

Mill's Harm Principle and Utilitarianism

1 The Principle

“The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is, that the sole end for which mankind are 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 be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him, must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.” (*On Liberty* [1859], ch. 1, par. 9)

The Harm
Principle

paternalism

moralism

self-regarding
acts

“There are many who consider as an injury to themselves any conduct which they have a distaste for, and resent it as an outrage to their feelings; as a religious bigot, when charged with disregarding the religious feelings of others, has been known to retort that they disregard his feelings, by persisting in their abominable worship or creed. But there is no parity between the feeling of a person for his own opinion, and the feeling of another who is offended at his holding it; no more than between the desire of a thief to take a purse, and the desire of the right owner to keep it. And a person's taste is as much

offense

his own peculiar concern as his opinion or his purse." (*On Liberty* ch. 4, par. 12.)

2 Which categories are most important?

1. Categories of behavior: purely self-regarding vs. harmful to others.
2. Categories of reasons for interference.
 - a. Paternalism: protect the target of interference.
 - b. Moralism: prevent behavior that is wrong, but not harmful.
 - c. Repugnance: prevent offensive behavior.
 - d. Harm principle: prevent harm to others.

3 Relationship to utilitarianism, according to Mill

"I forego any advantage which could be derived to my argument from the idea of abstract right, as a thing independent of utility. I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being. Those interests, I contend, authorize the subjection of individual spontaneity to external control, only in respect to those actions of each, which concern the interest of other people." (*On Liberty* ch. 1, par. 11.)

4 What is utilitarianism?

"By the principle of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words, to promote or to oppose that happiness."¹

¹ Bentham, *Principles of Morals and Legislation*, (1789, revised 1823) ch. 1, §II.

“By Utilitarianism is here meant the ethical theory, that the conduct which, under any given circumstances, is objectively right, is that which will produce the greatest amount of happiness on the whole; that is, taking into account all whose happiness is affected by the conduct.”²

5 What you would expect a utilitarian to say about liberty

the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is ~~self-protection~~ *producing the greatest amount of happiness on the whole*. 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~~ *to produce the greatest amount of happiness on the whole*.

6 Objection: justice

“The striking feature of the utilitarian view of justice is that it does not matter, except indirectly, how this sum of satisfactions is distributed among individuals any more than it matters, except indirectly, how one man distributes his satisfactions over time. The correct distribution in either case is that which yields the maximum fulfillment. ... There is no reason in principle why the greater gains of some should not compensate for the lesser losses of others or more importantly, why the violation of the liberty of a few might not be made right by the greater good shared by many.”³

7 A version of utilitarianism sensitive to distribution?

“Correspondent to *discovery* and *improvement* in the natural world, is *reformation* in the moral; if that which seems a common notion be, indeed, a true one,

² Sidgwick, *The Methods of Ethics* (1907), Bk. 4 Ch. 1 Sec. 1 Para. 2.

³ John Rawls, *A Theory of Justice* (Harvard University Press, 1971), p. 26.

that in the moral world there no longer remains any matter for *discovery*. Perhaps, however, this may not be the case: perhaps among such observations as would be best calculated to serve as grounds for reformation, are some which, being observations of matters of fact hitherto either incompletely noticed, or not at all would, when produced, appear capable of bearing the name of discoveries: with so little method and precision have the consequences of this fundamental axiom, *it is the greatest happiness of the greatest number that is the measure of right and wrong*, been as yet developed.”⁴

7.1 Bentham’s repudiation of “the greatest number”

“54. Greatest happiness *of the greatest number*. Some years have now elapsed since, upon a closer scrutiny, reason, altogether incontestable, was found for discarding this appendage. On the surface, additional clearness and correctness [was] given to the idea: at the bottom, the opposite qualities. Be the community in question what it may, divide it into two unequal parts, call one of them the majority, the other the minority, lay out of the account the feelings of the minority, include in the account no feelings but those of the majority, the result you will find is that to the aggregate stock of the happiness of the community, loss, not profit, is the result of the operation. Of this proposition the truth will be the more palpable the greater the ratio of the number of the minority to that of the majority: in other words, the less the difference between the two unequal parts: and suppose the dividend parts equal, the quantity of the error will then be at its maximum.

55. Number of the majority, suppose, 2001: number of the minority, 2000. Suppose, in the first place, the stock of happiness in such sort divided that by every one of the 4001 an equal portion of happiness shall be possessed. Take now from every one of the 2000 his share of happiness, and divide it anyhow among the 2001: instead of augmentation, vast is the diminution you will find to be the result. The feelings of the minority being by the supposition laid entirely out of the account (for such in the enlarged form is the import of the proposition), the vacuum thus left may, instead of remaining a vacuum,

⁴ Bentham, *A fragment on government* (1776, revised 1823), preface.

be filled with unhappiness, positive suffering—magnitude, intensity and duration taken together, the greatest which it is in the power of human nature to endure.

56. Take from your 2000 and give to your 2001 all the happiness you find your 2000 in possession of: insert, in the room of the happiness you have taken out, unhappiness in as large a quantity as the receptacle will contain. To the aggregate amount of the happiness possessed by the 4001 taken together, will the result be net profit? On the contrary, the whole profit will have given place to loss. How so? Because so it is that, such is the nature of the receptacle, the quantity of unhappiness it is capable of containing during any given portion of time is greater than the quantity of happiness.

57. At the outset, place your 4001 in a state of perfect equality in respect of the means, or say instruments, of happiness—and in particular power and opulence: every one of them in a state of equal liberty, every one independent of every other, every one of them possessing an equal portion of money and money's worth: in this state it is that you find them. Taking in hand now your 2000, reduce them to a state of slavery, and, no matter in what proportion, of the slaves thus constituted divide the whole number with such their property among your 2001. The operation performed, of the happiness of the whole number, 4001, will an augmentation be the result? The question answers itself.

58. Were it otherwise, note now the practical application that would be to be made of it in the British Isles. In Great Britain, take the whole body of the Roman Catholics, make slaves of them and divide them in any proportion, them and their progeny, among the whole body of the Protestants. In Ireland, take the whole body of the Protestants and divide them in like manner among the whole body of the Roman Catholics.”⁵

⁵ Bentham, *Article on Utilitarianism in Deontology together with a table of the springs of action and the article on utilitarianism* [1829] (Oxford UP, 1983), pp. 309–10.

7.2 Bentham and equality

“Bentham argued that the greatest happiness principle meant an ‘equal quantity of happiness’ for every member of the community in question. Although he realized that on many occasions in numerous practices (punishment is a good example) happiness or unhappiness could not be distributed equally, and, furthermore, equal distribution must give way to the security of existing distributions, none the less, the equality which he postulated was a substantive goal which aimed at an equality of condition. Bentham justified this emphasis on equality by introducing the idea of diminishing marginal utility. An addition of wealth to a rich man would bring far less increased happiness than the same additional amount would bring to a poor man. Similarly, a decrease in the wealth of a rich man would cause less pain than for a poor man. Bentham’s emphasis on equality as an end of legislation and as part of his very conception of happiness thus made equality an important aim of public policy.”⁶

⁶ F. Rosen, “Introduction” in *An introduction to the principles of morals and legislation* (Oxford UP, 1996), p. xxxvii. The quotation is from Bentham’s *Parliamentary Candidate’s proposed Declaration of Principles: or say, A Test proposed for Parliamentary Candidates* (1831), p. 7.