

# **Practical Utilitarianism and the separateness of persons objection**

**Sampsa Rapeli**

**Abstract:**

In modern political philosophy, utilitarianism is often considered a road once tried and found wanting. A major reason for this is the eminence of John Rawls' Theory of Justice, which provides a number of arguments against it. One of them is the separateness of persons objection, which accuses utilitarianism of viewing separate persons as one, and thus considers the happiness of individuals freely aggregateable and interchangeable. This, it is thought, results in unacceptable consequences in matters of distribution. Similar criticisms are found in the works of Scanlon and Nozick. In this thesis I argue that the separateness of persons argument only works if interpreted as a weak argument against moral aggregation, and that a type of utilitarianism, restricted to political domain and informed by the practical limitations of human nature and the possibilities available to the utilitarian state, can deal with this objections.

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## MOTIVATION AND INTRODUCTION

The genesis of this paper lies in certain doubts I have regarding the dominant, contractarian political philosophy our day. I will say a few words regarding them here, as it might help to illustrate the sort of political philosophy defended here, and the extent or limits of my ambitions. We can define the modern day contractarian theory as having two key features: the acceptance of reasonable disagreement over morality in society, and justice defined as those political practices that are acceptable to all reasonable persons within it. Yet the concept of reasonable, whether applied to claims on resources or welfare or political beliefs, is a nebulous one, so that it is often difficult to tell what claims are reasonable and what unreasonable, and hence what demands should be satisfied by political philosophy and what ignored. Many solutions have, of course, been proposed to deal with this problem, beginning with Rawls' veil of ignorance (1971), which was meant to erase the differences between the citizens' perspectives. Yet the multiplicity of such answers is problematic in itself, for we can imagine that in actuality all citizens and groups of citizens gravitate towards the conception of justice and of reasonable and unreasonable claims that most benefit themselves. This makes a contractarian state a sort of popularity contest, where different interest groups all put forward their claims as reasonable, and decry those of their opponents as unreasonable, with only numerical superiority being the final decider between them. This is a philosophical problem, yet it lies behind many of the political debates and problems in actually existing states, such as the treatment of the unemployed or the disabled, or the reasonable size of pensions, and hence deserves to be addressed.

One way to deal with this problem would be to propose a non-moral standard over which no reasonable disagreement could be had, and truth of which would not depend on any agreement or acceptance from the part of the citizens, and which could thus supply clear empirical evidence for one side or another. We need not look very far to the history of philosophy for such a standard, for it presents to us readily in utilitarianism. I have in mind here a state founded on utilitarian principles, yet not necessarily one that continuously engages in utilitarian calculus. Utilitarianism apparent in the basic structures of the society, that is, and not utilitarianism studiously followed in the individual decisions of the private citizens or even of the state. Of course, utilitarianism as a political philosophy has widely fallen out of favour, and not without a reason. Yet many of the most serious arguments against it apply only to the latter sort of utilitarianism, which imagines it being pursued to its logical extremes without regard for what practical, or actual form utilitarianism might take. It is this blind spot in the modern political philosophy's treatment of utilitarianism that this

paper intends to tackle. The objection, or rather the set of objections, against utilitarianism considered here are those collected under the label of separateness of persons, which claim that utilitarianism is refuted because it demands unacceptable sacrifices from one individual to benefit another. This objection, I argue, either does not apply to utilitarianism as conceived as put into practice, or is too weak to be taken seriously.

The structure of this thesis is as follows. In the first chapter I provide some background for utilitarianism as a political philosophy, as well as to its failures, by looking at the most prominent variant of it, Classical Utilitarianism. We shall see that it fails to be an attractive political philosophy mainly because of its overly wide reach, in that either seeks to apply itself, or is applicable, to all moral matters and not merely political ones. In second chapter then, based on what we learnt in the first chapter, I provide a modernised variant of political utilitarianism, the titular Practical Utilitarianism, that differs from the classical version mostly by its limited reach, different conception of the Good, and some practical limitations that are included in the definition of the theory. In the third chapter then, we get to the separateness of persons objection, which this thesis sets forth to reply to. We shall find it to be rather a set of objections, and be strongest when interpreted to be an objection against aggregative features of utilitarianism. This version of the objection is then answered in the final chapter, based on the features of Practical Utilitarianism developed earlier. The thesis defended here is that Practical Utilitarianism provides a solution to the separateness of persons objection against utilitarianism.

## **CHAPTER 1. BACKGROUND: CLASSICAL UTILITARIANISM AND BEYOND**

The purpose of this chapter is firstly to provide a general definition of utilitarianism, as well as that of Classical Utilitarianism that serves as the background and inspiration for the version of the theory advanced in this thesis. Secondly, and more importantly, I also provide here a brief exploration of features of Classical Utilitarianism that explain why it is (or rather was) an appealing system of political philosophy, and why it was ultimately subject to devastating criticisms. In my reading, Classical Utilitarianism is an empirically inspired political philosophy, yet one which makes most of its suggestions on the basis of broad, rational knowledge of human nature. It is fundamentally a political philosophy, aimed at real-world reform, yet also contains within it totalising tendencies, allowing, or even demanding it to be extended to all moral domains. These aspects of Classical Utilitarianism, as we shall see, are in a conflict, for the political aspect of the

theory can stand independently from the total utilitarian moral system, and the moral aspect only serves to open it for strong criticisms.

However, before we get into deeper discussions, let us begin with the general definition of utilitarianism. It is a consequentialist theory, meaning a doctrine that moral acts are to be evaluated by and only by their consequences, which are defined according to some account of the Good. Utilitarianism adds to this that the Good must be non-moral, and that the rules of aggregation apply to it without any direct restraints. This should not be taken to mean that any and all aggregation is acceptable for such a theory, only that there are no foundational reasons to limit it. Limitations to aggregation can only be imposed then for the sake of efficiency in cultivating the Good, as when property rights would be upheld for the sake of societal stability and productivity.

Sinott-Armstrong on a overview of the topic (2015) also lists a number of auxiliary assumptions of Classical Utilitarianism. Its theory of the good is simple hedonism: what matters is pleasure and pain, or in the later development of Mill, pain, and pleasures of higher and lower order. It is also universal, considering every sentient being, and equal, affording all them the same weight in its calculations. Finally, it is also agent-neutral, as the same reasons apply to everyone equally, as a person's identity or circumstances do not affect the utility calculations (or estimations) that present themselves to her. That being said, many of these features present themselves only implicitly in the works of Bentham and Mill, and similarly too play no important part in this thesis. They are listed here only for the sake of fleshing out the classical theory.

However, putting aside the assumptions of Classical Utilitarianism listed above, I wish now to explore some features of the theory that explain both its strength and weaknesses as a political theory. By Classical Utilitarianism, I mean chiefly the philosophy of Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873). While popularly considered a third important figure in the tradition, I mostly ignore the work of Henry Sidgwick (1838-1900), as it already represents a move away from the political focus of early utilitarians to a more total system of morality. The three aspects considered here will be Classical Utilitarianism's empiricism, totalising tendencies, and political focus.

## **Empiricism**

Let us begin with the first of these, empiricism. For Bentham and Mill, utilitarianism was an attempt to base social and political thought on science (Rosen, 2003). Bentham famously ridiculed the concept of rights as "non-sense on stilts" (2002, p. 330), and this is precisely because the concept of rights is non-empirical; rights cannot be sensed and observed, in the scientific sense, and acceptance of them is therefore a subjective matter. Pleasure and pain, which together form the

foundations of Classical Utilitarianism as utility, however can be thus sensed, and hence can work as a basis of an objective political science. In pursuing them one can therefore know to be correct (insofar as hedonism is correct); the correct policy can be empirically determined, and once found is not open to dispute.

This empiricism, however, should not be taken to mean that Classical Utilitarianism is a scientific study in the modern sense. Interpreted in this way, the theory would reduce all moral life to calculations of utility; an inhuman and impossible doctrine (Kymlicka, 2002). There is some support for this sort of view in Bentham, after all he did present a comprehensive felicific calculus to calculate the value of utility in different situations (1970). However, Bentham also adds that the felicific calculus is meant to serve only as a model to evaluate utility and not an actual tool for calculation (1970, p. 40), and Mill too emphasises applying the concept on utility broadly on rules, rather than judging every single act (Mill, 1974, p. 951). Furthermore, if we look at what sort of reasoning Bentham and Mill base their political suggestions on, it is clear that they rely on general observations of human nature. An example of this, which we will return to later, is Bentham noting that loss of something usually results in greater unhappiness than the happiness gained when it is given to someone else (Crimmins, 2017). Classical Utilitarianism, therefore, was an empirically inspired philosophy, yet one that shied away from naked utility calculations, in favour of more blunter policies.

The advantages of empiricism for Classical Utilitarianism as a political philosophy were simple. Since the concept of pleasure as utility was at least meant to be objective and indisputable, it could serve as an objective standard that would provide certain political knowledge, resolving disputes. A further advantage was that it allowed for the Classical Utilitarians like Bentham and Mill to easily come up with suggestions of practical political reform. The concept of utility being simple, its demands or recommendations too were easy to identify.

We may note, however, that one consequence of the empirical origin of utilitarianism is that due to the simplicity of its main foundation, the utility principle, or that what matters is pleasure and pain and only pleasure and pain, Classical Utilitarianism has wide application. For Bentham and Mill it was mostly a political doctrine. Yet the utility principle is indifferent to this application, and applies equally well to private morality as to politics, to minute decisions as to major ones, and can shed the foundation of its judgements from observations made from broad human nature to that of direct calculations.

### **Totalising tendencies**

This leads us to the second notable aspect of Classical Utilitarianism, namely its totalising

tendencies. I take total moral system to be one that applies its rules both to politics and normative ethics, or private morality, and which does so in a direct way. A total utilitarian system, then, is one that applies the principle of utility, the supreme importance of maximisation of pleasure and pain, to all moral decisions, and to each individual act. For the sake of comparison, a total contractarian system would be one that would apply some contractarian principle to all moral matters, and do so directly, as in perhaps asking for a literal social contract regarding every moral decision. The example is enough to show that total moral systems easily become problematic. Classical Utilitarianism contains within it aspects that either allow it to be interpreted in such a total way, or make it easy to develop it to that direction. I call these its totalising tendencies.

Aside from some scattered flirtings with totalised systems like Bentham's felicific calculus, the origin of these tendencies lies in the centrality of the utility principle in Classical Utilitarianism. Lines such as following by Mill:

Happiness is the sole end of human action, and the promotion of it the test by which to judge of all human conduct. (Mill, 1863),

or the following by Bentham:

Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. (Bentham, 1970, p. 11),

make it clear that the principle of utility has universal application. And given that this is the centerpiece of the utilitarian edifice, it is a small step from possible universal application to universally necessary truth. Similarly, the principle clearly can be directly applied, even if neither Bentham nor Mill recommend it. Despite the rhetoric, however, it is not clear that Classical Utilitarianism was meant to be total system, or that even Bentham would have applied the principle directly even if it was possible. There are two reasons for thinking so: firstly, because the recommendations made by Bentham and Mill are firmly political, and their project a project of political reform, and secondly, because as the second quote also makes clear, the principle of utility presents to them a standard, to judge conventional policies to, rather being something to be applied directly. Hence the feature highlighted here is totalising tendencies, rather than simply Classical Utilitarianism being a total moral system.

### **Practical political focus**

This leads us naturally to the last aspect of Classical Utilitarianism that I want to highlight here, namely its political focus. Despite the fact that Classical Utilitarianism foundations were in the above sense total, or conducive to total interpretation, its applications were, as imagined by Bentham and Mill, squarely in the political domain. Bentham's life's work was his Pannomion, or re-imagination of all British laws in accordance with the principle of utility, and for similar reasons he was a vocal advocate of freedom of press, or what he called the public opinion tribunal (Crimmins, 2017). Mill advocated equality of sexes on the basis of his utilitarianism, as well as personal liberty and freedom of expression (MacLeod, 2016). Similarly, Bentham and Mill were not academic philosophers, but saw Classical Utilitarianism as a practical project they could participate in with their lives work. In this spirit, Bentham proposed his ill-fated Panopticon prison for productive use of prisoners (a project later analysed by Foucault), and Mill sought to and got elected to the British Parliament. Classical Utilitarianism was therefore a practical political project rather than an academic philosophy, and in its application a study of rules and heuristics rather than an attempt for total moral system (even if it contained undeniable hints of the latter).

Again, as with the first feature of empiricism, the advantage of this practical political focus for political philosophy is easy to see. Due to it, the gap between philosophy and action was small for the Classical Utilitarians, and the danger of proposing something impossible to put into practice was small (even if some of Bentham's earlier proposals belie this).

Now, it is notable that The the latter two aspects listed here, the political focus and totalising tendency of Classical Utilitarianism are in something of a conflict. This is because, while the extensive scope of the foundational principles of Classical Utilitarianism, and the totalising tendencies that follow from it make the theory more philosophically appealing, they are strictly speaking unnecessary for a political doctrine – a theory of politics need not be founded on metaphysics. And as we shall see shortly, utilitarianism as a total moral doctrine is open to far more criticisms than a more limited political doctrine would be. It also opens two distinctive paths for the further development of the doctrine, one focusing on more theoretical, normative questions to complete the total moral system, the other on practical political suggestions.

Indeed, as we move away from Classical Utilitarianism to more modern days, we find the latter sort of utilitarianism come to predominate. Where Classical Utilitarianism was considered with practical matters such as how politics should be reformed in accordance with the principle of utility, modern utilitarianism is concerned more with theoretical, normative debated to complete the total utilitarian moral system, or with issues of private morality. For the former, we can consider debate started by Moore between actual and expected consequences a paradigmatic debate (Moore, 1947,



pp. 106-107). A more recent example would be debate over the repugnant conclusion, which questions utilitarianism's ethics of population (Parfit, 1984). These debates are philosophically interesting, but from the point of view of political utilitarianism somewhat trivial. A political utilitarianism, operating in the real world and lacking the capabilities of clairvoyance, can only work with expected consequences, a fact that Bentham and Mill quietly realised (M. Singer, 1977). The issue of repugnant conclusion, too, is of little importance to utilitarianism if applied to actual societies. As for example of the latter sort of debates, we can consider Peter Singer's famous article on famine (1972), which places the onus of utility maximisation squarely on the shoulders of private individuals, an approach also followed by Peter Unger on his land-mark book on the responsibility of individual citizens in the developed world (1996).

This move from political domain to normative ethics is, we may note, understandable. Given the totalising tendencies of Classical Utilitarianism, the task of filling in the details of total utilitarian moral system is both possible and philosophically appealing. We can see Sidgwick's *The Method of Ethics* (1907) as a first attempt at the task, showing it to be both worthy and extensive undertaking. Furthermore, since the criticisms of Rawls (1971) against utilitarianism, its value as a political doctrine has been widely questioned. It is therefore unsurprising that modern utilitarianism has maintained the totalising aspects of Classical Utilitarianism, and discarded its political focus.

That being said, these totalising aspects also enable many of the modern criticisms or arguments against it, and indeed many such arguments depend on it. This further cements the appearance that utilitarianism is unsuitable for political philosophy. As example of this, we may consider the following famous argument by Scanlon:

Suppose that Jones has suffered an accident in the transmitter room of a television station. Electrical equipment has fallen on his arm, and we cannot rescue him without turning off the transmitter for 15 minutes. A World Cup match is in progress, watched by many people, and it will not be over for an hour. Jones's injury will not get any worse if we wait, but his hand has been mashed and he is receiving extremely painful electrical shocks. Should we rescue him now or wait until the match is over? Does the right thing to do depend on how many people are watching – whether it is one million or five million or a hundred million? (Scanlon, 1998, p. 235)

The lesson we are meant to draw is that we should not hesitate to rescue Jones, and that consequentialist systems, chief among the utilitarianism, that advice against it are mistaken. The fault found in such systems by this argument of course lies in their unbounded aggregation, but it is worth pointing out what features a consequentialist system must have to fall foul of it. The offending system must not be merely political but apply to most minute ethical decisions, and apply

to them directly, in short, it must be a total system. If applied against Classical Utilitarianism, the argument only works if its totalising tendencies are taken to have primacy over its political focus, and a fully political utilitarianism would be able to ignore the argument entirely, on the basis that the theory applies to laws and political societies, and not to individual political decisions.

Similar story may be told by the following argument by Bernard Williams, this time aimed squarely against utilitarianism:

George, who has just taken his Ph.D. in chemistry, finds it extremely difficult to get a job. He is not very robust in health, which cuts down the number of jobs he might be able to do satisfactorily. His wife has to go out to work to keep them, which itself causes a great deal of strain, since they have small children and there are severe problems about looking after them. The results of all this, especially on the children, are damaging. An older chemist, who knows about this situation, says that he can get George a decently paid job in a certain laboratory, which pursues research into chemical and biological warfare. George says that he cannot accept this, since he is opposed to chemical and biological warfare. The older man replies that he is not too keen on it himself, come to that, but after all George's refusal is not going to make the job or the laboratory go away; what is more, he happens to know that if George refuses the job, it will certainly go to a contemporary of George's who is not inhibited by any such scruples and is likely if appointed to push along the research with greater zeal than George would. Indeed, it is not merely concern for George and his family, but (to speak frankly and in confidence) some alarm about this other man's excess of zeal, which has led the older man to offer to use his influence to get George the job... George's wife, to whom he is deeply attached, has views (the details of which need not concern us) from which it follows that at least there is nothing particularly wrong with research into CBW. What should he do? (Williams, 1973, p. 97)

Again, we may note what sort of features a moral system that would advise George to take the job at the biological weapons laboratory (an unacceptable answer for Williams) would have to have. It cannot be merely political, or else the dilemma would simply not arise, but also apply to private morality. It must also be direct, or else the advice given could be for George to follow his intuitions, given they generally lead to good results. The utilitarianism argued against by Williams is a total one. Also, once again, it is not the totalising aspect of utilitarianism that is attacked by this argument (it is rather the person-neutrality of utilitarianism that Williams find objectionable), but for the argument to work it must be the total utilitarianism that it is applied to.

Now, the point here is not to say that the arguments by Scanlon and Williams rely on a mistaken conception of utilitarianism. On the contrary, given the modern development of utilitarianism, they are quite spot on. However, utilitarianism does not necessarily have to be totalising, and thus vulnerable to this sort of criticism. Indeed, a common response against these arguments is to retreat into rule-utilitarianism, which amounts to denying the direct application of utilitarian principles in individual moral decisions, arguing rather that common-sense morality serves as a sort of useful

heuristic. However, this sort of move does not explicitly deny that utilitarianism is a total moral system, and hence can be considered rather weak. Critics of utilitarianism have responded that rule-utilitarianism collapses into act utilitarianism in many circumstances (Hooker, 2016), given that there is nothing in its foundational principles that would preserve its focus on rules.

The two objections considered above, by Scanlon and Williams, have generally been considered devastating. And applied to total utilitarianism, they are. The disputers of utilitarianism have also good responses for rule-utilitarianism, which attempts to forestall these objections by denying the direct application part of the total utilitarianism. This, however, leaves open the other option available for the utilitarian, which is to deny total utilitarianism by limiting utilitarianism to political domain and denying its applicability to private morality. This is the approach taken by this thesis.

However, before we can go on to detail Practical Utilitarianism, there is one inevitable counterargument we must consider, which is whether a purely political utilitarianism is even possible. After all, the totalising tendencies of Classical Utilitarianism are not an accident, but rather a direct result of the strength and reach of the utilitarian foundational principles. Is a political utilitarianism therefore incoherent? Or let us put the objection in another way for clarification. It seems that the natural direction of the utilitarian argument flows from moral principles to political ones, from the conception of the Good to the political demands aimed at maximising it. Therefore to accept the political consequences while denying the moral foundations would be absurd. We may name this problem the problem of totalising pull.

There are, to my mind, two answers the utilitarian can give in response to this objection. We might simply try to bracket off this worry, insisting that the version of utilitarianism considered here just happens to be limited to political domain. In other words, that it is axiomatically political. Though unsatisfying, such an answer could suffice for us here. However, this answer is also ultimately insufficient. If the theory were to become popular or adopted by an actual state, the issue of whether the foundational utilitarian political philosophy was incoherent would become like a festering wound, demanding an explanation or resolution eventually. It would therefore be good, if not necessary, to provide a more definite answer.

This leads us to the second answer, which is to claim that there is a sense in which utilitarianism is not really foundational. What is truly foundational is our unstated, pre-philosophical moral intuitions, for which philosophical theories offer a good or bad, but never a perfect fit. We adopt utilitarianism, under this conception, because it best corresponds to, either through its principles or consequences, to the primal, confused moral intuitions in the political realm. Utilitarianism, under such a view, is simply a good fit for our unstated intuitions in the political domain, but not in private

morality. This gives us a stop-gap against the totalising tendency of utilitarianism, as well as explains its theoretical origins. As for why private morality demands a different sort of moral system of course remains an open question still, but we have at least provided a direction of how the problem might be answered. Whatever the answer to that may be, it is at least clear from this that a purely political utilitarianism is not necessarily incoherent.

Let us recap the chapter here then, before moving on to details of Practical Utilitarianism. We have found in Classical Utilitarianism two competing tendencies. Firstly, it is primarily a political philosophy, aimed at concrete, real-life reform. However, it also comes with a totalising tendency, resulting from its focus on simple, all-encompassing foundational principles. These two aspects are in a certain conflict, in that a political philosophy that expands unbounded into private morality, without regard to a person's circumstances or personal desires is unacceptable to a liberal mind, as the objections from Scanlon and Williams show. This means that for a utilitarianism to be an acceptable political philosophy, it must be resolutely political, eschewing any relevance to private moral questions. This is the task set for the next chapter, where I present a brief outline of a political utilitarianism, Practical Utilitarianism. It is so named because, aside from being limited to political domain, it is also limited by features of any conceivable utilitarian states; an approach that I again take to be in the spirit of Classical Utilitarianism.

## **CHAPTER 2. PRACTICAL UTILITARIANISM**

In this chapter, drawing on the lessons learned last chapter on the strengths and weaknesses of Classical Utilitarianism as a political doctrine, we develop the rudiments of an alternative theory, Practical Utilitarianism. By restricting it to political domain, it will hopefully be able to deflect some of the criticisms against utilitarianism mentioned last chapter. The other features or aspects of the theory will also be tailored to deal with the much stronger and distinctively political objection of separateness of person. For the sake of clarity the features of Practical Utilitarianism will be split into two categories here. Firstly, I explore the features deriving from purely theoretical considerations, such as what the theory considers to be the Good, or whether it values total or average utilitarianism in society, and so on. After that, I consider some features arising from the necessary limitations of any utilitarian society. Our theory is meant to be practical in a very distinctive sense after all, in that it tests whether utilitarianism can deal with some famous objections by foreseeable actual consequences of utilitarian policy. This division of features into two sets isn't, however, entirely clean for the theoretical features cannot be in conflict with the

practical ones, as it would be absurd for a theory called practical to have theoretical features impossible to be put into practice. Some of the features listed here can be considered necessary, or most reasonable for any theory of political utilitarianism to possess, others allow for future variations of the theory to take a different stance.

## **Theoretical features**

### **Political focus**

The major difference between Classical Utilitarianism and the theory proposed here, Practical Utilitarianism, lies naturally in the latter's more thorough political focus. It retains from its forebear the claim that in the political realm the Right consists in maximising the Good, yet refuses to extend it to private or general morality, and does not claim that this principle follows from any general truth applicable to all practical philosophy. As for how this precisely follows, the theory has little to say. The arguments at the end of last chapter, however, should have proven that this is at least not an absurd position. The theory is therefore strictly political, even if we could easily conceive of a corresponding moral theory. In this Practical Utilitarianism is again quite similar to Rawls' contractual theory, which applies its judgements only to the basic structures of society.

However, as we also saw in the last chapter, the political focus of Classical Utilitarianism is somewhat different from that of modern political philosophy, in that the theory from its inception was meant to provide practical recommendations of political reform. Classical Utilitarianism can be said to consist of a standard of evaluation, the principle of utility, and a program of political reform associated with. In this Practical Utilitarianism must of course differ from its forebear, lacking such a program. This groundedness of the Classical Utilitarianism does, however, have an effect on our theory here, for it constrains some of the theoretical positions it can take. The theory must remain at all times constrained by the limits of human nature and conceivable political reality, and similarly cannot contain arguments derived from outlandish thought-experiments, unless a path could be proven from conceivable political situation to them. We shall see the effects of this, for example, in the selection of the distribuendum or the practical limitations imposed on it.

Finally, the political focus of Practical Utilitarianism also has an effect on how the theory evaluates individual political situations, in that it is holistic. I draw here on the terminology of Scheffler (2006), in that a holistic political theory applies its judgements to systems of distribution, rather than individual cases, judging an individual intervention based on the system that created it. A non-holistic one, respectively, considers everything on case by case basis, and ignores in its treatment of individual distributive acts the system that might justify it. Again, Scheffler notes that

Rawls' theory is a typical example of contractarian holistic system, and similarly our theory here that is proposed to respond to some of Rawls' harshest criticisms of utilitarianism must be holistic.

### **The good and the distribuendum**

Next we arrive to the question of the good, or what is the utility our utilitarianism is interested in maximising. Now in the Classical Utilitarianism of Bentham and Mill this was pleasure, resulting in a theory of hedonism. This theory has some advantages, mainly its simplicity, and how well it ties with the empirical focus of the theory followed earlier. Yet later arguments have shown this to be clearly an unsatisfactory conception. In the most famous of these, in Robert Nozick's classic experience machine thought experiment (1974, pp. 42-45), happy experiences brought about by a virtual reality machine are found, under this conception, to be equal or even preferable to real, meaningful experiences. This is intuitively acceptable, and the argument has indeed been taken to prove that any mental state conceptions of the Good, hedonism among them, to be unacceptable (Griffin, 1986).

We might consider here next some theory of objective list, defining as the Good some virtue or good such as truth, or wealth or love or a list containing a number of them. However, the problem with such accounts is that they are incompatible with utilitarianism's empirical, scientific (or pseudo-scientific) focus. Mill famously declared that the only thing that identifies something as desirable or the Good is that people actually desire them (Mill, 1863, p. 234), and there is no objective good that would fulfil this criteria sufficiently universally to banish the doubt that its inclusion in the list depends on our moral approval. Or to put it in other words, while pleasure can (at least for Bentham and Mill) be seen to be so universally desirable that we could not doubt its good, any objective good being in fact good depends on our subjective taste. Hence objective goods or objective lists conflict with the empirical focus of Classical Utilitarianism, which ought to also be retained in Practical Utilitarianism.

We pass on to the next most popular alternative then, preference satisfaction, which names as the utility the fulfilment of desire. Yet this approach is vulnerable to the obvious objection that we often find of our desires, upon fulfilment, that they were not truly what we wanted or in some sense bad for us. To deal with this objection we must add a further condition that the desire to be satisfied be acceptable from a rational, informed viewpoint, and hence we arrive at the theory rational preference satisfaction, or the satisfaction of informed desire, however we like to call it. The precise theory of the good we follow here is that of Brandt (1979), who holds a desire to be rational if it passes what he calls "cognitive theory", which consists of making clear to us, perhaps via some form of therapy, the origins and consequences of our desires. The desires that remain, would thus be

those that an informed and rational person would accept. This is also the definition that Rawls accepts for utilitarianism, as he speaks of it as the "maximisation of rational desire" (1971, p. 25).

Having thus defined the good of our utilitarianism, we are then presented with the question of what is to be the distribuendum of it, or what shall the utilitarian action distribute. This cannot be the actual fulfilment of rational desire, since even a single individual possesses a great number of often conflicting desires, making this an obviously impossible option. Instead, the distribuendum must be primary, that is, in most cases, money. The presumption behind this being that individuals themselves will then use that money for the fulfilment of their preferences, and that they are roughly equally effective at doing so.

### **Average and total utility**

Finally, we arrive to the question of whether we are interested in maximising average or total utility (not to be confused with our earlier distinction of total or political *utilitarianism*). The former is concerned with maximising the average utility shared by the current members of the society, while the latter insists on maximising the total possible utility available on the long term. The question is therefore essentially that of population. Average utility utilitarianism is indifferent to the number of people in society beyond its effect on the average, while that concerned with total utility often insists on increasing it to maximise the number of "containers" that might hold welfare. The sort of utilitarianism considered in this thesis will be average utility utilitarianism, for that is also the form of utilitarianism most contractarian objections are aimed at, as well as by far the stronger variant.

This is not to say that Practical Utilitarianism is necessarily incompatible with total utility utilitarianism. Were our overall normative outlook such that total utility utilitarianism would look attractive, perhaps in valuing universality of morality to the point of including only potentially existing people, then Practical Utilitarianism could certainly be modified to value total instead of average utility. However, I ignore such questions here, and in any case such a theory would easily result in unacceptable demands being placed on already existing members of society.

The final thing we can note regarding the matter is that total utility utilitarianism and utilitarianism as a total moral system often go hand in hand. This is because average utilitarianism is strictly speaking something of an unnecessary limitation or constraint to the theory, and if we only were to focus on the maximisation of the Good, total utilitarianism would naturally follow. Conversely, once we accept the need to limit the scope of our conception of utilitarianism to the political domain, we can also easily accept the reasonableness of also limiting it to average utility.

### **Practical features and limitations**

### **Normal state of affairs**

The first feature, or limitation is that Practical Utilitarianism considers only politics under normal state of affairs. By this I mean here that the political entity is under no state of emergency, which I define here as a state where the society is so threatened that vast sacrifices would be needed from part of the populace to safeguarded the existence of the state, or lives of great number of its inhabitants. A major war would count for a reason for such state of emergency, as might a pandemic or regular and debilitating terrorist threat. The purpose of this limitation is to rule out cases where by sacrificing one or few innocent live we might save ten thousand others, or similar. This omission might at first seem peculiar, but there are good reasons to limit the theory like this.

First of all, many of the arguments for and against utilitarianism work on the level of intuitions, and our intuitions, by and large, have been formed under the normal state of affairs, and as can only be presumed reliable when applied to it. Considering cases of emergency would therefore muddy the waters unnecessarily. Now it might be objected that it is only by considering such cases that we get to see the true colours of utilitarianism. However, we may note in response that even for an utilitarian there is value in having constitutional rights and safeguards, so that in single instances we would not want depart from those rights even for the sake of vast benefits. Of course this utilitarian reasoning would be different were the state of emergency to be persistent, but the point about the genesis of our intuitions would then be doubly relevant, and showing that utilitarianism under such conditions is unintuitive shows nothing. Our intuitions under such conditions would be different anyhow, and perhaps more receptive to brutally utilitarian politics. Or to put it in other words, a short state of emergency might not justify changing the laws and customs of the land even under utilitarian reasoning, while a persistent one might justify the harshest of measures to the intuitions of the citizens living under it.

There is also a simpler reason to ignore states of emergency, which is again to direct our attention to the “practical” aspect of our utilitarianism. The theory here is meant to be such that it could conceivably be put into practice, and this already suggests ruling out cases of emergency. After all, the states that my readers are likely to live will be peaceful ones, and so will be the states they imagine reforming or whose politics they will examine with the philosophical eye. Again, then, we find that considering states of emergency, while certainly philosophically interesting, would be for our purposes distracting.

### **Assumed preferences only**

The second practical feature of our theory is that I assume that the state has no access to the precise



preferences or desires of individual people. The utilitarian state might be presumed to have access to generic knowledge related to people's preferences, i.e. what sort of things people generally desire, or what a person belonging to a certain group might likely lack and thus desire. But beyond that, due to lack of resources or ability, the precise desires of individuals cannot be fulfilled by the state, except through the provision of primary goods. The utilitarian state, and hence Practical Utilitarianism itself, operates therefore on the level of assumed preferences, rather than actual ones.

This limitation I believe to be only reasonable. The collecting and monitoring of information on the desires of individuals would be a bureaucratic task of monstrous proportions, and hence we should not labour under the impression that it should ever even be attempted.

### **Borders and scope of the state**

The final matter to consider is the scope of the state, or what the theory has to say about issues of borders, immigration, foreign policy, or in general of people outside the society. Regarding these issues, Practical Utilitarianism has nothing to say. We imagine here rather the liberal state standing alone, with no neighbours and only its internal issues to be concerned about. This is not because the issues of foreign policy, borders, immigrants, and etc. are not interesting for the utilitarian theory, on the contrary, due to its strongly universal nature, they are of great philosophical interest. But they will have to be dealt with elsewhere, for our theory here ignores them. In this matter we again take our cue from Rawls, who dealt with these issues in a separate work. A similar response would be given to the question of how the theory would respond if there was no state, for example in a pre-political situation. The theory simply assumes that the liberal state exists; regarding other situations the theory, as presented here, has nothing to say about.

Aside from the features listed above, the theory of Practical Utilitarianism follows the example of Classical Utilitarianism. Thus our theory too contains no features to curb aggregation, beyond what is conducive to the maximisation of utility. It is also universal and equal, in that everyone's welfare counts, and no-one's welfare counts more than others. It is also agent-neutral, in that the same reasons apply for everyone, albeit due to the political focus of our theory the agent is imagined always to be the state, or a representative of it. These features, to my understanding, exhaust the definition of Practical Utilitarianism.

To recap then Practical Utilitarianism retains from Classical Utilitarianism its political focus, defining as the Right the maximisation of the Good, yet limiting the validity of this claim to the political domain. The good then, is defined as the informed preference satisfaction, and the distributum, due to practical limitations, is primary resources.

### CHAPTER 3: SEPARATENESS OF PERSONS OBJECTION

In this section we get to the objection against utilitarianism, the answering of which provides the motivation for this thesis. Yet as we shall see, it is not really a single, well-focused objection, but rather a set of them, proposed by different authors in differing interpretations. Yet in whatever form, it differs from the arguments seen earlier by Williams and Scanlon, in that unlike them it cannot be answered simply by limiting the utilitarian theory to politics. Yet there is also a sense which it is similar to those arguments considered earlier, in that it too identifies something individually rejectable in the doctrine. The objection first appeared in Rawls Theory of Justice (1971), and since all other variants of the objection are at least inspired by it, the passage is worth quoting in full here:

The most natural way, then, of arriving at utilitarianism (although not, of course, the only way of doing so) is to adopt for a society as a whole the principle of rational choice for one man. Once this is recognized, the place of the impartial spectator and the emphasis on sympathy in the history of utilitarian thought is readily understood. For it is by the conception of the impartial spectator and the use of sympathetic identification in guiding our imagination that the principle for one man is applied to society. It is this spectator who is conceived as carrying out the required organization of the desires of all persons into one coherent system of desire: it is by this construction that many persons are fused into one. endowed with ideal powers of sympathy and imagination, the impartial spectator is the perfectly rational individual who identifies with and experiences the desires of others as if these desires were his own. In this way he ascertains the intensity of these desires and assigns them their appropriate weight in the one system of desire the satisfaction of which the ideal legislator then tries to maximize by adjusting the rules of the social system. On this conception of society the separate individuals are thought of as so many different lines along which rights and duties are to be assigned and scarce means of satisfaction allocated in accordance with rules so as to give the greatest fulfillment of wants. The nature of decision made by the ideal legislator is not, therefore, materially different from that of an entrepreneur deciding how to maximize his profit by producing this or that commodity, or that of a consumer deciding how to maximize his satisfaction by the purchase of this or that collection of goods. In each case there is a single person whose system of desires determines the best allocation of limited means. The correct decision is essentially a question of efficient administration. This view of social cooperation is the consequence of extending to society the principle of choice for one man, and then, to make this extension work, conflating all persons into one through the imaginative acts of the impartial sympathetic spectator. (Rawls, 1971, p. 26-27)

In this criticism against utilitarianism by Rawls, the theory is therefore accused of viewing individuals as if parts of one supreme, elongated person. Yet already there the argument allows for multiple interpretations, and similar but subtly different arguments also appear in the works of T.M. Scanlon and Robert Nozick, further muddying the waters. Regardless, there is something similar in all their arguments, allowing us to identify the general guiding thought of the separate arguments.

This thought broadly goes, then, that utilitarianism errs in viewing individuals as merely means of attaining each other's happiness, without paying heed to the borders between them that establish each as a separate individual. Precisely where this mistake occurs, and what is so unacceptable about it allows for variety of interpretations, and indeed almost all possibilities are considered in the literature.

The mistake of utilitarianism may be viewed as foundational, or metaphysical; as resulting in morally unacceptable consequences; or simply as something that allows a reasonable person to reject it, thus rendering it unjust. In this section I explore these interpretative options, as well as evaluate their strength. The above possibilities gives the categories of foundational objections, which are generally simply to deal with, and objection against aggregation, which lends itself to a strong and weak variant.

### **Foundational and methodological objections**

This group of objections could also be termed the metaphysical objections, given that they deal with utilitarianism's relation or perspective on the world. However, I will use here the term foundational and methodological here, so as to include some non-metaphysical yet clearly related arguments in this section. What links the objections discussed here are that they deal with the foundational principles of utilitarianism, with its conceptions of politics or persons, and not merely with the consequences of what follow from them, as other, more common objections do. The fault is therefore found in the relation between utilitarianism and the world. The simplest of such objections, what we might term the the blunt metaphysical objection, originates from the last two lines of the passage by Rawls quoted above, where it is noted of utilitarianism that it is:

[T]he consequence of extending to society the principle of choice for one man, and then, to make this extension work, conflating all persons into one through the imaginative acts of the impartial sympathetic spectator. (Rawls, 1971, p. 27)

Taken literally, Rawls' objection here seems to be that utilitarianism is mistaken in the way it views individuals, as if they were merely pieces of one super-person, whose desires are to be maximised and fulfilled. To my knowledge no major contractarian theorist advocates this sort of objection, yet it is undeniable that it presents itself as an obvious interpretation of Rawls' words here.

In the crude form described above, the argument is vulnerable to two obvious counter-moves. Firstly, the utilitarian might simply bite the bullet, accepting the soundness of the objection but claiming that it is irrelevant for the purposes of political philosophy. Secondly, the utilitarian might

deny any such metaphysical mistake from his part. Indeed this is the stance taken by Alastair Norcross in his brief discussion on the metaphysical interpretation of the separateness of persons argument (2008). Norcross notes that the objection accuses utilitarianism of uncanny conception of humanity, yet in fact utilitarianism works very well even when treating humans as separate beings. If the argument is that utilitarianism commits an ontological mistake in conceiving its objects, then the argument is a straw-man, given that such conception is not necessary to it, and nor do any actual utilitarians hold it.

Regardless, a subtler yet very similar arguments has been advanced by Anthony Laden (2004), which are worth discussing here. Laden distinguishes four levels on which a theory might respect separateness of persons: on the content of the principles, the form of the argument in favour of them, the conception of political morality in general, and the conception of political philosophy. Of these, the last pertains to Laden's specific vision of political philosophy and is thus not relevant for us here, yet the other three approaches can be understood as variants of the foundational argument against utilitarianism.

In the argument about the content of principles, Laden argues that utilitarianism fails to respect separateness of persons on this level by failing to consider distribution except indirectly. This is contrasted to contractarian theories, specifically Rawls', that supposedly do. The fault therefore lies in utilitarianism's theory of the good. Yet in response, we can immediately point out that it is not enough to claim that distribution matters, one must also provide reasons why it does. A contractarian might respond that, it matters because a reasonable person might reject a conception of justice that fails to account for it. Yet this is different from claiming that utilitarianism fails because it does not consider distribution, for now it seems that it is the rejectability of utilitarianism that is the issue. I will consider that argument when we come to the aggregation objection in this section, and so answering it will have to wait for the moment. In any case, it is clear this objection does not work without further fleshing out. We might also note that another way to flesh out the objection would be to say that distribution matters because equality matters. Responding to this objection is outside the scope of this paper, but it might be noted that this not necessarily insurmountable objection to utilitarianism.

The second way Laden claims utilitarianism fails to respect the separateness of persons is by the form of its argument. By this he seems to mean both that it fails to respect publicity of justice -another argument that is outside the scope of this paper- and that, in Rawl's words, it is guilty of "conflating all persons into one." I understand it therefore as a variation of the metaphysical argument treated above. However, Laden does not seem to view it as a metaphysical or ontological failure of utilitarianism, but rather as a failure of the utilitarian logic, or how it views persons,

namely as mere containers of welfare to be aggregated into one. The simple dismissal given by Norcross to the earlier version of the metaphysical argument will therefore not suffice. However, we can respond here, that if the problem here is not the ontology of utilitarianism, then it is not clear how this argument is relevant. Since utilitarianism is interested in the maximisation of welfare, it is natural that it does not, in its foundational principles, have a richer conception of person other than as a containers of it. Yet this does not mean that utilitarianism denies separateness of persons, or that utilitarian politics would ignore it. It simply appears in the later stages of the utilitarian argument, when we are forced to confront the question of how to best apply the general principles of utilitarianism to the situation at hand. The absence of any reference to the separateness of persons on the level of utilitarian principles therefore does not imply denial of it, and so this argument cannot be considered very threatening.

Finally, Laden also claims that utilitarianism fails to respect separateness of persons in its conception of political morality, or by what it sees the purpose of politics. Utilitarianism is interested in how to bring about some ideal state, or a teleological theory in Rawls' terms, while in contrast, contractarian theories are more interested in how we should relate to each other. Utilitarianism, it is accused, treats people as interchangeable objects to be used for some purpose, while contractarianism accepts their full independence and distinctiveness.

This criticism, if valid, does indeed seem to be one that utilitarianism has no answer for. The starting point of utilitarian theories is the conception of the good, from which all other conclusions follow, and the way it views actual people must constantly be informed by how they should be treated and be related to each other so as to maximise the pursuit of it. So much is undeniable. Yet in a sense this seems inevitable in politics, and the contractarian conception of political morality, if we are to take Laden's word of it, is strangely empty. For we are not drawn to actual politics simply to find out what each of us wants from the society and considers his bottom line, but rather for some purpose, to achieve some palpable improvement. It is true that this purpose must be informed and constrained by the desires and moralities of others, but utilitarianism does not deny this, only these constraints do not appear as moral principles but as consequences of how to best reach the aim of politics. Yet the constraints and conflicting desires alone cannot provide the impetus for political action, which must instead be provided by a desire to improve, preserve, or bring about something. Laden's final criticism thus presents a too austere picture of political morality. One supposes many contractarian theories would fall afoul of it too.

The foundational and methodological interpretations are therefore found confused, wanting, or mistaken in their conception of utilitarianism or political philosophy in general.

## **Objections against aggregation**

Where the previous objections found fault with utilitarianism's foundational principles, its metaphysics or its approach to political morality, it is more common in the literature to interpret the separateness of persons objection as taking issue with specific consequences of utilitarianism. In particular, it is often the aggregative features of utilitarianism that are considered to violate the principle of separateness. The general form of the argument goes as follows: if we can transfer some amount of welfare or resources from one person to another, so that the benefits to the recipient outweigh the losses of the contributor, then utilitarianism finds this not only acceptable but the morally right thing to do. Yet it is objected that the first person who now lost some of his welfare might very well take issue with this, and that utilitarianism gives him no compensation nor even acknowledges his losses. In doing so it violates the separateness of persons, since it looks only at the state of total welfare, and ignores the gains and losses of individual people.

Another way this objection has been presented (Brink, 1993) is that utilitarianism errs in conflating temporal-neutrality with person-neutrality. This also seems to be behind Rawls' words when claims that utilitarianism extends to society the rational choice by one man. The thought is that it is rational for a person to sacrifice his welfare at one point of time to multiply it for another, but utilitarianism goes even further in believing that it is also rational to sacrifice one person's welfare for a greater increase in others'. The first of these is a case of temporal-neutrality, while the latter is a case of person-neutrality. According to this version of the separateness objection, person-neutrality is unacceptable because the person who suffered the loss is not personally compensated, while temporal-neutrality is acceptable precisely because it is the same person who eventually reaps the benefits.

However, there are two ways we can understand what is prohibited by the objection above. Either the separateness objection forbids all uncompensated sacrifices, or only unjustified, uncompensated sacrifices. In the terms of David Brink (1993), the first interpretation sees the separateness objection as setting a pareto side-constraint on distribution, while the second offers a moralized account of sacrifice and compensation. This gives a strong and weak objection against aggregation.

### **The strong objection against aggregation**

The strong objection against aggregation understands separateness of persons to demand a pareto side-constraint on distributive schemes. Now, a situation X is pareto-superior to situation Y in case there is at least one person who is better off in X when compared to his situation in Y. It is pareto-inferior in the case that Y is pareto-superior to it. X is further pareto-indifferent to Y in case there is

no person who would be better or worse off under X than in Y. The cases are pareto-incomparable if at least one person would be better off in X and at least one other person would be better off in Y. The strong objection holds that only those distributive moves that are pareto-superior or pareto-indifferent to other alternatives would respect separateness of persons. Pareto-inferior moves would be prohibited, while the theory would have no way to deal with pareto-incomparable cases.

The first thing we can note about the strong objection is that utilitarianism has indeed no response to it. Practically all distributive moves it would recommend would be rejected under this condition. However, the problem for contractarians is that this is simply because practically all distributive moves would fall afoul of it, disqualifying most contractarian theories as well. As Brink (1993) notes, most political questions can only be resolved by demanding sacrifices, however small they may, that redistribute welfare without fully rebalancing compensation.

Perhaps a small set of libertarian theories would survive, and even argue for this conception of the objection, the most prominent being that of Robert Nozick (1974). Indeed, Nozick's specific formulation of the separateness objection supports this. Again, given the importance of Nozick's thought, we may quote him full on the matter:

Individually, we each sometimes choose to undergo some pain or sacrifice for a greater benefit or to avoid a greater harm... In each case, some cost is borne for the sake of the greater overall good. Why not, similarly, hold that some persons have to bear some costs that benefit other persons more, for the sake of the overall social good? ... But there is no *social entity* with a good that undergoes some sacrifice for its own good. There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more. What happens is that something is done to him for the sake of others. Talk of an overall social good covers this up. (Nozick, 1974, pp. 32-33)

However, regarding Nozick's theory and the separateness argument interpreted in this way, there are questions of whether even Nozick's system would survive the objection, given that it allows for negative externalities to third parties to follow market exchanges (Brink, 1993). Furthermore, even if we suppose that Nozick's system could somehow be adapted to deal with this objection, the other objections against his theory are many, and under this conception of the separateness objection, at the very least any contractarian theory with egalitarian bent or any interest at all in just distribution would have to be abandoned. The strong objection against aggregation, therefore, does not seem like promising interpretation of the separateness objection, at least for mainstream contractarians.

### **Weak objection against aggregation**

This leaves us with a weaker variant of the objection against aggregation, which allows for

uncompensated inter-personal transfer of welfare in some contexts, but tries to stave off unrestricted, utilitarian aggregation. Once again, two distinct interpretations have been put forward in the literature. The original, Rawlsian interpretation or version of the argument allows for distributive schemes that would be acceptable behind a veil of ignorance. Another view, by T.M Scanlon, however denies the acceptability of arguments relying on hypothetical situations, and as a result only accepts distributions that conform to minmax reasoning. Unlike the strong argument against aggregation, neither of the arguments is unanswerable by utilitarianism, although Rawlsian argument allows for more ways to respond to.

The first version of this objection follows from the specific features of Rawls' contractualism, as presented in the Theory of Justice. For Rawls, the rejection of utilitarianism occurs at the original position, and cannot thus be something that is categorically rejected because of its incompatibility with contractarian principles. The fault of utilitarianism is instead found in its consequences, as they would appear to a person behind the veil of ignorance. As for what these undesirable consequences are, I share here the interpretation of Sam Scheffler (1982), who holds that utilitarianism is rejected because it might demand so high sacrifices from individuals as to stop them from pursuing their rational life-plans. This is supported by the choice Rawls claims we would in fact make at the original position, the difference principle, for it is a cautious choice, forgoing possible benefits of utilitarianism in favour of the higher minimum guaranteed by the minmax distribution.

However, because the rejection of utilitarianism is ultimately a prudential matter for Rawls, that is, it is rejected because we would not in fact rationally choose it from behind the veil of ignorance, this objection is open to an obvious counter-move. The utilitarian can either simply argue that average utilitarianism is what we would in fact choose in the original position, as was argued by Harsanyi (1955), or argue that utilitarianism would also guarantee a satisfactory minimum, making it no longer an incautious and undesirable choice.

Scanlon's contractarianism, however, needs a slightly different treatment. Scanlon (1982) argues that Rawlsian contractualism includes a conceptual mistake, in that it mistakes two types of reasoning. The first sort of reasoning, (P) is something a single individual cannot reasonably reject no matter what position he might come to occupy in the society, while the second sort of reasoning (Q), is something that is supposed to be acceptable to a person in any position in the society because it would be the rational choice for a single, self-interested person in the hypothetical situation. Scanlon notes that Rawls begins with P, but moves on to Q as his work progresses. However, only P is valid reasoning for Scanlon. This means that Scanlon's contractarian reasoning takes place in the



actual society rather than behind a veil of ignorance, and as such allows for more objections from anyone who would lose out in deciding between different distributional schemes. It in fact enforces on us a minmax scheme, that is, a scheme minimizes the complaint by the worst-off in the society in deciding the distribution. It is thus not vulnerable to any argument that tries to show that utilitarianism would be acceptable in a hypothetical situation, unlike the Rawlsian version.

However, because the worst-off in the society are granted an effective veto in Scanlon's theory, it is vulnerable from another direction. Hirose (2013) has argued that utilitarianism does in fact respect separateness of persons in a way that minmax schemes do not. Utilitarianism does not ignore the wants of anyone, while minmax schemes can easily end up ignoring the desires of most persons in favour of the desires of the worst-off. Brink (1993) shares this worry, and describes minmax schemes as the dictatorship of the worst-off. Therefore, the question of which system, utilitarianism or Scanlonian contractualism, respects separateness of persons more or in a correct way, is a substantial question.

The two versions of the objection against aggregation amount to, in my mind, to the strongest versions of the separateness of persons argument against utilitarianism. However, both of them also allow for substantial responses from the part of the utilitarian. The Rawlsian version of the objection can be responded by substantiating the practical consequences of utilitarianism, if it can be shown that it guarantees a satisfactory minimum, and hence would be acceptable behind the veil of ignorance (at least as far as this objection is concerned). The Scanlonian version, on the other hand, can be responded to by developing an utilitarian account of the separateness of persons, and contrasting it with the Scanlonian account. It is precisely this that will be task of the next section, which looks at the form utilitarianism must take in light of the immutable conditions of human pursuit of happiness and the limitations of the state.

## **CHAPTER 4: PRACTICAL UTILITARIANISM AS AN ANSWER TO SEPARATENESS OF PERSONS OBJECTION**

In the previous chapter, we discovered that the separateness of persons argument really only works as a weak objection against aggregation, for which there exists a Rawlsian and Scanlonian variant. In advance of the arguments prented below and for the sake of clarity, let us condense the arguments. The Rawlsian variant of the argument can be summarised as of being worried about the possibility of catastrophic distributions emerging under the utilitarian system, by which I mean a

distribution that allows some of the citizens to lack the means to pursue their rational life plans. Thus, when placed behind a veil of ignorance, we, according to Rawls, would not choose distribution or the system that creates it out of caution. The Scanlonian variant, however, argues that distribution has to be acceptable to everyone in their already given positions. If even a single person is unsatisfied with their lot dealt to them by the utilitarian distribution, the system does not respect the separateness of persons sufficiently.

Now, when it comes to the Rawlsian variant of the objection, I aim to show here simply that Practical Utilitarianism does not result in catastrophic distributions, or at least, that it contains forces strong enough to make such a distribution inconceivable. To answer the Scanlonian variant is more complicated. As mentioned previously, Hirose (2013) notes that utilitarianism does take everyone to consideration, in having everyone equally count as one. The same argument, too, was found from Bentham's writings in the first chapter. This equality is often lacking in the more fair contractarian systems, where a single disputing voice may damn otherwise popular distribution. There are thus two ways to argue against the Scanlonian view. First is to provide a knock-down objection against it, somehow proving that utilitarianism is either as fair as his theory, or his theory somehow less fair. This seems to me an impossible, and misguided task. The second, more promising way, is to show that utilitarianism, which already has the advantage of being more equal in the above sense, is also reasonably fair, or acceptable to all. This would show that, utilitarian way of respecting the separateness of persons, in counting everyone as one, is intuitively superior. This is also the path taken here. Such an argument cannot obviously be a knock-down response to the Scanlonian variant, but if successful enough, can move our intuitions to favour utilitarian political philosophy.

To argue for the two tasks set above, that, for fairness and non-catastrophic distributions under Practical Utilitarianism, I muster three principles drawn from human nature and the nature of the utilitarian state that work towards them in the utilitarian system.

### **Diminishing marginal utility principle**

The first principle considered here is one familiar to all students of political theory, as well as a principle we find already in Bentham (Crimmins, 2017). The law of diminishing marginal utility states that in regards to cultivation of happiness, or as we take it, satisfaction of rational desire, a gain in primary goods is more effective the poorer the person thus benefited. Thus a rich person draws less happiness from every coin he or she earns than a poorer person, and every additional increment of wealth is only less effective.

The law, I believe, is eminently intuitive. A truly rich person might well possess ten thousand times

the wealth of a normal, happy person, yet to suppose that former was also a ten thousand times happier than the latter would be absurd. As for why the law might hold, we can suppose innumerable explanations. Perhaps pleasures simply satisfied just happen to be stronger than pleasures more expensive or higher-tier, or perhaps turning primary goods into utility is gets harder beyond certain point, or perhaps the rich person might just lack the time and opportunity to ever make full use of his or her wealth. We need not consider the precise reason why the law of diminishing marginal utility holds (one specific explanation, resulting in a special variant, will be considered in the next section). I simply take it as granted here that the law is true.

The effect of the principle on utilitarian politics is obvious. If given a choice to distribute some wealth (let us ignore here the aspect of where it comes from) to a rich or a poor person, the principle will always recommend the latter. It therefore works as a force driving for equality in the utilitarian state. Indeed, we may note, barring any other forces, it will result in a perfectly equal state. Of course, in an actual situation, the loss of economic efficiency or social stability resulting in such a distribution would recommend against it, yet still the importance of this principle can hardly be overstated. It alone ensures the implausibility of catastrophic distributions in normal conditions, and provides strong reasons to think the utilitarian state would be highly equal, and as such fair in our terms.

That being said, used as a principle arguing for utilitarian equality, the principle has received some strict criticism. Perhaps the most effective of these comes from John Broome. In his book *Weighing Goods* (1995), Broome argues that the principle only results in equal distribution if we suppose that all individuals share the same curve of diminishing marginal utility (let us call it the diminution curve here). If we suppose, as is more reasonable, that people differ individual on it, and that some people simply have smoother diminution curves than others, its effects may in fact be the opposite. Supposing some people are simply gifted in being able to turn higher increments of wealth into utility effectively, and that some people are dismal at this, the principle would mandate redistribution from the latter to the former, even if the former were in fact richer than the latter. The principle is therefore a force for equality only in the case people's diminution curves are roughly equal, which is surely not the case.

This criticism is, to my mind, a convincing one. Yet it is only convincing if we agree with Broome's background assumptions. And from the point of view of Practical Utilitarianism, the most crucial of these is that people's curves of diminution are supposed to be known. As we remember from the Chapter 4., Practical Utilitarianism works on the basis of assumed preferences, rather than actual preferences. As a result, it also does not know the actual curves of diminution of the citizens, but rather works on the basis of assumed curves. Both from the point of view of what can be

known, and what the policy of the state should be for the sake of social stability and efficiency of utility production, the assumption should be that all people have the same curve, which also in fact tends towards diminishing marginal utility. Broome's criticism is therefore found to apply only to a more ideal form of utilitarianism, and we can maintain this principle as a heuristic informing the policies of the Practical Utilitarian state.

### **Rationality based principle**

As mentioned previously, this principle is really just a variant of the diminishing marginal utility principle, only derived this time from the structure of the Good, with somewhat differing consequences to follow. I present it separately here, because I do not take it to be the only explanation of the law of diminishing marginal utility, or exhaust the consequences of the previous principle.

In regards to it, we may begin with the simple observation that even though our utility may be rational preference satisfaction, human beings are often not rational. Our life-plans often go awry, are found to be mistaken or unsatisfying, or simply impossible to be fulfilled. At times we fail to develop them at all, or as is more common, spend a great deal of time in indecision and wandering before deciding on one. Plenty of desires come into existence and are fulfilled before that, only for their fulfilment to be found to provide no true utility. There is therefore a disconnect between our Good, in relating to rational desires, and what is often the true face of human existence, in being filled with irrational desire.

To see the extent of this problem or complication, we can again refer to Brandt (1979). In his discussion on what precisely makes preferences informed or rational, he notes a number of types of preferences that are problematically irrational, or that would be discarded if subjected to cognitive therapy. Among them are desires born from false beliefs, culturally transmitted desires, desires born from generalization from untypical examples and desires resulting from deprivations in early life (pp. 115-126). We can agree with this list, and note that it is extensive and general - the number of desires snared by it must be considerable. We can further note that in the context of political theory, having separate concepts for the good and the distribuendum compounds the issue, for not only are people often irrational in forming their desires, but the same also applies to their ability to convert primary goods to fulfilment of rational desires.

That being said, we must also not exaggerate the problem, or think that it applies equally to all people or all situations. Most obviously, the desires for most basic goods are obviously excluded. A simple desire for food or drink, or one for companionship and a modicum of self-respect, is never irrational. However, when we move away from such simple, basic desires, the problem becomes

more and more serious. This is because, at some level of primary goods, the use of them becomes less of a matter of desire fulfilment, and more of a matter of desire creation. Furthermore, once a person already has a certain number of desires he can also easily fulfil, we can imagine that coming up with more of them would become slightly counterproductive, as fulfilling the new ones would take away the time required to enjoy the incumbent ones.

Now, it is not my intention here to argue that such higher-tier desires are always, or even in most cases irrational. Rather, creation of rational higher-tier desires is a process that takes time and personal contemplation. It is only after experimentations in living that a person can realise whether his present desires are worth pursuing, or whether there is some other desire that he or her ultimately finds more attractive. Once this has happened, and the person has truly come up with a rational-life plan worth pursuing, we can say that his or her desires have been consolidated. But before this happens, simply giving the person more primary goods will provide him or her only little or uncertain help beyond the happiness of a sudden gain, for it would only start the consolidation process again. Studies of lottery winners confirm this point: a win generally results in a brief moment of euphoria, beyond which happiness tends to return to its previous level (Brickman et al. 1978).

In light of the concerns noted above, we can ask: how should the utilitarian state respond to the problem of rationality? The effect, we shall see, is broadly similar to the simple diminishing marginal utility argument discussed previously, yet also subtly different. Where the previous principle suggested utilitarianism should respond with emphasising equality, the rationality based principle suggests that the emphasis should lie on sufficiency. This is because in deciding the just distribution, the utilitarian state must pay attention to which desires are most likely to be consolidated and hence truly rational, and if available, these are always those most basic desires which are never mistaken. This already gives us a feature in Practical Utilitarianism that works against the possibility of catastrophic distributions. Yet beyond such bare sufficiency or subsistence, the emphasis should also lie on sufficiency for autonomous living, or pursuit of rational life plans. This because, beyond a certain level of primary goods, time and freedom plays a more important role in consolidating higher-tier desires, in that they enable the personal contemplation and experiments of living that make it possible. Hence we have a reason to think it is more efficient in terms of pursuit of utility to provide a sufficiently autonomous life for all, rather than pile most of primary resources on the few. Again, the effect is to banish the ghost of catastrophic distributions from Practical Utilitarianism, but also to make the resulting distribution more fair, or acceptable to all.

Finally, we can also note a theoretical consequence of this principle, which is to provide us another

way Practical Utilitarianism must respect the separateness of persons. This because much of the irrationality among people in the matter of satisfaction of desires, and hence the forces in Practical Utilitarianism driving for distribution of sufficiency results from natural separateness of individuals. It is difficult to know desires suitable to oneself, given that all people are different in what suits them. In distributing sufficient goods for all to pursue rational life plans, as this principle argues for, utilitarianism respects this separateness.

### **The disappointment-prevention principle**

The third feature within utilitarianism that works towards fairness can be termed the "disappointment-prevention principle", after similarly named concept found in the works of Bentham (Crimmins, 2017). The idea behind it is simple: the decline in utility caused by a loss in some primary good will, all other things being equal, be greater than the gain in utility caused by an equal gain of the same thing. Thus the loss of happiness caused by a theft will be greater by a similar sized gain through a win in a lottery. A natural consequence of the principle is to serve as a force of conservatism in matters of distribution, and thus a force promoting property rights. This is because, in a utilitarian society, distributive moves, in the form of taxation or confiscation for example, must result in quite a large increase to average utility of society to overcome the additional decrease in utility caused by the breaking of the principle. Let us call this additional utility required to justify distributive moves the disappointment-prevention cost.

The most obvious effect of the principle is to reduce, perhaps quite drastically, the amount of distributions or distributive moves that could be justified under the utilitarian system. This will already help us to answer the Rawlsian criticism. Remember that the problem Rawls identified with utilitarianism was that it could result in a distribution where a person might possess so little as to make pursuing his life plans impossible. Let us call a distribution where a person, if placed in a random position in society, would have a non-negligible chance of ending up in such a dismal position, a catastrophic distribution. Now one effect of this conservatism imposed on us by the disappointment-prevention principle is to make this very unlikely. Why is this? It is because for the utilitarian state to end up with such a distribution we would not only need to prove that it would increase the average utility of the state, but also that it would increase it more than the disappointment-prevention cost would be. And given the current state of liberal societies, this seems wildly implausible.

Of course, the disputer of utilitarianism might still insist that catastrophic distributions are still not outright ruled by utilitarianism, and this is indeed the case. However, this principle, together with the two previous principles, make indeed such distributions wildly implausible. The utilitarian

already had the response available to himself that for utilitarianism to result in a catastrophic distribution is unlikely; now he can also add that he can conceive of no possible case or situation where they might arise.

However, we might also note that the principle serves, on the contrary, to work against equality in many cases. This is because it stands in something of a conflict with the principle of diminishing marginal utility. Even if that principle were to tell us that equalising incomes in society will increase utility, the disappointment-prevention principle might regardless make attempting such an equalisation impossible, given that the utility gained in such a way would be lost due to disappointment-prevention cost of the move. Precisely how much, or in what circumstances the principle works against equality depends of course on how much weight we put in the two contrasting principles, but it is clear that there will be at least some cases the disappointment-prevention principle works against equality. Similarly, how big of a problem this is depends on our philosophical stance, or what we find the problem with utilitarianism to be. If we consider the problem to be that it might result in catastrophic distributions, as a Rawlsian might think, then this might not be a problem. If we share the opinions of Scanlon, however, and think that a society's distribution ought to be acceptable to all in their present positions, then this equality-dampening effect of utilitarianism might be problematic.

The result of the disappointment-prevention principle seems therefore mixed. By limiting the amount of justifiable distributions, it both makes catastrophic distributions much more plausible, but also, in certain situations, makes works against more equal distribution. However, if we look at justifications for the principle, we may uncover further equalising features in it.

The principle is, I believe, intuitively plausible. An opportunity for a gain missed will often present itself again, while a big loss could always prove fatal and hence permanent. This seems plausible, yet it is of course hard for a philosopher to say more. Yet we can also come up with a more rational explanation for the principle. A gain in primary resources always represents, at least partly, utility to be realised in the future, when the resources will be put into use. And as the discussion on the previous principle has taught us, humans are quite poor at turning primary resources to utility, or at least it takes time. The goods lost, however, have likely already gone through this process, and been consolidated into utility. Hence latter are likely be worth more in terms of utility.

Yet if so, then the disappointment-reduction cost is going to depend at least partly on the how well the primary good lost have been consolidated to utility. Again mirroring the reasoning on the last principle, the poorer we are, the better the consolidation. Hence, in the case of taxation for example, the disappointment-reduction cost from distribution will be greater the poorer the people we tax are, or correspondingly lesser the richer they are. The principle is therefore also a force for

progressiveness in distribution. If the utilitarian state finds that it may increase the average utility of the society via the provision of some public good, then, it must first reckon with the disappointment-prevention cost of the distributional moves required to pay for it, and having done that, reckon with the correct distribution of this cost, which is likely to push for more equality. The effects of the principle are therefore two-fold: it is a force for conservatism, hence making catastrophic distributions even more unlikely, and also a force for equality after the previous effect has been reckoned with.

We have thus considered three principles or laws of human nature that illustrate the likely distribution a Practical Utilitarian state would enact. These provide us with good replies to the strongest (and indeed the only strong) argument against utilitarianism listed in the previous chapter, the weak objection against aggregation, both in its Rawlsian and Scanlonian form. However, before the utilitarian can celebrate, there is one obvious criticism against using the principles detailed here as arguments against the separateness of persons objection. This is naturally the retort, that these principles that seem to promise an acceptable utilitarian distributions are all too contingent. These laws and principles are not derived from the utilitarian axioms themselves, but rather from how they might apply to some conceivable situation.

Why is this problematic? We can flesh out this worry in two possible ways. As a practical criticism, we could construe the worry above to be about the contingency of these redeeming features of political utilitarianism. They depend on some practical conditions, either of the state or the population, and absent these, utilitarianism lapses back into the inhuman territory of unfairness inequality. As a theoretical criticism then, we might demand that a respect for fairness and a modicum of equality be anchored in the very principles of the moral or political system. We might think, perhaps, that the purpose of such philosophies is to guarantee fairness and equality, and hence they cannot be derived but rather foundational. Even if utilitarianism can be shown to result in them, it does not, in its methodology, respect them highly enough. Both of these forms of the criticism, appear to me, however, misguided.

Regarding the practical criticism, we may direct our attention to precisely how these features are supposed to be contingent. They seem to be contingent on three things. Firstly, on the validity of the law of diminishing marginal income and limited rationality from the part of the citizens. Yet these are rooted not on any cultural or political fact, but on human nature. Thus, while not exactly rooted on utilitarian principles, they seem rather universal than contingent. The second contingent aspect lies on the side of the utilitarian state, in that it bases its judgements on assumed preferences and relations between primary goods and utility. Yet again, it is hard to imagine anything else being the



case. Hence, this interpretation of the criticism fails, in that barring any utopian or trans-humanistic revolution, these features are immutable.

As for the second, more theoretical criticism, the utilitarian can give the following response. While it is true that whatever moral virtues we want to promote, fairness or equality, are not built into the utilitarian principles, they need not be. Our intuitions regarding them simply reflect the fact that they are valuable as a means of promoting utility, and hence they will appear as a results of the utility-promoting theory, rather than being something that needs to be built into it from the beginning. The utilitarian can thus affirm the value of these virtues, while denying that they are truly foundational, and offer a different story of our intuitions to defend this claim.

Whether this is convincing, is, of course, something we can wonder about. To those already sharing utilitarian convictions, it probably is. To those disputing it, it is unlikely to be. Yet it is clear from this that the utilitarian does have an answer to give to this criticism. And the more he can prove that fairness and equality (if we consider them intuitively valuable in the first place) do follow from utilitarian politics, the stronger this response will be.

This concludes this chapter. What has been demonstrated here is that relying on a purely political focused conception of utilitarianism, Practical Utilitarianism, we can answer the famous criticism against the political theory by Rawls, the separateness of persons objection. Because of how the theory must respond to the immutable facts of the law of diminishing marginal utility, irrationality from the part of the populace and the disappointment-prevention principle, the utilitarian state will in fact rule out any catastrophic distributions, and tend towards fair distributions acceptable to all.

## **CONCLUSION**

The arguments presented in Chapter 4 conclude this thesis. So that what has been argued here may solidify and be consolidated in the minds of the readers, let us recap. I began by describing Classical Utilitarianism, and highlighting some of its features that both explain what makes it an attractive political philosophy, but also a deeply flawed one. I pointed out that it is an empirically inspired philosophy, proposing utility as an objective basis for practical philosophy. It is also a politically focused system of philosophy, married as it was from the beginning to a project of practical political reform. Yet despite this, Classical Utilitarianism also contains within it strong totalising tendencies, leading it to be vulnerable to devastating criticisms. In light of these features, the variant of utilitarianism developed here, Practical Utilitarianism, insists on even more thorough

political focus, eschewing any claims to wider moral truths beyond the political domain. It also comes with a different theory of the Good, defining it as the satisfaction of rational desire.

In the third chapter we came to the criticism against utilitarianism that this thesis was developed as an answer to. The separateness of persons objection was found rather to be a set of objections, of which, following recent commentary by Brink, Hirose and Scheffler among others, the weak objection of aggregation was found to be the only one strong enough to be worth a detailed answer from the part of the utilitarian. This was provided by the last chapter, which argued that Practical Utilitarianism contains forces that make a catastrophic distribution inconceivable, and that the utilitarian state is also fair enough to seriously compete with the Scanlonian conception of acceptable aggregation. The thesis that Practical Utilitarianism provides an answer to the separateness of persons argument is therefore proved.

Or so I hope to think. In truth, the arguments presented here do not amount to knock-down of the separateness of persons criticism. Yet that is understandable, given that that argument too has been found to be muddled one, its strength heavily dependent on interpretation. Just as the separateness of persons argument is not an indisputable one, but rather something that ultimately plays on our intuitions, so the answer to it too cannot be absolute. But I have at the very least shown that the utilitarian does have answers to it, and might even turn the tables to argue that utilitarian aggregation is more just than contractarian restrictions to it. And given the general scepticism towards utilitarian political philosophy these days, that already seems plenty.

Only one last thing remains to be said then, which is where the theory of Practical Utilitarianism might be taken to in the future. There are, to my mind, two promising paths. Firstly, it has been mentioned here repeatedly, that Classical Utilitarianism was a not only a philosophical, but an actual political project, and Practical Utilitarianism is not at present similarly accompanied by actual suggestions of political reform. This is, of course, not necessarily a problem for a philosophical theory, yet if utilitarianism is ever to again capture popular imagination it must provide a vision practical reform. Secondly, the talk of fairness and equality at the latter part of this thesis can be seen to provide a germ of utilitarian treatment of justice, as interpreting moral virtues of liberal democracy in utilitarian terms, and vice versa. This has of course been done before, yet perhaps Practical Utilitarianism could provide a renewed, reinvigorated attempt at it. Yet however that may be, there certainly seems to be much promise in developing a more realistic, limited conception of utilitarianism.

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