

Henry Sidgwick on freedom as the formula for justice

In part 4 of chapter 5 of book 3 of *The Methods of Ethics*, Henry Sidgwick evaluates a version of the idea that certain natural rights should be given to all members of a society in order to make that society just.

The freedom formula

Sidgwick focuses on a “formula” for determining the rights that should be given: each society member is entitled to as much freedom from interference as possible, within an equal system – no one is entitled to more of such freedom than any other person (p.274). Below are some objections he makes or suggests to the formula.

To whom does it apply?

Objection 1: Children, idiots, and the insane? The formula entails that an individual should not be coerced for their own good alone, but no one would argue that this should be applied to children, idiots, and the insane (p.275). The formula needs to be qualified.

Objection 2: Adults in a low state of civilization? Sidgwick points out that if one restricts the formula to sane adults, there is no a priori reason for why the reasons for coercing children, etc., would not apply to some sane adults. So it may need to be further qualified, in light of empirical evidence. And he notes that advocates of the formula often concede that it does not apply to adults in a “low state of civilization.” (p.275)

Objection 3: A subordinate principle. Those who make the concession above must accept that the formula is subordinate to a more basic principle aiming at the general happiness of mankind. (Sidgwick suggests that any sensible advocate of the formula would make the concession.)

The annoying.

An ambiguity. Freedom can either be understood simply as freedom of action or as this and absence of annoyance from others (p.275).

Objection: to freedom of action. If one focuses exclusively on allowing people as much freedom of action as possible, this will allow for a lot of annoyances from others and obviously no one would be satisfied with this freedom (p.275). Note: H.L.A. Hart suggests some might prefer this arrangement, while accepting Sidgwick’s point that freedom of action must be restricted for reasons other than deprivation of freedom (p.538, 548-549).

Objection: to absence of annoyances. This would involve too great a restriction on freedom. Just about any gratification of impulses annoys some others (p.275).

Sidgwick’s conclusion. One is going to have to prohibit some annoyances, contrary to the freedom of action interpretation, but allow others, contrary to the absence of annoyances interpretation. Some other approach is needed (p.275-6).

Contracts

Objection 1: no contract enforcement. If the freedom formula is to be the foundation of a society, it must include a right to limit one’s freedom by contract, with legal penalties; but at

the same time, the formula provides no grounds for introducing legal penalties for those who break such contracts. One is freer if one can break them at will (p.276).

Objection 2: slavery contracts. The formula will allow for the freedom to enslave oneself. One cannot deduce from it a limited right to limit freedom by contract (p.276).

Private ownership

Objection 1: no private ownership. Sidgwick thinks that it is a mistake to suppose that the formula will allow one to appropriate a material thing as one's own, such as land or an instrument. It won't because ownership deprives others of the freedom to use that thing. At best one is entitled to non-interference when using something that can only be used by one person at a time (p.276).

Objection 2: enables colonial injustices. Sidgwick does not say that this is an objection and it is not clearly distinct from objection 1, but anyway I have listed it as 2 and it is worth noting. Tribes who hunt on certain lands cannot claim those lands to be theirs by appealing to the formula, if the lands can also be used by colonialists (p.277, fn. 1).

Objection 3: limits of land use? The formula provides no way of determining how much land a person can appropriate by first occupation (p.277).

Objection 4: rights after death. There is no right to have one's items distributed in a certain way after one's death, because one's freedom is not interfered with by means of another distribution (p.277).

Freedom including security

Sidgwick considers someone who says, "By giving equal freedom, I do not just mean simply freedom from interference by fellow man, but I mean facility and security in the gratification of desires." (p.277)

Objection: no equal freedom. This allows for private ownership, but this kind of freedom cannot be given equally because so much has already been appropriated, is already privately owned (p.278).

References

- Hart, H.L.A. 1973. Rawls on Liberty and its Priority. *The University of Chicago Law Review* 40 (3): 534-555.
- Sidgwick, H. 1907 (seventh edition). *The Methods of Ethics*. London: Macmillan and Company.