

Inviolability and Utilitarianism

Of all the consequences of a utilitarianism, perhaps none is more enduring and powerful than that of liberal equality. It has become the fundamental basis of our western representative democracies and it is this concept that Francis Fukuyama so famously thought would bring about *The End of History* at the close of the 20th century. Robert Nozick was one of the most influential philosophers of the modern era and his writings, amongst other, have inspired a major shift from the social-liberalism of the early post-war period to a more classical-liberalism (often termed neo-liberalism) which has its roots in the writings of Hobbes and Locke¹. This movement has occurred at the expense of the social consciousness which informs Mill's utilitarian society.

Nozick's cardinal work, *Anarchy, State and Utopia* was an attempt to provide a libertarian answer to a problem raised by John Rawls in *A Theory of Justice*. Rawls felt that utilitarianism was flawed because it allowed for the rights of some individuals to be dismissed for the good of society as a whole. One possible formulation of this is as follows:

It would seem that utilitarianism can be taken as a moral theory which supports slavery, since it is possible to conceive of a position in which the overall affect of enslaving a small percentage of a society is to increase utility. This would occur if the benefits to the non-enslaved majority outweigh the suffering of the enslaved.

The most obvious utilitarian answer to this formulation is to argue that such a state can never occur. The suffering of the enslaved would be so acute as to overcome any possible gain in utility by the majority. However, this does not deal with the objection which Nozick and Rawls were actually raising. They considered humans to be morally inviolable², that is; there is no way in which an action can be moral if it infringes upon the liberties of those who are not party to the decision to undertake an action. The influence of Nozick and Rawls is a testament to the difficulties of

1 Maureen Ramsay, *What's Wrong with Liberalism?* (Continuum 1997)

2 Edward Feser, *Robert Nozick* [Internet Encyclopedia of Philosophy] (<http://www.iep.utm.edu/n/nozick.htm>)

absorbing this inviolability into a utilitarian theory. I personally do not feel that it is possible to reconcile these ideas, furthermore, I do not feel that it weakens the utilitarian position to admit this.

One of the goals of J. S. Mill's reformulation of the earlier incarnations of utilitarianism as a social moral philosophy, was to reconcile it with the abstract individualist model of human nature proposed by Hobbes³ and Locke⁴, whereby humans are motivated only by their own desires and where they are best placed to act rationally upon these. At first glance, this self-interested description of humanity is at odds with the social minded aspects of utilitarianism, since it seems to deny man the capacity for self-sacrifice. However Mill's notion of a utilitarian society, when combined with Locke's theory that merely by being a part of a society you consent to live by its rules, can be used to resolve both this conflict and the objection of Rawls and Nozick.

Mill's argument was that utilitarian thought is actually the most natural product of human desire for happiness and rationality and thus is compatible with abstract individualism and classical liberalism. This is because the ultimate goal of any utilitarian act is to increase utility, thus the overall goal of utilitarianism is to increase the average level of utility for everyone. Since the utilitarians consider that all human wants can be characterised as a desire for happiness or increased utility⁵, the only rational way for mankind to behave is as prescribed by the utilitarian equation.

As a consequence of a society behaving in a utilitarian fashion, it can be considered that no person ever has rights taken from them, rather they accept that they may have give up those rights through their tacit agreement to live according to the rules of that society. This means that Nozick and Rawls' objections become invalid since they do not account for the fact that rights are not in fact

3 Thomas Hobbes, *The Leviathan* (<http://etext.library.adelaide.edu.au/h/hobbes/thomas/h681/>)

4 Alan Haworth, *Understanding the Political Philosophers* (Routledge 2004)

5 J. S. Mill, *Utilitarianism* (1863) reprinted in: Christina Sommers & Fred Sommers, *Vice & Virtue in Everyday Life*, 6th edition (Thomson Wadsworth 2004)

being stripped from any citizens.

Clearly this representation of utilitarianism is controversial, were it not so then the twentieth century theorists would not have sought such a radical rethinking of liberal theory. To better understand their arguments I will look at and criticise some of their ethical philosophies.

Central to this essay is the concept of “human rights” however in spite of what modern political discussion often suggests, this is not an easy notion to pin down. Nozick in particular believed in the principle of inalienable rights, whilst Rawls' social contract theory derived rights from consensus in a manner similar to that in the situation I described with regards to utilitarianism. The former theory, particularly prevalent in American thinking, is itself open to criticism as it provides no explanation for the origins of these rights. It has often been considered a form of Moore's naturalistic fallacy⁶ since excepting a theological origin, it is fair to say that the rights which we define as fundamental are only so because that is how we choose to define them. Similarly, there is no innate reason why we cannot opt out of these rights and since they are not considered to be derived from consensus, they do not fall under Locke's principle of consent. This is in contrast to Rawls' system whereby the moral code is defined by its participants and these people then give their consent to live by its rules in the form of a social contract.

6 G. E. Moore, *Principia Ethica* (<http://fair-use.org/g-e-moore/principia-ethica/s.12>)

My own ethical views are coloured by the fact that I do not agree with the concept of liberal view of human nature, instead I side more with the communitarian and Marxist views of man as a social creature. In his *Philosophical Investigations* Wittgenstein discussed the impossibility of human thought existing outside of a social context⁷ and in accepting this theory i feel that you cannot similarly accept Nozick's notion of human atomism. I cannot dismiss Rawls so easily and in fact consider the utilitarian society as merely a special case of Rawls' social contract. In this way i would consider it a more acceptable ethical theory than Nozick's.

Word count: 1034

Bibliography:

- Edward Feser, *Robert Nozick*[*Internet Encyclopedia of Philosophy*] (<http://www.iep.utm.edu/n/nozick.htm>)
- Alan Haworth, *Understanding the Political Philosophers* (Routledge 2004)
- Thomas Hobbes, *The Leviathan* (<http://etext.library.adelaide.edu.au/h/hobbes/thomas/h681/>)
- J. S. Mill, *Utilitarianism* (1863) reprinted in: Christina Sommers & Fred Sommers, *Vice & Virtue in Everyday Life*, 6th edition (Thomson Wadsworth 2004)
- G. E. Moore, *Principia Ethica* (<http://fair-use.org/g-e-moore/principia-ethica/s.12>)
- Maureen Ramsay, *What's Wrong with Liberalism?* (Continuum 1997)

⁷ Maureen Ramsay, *What's Wrong with Liberalism?* (Continuum 1997)