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Thema:

„Das Prinzip der Meinungsfreiheit beschäftigt sich nicht mit dem Inhalt der Rede eines Menschen und schützt nicht nur die Äußerung guter Ideen, sondern aller Ideen. Wenn es anders wäre, wer würde dann bestimmen, welche Ideen gut wären und welche verboten sind? Die Regierung?“

- Ayn Rand in einem Vortrag im Ford Hall Forum 1978

Should freedom of expression be protected at all costs? The answer is no. This is where me and Ayn Rand diverge onto our separate paths. In the formation of laws, one is required to demarcate the extent to which the statute is applicable. In terms of freedom of expression, it raises the question where one should draw the line. If Hitler's views of national supremacy were outlawed could we have avoided the death of approximately 11 million people in the Holocaust era? Or is this mere wishful thinking? In the following paragraphs, I will provide appropriate justifications that substantiate my view.

First and foremost, one must account for the fact that every effort aiming to suppress the freedom of expression is not an effort to suppress the freedom of expression itself but an effort to suppress the adaptation of the aberrant view by others. Most ubiquitous in its nature is corrupt forms of government infringing on freedom of press to prevent the exposure of inflammatory information to the public. Large entities are notorious for shying away in the face of criticism, in fear of tarnishing the establishment they are founded on. This would in turn paralyse and result in the demise of the whole entity. Much like English monarchs, hiding mentally infirmed relatives in psychiatric hospitals to avoid criticism concerning the legitimacy of the Crown and its ability to govern over the British population.

But why is it so important for large-scale societal organs to avoid criticism? As humans, we are all fallible beings, making us prone to error, therefore this tolerance should be extended towards the people occupying high positions in society. Otherwise, we are assuming, as John Stuart Mill

mentions in his magnum opus “On Liberty”, our own infallibility. Despite this, constituents will never take the fallibility of ruling parties into account because livelihoods of individuals are at stake. Since the stakes are so high, there is no room for mistakes.

Relating back to the quote, one could deduce that Ayn Rand perceives statism to be antagonistic, but it must be considered that without the government, and without government-funded schools, I would not be sitting here today. Since the government are democratically elected officials that supposedly hold the same values as those who are eligible to vote, what is wrong with letting them decide what material would exact harm on society?

For the sake of standing in opposition to the latter statement, one could say that the government would then be equipped with the opportunity to censor all the information they desire in the name of altruistic collectivism. Indubitably, the government consists of individuals that have egotistical interests, however due to the system of temporary and elective rulers, the individuals elected are those best situated to act in our favour. Metaphorically speaking, the cockpit of government is structured in a manner that increases the probability of the pilot landing the plane successfully.

Moreover, the utter rejection of the notion to not discriminate the content of expression is wrong. There has to be some boundaries set in place and the illegalisation of e.g. obscene materials is one of them. Again, in “On Liberty” John Stuart Mill illustrates his harm principle, in which he claims some actions should be demoralised and illegal on the grounds that it imposes harm on other individuals. On this very basis, many of the exemptions on the of freedom of expression are grounded. Our contemporary list of exemptions, however, is bound to transform as the capacity of human reason increases, as it is not stagnant but continuously developing.

A legal procedure that adequately demonstrates the fine line between detecting a social harm and the violation of freedom of expression is the Miller v. California case. In the Miller v. California case, a man is convicted of advertising pornography on brochures that depict men and women engaging in sexual activity. The US Supreme court ruled that one of the three determining factors that decide whether the distributor would be apprehended is whether the given work has any scientific, political, artistic or literary value. Opposers of the ruling scrutinise, what is stopping other courts from suppressing literary or scientific works. However, it is vital to realise that these are works originating from distinct arenas and in terms of sexual works, there are laws that serve as protection against obscenity because it is classified as a social harm. To tolerate the existence

of social harms that present themselves in the form of social expression and allowing each individual to decide for themselves what is harmful, is following Mill's principle that the government's prohibition of actions of which's consequences solely affect the individual performing them, is a form of paternalism. Be that as it may, it begs the question to what extent self-harm should be tolerated. To a certain degree, individual harm, harms everyone. Social harms have to be identified and prohibited to ensure a bountiful society, whether such measures may be perceived as paternalistic or not. In the aforementioned court case, the utilitarian view of the greater good is most suitable for application. If one were to analyse the cost and benefits of continuous exposure to obscene material, one would come to the conclusion that the costs heavily outweigh the benefits.

Another important aspect that deserves to be highlighted in this essay in the effects of the internet on freedom of expression. Inasmuch as we live in a digital age, the ramifications of social media sites have to be taken into considerations in all topics of morality. The internet functions as a platform for people to express their views freely, yet one cannot discount the severe adverse elements that follow as a consequence. People are left to communicate their bigoted biases on large scales with extensive outreach to global audiences. The fear is that docile, easily manipulated people, endorse these views, unaware of the perilous implications this can have on a society and the individual. This calls for a fact-checking system to filter out such socially harmful views. In direct correlation with the internet situation, an authoritative power is also needed in the *Miller v. California* case. One could say that the censorship of obscene material left to the jurisdiction of average people imposing community values should be unlawful. The question could arise: What gives an average person the right to decide the societal value of any work? My rebuttal would be that since we have established that social harms should be avoided, would it make any difference if the intellectual, one schooled in the evaluation of material, is given jurisdiction over assessing the worth of any given work? Most intellectuals that would be carrying out such a task are awarded their degrees by government-funded schools, work for government institutions and hold values that conform with the government's ideal because the curricula is conceived by the government. Ergo, the government would be deciding what is deemed valuable and invaluable, not the individual.

Concerning the question posed in the first paragraph, I do believe that if the freedom of expression was formerly as limited as it is today, the lives of 11 million people could have been

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saved. Even though Neo-National socialist sentiment lurks in the shadows of every major European country, its outward expression is prohibited, which fortunately serves as a detriment to the cause.