

utilitarian, faced with the issue of abortion, would look at the social conditions leading people to want abortions in the first place. Asked about a law, a utilitarian would wonder what benefits and harms arise from the criminalizing of activities. The cast of mind is that of the engineer, not the judge.

John Stuart Mill thought he had some kind of proof of the principle of utility. He thought desiring a thing and finding it pleasant are one and the same. So each individual is concerned, always and solely, for things only insofar as they are pleasant to that individual. So it follows, somehow, that everyone in general is concerned for everyone's pleasure, or for the general happiness. This is another of those cases where the argument is so bad that the conclusion not only fails to follow, but actually seems to contradict the starting point. It is like arguing that since each person ties just his or her own shoelaces, everyone ties everyone's shoelaces. But alas, except in a world of one person, if each person ties just his or her own shoelaces, *nobody* ties everyone's shoelaces. Similarly, if we each desire what is pleasant to ourselves, then nobody desires what is pleasant to others, *unless* the pleasure of others is somehow an equal object of pleasure to each of us. This would be a world of indiscriminate universal sympathy: a nice world, but not quite the world we live in. People typically desire that they themselves get an enjoyment more than they desire that someone else gets it.

Ethics

Even without the dubious help of Mill's argument, we can still appreciate the aim of maximizing the general happiness. This aim is forward-looking, impartial, and egalitarian: everyone counts for one, and nobody for more than one. It is an aim we want people to have. This recognition is very old: benevolence or *jen* is the supreme virtue of Confucianism. And in public affairs it has a very respectable pedigree. It is an old legal maxim that 'Salus populi suprema lex' – the safety of the people is the supreme law. If safety includes freedom from a lot of evils, and if that freedom in turn makes up welfare or happiness, then we are close to utilitarianism.

Any decent ethic would want to cry up some virtue of benevolence, or altruism, or solidarity with the aim of increasing welfare and diminishing misery for everyone. The question is whether this is the only measure, so that everything else, and in particular the deontological notions we have already met, are subordinate to this goal. Just as a lot of crimes are committed in the name of liberty, so they can be committed in the name of the common happiness. Suppose just a little bit more happiness is obtained by trampling on someone's rights. Do we have to approve of that? Is justice itself subordinate to the general good? What if it creates more happiness to give a benefit to Amy, who does not deserve it, than to Bertha, who does?

It can sound repugnant to think that we should balance justice against consequences, even when the consequences are impartial and general, and measured in terms of the most sophisticated notion of happiness we can describe. Perhaps part of us wants to thrill to a rival slogan: 'Fiat justitia et ruant caeli' – let justice be done though the heavens fall.

We seem to have a stark opposition between two slogans: 'Fiat justitia . . . ' versus 'Salus populi . . . ' The great David Hume responded by splitting the difference. The answer suggested by Hume's own analysis has become known as 'indirect' utilitarianism. Rules, including rules of property, promise-keeping, and rules concerning rights in general, are justified by their impact on the general happiness. The law is justified by the safety of the people. But this does not mean that the rules or the laws must *themselves* be forward-looking, always contingent upon the benefits to be obtained on the occasion. The system is artificial. It has a utilitarian justification, but the application of the rules in particular cases does not.

For a parallel, consider the rules of a game. The game may be there for a purpose – say, to provide pleasure for the spectators and the players. But the rules of the game determine how it is conducted.