

Lecture 9.1: BENTHAM

- **Jeremy Bentham** (1748-1832) and **John Stuart Mill** (1806-1873) are considered to be the classic founders of the ethics of utilitarianism. According to the ethics of utilitarianism, **moral actions are those which produce the greatest good for the greatest number of people.**
- Many people find the ethics of utilitarianism very appealing. What attracts many people to utilitarianism **is its simplicity and its way of confirming what most of us already believe – that everyone desires pleasure and happiness.** From this simple fact B and M argued that moral goodness involves achieving the greatest amount of pleasure – and minimizing the greatest amount of pain – for the greatest number of people.
- According to B and M, utilitarianism does not only have the merit of simplicity but also the additional virtue of scientific accuracy. Other theories of ethics understood moral goodness in terms of commands of God, or the dictates of reason, or the fulfillment of the purpose of human nature, or the duty to obey the categorical imperative. For B and M, these all ethical theories raise vexing questions as to just what these commands, dictates, purposes, and imperatives consist of. However, for B and M **the principle of utility (PU)** measures every act by a standard that everyone knows, namely, **pleasure and pain.**
- As a backgrounder to the ethics of B and M, it is worth noting that both B and M followed in the philosophical footsteps of their own countrymen, the British **empiricists (LOCKE, BERKELEY and HUME)**. In moral philosophy, B and M were, therefore, **not innovators**, for their predecessors (i.e., the British empiricists) already stated the principle of utilitarianism in its general form. What makes B and M stand out as the most famous of the utilitarians is that they, more than others, succeeded in connecting the PU with the many problems of their age. To this end, **they provided the 19th-century England with a philosophical basis not only for moral thought, but also for practical reform to make their society address the issue of fairness and justice for all its citizens.**

Jeremy Bentham (1748-1832):

The Principle of Utility (PU):

- B begins his **Introduction to the Principles of Morals and Legislation** with the classic sentence: “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. They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it.”
- To be subject to pleasure and pain is a fact we all recognize, and it is also a fact that we desire pleasure and want to avoid pain. He then offers his PU, namely, “by the principle

of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words, to promote or to oppose that happiness. I say of every action whatsoever, and therefore not only of every action of a private individual, but of every measure of government.”

- B is aware that he had not proved that pleasure (or happiness) is the basis of “good” and “right,” but this was not an oversight. For B, it is rather the very nature of the PU that one cannot demonstrate its validity: “Is it susceptible to any proof? It should seem not, for that which is used to prove everything else cannot itself be proved; a chain of proofs must have their commencement somewhere. To give such a proof is as impossible as it is needless.”
- But if B cannot prove the validity of the PU, he felt that he could at least reject the so-called “higher” theories (like the ethics of Kant or of Hobbes or of Aristotle or of Plato). For B, they were either reducible to the PU or else were inferior to this principle because they had no clear meaning or could not be consistently followed.
- As an example, B takes the social-contract theory (like of Hobbes) and its explanation for our obligation to obey the law. 1st, there is the difficulty of determining whether there ever was such a contract or agreement. 2nd, even the contract theory itself rests upon the PU, for it really says that the greatest happiness of the greatest number can be achieved only if we obey the law.
- The case is the same when others (like Aristotle or Hobbes or Kant) say that the morally right act is determined by developing intellectual and moral virtues or following the command of *lex naturales* or the formulations of the categorical imperative. All these ethical views, for B, are similar to each other and are reducible to the PU. **For B, only pleasures and pains, therefore, give us the real determinant of the rightness or wrongness of the act.** In both private life and public life, we are in the last analysis all concerned with maximizing happiness and minimizing pain.

The Pleasure-Pain Calculus (Bentham’s Hedonic calculus):

- Each individual and each legislator is concerned with avoiding pain and achieving pleasure. But pleasures and pains differ from each other and therefore have different values. With an attempt at mathematical precision, B speaks of **units** – or what he called **lots** – of pleasure or pain. He suggests that before we act, we should calculate the value of these lots.
- Their value, taken by themselves, will be greater or less depending upon a pleasure’s **intensity, duration, certainty**, and **propinquity** or nearness. When we consider not only the pleasure by itself but what consequences it can lead to, we must calculate other circumstances. These include a pleasure’s **fecundity**, or its chances of being followed by more pleasure, and its **purity**, or its chances that pleasure will be followed by some

pain. The 7th circumstance is a pleasure's **extent**, that is, the number of persons to whom it extends or who are affected by the action.

- According to B, we “sum up all the values of all the **pleasures** on one side, and those of all **pains** on the other. The balance, if it be on the side of pleasure, will give the **good** tendency of the act ... if on the side of pain, the **bad** tendency.”
- This calculus shows that B was interested chiefly in the **quantitative** aspects of pleasure; thus, all actions are **equally good if they produce the same amount of pleasure**. Whether we actually do engage in this kind of calculation was a question B anticipated, and he has a reply:

“there are some, perhaps who ... may look upon the nicety employed in the adjustment of such rules as so much labor lost; for gross ignorance, they will say, never troubles itself about laws, and passion does not calculate. But the evil of ignorance admits of cure and ... when matters of such importance as pain and pleasure are stake, and these in the highest degree ... who is there that does not calculate? Men calculate, some with less exactness, indeed, and some with more: but all men calculate.”

Law and Punishment:

- B made an especially impressive use of the PU in connection with law and punishment. Since it is the function of the legislator to discourage some acts and encourage others, how should we classify those that should be discouraged as against those that should be encouraged?

The Object of Law:

- B's method of legislation was 1st of all to measure the “mischief of an act,” and this mischief consisted in the consequences, the pain and evil inflicted by the act, and acts that produce evil must be discouraged. For B, there are both **primary** and **secondary evils** that concern the legislator. Robbers inflict an evil upon their victims, who lose their money, and this is a case of **primary evil**. But robbery creates a **secondary evil** because successful robbery sends the message that theft is easy. This suggestion is evil because it weakens respect for property, and property becomes more insecure.
- From the point of view of the legislator, the secondary evils are frequently more important than the primary evils. For, taking the example of robbery again, the actual loss to the victim may very well be considerably less than the loss in the stability and security in the community as a whole.
- The law is concerned with augmenting the total happiness of the community, and it must do this by discouraging those acts that would produce evil consequences. A criminal act is by definition one that is clearly detrimental to the community's happiness. For the most part, the government accomplishes its business of promoting the happiness of society by punishing people who commit offenses that the PU has clearly measured as evil.

- B felt that governments should **only use** the PU in deciding which acts should be considered “offenses.” And if they do this, then many illegal acts of the time would thereby become only matters of private morals. Utilitarianism had the effect, then, of requiring a reclassification of behavior to determine what is and is not appropriate for the government to regulate.
- In addition, the PU provided B with **a new and simple theory of punishment** – a theory that he thought could not only be justified more readily than the older theories but could achieve the purposes of punishment far more effectively.

Punishment:

- For B, “all punishment is itself evil” because it inflicts suffering and pain. At the same time, the “**object which all laws have in common, is to augment the total happiness of the community.**” If we are to justify punishment from a utilitarian point of view, we must show **that the pain inflicted by punishment must in some way prevent greater pain.**
- Punishment must therefore be “**useful**” in achieving a greater totality of pleasure, and it has no justification if its effect is simply to add still more units or lots of pain to the community. The PU would clearly call for the elimination of pure “retribution,” or retaliation, since no useful purpose is served by adding still more pain to the sum total that society suffers.
- This is not to say that utilitarianism rejects punishment. It means only that the PU, particularly in the hands of B, called for the reopening of the question **of why society should punish offenders.**
- According to B, punishment should not be inflicted in **4 particular situations:**
 - 1st,** It should not be inflicted when it is **groundless.** This would so when, for example, there is an offense that admits of compensation and where there is virtual certainty that compensation is forthcoming.
 - 2nd,** Punishment should not be inflicted when it is **inefficacious.** This is the case when punishment cannot prevent a mischievous act, such as when a law has already been made but not been announced. Punishment would be inefficacious also where an infant, an insane person, or a drunkard was involved.
 - 3rd,** It should not be inflicted when it is **unprofitable or too expensive,** “where the mischief it would produce would be greater than what it prevented.”
 - 4th,** Finally, it should not be inflicted when it is **needless,** “where the mischief may be prevented, or cease of itself, without it: that is at a cheaper rate.” This is particularly so in cases “which consist in the disseminating [of] pernicious principles in matters of duty,” since in these cases persuasion is more efficacious than force.
- Whether a given kind of behavior should be left to **private ethics** instead of becoming the object of **legislation** was a question B answered by simply applying the PU. The

matter should be left to private ethics if it does more harm than good to involve the whole legislative process and the apparatus of punishment.

- B was convinced that attempts to regulate sexual immorality would be particularly unprofitable, since this would require intricate supervision. This is also the case for offenses such as “ingratitude or rudeness, where the definition is so vague that the judge could not safely be entrusted with the power to punish.”
- Duties that we owe to ourselves could hardly be the concern of law and punishment, nor must we be coerced to be benevolent, though we can be liable on certain occasions for failing to help. But the main concern of law must be to encourage those acts that would lead to the greatest happiness of the community. There is, then, a justification for punishment, which is that through punishment the greatest good for the greatest number is more effectively secured.

Final Point of Bentham:

- To determine who or what should be given moral consideration, the critical question for Bentham to ask is not whether the being can think or speak but rather **whether it can suffer**.