy and positive freedom bear directly on relatively pervasive goals and relationships and affect more restricted options only inasmuch as they affect one's ability to pursue the more pervasive ones. Enrolling in a university or standing for Parliament in the general election, **(p.410)** are examples of specific actions which affect pervasive choices. Denying one the ability to engage in them curtails to a



significant degree one's ability to choose one's career and to feel a full member of a political community. Other specific actions affect one's autonomy not at all. Denying someone a certain choice of ice-cream is generally admitted to be insignificant to the degree of autonomy enjoyed by that person.

Discussions of negative freedom and of coercion usually concentrate on coercing people to perform or avoid specific actions. That is the natural context of coercion. But it may mask its moral significance and has on occasion led to a blind obsession with the avoidance of coercion. Negative freedom, freedom from coercive interferences, is valuable inasmuch as it serves positive freedom and autonomy. It does so in several ways.<sup>1</sup> Coercing another may express contempt, or at any rate disrespect for his autonomy. Secondly, it reduces his options and therefore may be to his disadvantage. It may, in this way, also interfere with his autonomy. It may but it need not: some options one is better off not having. Others are denied one so that one will improve one's options in the future.<sup>2</sup> In judging the value of negative freedom one should never forget that it derives from its contribution to autonomy.

The significance of denial of options to one's autonomy depends on the circumstances one finds oneself in. In some countries the vote does not have the symbolic significance it has in our culture. Its denial to an individual may be a trivial matter. Such factors do not diminish the importance of negative freedom, but they make it more difficult to judge.

The autonomy-based doctrine of freedom is far-reaching in its implications. But it has clear limits to which we must turn.

*First*, while autonomy requires the availability of an adequate range of options it does not require the presence of any particular option among them. A person or a government can take action eventually to eliminate soccer and substitute **(p. 411)** for it American football, etc. The degree to which one would wish to tolerate such action will be affected by pragmatic considerations which can normally be expected to favour erring on the side of caution where governmental action or action by big organizations is concerned. But it has to be remembered that social, economic and technological processes are constantly changing the opportunities available in our society. Occupations and careers are being created while others disappear all the time. The acceptable shapes of personal relationships are equally in constant flux, and so is the public culture which colours much of what we can and cannot do. Not everyone would agree that such processes are unobjectionable so long as the government does not take a hand in shaping them. The requirements of autonomy as well as other considerations may well call for governmental intervention in directing or initiating such processes.

It is important in this context to distinguish between the effect of the elimination of an option of those already committed to it, and its effect on others. The longer and the more deeply one is committed to one's projects the less able one is to abandon them (before completion) and pick up some others as substitutes. But even if such a change is possible, denying a person the possibility of carrying on with his projects, commitments and relationships is preventing him from having the life he has chosen. A person who may but has not yet chosen the eliminated option is much less seriously affected. Since all he is entitled to is an adequate range of options the eliminated option can, from his point of view, be replaced by another without loss of autonomy. This accounts for the importance of changes being gradual so that they will not affect committed persons.

The *second* main limitation of autonomy-based freedom has already been mentioned. It does not extend to the morally bad and repugnant. Since autonomy is valuable only if it is directed at the good it supplies no reason to provide, nor any reason to protect, worthless let alone bad options. To be sure autonomy itself is blind to the quality of options chosen. A person is autonomous even if he chooses the bad. Autonomy is even partially blind to the quality of the options available. A person is autonomous, it was argued in the last **(p.412)** chapter, only if he pursues the good as he sees it. He can be autonomous only if he believes that he has valuable options to choose from. That is consistent with many of his options being bad ones.<sup>1</sup> But while autonomy is consistent with the presence of bad options, they contribute nothing to its value. Indeed autonomously choosing the bad makes one's life worse than a comparable non-autonomous life is. Since our concern for autonomy is a concern to enable people to have a good life it furnishes us with reason to secure that autonomy which could be valuable. Providing, preserving or protecting bad options does not enable one to enjoy valuable autonomy.

This may sound very rigoristic and paternalistic. It conjures images of the state playing big brother forcing or manipulating people to do what it considers good for them against their will. Nothing could be further from the truth. First, one needs constant reminders that the fact that the state *considers* anything to be valuable or valueless is no reason for anything. Only its being valuable or valueless is a reason. If it is likely that the government will not judge such matters correctly then it has no authority to judge them at all.<sup>2</sup> Secondly, the autonomy-based doctrine of freedom rests primarily on the importance of autonomy and value-pluralism. Autonomy means that a good life is a life which is a free creation. Value-pluralism means that there will be a multiplicity of valuable options to choose from, and favourable conditions of choice. The resulting doctrine of freedom provides and protects those options and conditions. But is the principle of autonomy consistent with the legal enforcement of morality? To the examination of this question we must now turn.

### 3. Autonomy and the Harm Principle

Mill's harm principle states that the only justification for coercively interfering with a person is to prevent him from harming others. My discussion will revolve round the somewhat wider principle which regards the prevention of harm **(p. 413)** to anyone (himself included) as the only justifiable ground for coercive interference with a person. The harm principle is a principle of freedom. The common way of stating its point is to regard it as excluding considerations of private morality from politics. It restrains both individuals and the state from coercing people to refrain from certain activities or to undertake others on the ground that those activities are morally either repugnant or desirable. My purpose is to compare the scope and justification of the harm principle with those of autonomy-based freedom.

That there may be at least some connection between the autonomy and the harm principles is evident. Respect for the autonomy of others largely consists in securing for them adequate options, i.e. opportunities and the ability to use them. Depriving a person of opportunities or of the ability to use them is a way of causing him harm. Both the use-value and the exchange-value of property represent opportunities for their owner. Any harm to a person by denying him the use or the value of his property is a harm to him precisely because it diminishes his opportunities. Similarly injury to the person reduces his ability to act in ways which he may desire. Needless to say a harm to a person may consist not in depriving him of options but in frustrating his pursuit of the projects and relationships he has set upon.

Between them these cases cover most types of harm. Several forms of injury are, however, left out. Severe and persistent pain is incapacitating. But not all pain falls into this class and even pain which does incapacitate may be objected to as pain independently of its incapacitating results. The same is true of offence. Serious and persistent offence may well reduce a person's opportunities. It may even affect his ability to use the opportunities he has or frustrate his pursuit of his goals. But many cases of causing offence fall short of this. All offensive behaviour may be reprehensible as offensive, independently of its consequences to the affected person's options or projects. Similar considerations apply to other forms of injury such as hurting people's feelings, etc.

It is of interest to note that pain and offence, hurt and the like are harmful only when they do affect options or projects. For 'harm' in its ordinary use has a forward-looking aspect. **(p.414)** To harm a person is to diminish his prospects, to affect adversely his possibilities. It is clear that supporters of the harm principle are also concerned with the prevention of offence and pain. It is not clear whether they extend it to encompass all forms of hurting or adversely affecting people. For clarity's sake we could distinguish between the narrow harm principle which allows coercion only for the prevention of harm in the strict sense of the word and the somewhat open-ended broad harm principle

which allows coercion for the prevention of pain, offence and perhaps some other injuries to a person as well.<sup>1</sup>

I hope that these observations are as uncontroversial as they are intended to be. I have tried to follow the common understanding of harm, but to describe it in terms which bring out the connection between harm and autonomy. They reinterpret the principle from the point of view of a morality which values autonomy. That is, they are not an account of the meaning of 'harm' (only the point about the forward-looking aspect of harm belongs to an account of its meaning). Roughly speaking, one harms another when one's action makes the other person worse off than he was, or is entitled to be, in a way which affects his future well-being. So much is a matter of meaning. But this makes much turn on the notion of individual well-being. It gives concrete content to the principle.

People who deny the moral value of autonomy will not be committed to denying that there are harms, nor that harming people is, as such, wrong. But they would have to provide a different understanding of what behaviour harms others. Since 'causing harm' entails by its very meaning that the action is *prima facie* wrong, it is a normative concept acquiring its specific meaning from the moral theory within which it is embedded. Without such a connection to a moral theory the harm principle is a formal principle lacking specific concrete content and leading to no policy conclusions.

This way of thinking of the harm principle may help resolve **(p.415)** our response to two potentially decisive objections to it. First, the principle seems to forbid redistribution through taxation, and the provision of public goods out of public funds on a non-voluntary basis, as well as to proscribe such familiar schemes as a tax-financed educational and national health systems, the subsidization of public transport, etc. Secondly, the only reason for coercively interfering with a person in order to prevent harm is that it is wrong to cause such harm. But if coercive interventions are justified on this ground then they are used to enforce morality. If so why stop with the prevention of harm? Why not enforce the rest of morality?

The argument of the book so far leads to the acceptance of the second objection. It maintains that it is the function of governments to promote morality. That means that governments should promote the moral quality of the life of those whose lives and actions they can affect. Does not this concession amount to a rejection of the harm principle? It does according to the common conception which regards the aim and function of the principle as being to curtail the freedom of governments to enforce morality. I wish to propose a different understanding of it, according to which it is a principle about the proper way to enforce morality. In other words I would suggest that the principle is derivable from a morality which regards personal autonomy as an essential ingredient of the good life, and regards the principle of autonomy, which imposes duties on

people to secure for all the conditions of autonomy, as one of the most important moral principles.

To derive the harm principle from the principle of autonomy one has to establish that autonomy-based duties never justify coercion where there is no harm. This brings us immediately to the first objection. Governments are subject to autonomy-based duties to provide the conditions of autonomy for people who lack them. These extend beyond the duty to prevent loss of autonomy. This may seem as an endorsement of the first objection to the harm principle. But is it? It is a mistake to think that the harm principle recognizes only the duty of governments to prevent loss of **(p.416)** autonomy. Sometimes failing to improve the situation of another is harming him.

One can harm another by denying him what is due to him. This is obscured by the common misconception which confines harming a person to acting in a way the result of which is that that person is worse off after the action than he was before. While such actions do indeed harm, so do acts or omissions the result of which is that a person is worse off after them than he should then be. One harms another by failing in one's duty to him, even though this is a duty to improve his situation and the failure does not leave him worse off than he was before. Consider a disabled person who has a legal right to be employed by any employer to whom he applies and who has fewer than four per cent disabled employees in his work force. If such an employer turns him down he harms him though he does not worsen his situation. If you owe me five pounds then you harm me by delaying its repayment by a month.

So if the government has a duty to promote the autonomy of people the harm principle allows it to use coercion both in order to stop people from actions which would diminish people's autonomy and in order to force them to take actions which are required to improve peoples' options and opportunities. It is true that an action harms a particular person only if it affects him directly and significantly by itself. It does not count as harming him if its undesirable consequences are indirect and depend on the intervention of other actions. I do not, for example, harm Johnson by failing to pay my income tax, nor does the government harm him by failing to impose a tax which it is its moral obligation to impose, even if it can be established that Johnson suffered as a result of such failures. In each case the culprit can claim that the fact that Johnson is the one who suffered was decided not by the guilty action but by other intervening actions (which may not have been guilty at all).

But even though I or the government did not harm Johnson we caused harm. If you like, call it harm to unassignable individuals. The point is that one causes harm if one fails in one's duty to a person or a class of persons and that person or a member of that class suffers as a result. That is so even **(p.417)** when one cannot be blamed for harming the person who suffered because the allocation of

the loss was determined by other hands. A government which has a moral duty to increase old age pensions harms old age pensioners if it fails to do so, even though it does not harm any particular pensioner.

The upshot of this discussion is that the first objection fails, for the harm principle allows full scope to autonomy-based duties. A person who fails to discharge his autonomy-based obligations towards others is harming them, even if those obligations are designed to promote the others' autonomy rather than to prevent its deterioration. It follows that a government whose responsibility is to promote the autonomy of its citizens is entitled to redistribute resources, to provide public goods and to engage in the provision of other services on a compulsory basis, provided its laws merely reflect and make concrete autonomy-based duties of its citizens. Coercion is used to ensure compliance with the law. If the law reflects autonomy-based duties then failure to comply harms others and the harm principle is satisfied.

But the autonomy principle is a perfectionist principle. Autonomous life is valuable only if it is spent in the pursuit of acceptable and valuable projects and relationships. The autonomy principle permits and even requires governments to create morally valuable opportunities, and to eliminate repugnant ones. Does not that show that it is incompatible with the harm principle? The impression of incompatibility is encouraged by the prevalent anti-perfectionist reading of the harm principle. That reading is at odds with the fact that the principle merely restricts the use of coercion. Perfectionist goals need not be pursued by the use of coercion. A government which subsidizes certain activities, rewards their pursuit, and advertises their availability encourages those activities without using coercion.

It is no objection to point out that the funds necessary for all these policies are raised by compulsory taxation. I assume that tax is raised to provide adequate opportunities, and is justified by the principle of autonomy in a way consistent with the harm principle in accordance with the considerations described a couple of paragraphs above. The **(p.418)** government has an obligation to create an environment providing individuals with an adequate range of options and the opportunities to choose them. The duty arises out of people's interest in having a valuable autonomous life. Its violation will harm those it is meant to benefit. Therefore its fulfilment is consistent with the harm principle. Not every tax can be justified by this argument. But then not every tax is justified by any argument. A tax which cannot be justified by the argument here outlined should not be raised.

Autonomy-based duties, in conformity with the harm principle, require the use of public power to promote the conditions of autonomy, to secure an adequate range of options for the population. But as we saw in the previous section considerations of personal autonomy cannot dictate which options should be

promoted. There are many possible options the provision of which can make the available options adequate. It is in deciding which options to encourage more than others that perfectionist considerations dominate. Here they are limited by the availability of resources mobilized in the above mentioned way. The harm principle is consistent with many perfectionist policies of the kind required by any moral theory which values autonomy highly. It does, however, exclude the use of coercion to discourage non-harmful opportunities. Can that exclusion be derived from the principle of autonomy?

If the argument of Section 2 is sound then pursuit of the morally repugnant cannot be defended from coercive interference on the ground that being an autonomous choice endows it with any value. It does not (except in special circumstances where it is therapeutic or educational). And yet the harm principle is defensible in the light of the principle of autonomy for one simple reason. The means used, coercive interference, violates the autonomy of its victim. First, it violates the condition of independence and expresses a relation of domination and an attitude of disrespect for the coerced individual. Second, coercion by criminal penalties is a global and indiscriminate invasion of autonomy. Imprisoning a person prevents him from almost all autonomous pursuits. Other forms of coercion may be less severe, but they all invade autonomy, and they all, at least in this world, **(p.419)** do it in a fairly indiscriminate way. That is, there is no practical way of ensuring that the coercion will restrict the victims' choice of repugnant options but will not interfere with their other choices. A moral theory which values autonomy highly can justify restricting the autonomy of one person for the sake of the greater autonomy of others or even of that person himself in the future. That is why it can justify coercion to prevent harm, for harm interferes with autonomy. But it will not tolerate coercion for other reasons. The availability of repugnant options, and even their free pursuit by individuals, does not detract from their autonomy. Undesirable as those conditions are they may not be curbed by coercion.

Some defenders of the harm principle will be disappointed with this justification. One source of suspicion is that it depends on contingent facts: the non-existence at the present time of means of coercion which do not infringe autonomy, and the fact that conditions justify suspecting governments of lacking respect for individuals. What if it became possible to coerce people to avoid immoral but harmless conduct without restricting them in any other way; suppose we had institutions which could be relied to do so only to stop immoralities and would not mistake what is worth while for what is evil nor would they abuse their power? They would be free from suspicion that they do not respect their subjects. In such a case both the conditions of adequacy of options and of independence will be satisfied. Should governments then coerce people to avoid harmless immoralities? To my mind it is an advantage of my argument that it does depend on contingent features of our world. The temptation to make

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abstract a priori principles yield concrete practical policies is responsible for many bad arguments. I do share the reluctance of supporters of the harm principle to say that in the imagined circumstances the enforcement of harmless immorality is justified. My reasons are, however, not theirs. Modest though the supposed circumstances are compared with some philosophical speculations, they diverge from anything we have experience of sufficiently to make it impossible for us to say how the change would affect the merits of the issue. It is substantial enough to bring with it not only **(p.420)** a change in the application of our values, but a change in these values themselves. Such changes are, as a matter of principle, unpredictable.

#### 4. Beyond the Harm Principle

The previous section strove to vindicate the harm principle. But it also transformed the way it is sometimes understood. It interpreted it not as a restraint on the pursuit of moral goals by the state, but as indicating the right way in which the state could promote the well-being of people. Given that people should lead autonomous lives the state cannot force them to be moral. All it can do is to provide the conditions of autonomy. Using coercion invades autonomy and thus defeats the purpose of promoting it, unless it is done to promote autonomy by preventing harm.

Seen in this light the harm principle allows perfectionist policies so long as they do not require resort to coercion. It deserves its place as a liberal principle of freedom not because it is anti-perfectionist. For it is not. But because, as J. S. Mill, its original advocate, and H. L. A. Hart, its leading protagonist in recent times, clearly saw, it sets a limit on the means allowed in pursuit of moral ideals. While such ideals may indeed be pursued by political means, they may not be pursued by the use of coercion except when its use is called for to prevent harm. The principle sets a necessary condition only. It does not justify all uses of coercion to prevent harm, but it proscribes the use of coercion for other purposes.

This vindication of the principle goes hand in hand with its demotion. It is not to be seen as the whole but merely as a part of a doctrine of freedom, the core of which is the promotion of the conditions of autonomy. The harm principle is but one aspect of this enterprise. Manipulating people, for example, interferes with their autonomy, and does so in much the same way and to the same degree, as coercing them. Resort to manipulation should be subject to the same condition as resort to coercion. Both can be justified only to prevent harm. Thus while the harm principle is of lasting value, over-concentration on it neglects the other aspects of the doctrine of freedom. It encourages a false belief that **(p.421)** political freedom is freedom from coercion, nothing less nor more. It blinds us to the valid reasons behind our concern about the use of coercion, i.e. that often



though not always it is liable to be abused, and that political coercion infringes the autonomy of the coerced.<sup>1</sup>

In one way the conclusions of the previous section assign greater importance to the harm principle than it is often given. It is common to regard it as setting a necessary condition for the justification of coercion and nothing more. 'No conduct should be suppressed by law unless it can be shown to harm others.'<sup>2</sup> This is a counter-intuitive view. If the prevention of harm justifies punishment does not the prevention of more harm justify it to a greater degree than the prevention of less harm? Could it be that the amount and nature of the harm to be prevented, and the amount and nature of the harm coercion will inflict, are irrelevant to the justification? The derivation of the principle from autonomy-based considerations indicates the way the relative importance of harm is to be judged. It is to be judged by the degree of restriction of one's autonomy it represents.

Autonomy-based considerations do not allow extending the harm principle beyond its proper scope to legitimize the use of coercion to prevent offence. Coercion can be used to prevent extreme cases where severely offending or hurting another's feelings interferes with or diminishes that person's ability to lead a normal autonomous life in the community. But offence as such should be restrained and controlled by other means, ones which do not invade freedom.

Some of the results which are sometimes justified on grounds of preventing offence are approached in a different way by the autonomy-based doctrine of freedom. The conditions of autonomy, it was emphasized before, include the existence of a public culture which maintains and encourages **(p.422)** the cultivation of certain tastes and the undertaking of certain pursuits. A public culture which inculcates respect for the environment, and for its transformation at the hands of past generations, and which cultivates agreeable design and good taste in landscaping and urban planning, while not positively required as a condition of autonomy, is consistent with it. Autonomy requires a public culture and is consistent with a tasteful rather than a vulgar and offensive environment. As was explained in the previous section the Harm Principle is no obstacle to the pursuit of such a policy.

One way in which the autonomy-based doctrine of freedom advocated here deviates from some liberal writings on the subject is in its ready embrace of various paternalistic measures. Paternalism has a bad name among some liberal thinkers. It conjures up images of individuals being manipulated for their own good by big brother. Major last ditch battles against paternalism are fought by some liberty lovers in resisting the compulsory wearing of seat-belts in cars, etc. Yet the liberal conscience is divided on the subject. A good deal of indirect paternalism is not only tolerated but is positively encouraged by many liberty lovers. They clamour for laws improving safety controls and quality controls of

manufactured goods, and apply similar reasoning to demand strict qualifications as a condition for advertising one's services in medicine, law, or the other professions. These measures do not coerce those whom they protect. But neither are they designed to stop people from inflicting harm on others. Their net effect is to reduce people's choices on the ground that it is to their own good not to have those choices.

Reflection on the impact of paternalism on autonomy shows that it varies to a degree which makes it senseless to formulate either a general pro- or a general anti-paternalistic conclusion. In particular, paternalism affecting matters which are regarded by all as of merely instrumental value does not interfere with autonomy if its effect is to improve safety, thus making the activities affected more likely to realize their aim. There is a difference between risky sports, e.g. where the risk is part of the point of the activity or an inevitable by-product of its point and purpose, and the use of unsafe common consumer goods. Participation in sporting **(p.423)** activities is intrinsically valuable. Consumer goods are normally used for instrumental reasons.

Where the perfectionism advocated here goes beyond means-related paternalism is in sanctioning measures which encourage the adoption of valuable ends and discourage the pursuit of base ones. Here there are two main restrictions on the perfectionist, if you like the paternalistic, policies. First, the perfectionist policies must be compatible with respect for autonomy. They must, therefore, be confined to the creation of the conditions of autonomy. Second, they must respect the limitation on the use of coercion that is imposed by the harm principle, as well as the analogous restriction on manipulation.

One particular troubling problem concerns the treatment of communities whose culture does not support autonomy. These may be immigrant communities, or indigenous peoples, or they may be religious sects. It is arguable that even the harm principle will not defend them from the 'cultural imperialism' of some liberal theories. Since they insist on bringing up their children in their own ways they are, in the eyes of liberals like myself, harming them. Therefore can coercion be used to break up their communities, which is the inevitable by-product of the destruction of their separate schools, etc.?

The general outlook advocated in this book seems to lead to a test of viability as the most important consideration in determining policy towards such groups. Let me explain. I am assuming that their own culture is morally worthy. That is, first, it does not lead them to harm others, nor to destroy the options available to those not members of these communities. Second, when their culture flourishes in any given society it enables members of that society to have an adequate and satisfying life. In that case their continued existence should be tolerated, despite its scant regard for autonomy. If those assumptions do not hold then the case for toleration is considerably weakened, or even disappears. I am further assuming

that their culture is inferior to that of the dominant liberal society in the midst of which they live. Those who do not share that assumption have no problem. If one holds that the illiberal culture is at least as good as the **(p.424)** dominant liberal one then clearly one should take whatever action is necessary to protect it. The difficulty arises for those who believe the illiberal culture to be inferior to theirs. Should they tolerate it?

The perfectionist principles espoused in this book suggest that people are justified in taking action to assimilate the minority group, at the cost of letting its culture die or at least be considerably changed by absorption. But that is easier said than done. Time and again I have emphasized that people can successfully enjoy an autonomous life only if they live in an environment which supports suitable social forms. By hypothesis members of the autonomy-rejecting group lack this support in their communities. Wrenching them out of their communities may well make it impossible for them to have any kind of normal rewarding life whatsoever because they have not built up any capacity for autonomy. Toleration is therefore the conclusion one must often reach. Gradual transformation of these minority communities is one thing, their precipitate disintegration is another. So long as they are viable communities offering acceptable prospects to their members, including their young, they should be allowed to continue in their ways. But many of them are not self-sustaining. Often it is clear that they cannot be expected to survive for long as an isolated group in a modern society. Sometimes they survive as a dwindling community through the forceful stand of some of their members who sometimes combine with misguided liberals and conservatives to condemn many of the young in such communities to an impoverished, unrewarding life by denying them the education and the opportunities to thrive outside the community. In such cases assimilationist policies may well be the only humane course, even if implemented by force of law.

These remarks are of course abstract and speculative. They are meant to indicate the direction in which the conclusions of this book lead, rather than to deal with the issue in depth.

## 5. The Shape of Freedom

The moral outlook the implications of which we have explored is one which holds personal autonomy to be an essential **(p.425)** element of the good life. We saw that such a morality presupposes competitive pluralism. That is, it presupposes that people should have available to them many forms and styles of life incorporating incompatible virtues, which not only cannot all be realized in one life but tend to generate mutual intolerance. Such an autonomy-valuing pluralistic morality generates a doctrine of freedom. It protects people pursuing different styles of life from the intolerance which competitive pluralism has the

inherent tendency to encourage, and it calls for the provision of the conditions of autonomy without which autonomous life is impossible.

Three main features characterize the autonomy-based doctrine of freedom. *First*, its primary concern is the promotion and protection of positive freedom which is understood as the capacity for autonomy, consisting of the availability of an adequate range of options, and of the mental abilities necessary for an autonomous life. *Second*, the state has the duty not merely to prevent denial of freedom, but also to promote it by creating the conditions of autonomy. *Third*, one may not pursue any goal by means which infringe people's autonomy unless such action is justified by the need to protect or promote the autonomy of those people or of others.

We explored the limits of the doctrine, which are two. First, it does not protect nor does it require any individual option. It merely requires the availability of an adequate range of options. We saw that this lends the principle a somewhat conservative aspect. No specific new options have a claim to be admitted. The adequacy of the range is all that matters, and any change should be gradual in order to protect 'vested interests'. Secondly, the principle does not protect morally repugnant activities or forms of life. In other respects the principle is a strong one. It requires positively encouraging the flourishing of a plurality of incompatible and competing pursuits, projects and relationships.

It turns out that this autonomy-based doctrine of freedom implies the harm principle. Like it it yields the conclusion that one may not use coercion except to prevent harm. It does so only by embedding the harm principle in a moral **(p. 426)** outlook which, by relating it to a particular conception of individual well-being, gives the notion of harm concrete content. Not all the traditional supporters of the harm principle will welcome its vindication in this form. It is embraced not as a complete doctrine of political liberty but as one element of a wider doctrine. It is a consequence of the third proposition in the enumeration above. It is itself part of a perfectionist doctrine which holds the state to be duty-bound to promote the good life. It stops at coercion and manipulation only where their use would not promote the ability of people to have a good life but frustrate or diminish it.

This view differs both from some common liberal and from some common collectivist beliefs. On the one hand some will protest that the perfectionist approach advocated here overlooks the need to shun paternalistic measures for they offend human dignity. Respect for people as responsible moral agents, it is said, is inconsistent with paternalism. It requires leaving people to make their own decisions. I have argued against the simplistic presuppositions of this view. It disregards the dependence of people's tastes and values on social forms, on

conventions and practices which are the result of human action (though usually not of action designed to achieve these results).

Respect for persons requires concern for their well-being. It calls for a proper perception of the importance of agency reason. This means a conception of well-being assigning a central role to the agent's own activities in shaping his well-being. An autonomy-based morality is not only consistent with these precepts, it goes further in demanding that people should be allowed freely to create their own lives. This is not only consistent with perfectionism. It requires it. It calls for the creation of conditions of valuable autonomy through the pursuit of perfectionist policies.

Its perfectionist character, the rejection of moral individualism, and the emphasis placed on the importance of collective goods bring the views here advocated close to various collectivist, or communitarian doctrines. They differ from many collectivist doctrines in that they do not lead to strong centralist government, nor to a radical programme of **(p.427)** change through political action. The espousal of a pluralistic culture, to the extent of supporting competitive pluralism, and the autonomy-oriented conception of personal well-being militate against support for a strong government. The role of government is extensive and important, but confined to maintaining framework conditions conducive to pluralism and autonomy.

Since values are grounded in concrete social forms there is no room for radical political action to secure a fundamental change of social conditions. Politics is the art of gradual amelioration. I mention these points briefly here because of their obvious bearing on the scope of legitimate government and therefore on individual freedom. They were not explored in this book, which was not concerned with the appropriate institutional framework suitable in the light of the moral outlook advocated above.

This brings us to the relation between the autonomy-based doctrine of freedom and the doctrine of legitimate authority espoused in the first part of the book. One way of explaining their relation views the autonomy-based doctrine of freedom as stating the ideal. The service conception of authority dampens expectations by bringing to mind the limited power governments have to do good, and the dangers that placing power in their hands will misfire and do more harm than good. The doctrine of autonomy-based freedom is not inimical to political authority. On the contrary, it looks to governments to take positive action to enhance the freedom of their subjects. This cannot disguise the dangers inherent in the concentration of power in few hands, the dangers of corruption, of bureaucratic distortions and insensitivities, of fallibility of judgment, and uncertainty of purpose, and, the limitation which perhaps goes deeper into the inherent weakness of all concentration of power, the

insufficiency and the distortion of the information reaching the central organs of government.

These afflictions affect different countries and different constitutional structures in different ways. Each has its own weaknesses and its own strengths. Some governments can be entrusted with the running of schools which it would be wrong to entrust to another, and yet the second can be relied **(p.428)** upon to encourage technological innovation in discriminating and imaginative ways, whereas the first cannot—to give one contextless example. My point is that such differences are not merely the result of personalities. They are conditioned by the political culture of a country, by its constitutional history, by its methods of recruiting its political élite, and its relations to social and economic élites, and similar factors.

The study of these issues belongs to the theory of political institutions which must supplement any inquiry into political morality to give it concrete content applicable to the circumstances of a particular country. I mention their relevance because their presence affects in a radical way the degree to which one is willing to entrust any government with the tasks whose existence is indicated by the doctrine of freedom advocated in this book. I said that the limitations of governments force one to compromise the purity of the ideal doctrine of freedom. At the same time these limitations can be and are presented as one of the foundations of political freedom. Since power is corruptible, fallible and inefficient it should not be trusted. It should be hedged and fenced. The impotence of politics to do good, the unreliability of governments, is the basis of the freedom of the individual. This picture is both true and false.

It is true that it justifies restricting the right of governments to govern. It is also true that that limitation is based on concern for individual freedom and autonomy. To that extent a balanced view of the shortcomings of governments will lead to much more extensive freedom from governmental action than is entailed by the doctrine of autonomy-based freedom explained here. But this extension of freedom from governmental action is, in most cases, a result of a failure to achieve the full measure of freedom as a capacity for autonomy. The extended freedom from governmental action is based on the practical inability of governments to discharge their duty to serve the freedom of their subjects. And in most cases the result is that that freedom remains lacking. In most cases there is no other body nor any other social process which can achieve what government action **(p.429)** fails to, that is the existence of a full capacity for autonomy to all members of a community.

The shortcomings of governments are but one of the regrettable sources of political freedom. Another is the danger of civil strife. The pursuit of full-blooded perfectionist policies, even of those which are entirely sound and justified, is likely, in many countries if not in all, to backfire by arousing popular resistance

leading to civil strife. In such circumstances compromise is the order of the day. There is no abstract doctrine which can delineate what the terms of the compromise should be. All one can say is that it will confine perfectionist measures to matters which command a large measure of social consensus, and it will further restrict the use of coercive and of greatly confining measure and will favour gentler measures favouring one trend or another. The main lesson is again the same. Such compromises promote freedom from government, and they do so because the adverse circumstances show that an attempt by the government to achieve more freedom will achieve less.

Freedom based on fear of civil strife, like freedom based on the unreliability of governments, depends on some doctrine of 'ideal' freedom. It presupposes an ideal doctrine of freedom, for it tells us when and how to compromise, just as the unreliability of government is measured by its inability to achieve the targets set by the doctrine of the 'ideal'. Furthermore these doctrines of freedom by necessity and compromise bring us the freedom of imperfection, the liberty from governmental action which all too often is an admission that perfect freedom is unobtainable. **(p.430)**

### Notes:

(1) J. S. Mill, *On Liberty*. H. L. A. Hart, *Law, Liberty, and Morality*, Oxford, 1963.

(1) As was pointed out to me by P. M. S. Hacker, mercy is sometimes a special case of toleration. One can tolerate out of mercy.

(1) This topic was discussed in some detail in Ch. 6.

(2) On this subject see Gerald Dworkin's very helpful article, 'Is more choice better than less', *Midwest Studies in Philosophy*, 7 (1982), 47.

(1) It is no more possible to eliminate all valuable options than it is to eliminate all bad ones. Cf. Ch. 13.

(2) This is the burden of the normal justification thesis of Ch. 3.

(1) I shall assume without discussion and explanation that the prevention of severe pain justifies coercion. The explanation of our concern to avoid pain is a fascinating subject which cannot be undertaken in this book.

(1) Not all coercion must infringe autonomy. Many cases of private coercion are very localized. They deny the coerced one option without interfering with his ability to choose from many others. Where those others are adequate no loss of autonomy is involved. In many such cases the good intentions of the coercer are not in doubt, and therefore no insult or indignity is involved. Many cases of parental coercion fall into this class.

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(2) *Report of the Committee on Obscenity and Film Censorship*, Chaired by B. Williams, Cmnd. 7772, HMSO, London, 1979.

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