

Equality of restraint: Reframing road safety through the ethics of private motorised transport

Abstract

Background

Motoring is an emancipation. It is both an individual freedom and a collective freedom with car ownership at 30,491,000 vehicles by 2019 in Great Britain. Yet, as the evidence of the impact of road transport accumulates and the health and environmental aims of sustainable travel become clearer, demand for an ethical analysis also intensifies.

Purpose

The paper draws on a previous limited ethics-based literature on road transport. Key tenet of liberalism, of ‘freedom from’ as well as ‘freedom to’, are highlighted. This includes Edmund Burke’s concept of ‘equality of restraint’ in meeting common needs. Freedom from fear of road traffic danger forms part of an individual’s rights.

Findings

Equality of rights and freedom from fear in road use have not been key considerations for reducing risks to vulnerable road users. Indeed, ethical issues have largely been ignored. The emergence of Vision Zero within the road safety field with its focus on zero deaths and serious injuries has brought an ethics-based approach to the mainstream although it appears to be struggling to gain traction in neo-liberal societies.

Conclusions

The Covid-19 pandemic has led to UK governments funding and promoting the use of walking and cycling. These modes have hitherto been left to fend for themselves in an environment where road safety has been measured by casualty reduction while fear has suppressed walking and cycling with the consequence losses to physical and mental health. We ask whether an ethics-based contribution, and lessons from Covid-19, can help re-set the direction of UK road safety policy and practice.

1. Introduction

The transport innovations of the railway, the motor car and the aeroplane have created the positive freedom to get places quickly, a utility of such benefit that the harms have received only slight attention. Positions around road safety risks are articulated from time to time precipitating measures which further protect the transported while environmental concerns, first raised in the 1970s, have had little impact on the conscience of the travelling public. Analyses tend to be consequential, obvious benefits versus obvious harms, the freedom to travel often trumping deeper consideration. Sometime in the early 1960s the railway, democratic, communal and social, ceded dominance to the motor car, private and personal, symbolic of the neo-liberal, individualistic culture of the first world.

As an emancipation, the private motor car is both an individual and collective freedom as the majority have been able to participate, with car ownership increasing from 1,979,000 in 1950 to 30,491,000 vehicles by 2019 in Great Britain (Dept. Transport, 2019a). The benefit of personal transport, flexible short, medium and long distance travel to visits friends and relatives, to access goods and employment, have only been tempered by the transport method's own success as increased traffic congestion frustrates the motorist, and passenger, to get where they want, when they want. From the 1960's Beeching Cuts¹ onwards the political will has been to increase road capacity with occasional interludes acknowledging that road building itself encourages travel and that a more effective approach would be 'demand management' (Starkie, 1982; Shaw, Walton, 2001; Davis, Tapp, 2018). Moreover, as the evidence of the impact of road transport accumulates and the health and environmental aims of sustainable travel become clearer, demand for an ethical analysis also intensifies (Davis, 1993; Mullen et al., 2014). On the one hand we want to maintain the freedoms that personal road transport has allowed, while on the other we must be alert to the previously unconsidered consequences of unfettered motorised travel.

The Covid-19 lockdown, unwelcome as it is, has raised a set of questions: do we need cars? Do we need them that much? Have we become habituated to rely on a mode of travel that is more damaging than previously thought? Looking at UK behaviour responses to travel modes in the past six months provides a mixed picture of car travel returning to near pre-Covid-19 levels yet with the

¹ The Beeching cuts closed many of the branch lines across mainland UK on the basis that they were uneconomical but did not factor in their network effect nor the economic, social and environmental costs of mass motorisation and road building that followed. The Beeching Report was ordered by the Conservative Minister for Transport who, at the time, owned majority shares in Marples Ridgeway road construction company. See Hamer, M. 1986 *Wheels with wheels*. London: Routledge.

Department for Transport own quarterly attitudes surveys indicating significant support for change in travel behaviour (Department for Transport, 2020). The National Travel Attitudes Study found that 39 per cent of adults surveyed were walking more between May and July 2020, and 38 per cent were walking more, compared to before the outbreak of the coronavirus in the UK. Ninety-four per cent of those who had increased their active travel planned to continue to walk or cycle more in the future than they had done before the COVID-19 crisis. In Scotland 64% of those surveyed in mid September 2020 agreed that they will walk and cycle more (Transport Scotland, 2020). So there does appear to be demand for more walking and cycling. This is so even if partly masked by some adults selecting car use now as their perceived least risky option yet willing to use active travel modes if the risks were perceivably reduced through greater provision of segregated infrastructure, speed limit reductions, road closures etc... It seems unlikely too that this is just a UK phenomenon. Now is the time to reappraise what road safety is and should be.

This paper will consider the broader ethical issues beyond the usual consequential and political viewpoints, beyond the obvious harms to look at the less obvious effects, the hidden damage that should be central to challenging the orthodoxy of private motoring. We will draw on, and apply, the traditional ethics of freedom, looking at the tension between the individual's right to be free and the community's right not to be harmed.

2. What is Road Safety?

In 1992 a researcher proposed an ethical approach to defining road safety. In the absence of published reports, but with handy recourse to a dictionary, he defined road safety as:

‘freedom from the liability of exposure to harm or injury on the road’ (Davis, 1992).

Responding to this, we claim that road safety is more than just addressing injury avoidance. It must also address perceptions of the risk of harm, freedom from the fear of harm and its manifestation at the individual, community and societal levels. Road safety measures operating since the 1930s have been assessed in terms of success by the measurement of the number of recorded road traffic events and injury severity. Declining total injury numbers, reported annually, has been deemed as a sign of this success, not least in the light of increasing motorisation. Yet this has led to a substantial decline in walking, cycling and public transport in the UK. Walking was only measured nationally from the 1975/76 National Travel Survey when walking per person per year was 399 kilometres across Great Britain but has since reduced to 338 in England (Department for Transport, 2019b).

Cycling use has dropped most significantly from over 23 billion vehicle kilometres in Great Britain in 1949 to 5.3 in 2019 (Department for Transport, 2019c), and local bus use has fallen from 47.6 passenger kilometres in 1970 to 27.4 in 2018/19 also for Great Britain (Department for Transport, 2019d). The suppression of walking and cycling simultaneously leading to a reduction in health benefits. By contrast, when road safety is directed by a focus on casualty reduction, more children in cars will, for example, lead to lower casualty numbers. Yet, while from a casualty reduction perspective road safety has been improved, it has been achieved through fear and by the loss of freedoms and health benefits accrued through active travel. By contrast, walking and cycling use has not fallen so much in other European countries (e.g. Germany, The Netherlands, Denmark) because of interventions to promote their safety. It has been noted that “perhaps the most obvious, and certainly most studied, factor affecting walking and cycling safety is infrastructure. Many studies have confirmed the importance of good walking and cycling infrastructure in promoting more and safer walking and cycling” (Buehler, Pucher, 2020). At the top of the mode share for cycling in High Income Countries is The Netherlands at over 25% of all trips yet with the lowest fatality rate per million kilometres cycled compared with elsewhere in Europe and the US.

Children, young adults and the elderly are disproportionately exposed to the risk of being injured or killed in a road crash, especially if they are pedestrians. Pedestrians and cyclists are generally exposed to a greater risk than car drivers. Intuitively, there appears to be a morally relevant difference between different groups of road users (Nihlén Fahlquist, 2009). As multiple studies have reported, fear of motorised road traffic has resulted in parents and carers restricting children’s independent mobility. This provides a litmus test demonstrating that casualty reduction alone cannot facilitate the equality of travel choice because of the externalities of car use. In surveys of children’s school travel mode in the UK the top concern of parents and guardians is fear of motor traffic. This then leads to the self-defeating spiral of increased danger as more adults drive their children to school. This erosion of children’s freedom was first identified by the pioneering work of Hillman, and perhaps most noted in his study ‘One False Move’ (Hillman, Adams, Whitelegg, 1990). That study has been followed by many studies across High Income Countries which have likewise charted the fear-driven decline in children’s independent mobility which is largely in response to mass motorisation (Bennetts et al., 2018; Kytta et al., 2015; Lopes et al., 2014).

As researchers noted almost three decades ago,

‘road safety usually means the unsafety of the road transport system’ (Silcock, Barrell, Ghee, 1992).

The casualty reduction approach was challenged in the 2008 House of Commons Transport Committee report which talked on complacency in road safety and noted that making pedestrians and cyclists feel safer was crucial to promoting walking and cycling (House of Commons, 2008). It noted that for vulnerable road users road safety implies freedom from the dangers associated with motor vehicles.

By contrast, as Jacobsen and colleagues have concluded, safety is best measured by the risk of injury, not by the number of injuries. Road safety is indicated by the absence of danger, not by the absence of injuries (Jacobsen, Ragland, Komanoff, 2015.). Risk is more accurately measured by time as a unit of exposure, especially for pedestrians and cycle users as their kinetic energy means that they pose little risk to others. Thus, a holistic approach to road safety has to address road danger at source, which modes are most dangerous both to self and others, and reflect this in a definition which is inclusive of freedom from fear.

The traditional view of responsibility for traffic safety is closely aligned with the notion that safety is about individuals driving safely. Thus, much of the emphasis has also been upon getting vulnerable road users to bear the burden of responsibility for their own safety and risk exposure (Jacobsen, Racioppi, Rutter, 2009) and through the promotion of secondary safety measures, largely focused on improving safety within vehicles (Tight et al., 1998.). More recently the emerging view that a major role can and should be played by institutions, for example governments and vehicle-producing companies, is useful and reasonable. The implied notion is that responsibility has to be distributed and shared between different actors if a safer traffic environment is to be achieved (Nihlén Fahlquist, 2009).

Here we introduce the linked notion of road safety as reflected in Vision Zero, as established first in 1997 in Sweden with similar approaches subsequently aligning under the heading of Safe Systems Road Safety conceptual frame. Critically, the Vision Zero approach emanates from an ethical stance. This is that loss of life and serious injury is no longer to be tolerated (Kristianssen, et al., 2018).

3. The ethics of private motorised transport

3.1 A paucity of attention to ethics in road safety

Coming back to ethics and road safety 28 years later after a first attempt by Davis (1992) to define road safety through an ethical lens, we find, even in the internet age, that coverage of ethics and road safety is slim, with the caveat of some recent upsurge in interest relating to autonomous vehicles (see Nyholm, Smids, 2018). Others have found a similar paucity. In 2008 Evans noted that

ethical issues are largely ignored (Evans, 2008). Moreover, as Nihlén Falhquist noted in 2009, “Ethical aspects of road traffic have not received the philosophical attention they deserve [yet] a continual ethical discussion concerning road traffic is needed” (Nihlén Falhquist, 2009). Her assessment of ethical aspects of road safety is drawn on further in this paper as a checklist against which to explore tensions and opportunities within current transport safety theory and practice.

Nihlén Falhquist identifies the normative and pervasive nature of motorised road traffic. A major change to the transport system is possible but needs debating. Ethical approaches can help show that alternatives are possible:

“People in industrialised societies are so used to road traffic that it is almost seen as part of nature. Consequently, we do not acknowledge that we can introduce change and that we can affect the role we have given road traffic and cars. By acknowledging the ethical aspects of road traffic and illuminating the way the choices society makes are ethically charged, it becomes clear that there are alternative ways to design the road traffic system.” p.385

3.2 Applying an ethics lens to road safety

While traditional ethics has been stubbornly anthropocentric, contemporary ethics has a broader remit and includes consideration of the non-human world and the environment. These considerations are pertinent to the ethics of road transport with the crucial question being what level of societal and environmental harm, current and future, is acceptable in exchange for the individual benefit that convenient road transport brings?

If private motor transport is a freedom we need to consider if that freedom impacts on others by invoking positions around negative and positive freedom in both philosophical and political contexts. Our liberal political consensus demands that the test for restricting freedom remains high, yet the foundational liberal view of John Stuart Mill [1806-1873] is defined by his Harm Principle that

"the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others" (Stuart-Mill, 1859).

This can be interpreted more sensitively than the straight-forward utilitarian ‘greatest good for the greatest number’ by acknowledging *any* harm as a sacrifice for another’s freedom. Similarly, considerations of justice arise in the fair distribution of opportunities, benefits and burdens derived from the activity such that a rights-based approach is needed to protect minorities from harms that may occur. It is easy to think of the non-motoring public as the minority set of people being harmed, however the majority themselves are also subject to harm, they are just experiencing some of the benefit and facility of private motorised transport.

The negatives and harms of personal road transport go beyond the increasingly obvious issues of pollution and road traffic injuries, which in 2018 amounted to 160,597 reported casualties of all severities, of which 1,784 were deaths (Department for Transport, 2019e). This would be shocking in any other social endeavour and our acceptance of the risk demonstrates the high value individuals and society place on personal mobility. Awareness of the short and long term effects of air pollution, previously under acknowledged, is increasing as the evidence of the consequences of nitrogen dioxide and particulate pollutants on the health of individuals proliferates, with an estimated 40,000 UK premature deaths per year (Royal College of Physicians, 2016). This figure is similar in scale at the time of writing to UK deaths from the coronavirus at 44,830 (as of 14.07.2020). Vehicle emissions are also implicated in global warming raising questions about our responsibility for future generations (International Panel on Climate Change, 2019).

Here Edmund Burke's writing (1729-1797) is apposite. Burke's support for shaping the legal and social institutions necessary to safeguard liberty is captured by his phrase "the equality of restraint," which suggests the role of these institutions is to create an environment where liberty can flourish. Burke rejected the possessive individualism of liberalism in favour of social freedom. True liberty, he claimed, is secured by "the equality of restraint", not empty free choice. Freedom and equality require lived fraternity among citizens who have common needs. In making this case, Burke clarifies that legal and social institutions are necessary to ensure that unfettered individual liberty does not trespass on the liberty of anyone else, and that such a trespass is, in fact, an injustice. To Burke freedom from this encroachment—beyond the exercise of any single freedom 'to'—is the essence of liberty, a powerful endorsement of the importance of freedom 'from' interference, such as fear of motorised traffic in the context of road safety (with its emphasis on reduction of danger at source (Galea, 2017).

Reflecting such discourse, freedom 'from' in the domain of social and political systems can be rights-based and, for example, found in the Universal Declaration of Human Rights (United Nations, 1948). These include the right to live free from socioeconomic insecurity, the threat of environmental disaster, or the hazard of preventable injury and disease. Here the onus is on Government intervention as is the case with the importance of public health in taking actions to maintain freedom from disease. Here the central role of governments is protecting individual rights, although how rights are policed is critical. The Declaration states in its preamble that "freedom from fear and want has been proclaimed as the highest aspiration of the common people." Thus, freedom 'from' is at least as important as the freedom 'to' in modern liberal societies. Contrasting such ethical approaches, in the context of road safety, the reality of lived experiences is that 'freedom to' results

in 'right by might' outcomes – those with most kinetic energy and protective 'shells' dominate highway space.

These points remain challenging because the act of driving a motor vehicle externalises the potential risk such that the risks are largely for those outside that vehicle. Partly reflecting Burke's focus on legal and social institutions, Evans asks whether drivers adequately understand that their normal driving poses an unreasonable threat to others? And, if not, why not? "Have drivers been misinformed? If so, by whom, and for what purposes? While the individual driver is the final agent, other institutions contribute hugely to how individual drivers behave, and accordingly bear a major moral responsibility for traffic harm" (Evans, 2008). The announcement of funding for Covid-19 transport responses/initiatives by UK Government from April 2020 in the form of funding for 'pop-up' cycle lanes and pavement widening, 20mph speed limits and similar measures to reduce risk has been revealing in the sense that governments have been prompted to increase use of these modes primarily in order to relieve pressure on other parts of the transport infrastructure. (Department for Transport, 2020; Welsh, Government, 2020; Scottish Government, 2020). This has especially been to enable workers to commute without recourse to private car use and so reduce the risks of motorised traffic congestion and potential gridlock. Such measures could have been implemented before Covid-19 but have not been. Reducing fears of traffic injury was not important enough prior to the pandemic. Equality of rights and freedom from fear in road use have not been key considerations for reducing risks to vulnerable road users. Equality of restraint does not operate with regards to road transport.

As walking and cycling activities increase it is incumbent on governments to review safety. In essence, governments have a duty to maximise positive freedom to and reduce negative freedom. Positive freedom includes the provision of better cycling lanes, road crossings, street lighting, and negative freedom involves reducing those obstructions to a healthy free life such as pollution, injury and the fear of those impacts. Covid-19 has provided an opportunity to assess the range of benefits which have unexpectedly presented themselves out of an enforced, sudden and drastic shrinkage in our travel behaviour and where walking and cycling, as part of daily exercise, have been encouraged by Governments across the world. Alongside this has been reciprocal and communitarian behaviours such as social distancing, face-coverings to protect others and various public actions paying tribute to care workers.

4 Social democratic and neo-liberal values in advancing road safety

Propelled by a strong moral imperative to end deaths and seriously injured on the roads, a key ingredient of Sweden's Vision Zero, and similar approaches including the Dutch Sustainable Safety Programme, it is not surprising that such programmes first emerged in more social-democratic countries rather than in neo-liberal ones. Paternalism or nanny-statism is sometimes cited in the context of Vision Zero and it has been suggested that most measures to increase safety in road traffic can be motivated by the notion of protecting others against harm. As Nihlén Fahlquist notes, such an approach will even be attractive to liberals. Scandinavia has been renowned for its social welfare regime approach in which paternalism is ingrained with the cultural expectations of society (Frederiksen, 2017; Esping-Andersen, 1990). Arguably, the Dutch model of welfare at the end of the last century provided a weaker version of the Scandinavian welfare regime, referred to as a hybrid between social democratic and conservative (Vis, van Kersbergen, Becker, 2008). but still containing an ingrained culture of welfare and its concern for the welfare of the collective society at least as much as that of the individual.

By way of contrast, when Evans compared the US (as a neo-liberal regime) and its casualty statistics with European countries, he was clear that the US approach to road safety had failed:

"US government traffic safety policy has been a disaster without parallel... US safety policy priorities are ordered almost perfectly opposite to where benefits are known to be greatest. This happened because the US ignored well documented scientific knowledge to a far greater extent than other countries. The result was that the US placed most emphasis on factors known to have minor effects, thus leaving little energy for factors known to produce major benefits" (Evans, 2008).

This is the opposite of what is attempted through Vision Zero which looks to the most effective interventions in terms of the categories of action. With a grading of safety across the main four intervention areas of safer roads, safer people, safer vehicles, and safer speeds, it employs up to 5 star accreditation in grading the removal or amelioration of known risk factors. But the task of giving equal freedoms to all mode of travel seems beyond the possibilities for Safe Systems because, as a mass consumption commodity, driving with due care for other road users, perceived risk of harm to self and risk of police sanction are arguably low. Indeed, as Wells notes,

"Perhaps it is significant that the frequent, yet dispersed, nature of road deaths sees their attenuation in the media, preventing them from getting their rightful (actuarially conceived) place on society's risk radar. If the reality of *actual* road death and injury fails to excite much interest, it is perhaps unsurprising that attempts to take action against common behaviours

that *sometimes* increases the chances of it happening have met with resistance” (Wells, 2012).

In addition, with the rise of mass motorisation and a global vested interest multi £billion industry, motorists and the motor industry are powerful players in the international road safety debate (Ericson, 2008; Woodcock, Aldred, 2008) which has lobbied for voluntary approaches to improving safety as measured by casualty numbers (Douglas, et al., 2011; Roberts, Wentz, Edwards, 2006). There is a long history of corporate interests in the motor manufacturing and oil industries of profit subordinating public and environmental safety. Increased public awareness of pollution and environmental issues have at last evoked the beginnings of a shift towards sustainable transport, and in the context of personal transport, electric vehicles. We should not only embrace these harm reducing initiatives, but also review of our overall usage of private transport as all forms use environmental-depleting energy in some form.

4. Conclusions

Major philosophical tenets articulated by the founding fathers of the liberalist tradition strove to demonstrate how equality of restraint should underpin an individuals’ right to act in ways that does not restrict the rights of others. With the rise of mass motorisation, equality of restraint and ‘freedom from fear as the highest aspiration’ have been sacrificed to the transport choices of a section of society who drive motor vehicles. Our analysis demonstrates that the unequal externalisation of risks and harms in UK road transport has remained largely unexplored and ignored from an ethical perspective. More broadly, some have argued that our complacency will only change with technological progress e.g. Intelligent Speed Adaptation. Yet, during the drafting of this paper a possibly unique opportunity has arisen as the result of the COVID-19 pandemic – a likely permanent change in travel behaviours. This is reflected by the fact that the UK Department for Transport has announced £2Billion to encourage local authorities to implement ‘pop-up’ cycle lanes, to widen pavements, and otherwise improve the perceived and actual safety of these modes (Department for Transport, 2020b). Similar schemes have been established in Scotland and Wales (Scottish Government, 2020; Welsh Government, 2020). As new habits have developed with more local travel and walking and cycling are viewed in a new light of social normalcy, endorsed by Governments, a new normal has elevated the position of these modes. In some city centres and commuter corridors streets are closed to private motorised traffic or general traffic lanes re-allocated to pedestrians and or cycle users.

Out of the pain and suffering caused by COVID-19 there does seem some possibility of changing the balance of freedoms in travel choice with greater protection of the rights of people outside of motorised vehicles. This could improve the safety of all road users through reducing danger at source. Ethical considerations forming part of the on-going discussions in transport planning might seem unlikely, but a pandemic has shown to make many things possible within very short timelines. 2020 does provide an opportunity for the application of ethical scrutiny to help reinforce efforts to disrupt the status quo of unequal risk as a result of car dominance on our streets.

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