



Dudley Knowles
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The difficulties are obvious. How much knowledge and rational capacity do we need for our desires to count as sufficiently well-informed? We need more than the child who believes that nothing which tastes awful can do her good – but do we need as much knowledge as the best science makes available before our desires are sufficiently well-informed? How much good judgement do we require, supposing all relevant information is to hand? Again, we shall need more than the child who believes the avoidance of nausea is a greater priority than good health. But how much more is not easy to determine. Smoking, one is told, reduces life expectancy by five years on average. Is there something defective in the judgement of the well-informed doctor who continues to smoke despite the risk to her health?

The response to the sadist example is even trickier. Defects of knowledge and judgement subvert the natural authority of the desires they generate and so there is more than a whiff of normativity in the requirement that desires be well-informed and soundly judged. There must be, in prospect if not in place, canons for the appraisal of desires from these perspectives. And these canons cannot derive from considerations of utility upon pain of circularity in the account. This difficulty is even more evident in the case of the requirement that desire-satisfaction be gained legitimately, since the utilitarian needs a non-moral argument to show that the desire for another's harm, and the satisfaction gained from achieving it, should be entirely discounted.²⁴ The most dangerous tack here would be to distinguish as legitimate desires which are normal or natural, alluding to some spurious hybrid of folk biology and religious dogma, of the kind that powerful churchmen are prone to sell.

I do not believe that the utilitarian has the philosophical and anthropological resources necessary to breathe life into the claim that the fulfilment of desire is the root of all human value or that desirability is the basis of a formal account of the good which collects together all the qualities of life which humans value. If we can describe separately, and vindicate as plausible, a range of human goods, I see no point in adopting a theoretical apparatus which collects them together under one label – as desirables or as ingredients of happiness – if that apparatus does no work in the ranking of outcomes as better or worse. In some cases we may

judge this action is best in respect of happiness, that in respect of autonomy and so on. We may weigh the different appeals and claim some action is best all things considered. But we shall not be able to justify this latter claim by finding some secret ingredient or common denominator which serves as an overall measure of utility. Instead, we shall be left with an 'objective list' account of the good, making a case separately for each of the different elements. Happiness, knowledge of one's situation and affairs, sound personal relationships of love and friendship, good health, autonomy and liberty, a sense of accomplishment, the recognition of beauty in human works and nature: all these and more are candidates to be explored. The major difficulty for the utilitarian will be to explain how different mixes of these goods can be compared with one another to the point where a verdict of 'best outcome' can be delivered. But what the critic describes as a difficulty, the utilitarian worth his salt will see as a challenge!

Review

I do not intend my review of utilitarianism to have the status of knock-down criticism. Utilitarianism is in need of repair in several of the areas I have mentioned and in others, too. But the dialectic of philosophy reveals the major theories to have very great resilience in the face of damaging attacks and utilitarianism is no exception. As critics propose refutations of greater and greater depth and sophistication, advocates find within their theories resources hitherto unrevealed which serve for a time to repel boarders and limit the damage of the assault. Thus far, I have been examining the groundwork of utilitarianism, the basic elements of the theory. I want to continue by looking at utilitarianism at work, by reviewing the utilitarian story in respect of core political values. This will serve not only as a basis for assessing the utilitarian contribution to political philosophy. It will also introduce problems which we shall discuss in more detail in the chapters which follow.

Utilitarian political theory

Liberty

There is a good historical reason why we should expect the utilitarian to have things of interest to say about the value of liberty. The greatest of the classical utilitarian thinkers, John Stuart Mill, has also been the most influential advocate of liberty. In *On Liberty* he argues mightily for civil liberty, for the opportunity to act without interference from the state or, equally important, from the intrusive pressures of busybody neighbours. So it would be surprising if the arguments he advances on behalf of liberty did not have a utilitarian cast. And, despite the incorporation of distinctively perfectionist appeals claiming that liberty advances mankind in the development of characteristic excellencies, Mill's utilitarianism is evident throughout. Liberty is argued to be essential to the well-being of both individuals and society.

One defect of Mill's argument should be made clear from the start, although it is perhaps anachronistic to point it out in a critical spirit. Moreover it is a defect we shall attempt to remedy later. I am thinking of his lack of, or carelessness in, analysis. We ask what does 'liberty' mean in the arguments and slogans of its advocates and detractors. Mill took it that both his supporters and critics had the same things in mind and that, because his (and their) understanding was equally capacious no harm was done. As we shall see in the next chapter, this was a mistake. For now, we shall suppose that our understanding of the ideal of civil liberty is sufficiently well articulated for us to follow Mill's defence of it.

The first strand of Mill's utilitarian defence of liberty is developed in the chapter of *On Liberty* dealing with freedom of thought and discussion. The main drift of the argument is uncompromisingly utilitarian.²⁵ There are benefits to be had from the propagation of true opinions, false opinions and opinions which contain a mixture of truth and falsity. These benefits derive from the contribution made by a strong and uninhibited intellectual life to the progress of society. The cost of censorship and other controls on the media of communicating ideas is the stifling of progress through ignorance of opportunities for betterment. On the other hand, we may be able to identify kinds of circumstance in

which the costs of freedom of speech are excessive. Incitement to damage (denouncing corn dealers as starvers of the poor to an angry mob outside a corn dealer's house, is Mill's example),²⁶ libel and slander, and no doubt other sorts of action, may be legitimately prohibited. The costs, we must suppose, outweigh the benefits.

We thus have an argument for a specific structure of institutional protection. To procure the suggested benefits, a society should establish or respect a network of positive rules, which will be a mix of constitutional, legal and non-legal permissions, prohibitions and defences. We can each of us think of the most effective way this strategy may be implemented and review our institutions in the light of such a prescription.

Mill believed, plausibly I think, that freedom of thought and discussion was a crucial means to social improvement – but I don't want to discuss this case here. Instead we should focus on the structure of the argument, since Mill himself believed that in defending this particular network of freedoms he was showing us how arguments of this sort should be conducted. The first thing that is necessary is that we make out a case for the usefulness of a specific practice, showing how conspicuous benefits may be attained if it is promoted and protected. If public speech and debate are valuable, freedom to engage in them is necessary to realize the benefits. The same case could be made in turn for all the major liberal freedoms; religious worship, secular association to promote common interests, finding occupations one wishes to pursue, engaging in political activity: each of these can be defended on utilitarian grounds and institutions devised to enable and secure citizens' engagement in them. And as with freedom of speech, limitations and qualifications can be put in place where utility dictates.

Notice that this is not an argument for liberty *per se*. Each pattern of activity must be vindicated separately with the case for liberty falling out of the value of the activity described. The second element of Mill's utilitarian defence of liberty explains how liberty is a value independently of the value of the activities liberty permits. This is his argument for individualism as necessary for the well-being of both individuals and society in Chapter 3, 'Of Individuality', of *On Liberty*.²⁷ Again the argument is a straight-

forward application of utilitarian principles. Mill explains how the happiness of individuals is enhanced when they are free to make their own decisions on how to act. Our happiness depends upon the exercise of what he called our distinctively human endowment. This comprises capacities for perception and forethought, reflection and judgement, capacities which are employed most fully in the exercise of choice. To anchor the utilitarian credentials of this argument, we should note that the use of these capacities is conspicuous in those activities which yield the 'higher pleasures' Mill famously (and controversially) defends in *Utilitarianism*, Chapter 2. We shall be dwarfed and stunted creatures if decisions are taken for us, nothing like as happy as we could be if we were our own masters. And if we were conscious that opportunities for such educative decision-making were being denied to us, we would experience a good deal of frustration as well. Explicitly, Mill is drawing a contrast between societies where choice is heavily circumscribed and individuals live spiritually impoverished lives and open societies which encourage individuals to draw upon and develop capacities which are necessary for them to flourish by creating for them maximal opportunities to work out how best to live their lives.

Each individual is better off for having the opportunity of decision-making created by the space of liberty because the very act of decision-making brings its own rewards. It uses (and trains and cultivates through regular use) mental capacities central to our overall well-being. But individuals will be better off, too, since the decisions taken are likely to be better than those which other individuals take on their behalf. Individuals are most often the best judges of what is in their own interests, of what constitutes for them a full or rewarding life.

Think of a well-stocked newspaper shop with rack upon rack of magazines catering for interests of highly specialized sorts – not just one magazine for fishermen, but three or four on trout and salmon fishing, the same number for coarse fishing, a few for sea-anglers, together with weekly newspapers for fishermen of all kinds. And then multiply the number as dozens of interests parade themselves on the shelves. The thought is that just as we can select any magazine to suit our interests, so, too, must we select these interests ourselves. It's hopeless to think of anyone, parents or

close friends even, still less Big Brother, dictating where our interests shall be directed. We make better decisions when we choose for ourselves how to live because we are the best judges of where our happiness lies.

So, not only are we happier because of the way we develop when we make choices, we are happier for having the opportunity to get what we know best to be good for us as individuals. And this is not the end of the benefits accruing from widespread liberty. Each life, conventional or eccentric, will be an experiment in living from which all stand to gain as enthusiasms give rise to expertise and excellence produces role models as well as inventors. Mill's vision of society as a mutually supporting cosmos of independent centres of excellence is inspiring.

But, as with all utilitarian appeals, it is no stronger than the facts allow – the facts upon which the projections of utility are based. And the facts of the matter cloud the vision. In my newspaper shop of alternative lifestyles, no consumers collide. Each seeks out what they have decided they most want to be without interfering with other prospectors. But the real world is not so harmonious and well-aligned. Individuals get in each others' way, deliberately block off each others' chosen paths, do harm to each other out of malice as well as in the pursuit of conflicting interests.

So liberty generically identified has significant costs as well as undoubted benefits. Can we keep the benefits while limiting the costs? Mill thinks we can. He believes he has established a presumptive (or to use some useful modern jargon – a *pro tanto*) case for freedom. Some weight must always attach to claims for freedom since benefits will accrue whenever individuals are in a position of choice: minimally to themselves, maximally to others. But these benefits may be outweighed when the exercise of liberty imports excessive costs to others. Liberty may then be limited, for good utilitarian reasons, in the case of actions which harm other persons. The utilitarian can respect the presumption in favour of liberty, yet limit liberty in cases where that presumption is defeated – when one person's exercise of liberty harms others.

We can give this qualified case for liberty expression by endorsing a harm principle which circumscribes intervention by the state and society at large in the lives of members to those kinds of

activity which cause harm to others. This is Mill's version of such a principle:

The sole end for which mankind is warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can rightfully be exercised over any member of a civilised community, against his will, is to prevent harm to others.²⁸

Note finally, that as a good utilitarian, Mill believes he has established a necessary condition on legitimate interference. Whilst the case for the prevention of harm to others must always be made good if interference is to be judged legitimate, the fact that such a case *can* be made does not of itself justify interference. There is a simple reason for this. Interference carries its own costs. If the only way the prospective harm could be prevented would be to authorize a massive extension of police powers, for instance, the costs of this extension might well exceed the benefits promised by the prevention of harm.

This is the utilitarian case for liberty at its strongest. We shall return to the discussion of liberty in the next chapter.

Rights

The utilitarian defence of rights is obviously closely linked to the utilitarian defence of liberty. Conceptual analysis is required, to link as well as to distinguish claims of liberty from claims of right, but at first sight the right to free speech is at no great conceptual distance from the ideal of freedom of speech – and the same goes for other characteristic liberal freedoms. What talk of rights signifies for many thinkers is a distinctive mode of justification for freedom, a mode of justification which is to be sharply contrasted with the use of arguments from utility. I shall take up these questions in appropriate detail later. For the moment I am content to signal the leading elements of the utilitarian case for rights. And once again, John Stuart Mill provides as good a starting point as any.

We cannot complain that Mill does not attempt an analysis of

the concept of rights. To have a right is to have a legitimate claim against other persons, a claim necessary for the promotion and protection of vital interests.

When we call anything a person's right, we mean that he has a valid claim on society to protect him in the possession of it, either by the force of law, or by that of education and opinion. If he has what we consider a sufficient claim, on whatever account, to have something guaranteed to him by society, we say that he has a right to it To have a right, then, is, I conceive to have something which society ought to defend me in the possession of. *If the objector goes on to ask, why ought it?* I can give him no other answer than general utility.²⁹

Claims will be protected and promoted by rules and policies. Again, these may be legal and/or non-legal rules and protection and promotion will require the actions of the state, lesser associations and individuals.

The pattern of argument in defence of rights is thus beautifully simple. Take a candidate right – the right to bodily integrity – and spell this out minimally as a claim on the part of individuals that they be neither physically assaulted nor raped. In defence of this claim, the utilitarian will cite the suffering caused to victims of such assaults and the anxiety created by insecurity to vulnerable persons. Any society which is concerned with the well-being of its members will identify as near-universal its members' interest in security. It will protect this interest through legal (and other social) structures which deter and punish violators. So: to have the human right to bodily integrity is to be in a position to advance strong utilitarian arguments in favour of claims that interests in personal security be promoted and protected by whatever institutional means are most efficacious. Whatever human rights we claim can be assessed according to this procedure. The utilitarian has told us what human rights are and how they can be justified; he will have available strong empirical studies to determine how they are best defended in practice. What more does the advocate of human rights require? We shall return to these questions in Chapter 4.

Distributive justice

Every society needs principles which allocate resources to members, principles which adjudicate conflicting claims and distribute the benefits produced by co-operative activity. It has long been thought that utilitarianism has a special problem in formulating principles to do this work. This thought is uppermost in the mind of the critic: utilitarianism ranks outcomes in terms of maximization of the good, but different outcomes may yield the same amount of utility, differing only in respect of the distribution of that good between individuals. Most of us, however, believe that some distributions are morally superior to others in point of fairness. They are more just. Some believe that equality in distribution is morally desirable. How can *any* principles of distributive justice be registered within utilitarian theory?

We can present the problem schematically with the aid of some figures. The numbers represent units of utility, but it does no harm to think of them for the moment as measuring wealth in £'s.

	<i>Persons</i>	
	A	B
(1)	50	50
<i>Outcomes</i>		
(2)	70	30

In both cases, utility scores are the same: aggregate utility = 100 units, average utility = 50 units. Thus far, the utilitarian has no reason for favouring (1) over (2); the egalitarian, of course, will disagree. And consider:

(3)	150	0
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(3) is better than both (1) and (2) in respect of both aggregate and average utility. But if we can imagine a society altering the rules which determine who commands which resources so that the outcome shifts from that represented in (1) to that represented in (3), wouldn't we judge the new outcome radically unjust, although it is

productive of more utility? The utilitarian requires that we maximize utility, making the society of A and B, taken together, better off overall. Our intuitions tell us that this would be unjust.

For many, this objection serves to refute utilitarianism; for others, it signals a need that utilitarianism be supplemented by an independent principle of justice in distribution. A utilitarian worth his salt will try to reply – and a number of replies are available which I shall sketch briefly.³⁰

Hume's argument

The utilitarian wants to draw us away from simple models of the kind we have been discussing. He is particularly concerned to dispute the claim that utilitarian theory can find no place for principles of distribution. To review the case for the defence, a good starting point is Hume's account of justice.³¹ Hume argues (and I summarize his views to the point of caricature) that human society needs to establish rules of property (justice) which fix who can make legitimate claims on which resources if universally destructive conflict over scarce resources among folk of limited generosity is to be avoided. If resources were infinite and available upon request, there would be no problem – but they are not. If persons were predominantly generous, again there would be no problem – but generosity is strictly limited. Our natural sentiments cannot be relied upon to steer us clear of mutually damaging confrontations. We have to devise institutions which secure co-operation.

Which institutions do we select? To answer this question, Hume's focus shifts from a perspective of individual problem-solving to a speculation about the history or genealogy of institutions. We must suppose history to have been a proving-ground for different solutions to the problem of justice. Rules of property have been established – and gone under as they proved to be inadequate. The enormously complicated residue of rules that have stood the test of time have remained in place because they represent the most satisfactory collective settlement. They are justified because of the security they confer and the benefits they promote. A system which spreads its benefits sufficiently widely will enjoy stable support; those sympathetic feelings which lead

citizens to approve the good which others receive transform one's personal interest into a virtue.

At the heart of this argument is a utilitarian claim. Distribution is just when it effectively ameliorates the human condition and gathers the support of those subject to its standards. These standards will be a dense thicket of laws and moral rules, intricately interwoven, the bequest of mankind's history to a specific society. The reality of justice in operation cannot be reduced to a simple model which bears comparison to other simple models. We are grateful for what we have received – and properly so.

This is a conservative argument, endorsing institutions which are fixed in place because they have served utilitarian purposes.³² It suggests a cautious approach to reform in the name of improvement. Since we *know* the contribution made to human well-being by institutions as they stand and can only speculate about the benefits to be gained from introducing changes, we should be reluctant to pursue revolutionary ambitions, contenting ourselves with a continuing programme of small-scale tinkering and adjustment in the service of greater utility.

Equality

The utilitarian need not be entirely conservative or radically opportunistic in the search for improvement. Well-known principles may indicate fruitful directions to take – and the articulation of such principles comprises further elements of the utilitarian ideal of justice in distribution. The first subsidiary principle is likely to be a principle of equality, defended by the use of a law of diminishing marginal utility much discussed by economists. Imagine we have six persons dividing up a cake. Which division will produce maximal utility? We can contrast an egalitarian division with each person receiving an equal slice with inequalitarian proposals by noticing that consumers will get so much satisfaction from a first portion of cake – and some degree less from each subsequent slice. The satisfaction to be gained from further portions at the margin will diminish the more one has already consumed. If three get two slices each and the other three none, the lucky three will get less satisfaction from their

additional slice than the unlucky three would have gained from their first. We can imagine that satisfaction may even become a negative quantity for the person who makes himself sick gorging the lot! Another way of making this point is to argue that those who receive less in an unequal distribution than they would receive were the good to be distributed equally lose more from the movement away from equality than is gained by the individual who receives more of the good than equality dictates. This line of argument suggests that our six cake-eaters should each receive an equal share if we wish to maximize overall satisfaction.

This is a notoriously difficult argument to assess. I spoke of diminishing marginal utility as a 'law', but I cannot claim to have much evidence for it – and it should not parade as an *a priori* principle of practical reasoning. There are too many counterexamples for this to be plausibly claimed, as we shall see when we discuss the criterion of need. The example I discussed only gains whatever plausibility it has by making assumptions which may strain one's credibility in more realistic cases. We must suppose for example, that the claimants are all equally hungry or equally satiated, that they all like cake to the same degree. At bottom, we must suppose that we can both measure and compare, not only the portions of cake which we distribute, but also the satisfaction which the different recipients derive. There is a technical debate here which is crucial but which I shall leave once more unresolved.³³ The principle of diminishing marginal utility may well be the kind of common sense which is nothing more than the theory of some defunct economist, but it does retain a point which is easy to recognize although difficult to apply with any precision. I surmise that if you were the executor of a will instructing you to allocate the bequest to whichever charity you believed would do most good, you would not spend long investigating the claims of Eton College.

Need

Diminishing marginal utility furnishes one (very rough and ready) principle. Another principle which is widely recognized cuts across it. To return to the example of the cake-eaters, suppose one of the six is starving, the others are well fed. In this case, we may

judge that the starving person has claims of need which require that she be fed first with as much cake as would satisfy her hunger. The utilitarian believes that he can account for the strength of claims of need, trading on a feature of utility that we have encountered already when discussing diminishing marginal utility, namely that a distribution of utility cannot simply be mapped on to a distribution of resources. There we noticed that those with more goods than equality dictates were poorer transformers of extra goods into utility than those who had less. In cases where individuals are identified as needy, we are supposing that these are efficient transformers of goods into utility, converting a given input of resources into a better than average utility score. Thus in the case of the cake-sharers, the benefit to be gained by apportioning all or a large measure of the cake to the one who is starving realizes more utility in sum than more egalitarian distributions. And in fact we can imagine cases in which principles of equality and principles of need can be combined to achieve maximal utility. We may be able to save the starving person's life by giving her half the cake. The rest may be divided equally to preserve utility against diminishing marginal returns.

This argument has great appeal. Claims of need – for food, shelter, physical mobility, medical and educational resources – have an urgency which is widely respected. The utilitarian can register this urgency in terms of the suffering of the needy and the degree of satisfaction achieved when relief is provided. And he can justify policies which systematically cater to need in terms of their output of utility, which will be characteristically higher than average. There are many who take responsiveness to need as an intuitive constraint on accounts of just distribution. No theory of justice is satisfactory if it cannot explain this constraint and endorse principles which respect it. The utilitarian believes he is on strong ground here.

Again this is a difficult argument to evaluate fully – and full evaluation would take us far off course. It will in any case be taken up later in Chapter 5. Let me limit discussion by making just two points. The first concerns the concept of need.³⁴ This has proved notoriously difficult to analyse. Discussions have focused on whether needs are identified objectively or subjectively and whether some needs are universal or all needs are relative to the

circumstances of time, place and community standards. The most plausible answers to these questions propose that needs are objective in a sense that desires, however deep and strong, are not. Some needs may be universal – sufficient food to sustain expenditures of energy may be one – but most will be relative to standards of well-being which are regarded as acceptable minima within particular societies. These matters need not be pursued further since I think the utilitarian is essentially an observer rather than a protagonist of these debates. Whether needs are objective or subjective, whether the criteria for identifying them are universal or relativist, the utilitarian can pick up the results of the discussions and explain how principles which promote utility defend the provision for need. One can see how it might be argued that families in Western democracies need a wide range of consumer goods which their grandparents regarded as luxuries. Possessing (or having the option of possessing) a TV set may be necessary for a sense of self-respect which is damaged by one's inability to watch and converse about the most popular soap operas. A dismal thought – but if it were true, if the lack of such possessions *were* the source of great misery, the utilitarian would take account of these facts.

The second problem concerning the utilitarian account of needs provision also arises from considering the facts of the matter, the facts on which the utilitarian bases his strategy. Implicit in the concept of need is the thought that needs represent thresholds of necessary provision. A person's life cannot go well *at all* if that person's needs are not met. *In extremis*, he may even die for the lack of the necessary good. Meeting the claims of need thus seems discontinuous with satisfying the claims of persons who desire goods over and above the threshold of needs. We might put this point by claiming that a person who is in need of some good would not rationally forego its provision in favour of any amount of alternative goods which are above the need threshold. If I need some medicine to recover from cancer (in normal circumstances) I would not welcome the offer of a Porsche from a health service manager who judges that this would be less costly, however much I might have wanted the sports car hitherto. This sort of fact is what makes needs provision an attractive policy for the utilitarian.

Unfortunately, the facts of the matter are not within the utilitarian's control and this may be a case where he is hostage to them.

If claims of need are strictly discontinuous with any amount of above-threshold desire satisfaction, we may be led to endorse any amount of expenditure in cases where needs can only be met by extremely expensive treatment. The value of a child's life is inestimable, we are often told, and mercifully a popular newspaper campaign will induce some generous millionaire to fund the necessary course of treatment. But who would endorse the systematic provision of all necessary resources to achieve some low probability of meeting dire medical need?

The utilitarian can go two ways on this. He can bite the bullet and insist that overall gains do require whatever is necessary to provide goods that are genuinely needed and on this basis call for a radical redistribution of resources. Or he can revise his view that the claims of need are discontinuous with non-needy claims. But this threatens his belief that he has principles of justice that reflect our prereflective intuitions about the strength of claims of need. The utilitarian faces a genuine problem here – but perhaps he can console himself that it is a problem that no theorist of justice can easily avoid.

Desert

We have established that the utilitarian has something plausible, if not definitive, to say about distributions of resources that favour equality and the meeting of needs. Another important principle, which many prereflectively endorse, is that goods should be allocated to those who deserve them, in particular to those who have worked hard in the production of goods and services. Can the utilitarian accommodate any principle of desert?

The traditional utilitarian strategy has been to reduce claims of desert to the provision of incentives. First, there is the piece-work argument: if I cut down twice as many trees as you, working harder, I deserve more financial reward than you do. You could have worked as hard as I, but you took a longer lunch break and sunbathed for a couple of hours in the afternoon. Behind this claim, it is suggested, is the thought that greater productiveness requires the incentive of greater reward. Second, it is often claimed that some skills need a good deal of effort to acquire –

extra years at school, the rigours of university education and possibly a further poverty stricken period of postgraduate training. How can one induce youngsters to undergo these hardships – necessary if society is to have architects, doctors and lawyers – unless subsequent salary levels provide the incentive?

I am deeply sceptical of both of these arguments and invite readers to penetrate for themselves the smokescreen of unrealistic, self-serving rationalization which they throw up. But if it is true that the incentives argument is often unconvincing, the utilitarian can hardly be faulted if he doesn't endorse it. If, on the other hand, this is how the labour market works to the advantage of all, the utilitarian can use these facts to justify incentive payments. There may be more to desert as a principle of distribution than my discussion of incentives has intimated, so I shall take up the issue later.

The state

I shall bring to a close my survey of utilitarian political thought by outlining a utilitarian view of the state. Once again, my contribution will be brief to the point of caricature. But again the discussion will serve to introduce some of the central topics of political philosophy.

Political obligation

One such – perhaps *the* central topic of political philosophy – is the problem of political obligation. Can the state make a legitimate call on our obedience? Do we have a moral obligation to comply with the demands made by the state through its legislation?

The utilitarian tradition has a very strong answer to these questions. One clear reading of Hobbes identifies a profound utilitarian strain in his arguments. Hobbes describes a condition in which we have no government – the state of nature – which is so awful that we would find good reason to institute a government if we were in this condition and good reason to preserve one if a government were already in place. Without government, in circumstances technically described as anarchy, there would be no stable

property, no investment in industry or agriculture, no commerce, no arts and sciences, no building of bridges or arts of navigation. The life of man would be ‘poore, solitary, nasty, brutish and short’, to quote his famous phrase.³⁵ This argument touts the benefits of government as the antitheses of the evils of the natural condition, evils so evident and widespread that everyone has good reason to avoid them in the only way possible – by accepting an obligation to obey the law of the sovereign.

I said that Hobbes’s argument bears a utilitarian reading because its conclusion would be welcome to the utilitarian who seeks to justify sovereign authority. Such authority, we are told, is necessary for everyone to be happy, to get what they want, or to promote other independent values. But it is important to recognize that Hobbes himself was *not* a utilitarian, he was an egoist, accepting a theory which identifies the good as relative only to the agent who experiences it.³⁶ So we should recognize a coincidence rather than a conflation of views. Hobbes’s case is that sovereign authority can be justified severally to each rational agent concerned to promote his or her own best interests; it procures their mutual advantage. The best outcome for each coincides with the best outcome for all since each, distributively, has good reason to endorse that institution which maximizes benefits for all, collectively. The utilitarian can accept Hobbes’s conclusion and much of the argumentation which establishes it without endorsing the egoism on which it is based.

This was noticed by David Hume. Hume insists, time and again, that the reasons we have for allegiance derive from the ‘public utility’ of government: ‘. . . government binds us to obedience, only on account of its public utility’ (and public utility is the only satisfactory defence for disobedience, ‘in those extraordinary cases, when public ruin would inevitably attend obedience’).³⁷ Government is necessary for justice, justice is necessary ‘to maintain peace and order; and all men are sensible of the necessity of peace and order for the maintenance of society’.³⁸ Hume does not deny that self-interest can give us a reason to obey the government, and this reason is buttressed by our fear of the coercive powers which governments exert, but self-interest can also give us grounds for disobedience. Our original, Hobbesian, interests must be checked and restrained by reflection on the universal benefits of peace and

public order. ‘The observation of these general and obvious interests is the source of all allegiance, and of that moral obligation which we attribute to it.’³⁹ Hume has no doubt that reflection on the widespread benefits of government will give rise to a sense of obligation rooted firmly in an ‘opinion of interest’; ‘the sense of general advantage which is reaped from government; together with the persuasion, that the particular government which is established is equally advantageous with any other that could easily be settled’.⁴⁰

Perhaps it is better to see this as a utilitarian *form* of argument, rather than a convincing utilitarian case. The anarchist, for one, would not accept it since he would reject the skimpy account of the facts of the matter. The Hobbesian groundwork – the description of anarchy in the state of nature as impoverished and dangerous – would be immediately challenged by the counterassertion that mankind lives well without the state. Masterless men do not fight, they co-operate amicably. It is men under government who are the real moral dwarfs: used to being ordered about, under constant threat of punishment for non-compliance, willing to disobey the law and harm each other as soon as they see an opportunity of personal advantage with impunity. Such creatures contrast poorly with moral agents unconstrained by the chains of government. These paragons – and it is important for the anarchist that this is a moral status which we are all capable of attaining – would determine what is right and follow the rule, showing no interest in what they could get away with.⁴¹

At this point in the argument it is important to locate the debate between the pro- and anti-government camps as an issue of fact. Hume and his followers believe a little knowledge of history, a small measure of experience, taken with a moment’s reflection, will establish that government is justified in terms of the advantages it so obviously brings. The utilitarian anarchist begs to differ. Government diminishes our well-being. I do not wish to adjudicate this dispute now, being content to signal the quality of the debate amongst utilitarians concerning whether or not we do have an obligation to obey sovereign authority. Supposing that right is on the side of Hume, we can go on to the next question, which concerns the best form of government.

Democracy

Continuing his argument concerning the optimal rules for property distribution, the system of justice, Hume believed that, apart from some small opportunities for limited improvement, the best form of government is likely to be the one we have got in place. Whatever its form, we can accept it as a most suitable response to local problems in local conditions, given the history of the population in the locality. It will be some mix of monarchical and republican traditions, incorporating elements of authority and freedom. Bentham, writing shortly after Hume, regarded this sort of complacent conservatism as the defence of the indefensible. First principles are available from which we may deduce that the only legitimate form of government is democratic. Leisurely rumination in a comfortable armchair, scholarly allusions to Thucydides and Tacitus – these are no substitute for rigorous theory where appropriate theoretical techniques are to hand. If we are genuine utilitarians, we can inspect the mechanisms of the different forms of government – monarchy, aristocracy, democracy, plus a host of mixed and qualified forms – to see which of them best facilitates utilitarian purposes.

Bentham thought institutions were legitimate if they maximized happiness. Government is necessary to constrain the worst effects of rampant self-interest and to engineer co-operation. These purposes are effected by law, and the test of good law is whether it maximizes the happiness of all those who are affected by it. How can we tell, of two proposed remedies for a social problem, which is the best? One answer is to call in the wisest utilitarian calculator you can find, the expert in this domain of economics, sociology or futurology. Mercifully, we do not have to inspect credentials in these spheres since a short cut is available. Policies can be appraised by working out how they impact upon the happiness of the target population. Why not assume that each member of the population is the best judge of his or her own happiness and leave it to them to declare, on this basis, which policy they favour? If the declaration is made in a ballot, and if each contribution is weighted equally in the process of counting, then a majority decision will suit more members of the population than it frustrates.

The policy favoured by the majority will produce more happiness than any alternative.⁴²

This argument is blissfully simple. It is also plausible given the wealth of circumstances in which we recognize its application. It is my turn to make the arrangements for a holiday with five friends. Do I book a fortnight of sun, sand and surfing or do I arrange a holiday visiting art galleries, cathedrals and fine restaurants? It would be quite wrong to foist on my friends my own heavyweight conception of what would be in their best interests, all things considered – isn't the best policy just to ask them what will please them most and go along with the majority decision? That way we maximize satisfaction; and even the frustration of the minority will be tempered by the thought that they prefer the company to a solitary trip to their first-choice destination.

The obvious objection to this argument attacks the source of its immediate appeal – its simplicity. What is obviously best policy when arranging holidays is not necessarily wise for a legislator. We shall look at democratic theory more closely, later, but for the moment we should mention some of the assumptions that are made when this argument is used in a political context.

First, the argument applies most conspicuously to direct democracies where ballots are taken on specific proposals as they arise. If the question to be answered is: Which party shall form the next government? it should not be assumed that each policy subsequently enacted by the elected party promotes the welfare of the voters who mandated the party to govern. Representative democracy is a different creature from its directly democratic cousin, and the differences deserve the closest scrutiny – which is not to say that the utilitarian cannot make a contribution to the defence of representative institutions.⁴³

Second, the argument assumes that the utility of each democratic decision can be computed independently of the utility of other decisions, taken before or after. This assumption may be false. Persons may get increasingly dissatisfied as they find themselves in the minority party on successive occasions. 'Win some, lose some', fairly represents the democratic temper, but one who finds himself losing all or most decisions, may experience incremental increases in displeasure. It has been shown that it is technically possible, within a democracy, for a majority of persons to

be in a minority on a majority of occasions.⁴⁴ Over the longer run, when the outcome of a number of democratic decisions is reviewed, it may be that the tally of good achieved is not a simple sum of the good these decisions would have produced had they been considered separately. If there is a large but solid minority which votes together over a wide range of issues and attracts a sufficient number of different floating voters on each occasion of voting, the frequently disappointed majority will get increasingly fed up. The workings of the system will induce measures of frustration independently of those produced by specific decisions. If a majority is entrenched because of religious or ethnic affiliations this dissatisfaction will turn into the anger of perceived injustice. In which case, the majority principle will be rejected.

Third, the argument assumes not only that interpersonal comparisons are possible, but that the impact of decisions for and against is equal in respect of all those who implement or suffer them. Again, this may not be true. A majority may be lukewarm in favour of the winning policy. The defeated minority may be rabidly hostile. The utilitarian democrat must just hope that partisans of the opposing sides experience an equal average degree of satisfaction and dissatisfaction, each side being composed of protagonists hostile or in favour in roughly equal measure of intensity. Maybe, with a large enough population, this assumption is realistic. But the phenomenon, recognized daily, of the passionate minority interest group pursuing policies which would impact in a mildly inconveniencing fashion on large numbers of puzzled or cynical opponents, equally suggests that this assumption is complacent.

These are technical difficulties which it would be a mistake for the utilitarian to discount. Nonetheless, it would be quite wrong to dismiss wholesale the utilitarian instinct to ask people to register their preferences, then judge as right the policy which results from the ballot. We all know that majorities can be mistaken and that counting heads does not settle the matter of truth in a controversy, but we should remember that these truisms give strength to the elbows of those with something to gain from deciding issues for us. Bentham thought the arguments for democracy were perfectly straightforward – to the point where he suspected any rejection of them was motivated by class- or individual self-interest. ‘Sinister interest’ was the term he employed to characterize the motives of