

from which we can best interpret moral relationships. We need a conception that enables us to envision our objective from afar: the intuitive notion of the original position is to do this for us.⁸

5. CLASSICAL UTILITARIANISM

There are many forms of utilitarianism, and the development of the theory has continued in recent years. I shall not survey these forms here, nor take account of the numerous refinements found in contemporary discussions. My aim is to work out a theory of justice that represents an alternative to utilitarian thought generally and so to all of these different versions of it. I believe that the contrast between the contract view and utilitarianism remains essentially the same in all these cases. Therefore I shall compare justice as fairness with familiar variants of intuitionism, perfectionism, and utilitarianism in order to bring out the underlying differences in the simplest way. With this end in mind, the kind of utilitarianism I shall describe here is the strict classical doctrine which receives perhaps its clearest and most accessible formulation in Sidgwick. The main idea is that society is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it.⁹

8. Henri Poincaré remarks: "Il nous faut une faculté qui nous fasse voir le but de loin, et, cette faculté, c'est l'intuition." *La Valeur de la science* (Paris, Flammarion, 1909), p. 27.

9. I shall take Henry Sidgwick's *The Methods of Ethics*, 7th ed. (London, 1907), as summarizing the development of utilitarian moral theory. Book III of his *Principles of Political Economy* (London, 1883) applies this doctrine to questions of economic and social justice, and is a precursor of A. C. Pigou, *The Economics of Welfare* (London, Macmillan, 1920). Sidgwick's *Outlines of the History of Ethics*, 5th ed. (London, 1902), contains a brief history of the utilitarian tradition. We may follow him in assuming, somewhat arbitrarily, that it begins with Shaftesbury's *An Inquiry Concerning Virtue and Merit* (1711) and Hutcheson's *An Inquiry Concerning Moral Good and Evil* (1725). Hutcheson seems to have been the first to state clearly the principle of utility. He says in *Inquiry*, sec. III, §8, that "that action is best, which procures the greatest happiness for the greatest numbers; and that, worst, which, in like manner, occasions misery." Other major eighteenth century works are Hume's *A Treatise of Human Nature* (1739), and *An Enquiry Concerning the Principles of Morals* (1751); Adam Smith's *A Theory of the Moral*

We may note first that there is, indeed, a way of thinking of society which makes it easy to suppose that the most rational conception of justice is utilitarian. For consider: each man in realizing his own interests is certainly free to balance his own losses against his own gains. We may impose a sacrifice on ourselves now for the sake of a greater advantage later. A person quite properly acts, at least when others are not affected, to achieve his own greatest good, to advance his rational ends as far as possible. Now why should not a society act on precisely the same principle applied to the group and therefore regard that which is rational for one man as right for an association of men? Just as the well-being of a person is constructed from the series of satisfactions which are experienced at different moments in time and which constitute the life of the individual, so the well-being of society is to be constructed from the fulfillment of the systems of desires of the many individuals who belong to it. Since the principle for an individual is to advance as far as possible his own welfare, his own system of desires, the principle for society is to advance as far as possible the welfare of the group, to realize to the

Sentiments (1759); and Bentham's *The Principles of Morals and Legislation* (1789). To these we must add the writings of J. S. Mill represented by *Utilitarianism* (1863) and F. Y. Edgeworth's *Mathematical Psychics* (London, 1888).

The discussion of utilitarianism has taken a different turn in recent years by focusing on what we may call the coordination problem and related questions of publicity. This development stems from the essays of R. F. Harrod, "Utilitarianism Revised," *Mind*, vol. 45 (1936); J. D. Mabbott, "Punishment," *Mind*, vol. 48 (1939); Jonathan Harrison, "Utilitarianism, Universalisation, and Our Duty to Be Just," *Proceedings of the Aristotelian Society*, vol. 53 (1952-53); and J. O. Urmson, "The Interpretation of the Philosophy of J. S. Mill," *Philosophical Quarterly*, vol. 3 (1953). See also J. J. C. Smart, "Extreme and Restricted Utilitarianism," *Philosophical Quarterly*, vol. 6 (1956), and his *An Outline of a System of Utilitarian Ethics* (Cambridge, The University Press, 1961). For an account of these matters, see David Lyons, *Forms and Limits of Utilitarianism* (Oxford, The Clarendon Press, 1965); and Allan Gibbard, "Utilitarianisms and Coordination" (dissertation, Harvard University, 1971). The problems raised by these works, as important as they are, I shall leave aside as not bearing directly on the more elementary question of distribution which I wish to discuss.

Finally, we should note here the essays of J. C. Harsanyi, in particular, "Cardinal Utility in Welfare Economics and in the Theory of Risk-Taking," *Journal of Political Economy*, 1953, and "Cardinal Welfare, Individualistic Ethics, and Interpersonal Comparisons of Utility," *Journal of Political Economy*, 1955; and R. B. Brandt, "Some Merits of One Form of Rule-Utilitarianism," *University of Colorado Studies* (Boulder, Colorado, 1967). See below §§27-28.

greatest extent the comprehensive system of desire arrived at from the desires of its members. Just as an individual balances present and future gains against present and future losses, so a society may balance satisfactions and dissatisfactions between different individuals. And so by these reflections one reaches the principle of utility in a natural way: a society is properly arranged when its institutions maximize the net balance of satisfaction. The principle of choice for an association of men is interpreted as an extension of the principle of choice for one man. Social justice is the principle of rational prudence applied to an aggregative conception of the welfare of the group (§ 30).¹⁰

This idea is made all the more attractive by a further consideration. The two main concepts of ethics are those of the right and the good; the concept of a morally worthy person is, I believe, derived from them. The structure of an ethical theory is, then, largely determined by how it defines and connects these two basic notions. Now it seems that the simplest way of relating them is taken by teleological theories: the good is defined independently from the right, and then the right is defined as that which maximizes the good.¹¹ More precisely, those institutions and acts are right which of the available alternatives produce the most good, or at least as much good as any of the other institutions and acts open as real possibilities (a rider needed when the maximal class is not a singleton). Teleological theories have a deep intuitive appeal since they seem to embody the idea of rationality. It is natural to think that

10. On this point see also D. P. Gauthier, *Practical Reasoning* (Oxford, Clarendon Press, 1963), pp. 126f. The text elaborates the suggestion found in "Constitutional Liberty and the Concept of Justice," *Nomos VI: Justice*, ed. C. J. Friedrich and J. W. Chapman (New York, Atherton Press, 1963), pp. 124f, which in turn is related to the idea of justice as a higher-order administrative decision. See "Justice as Fairness," *Philosophical Review*, 1958, pp. 185–187. For references to utilitarians who explicitly affirm this extension, see § 30, note 37. That the principle of social integration is distinct from the principle of personal integration is stated by R. B. Perry *General Theory of Value* (New York, Longmans, Green, and Company, 1926), pp. 674–677. He attributes the error of overlooking this fact to Emile Durkheim and others with similar views. His conception of social integration is that brought about by a shared and dominant benevolent purpose. See below, § 24.

11. Here I adopt W. K. Frankena's definition of teleological theories in *Ethics* (Englewood Cliffs, N.J., Prentice Hall, Inc., 1963), p. 13

rationality is maximizing something and that in morals it must be maximizing the good. Indeed, it is tempting to suppose that it is self-evident that things should be arranged so as to lead to the most good.

It is essential to keep in mind that in a teleological theory the good is defined independently from the right. This means two things. First, the theory accounts for our considered judgments as to which things are good (our judgments of value) as a separate class of judgments intuitively distinguishable by common sense, and then proposes the hypothesis that the right is maximizing the good as already specified. Second, the theory enables one to judge the goodness of things without referring to what is right. For example, if pleasure is said to be the sole good, then presumably pleasures can be recognized and ranked in value by criteria that do not presuppose any standards of right, or what we would normally think of as such. Whereas if the distribution of goods is also counted as a good, perhaps a higher order one, and the theory directs us to produce the most good (including the good of distribution among others), we no longer have a teleological view in the classical sense. The problem of distribution falls under the concept of right as one intuitively understands it, and so the theory lacks an independent definition of the good. The clarity and simplicity of classical teleological theories derives largely from the fact that they factor our moral judgments into two classes, the one being characterized separately while the other is then connected with it by a maximizing principle.

Teleological doctrines differ, pretty clearly, according to how the conception of the good is specified. If it is taken as the realization of human excellence in the various forms of culture, we have what may be called perfectionism. This notion is found in Aristotle and Nietzsche, among others. If the good is defined as pleasure, we have hedonism; if as happiness, eudaimonism, and so on. I shall understand the principle of utility in its classical form as defining the good as the satisfaction of desire, or perhaps better, as the satisfaction of rational desire. This accords with the view in all essentials and provides, I believe, a fair interpretation of it. The appropriate terms of social cooperation are settled by whatever in the circumstances will achieve the greatest sum of satisfaction of the rational desires of

individuals. It is impossible to deny the initial plausibility and attractiveness of this conception.

The striking feature of the utilitarian view of justice is that it does not matter, except indirectly, how this sum of satisfactions is distributed among individuals any more than it matters, except indirectly, how one man distributes his satisfactions over time. The correct distribution in either case is that which yields the maximum fulfillment. Society must allocate its means of satisfaction whatever these are, rights and duties, opportunities and privileges, and various forms of wealth, so as to achieve this maximum if it can. But in itself no distribution of satisfaction is better than another except that the more equal distribution is to be preferred to break ties.¹² It is true that certain common sense precepts of justice, particularly those which concern the protection of liberties and rights, or which express the claims of desert, seem to contradict this contention. But from a utilitarian standpoint the explanation of these precepts and of their seemingly stringent character is that they are those precepts which experience shows should be strictly respected and departed from only under exceptional circumstances if the sum of advantages is to be maximized.¹³ Yet, as with all other precepts, those of justice are derivative from the one end of attaining the greatest balance of satisfaction. Thus there is no reason in principle why the greater gains of some should not compensate for the lesser losses of others; or more importantly, why the violation of the liberty of a few might not be made right by the greater good shared by many. It simply happens that under most conditions, at least in a reasonably advanced stage of civilization, the greatest sum of advantages is not attained in this way. No doubt the strictness of common sense precepts of justice has a certain usefulness in limiting men's propensities to injustice and to socially injurious actions, but the utilitarian believes that to affirm this strictness as a first principle of morals is a mistake. For just as it is rational for one man to maximize the fulfillment of his system of desires, it is right for a society to maximize the net balance of satisfaction taken over all of its members.

The most natural way, then, of arriving at utilitarianism (although not, of course, the only way of doing so) is to adopt for society as a

12. On this point see Sidgwick, *The Methods of Ethics*, pp. 416f.

13. See J. S. Mill, *Utilitarianism*, ch. IV, last two pars.

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 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 the 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. Utilitarianism does not take seriously the distinction between persons.

6. SOME RELATED CONTRASTS

It has seemed to many philosophers, and it appears to be supported by the convictions of common sense, that we distinguish as a matter