

Utilitarianism and rules

Rules have been important to utilitarianism from the beginning. Bentham's most famous book is called *An Introduction to the Principles of Morals and Legislation*. After describing the hedonic calculus Bentham says, 'It is not to be expected that this process should be strictly pursued previously to every moral judgment, or to every legislative or judicial operation.' The reference to legislative and judicial operations is a reminder that this process is meant to be the foundation law as well as morality. Bentham expected people to obey the law and for crimes to be punished. In *The Theory of Legislation* he explained why a hungry beggar stealing bread from a rich person, which may even save him from starving, is still committing a crime. Of course, it does not follow that every utilitarian would agree with Bentham and utilitarians will discuss among themselves when it is and isn't acceptable to break the law, engage in civil disobedience or even rebellion. However, utilitarians are not anarchists and, generally speaking, would expect people to obey the law.



Explain why utilitarians would encourage people to obey the law even if it seems that breaking the law will increase the amount of happiness in the world.

There aren't laws for every area of life – telling the truth, being polite, whether to help someone on the other side of the street, etc. – so then the question is how to decide what to do on these occasions. It is tempting to think that utilitarians would want you to work out what would bring about the most happiness before taking action. Few utilitarians would say that is what you should do and for two very good reasons:

1. It is very difficult to accurately work out the consequences especially when you are personally involved and may be subject to bias, and
2. It would be far too time consuming to do the calculation every time and often doing the calculation would be counter-productive – by the time the calculation is complete the moment has passed.

Utilitarianism is a theory that claims to tell us what is right. It isn't a theory that specifies what decision-making procedure we should use. What matters is that we do the right thing. Trying to do the calculation on each occasion turns out to be a bad decision-making procedure.

Utilitarians will usually say that a more reliable decision-making procedure is to use tried and tested rules. It isn't necessary to calculate whether you should hold the door open or push your way through; follow the rule 'Be polite and considerate' and there is a good chance you will end up doing the right thing. According to traditional utilitarianism your action is right because it maximises happiness; following the rules is simply the best way of ensuring you end up doing the right thing. Mill argued it like this:

It is truly a whimsical supposition that, if mankind were agreed in considering utility to be the test of morality, they would remain without any agreement as to what is useful, and would take no measures for having their notions on the subject taught to the young, and enforced by law and opinion... It is a strange notion that the acknowledgment of a first principle is inconsistent with the admission of secondary ones. To inform a traveller respecting the place of his ultimate destination, is not to forbid the use of landmarks and direction-posts on the way. The proposition that happiness is the end and aim of morality, does not mean that no road ought to be laid down to that goal, or that persons going thither should not be advised to take one direction rather than another... Nobody argues that the art of navigation is not founded on astronomy, because sailors cannot wait to calculate the Nautical Almanack. Being rational creatures, they go to sea with it ready calculated; and all rational creatures go out upon the sea of life with their minds made up on the common questions of right and wrong... Whatever we adopt as the fundamental principle of morality, we require subordinate principles to apply it...

In the twentieth century some utilitarians started thinking a bit differently about rules. The problem was that there were some objections to utilitarianism they thought could not be properly answered by the traditional approach. For example, it didn't seem right to say that you could break a promise if doing so increased happiness even when taking into account the long term consequences because it was clear that you could get away with it. The traditional answer that it would always undermine the moral code and lead to an overall decrease in happiness just didn't seem convincing. You may have already suspected this yourself when you read about how Bentham condemned the hungry beggar.

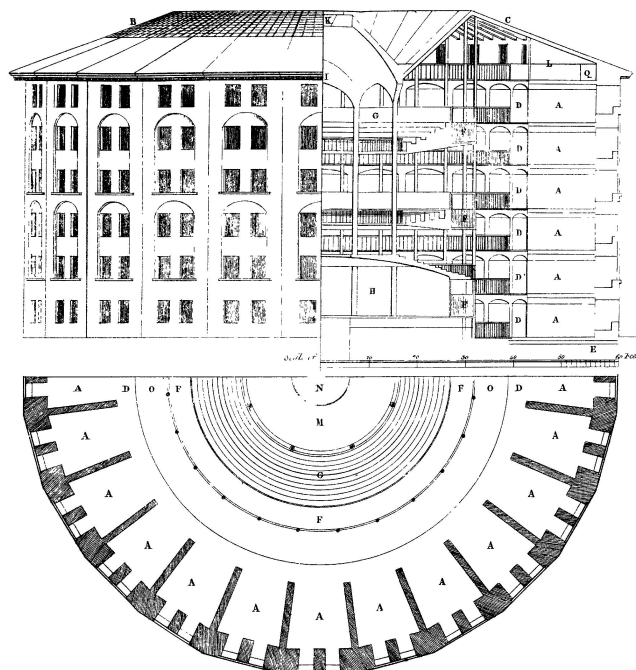
Another problem was there seemed to be some situations where, if you wanted to maximise happiness, it was necessary to consider the combined actions of the group rather than the actions of the individual and the behaviour of the group was governed by rules.

The new approach still wanted to maximise happiness but gave a more prominent role to rules. Using the traditional approach, rules were some kind of assistant to help you do the right thing; with the new approach the rules defined what is right and it is then just your responsibility to follow the rules. Another way of thinking about it is to say that under the traditional approach the utilitarian calculation was applied to the action and if that calculation determined that happiness would be maximised it was the right thing to do. With the new approach the utilitarian calculation was applied to the rule and if having the rule maximised happiness it was a rule that should be kept.

After a few years of vigorous philosophical discussion two distinct forms of utilitarianism emerged:

Act utilitarianism: an action is right if that action maximises happiness.

Rule utilitarianism: an action is right if it conforms to a rule that maximises happiness even if on this particular occasion that action doesn't maximise happiness.



Elevation, section and plan of Jeremy Bentham's Panopticon penitentiary, drawn by Willey Reveley, 1791