

## Summary

### FREEDOM AND OFFENCE. PHILOSOPHICAL BASIS OF BROADENING BOUNDARIES OF ARTISTIC FREEDOM IN THE CONTEMPORARY ENGAGED ART

Everyone wants to be free and nobody wants to be offended. In social life one can find many examples justifying difficulties to achieve both goals. Then there is kind of a conflict between the person who is giving offence and another person who is taking an offence. It could be seen as a conflict of individual's liberties — first individual is free from any obstacles of expression, second one is free from being offended. Analogical or more specific problem occurs in the context of art. Artists demand absolute freedom of artistic expression even though their actions are seen as offensive or harmful to individuals or groups. Therefore, I ask two basic questions. First of them is considered in the context of philosophical anthropology and philosophy of art: In which way human can realize his freedom in relation to other people? Second question is a part of political and legal philosophy: to what extent should we protect (artistic) freedom of expression if we want to avoid situation that conduct of artist is a reason of offence (or harm).

The dissertation is divided into three parts. First part is supposed to give general answer for mentioned questions as follows. Morally free person is able not to offend. Not offending is a matter of person's decision. In this way an offence indicate the inner limit of individual freedom in society. Not every one of philosophical conceptions of freedom let us to explain coexistence of individuals with respect to freedom and demand not to offend. For example, vision of freedom proposed by K. Wojtyła, fulfils in a better way this condition then vision of J.-P. Sartre (from his early works).

Looking for answer to the second of basic questions which concerns limits of artistic expression I acknowledge that individual has right not to be offended. To solve conflicts between individuals which happen in social life, philosophers formulated two principles regulating individual's expression — “The Offence Principle” (J. Feinberg) and “The Harm Principle” (J.S. Mill). The former author claims that offence and harm have different nature thus in the doctoral dissertation I present possible ways how to define both of them. Moreover, I discuss if there are reasons for independence of “The Offence Principle”. If we agree for its independence, offence must be precisely circumscribed by appropriate criteria — this is a necessary to provide protection of individual freedom form offence and to avoid unfounded limitations of freedom of expression and censorship. I investigate Feinberg's conception of offence including its critique. According to Feinberg “The Offence Principle”

was created to protect individuals from offensive actions and not from merely unpleasant mental state. In any case both conditions must be fulfilled: (a) individual suffer from unpleasant mental state which was created by (b) wrong doing (objective condition). First condition could be misleading and insufficient. Experienced emotions are not equally valid for the sake of their cognitive content, sometimes they are irrational (e.g. disgust) thus they are not proper base for legal regulations as M. Nussbaum argued. From Nussbaum's viewpoint, the analysis of controversial case should provide arguments justifying harm. A. Simester and A. von Hirsch argued that unpleasant mental state is neither necessary nor sufficient condition of offence. They suggested the following essential conditions: offence is justified by (1) wrong doing which is revealing fundamental disrespect to society members or (2) violating of their rights. Mere offence which does not cause direct or indirect harm is not the reason to call somebody to account for a crime. Considering offence as a crime is important to include following criteria: (a) content and form of expression, (c) intentions of offender, (d) context and place of occurrence, (e) social evaluation of act, (f) number of offended people, (g) intensity of offence, (h) violation of welfare, (i) possibility to avoid offence (*Volenti non fit iniuria*). Furthermore, important is if offended person is able to justify the crime in the context of rationality standards.

Distinguished kind of offence is the religious offence that—as I understand it—shouldn't be identifying with blasphemy. In the light of law offended could be only person (e.g. not God) however blasphemy or sacrilege may be reason to take offence. Religious convictions shouldn't be protected and could be exposed for critique (freedom of expressing opinion). Religious people should have opportunity to demand protection if they are offended because of their religious way of living. There is also a need to establish crucial distinction between critique and offence. Critique is based on the argument which arises from obligation of saying truth. Behind the pure offence in opposite to critique there is no important reason apart from hate, frustration, resentment, satisfaction from harassment or suffering of other people. It's not easy to apply this distinction in the context of art because the truth of utterance is different than truth in art. Moreover, saying that the artist expresses his opinion by art is colloquial expression and generate question about art as a kind of language. I developed these issues in the last chapter of second part of dissertation.

The questions about limits of freedom might be considered in the domain of art—in the situation of acting artist. The problem of freedom in art is more complicated thus the aim of the second part of dissertation is to clarify the discourse about artistic freedom in the context of art world and philosophy of art. The issue of artistic freedom involves additional

but crucial issues like conceptual limits of art, transgressing boundaries of art (e.g. boundary between fiction of art and reality), changes in understanding and practicing art by artist after avant-garde, nature of creative process especially with the aspect of its rationality and accidentality. Relating to liberties guaranteed by Polish constitution I show the difference between freedom of artistic creativity and freedom of speech. The act of creating art is not identical with saying own opinion by artist however works of art convey some content. Work of art is something which we giving opinion about.

I distinguish the moral and technical (artistic) meaning of freedom. Moral limits are not identified with limits of art. One can ask if the moral rule not to offend is really relevant in the domain of art. While art and morality are divided or separated (autonomy of art) this moral obligation seems to be irrelevant. It would be radical answer if artistic activity is completely independent from morality. Therefore, I argue that aesthetic priority (A. Berleant says about “principle of aesthetic priority”) shouldn’t be above moral priority. Artist as a person is free exactly the same way as every member of society. The person who is creating art first of all is a moral agent—in this sense there is relation between morality and art. To support my view I mainly relate to anthropological and philosophical consideration of K. Wojtyła. It means that between ethical and aesthetical is essential relation. When I talk about artist as a person and as a creator of art I want to underline that by his action artist is creating not only the art but he create himself as a moral being. His act is also valuable for other members of society. There is no difference between freedom of artist and freedom of other individuals. It means that freedom of artistic expression is not absolute. If artist is morally free he is also responsible thus I reject views that artistic action is not regulated by any moral duties. Artist should not ignore other people in society (engagement of art), should not offend and treat them as a means to achieve any goal.

Plenty of artistic actions is recognized as offensive and could be investigated in context of the offence principle. I want to show that contemporary art provide more reasons to consider artistic expression as offensive. Artistic action could be intentionally spontaneous and unexpected to shock (offend) the audience; it might happen in public sphere, it might have form of interim intervention; the audience may not have possibility to avoid offensive content; some artistic actions are intended to affect socially (or target group), artist doesn’t play a role and his action is real; the aim of artist is not a work of art itself or work of art was created to realize aim which is not artistic. In many cases is not clear if artistic action is a critical or offensive and it need to be analyzed. It leads directly to third part of dissertation where I present and analyze works of art including criteria of offence and limits of expression

considered in the first part of dissertation. Moreover, every artistic project reveals problem of offence as a more complex and sophisticated. For example, some of analyzed cases let us ask the following question: why some acts are morally bad and forbidden in our society. Other cases reveal that offence could be considered as a political tool. Not in every case we can prove that artist's intention was to offend someone or that someone was personally offended by artist. There is also group of examples of art as evidence of destructive behavior of human and reaction of society can be seen as a kind of resistance.

The exemplifications of offence (harm) I have chosen are different in the sake of type of art, form and content of art, place where it was performed, intentions of artist etc. I analyze following works of art and issues: performance *Aktion #3* Rudolf Schwarzkogler (the problem of obscenity), movie *Adoration of Jesus* by Jacek Markiewicz (problem of blasphemy and sexual conduct in public sphere), performance *Lips of Thomas* by Marina Abramović (problem of moral responsibility of audience and harm to self), performance *Eschatology* by Arturs Bērziņš (cannibal act of performer), movie *Berek* by Artur Żmijewski (offence to victims of Holocaust), artistic action in public sphere *Żydzi won z katolickiego kraju* by Peter Fuss (criticism of anti-Semitism), *Klątwa* by Oliver Frljić as an example of politically engaged art which provoke social conflict (problem of offence of religious feelings and freedom of political speech including arguments against of seditious libel), *Paradise Built on the Bones of the Slaughtered* by Nabil Mousa (criticizing of religious intolerance by burning Bible, Torah and Koran).

*Summarized by Barbara Tryka*