RIGHT, DUTY AND UTILITY: FROM BENTHAM TO KANT AND FROM MILL TO ARISTOTLE[1]

José de Sousa e Brito
Universidade Nova de Lisboa

Resumen

Este trabajo analiza los intentos llevados a cabo por Jeremy Bentham y John Stuart Mill para hacer converger algunos de los principales modelos de fundamentación moral: las éticas de la felicidad, como la aristotélica, o la propia ética utilitarista, las éticas del deber de raíz kantiana y las éticas de los derechos.

Si conseguimos "reducir", en primer lugar, las éticas de los derechos al modelo de la ética del deber, podremos simplificar mucho la cuestión y limitarnos a contrastar este último modelo con las éticas de la felicidad, que a su vez deberían converger en la propia ética de la utilidad.

No obstante, y aun reconociendo su gran interés, una convergencia completa entre modelos alternativos se revela como imposible. A pesar de los esfuerzos, sobre todo de John Stuart Mill, no es posible una unificación completa de los planteamientos utilitaristas con los de Aristóteles y Kant.

La continuación de la empresa utilitarista de lucha por la unificación teórica en el ámbito del problema de la fundamentación moral encuentra un buen ejemplo actual en la obra de Esperanza Guisán.

Palabras clave: Aristóteles, Kant, Bentham, John Stuart Mill, Utilidad, Derechos, Deber.

Abstract

This paper analyzes the attempts developed by Jeremy Bentham and John Stuart Mill to make converge on some of the main models of moral foundation: the ethics of happiness, like Aristotle's one, or the very utilitarian ethics, the ethics of duty of Kantian roots and the ethics of rights.

If we "reduce" first, the ethics of rights to the model of the ethics of duty, we greatly simplify the issue, and we could limit ourselves to compare the latter model with the ethics of happiness, which in turn should converge in the own ethics of utility.

However, while recognizing its great interest, a complete convergence between alternative models proves to be impossible. Despite the efforts, mainly by John Stuart Mill, you cannot reach a full unification with the utilitarian approaches of Aristotle and Kant's views.

The prosecution of the utilitarian enterprise to struggle for theoretical unification within the dominion of the problem of moral foundation has a good current example in the work of Esperanza Guisán.

Key words: Aristotle, Kant, Bentham, John Stuart Mill, Utility, Rights, Duty.

Utility, duty, right: are they alternative foundations of political theories, as Dworkin would say?[2] If one takes utilitarian theories as a species of goal-based or good-based theories, and if one identifies the good of man and happiness, it is possible to oppose theories of happiness, as Aristotelianism and utilitarianism, to duty-based and to right-based theories. The tripartition conceals however the profound differences between Aristotelianism and utilitarianism that have been lately accentuated by critics more —as Rawls[3]— or less distant —as Griffin[4]— of utilitarianism, notwithstanding the fact that the very beginning of the *Ethica Nicomachea* quoted in Greek is the only authority that Bentham invokes in his first public exposition of the principle of utility in *A Fragment on Government*[5].

If one reduces rights to duties - what Bentham did by means of the paraphrase of right - or if rights are in some sense derivable from a fundamental duty - e.g. from a fundamental duty of equal respect to persons as ends in themselves, as Kantianism does -, it is possible to oppose duty-based theories to theories of happiness, as Kant[6] does. Bentham proposed more than one way of paraphrasing, or reducing sentences with the word "duty" to sentences about other things, namely about possible pleasures or pains acting as a particular kind of motif or source of action. But he demonstrated in part why such proposals could not succeed and he defended indeed a kind of transcendental proof of the principle of utility, which transforms utilitarianism and Kantianism into variants of the same.

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2 Ronald Dworkin, *Taking Rights Seriously*, Cambridge, Massachussets, Harvard University Press, 1977, 171.

3 John Rawls, *A Theory of Justice*, revised ed., Oxford, Oxford University Press, 1999, 486 ss.

4 James Griffin, *Well Being*, Oxford, Clarendon, 1986, 56 ss.

5 Jeremy Bentham, *A Comment on the Commentaries* and *A Fragment on Government* , ed. J. H. Burns, H.L.Hart, London, Athlone, 1970, 415 n.

6 *Metaphysik der Sitten, Rechtslehre*, 1797, 9; *Metaphysik der Sitten, Tugendlehre*, 1797, IX; *Grundlegung zur Metaphysik der Sitten*, 1785, 47.

We shall pursue the initial question, discussing the treatment given to it by the two main founders of utilitarianism, Bentham and John Stuart Mill.

1. FROM A RIGHT-BASED THEORY TO A DUTY-BASED THEORY

Let us recall Bentham's arguments about such foundations of ethics and political philosophy. If they are good arguments, it is possible to reduce right- based theories to duty-based theories and to reduce duty- based theories to utility or happiness-based theories.

Following Bentham, a right-based theory can be reduced to a duty-based theory because the language of rights can be translated into the language of duties, each sentence with words expressing concepts of rights being translated into sentences with words expressing duties. Bentham anticipates with his theory of paraphrase, the analytical theories of definition in use, of Russell[7], or of constitutional definition, of Carnap[8] If sentences about a can be translated by or reduced to sentences about b, c, then a can be reduced to b, c. To constitute a from b,c, means to state a rule according to which it is always possible to transform —to translate, to paraphrase, to reduce— a sentence about a into sentences about b, c. Carnap speaks here of constitutional rule or constitutional definition.

Duties are constituted by commands, or mandates, and prohibitions and denied by non-commands and permissions, Mere liberties result from permissions and non-commands, from the inexistence of duties. Rights to services are constituted by commands and prohibitions. Legislative powers are constituted by imperfect commands that are to be filled up by the subordinate power-holder (do what he orders you to do). Aggregative powers (to marry, that is, to aggregate oneself to the married people, to nominate, to sell, to divorce) are constituted by imperfect commands, that are filled up by the subordinate power-holder by giving descriptions of the persons by whom the powers shall be possessed , or of the things over which, or the persons over whom, such powers shall be possessed, of the acts to which such power shall extend, etc. Ownership, for example, is a cluster of liberties, rights to positive and negative services and aggregative powers, and so are most individual rights.

Without entering into detail, I think that it is always possible to reduce rights to duties, even if the reduction leaves out a part of the meaning

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7   Alfred North Whitehead, Bertrand Russel, *Principia Mathematica* (1910), 2d. ed, Cambridg, Cambridge University Press, 1927, I, 25, (69.

8   Rudolf Carnap, *Der logische Aufbau der Welt* (1928), 2d. Ed., Hamburg, Felix Meiner, 1961, 38.

of the rules about powers, which are also instructions to the subordinate power-holder how to bring about certain results and not only impositions of duty to those subject to the power, as Hart[9] has shown. That is the price of Bentham's reduction. But it has also its advantages. It is essential that diversity does not close our eyes to relations which have been brought to light by Bentham's obsession with uniformity. Coming back to the rules on powers, we may admit their semantic autonomy, as different ways of guiding behaviour, as distinct kinds of rules. But I think that they are dependent on rules of duty, on Benthamite mandates. Although every rule, including those which confer powers, may be applied and therefore followed or not followed, only mandates can be fulfilled. But for the commands and prohibitions connected with the exercise of powers, we can judge upon the efficacy of the latter. Only comparing the conduct of those obligated by the rules emanated from the subordinate power –holder with the content of these rules, can we know if the power was effectively conferred. And only by comparing the conduct of those obligated to the new owner with the general law of ownership, do we know if the ownership has been effectively transmitted. This may be perhaps a way of relating power-conferring rules with facts, which shows how they can be integrated in the semantic category of "*fiats*" or "volitions" (Kenny) and in their logic. Volitions, as opposed to assertions, do not show what the facts are, if they are true, but show what the facts are, if they are fulfilled[10]. In this way Bentham can help us to regain the unity of the field, without loosing its variety, revealed to us by Hart.

If it is so, the essential point of Bentham's thesis, stands up, namely that rights are dependent on the corresponding obligations because of the relations between the meaning of the sentences about them and the meaning of the sentences about obligations.

With such an interpretation the thesis has philosophical significance, It is independent from law, where it was demonstrated by Bentham, and it reveals fundamental structures of practical thinking and of its language. There are no rights anterior to duties, neither in the law as it is, nor in the law as it should be, neither in ethics nor in natural law, if there is one. The thesis is also independent of a particular political theory. It is a main thesis of utilitarianism, but does not depend on it.

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9   H.L.Hart, "Bentham on Legal Powers", *Yale Law Journal* 81 (1971), 821. See J:S:Brito, "Hart?s Criticism of Bentham", *Rechtstheorie* 10 (1979), 540.
10   Antony Kenny*, Action, Emotion and Will*, 1963, ch. X, XI.

2. FROM BENTHAM TO KANT

Bentham offered more than one proof of utilitarianism, including a transcendental argument, an ideal social contract argument[11] and an ideal arbiter argument[12]. I shall consider here only the first one. The principle of utility, says Bentham, is a necessary condition for certain moral words, such as "ought", "right" and "wrong", having meaning. In a more Kantian paraphrase one would say that such a principle is a condition of the possibility of thinking about the morality of action, i.e., a transcendental condition of both morality and the thought about it. Bentham begins with a bold assertion of the thesis:

> "of an action that is conformable to the principle of utility, one may always say either that it is one that ought to be done, or at least that it is not one that ought not to be done; at least that it is not wrong it should be done; that it is a right action; at least that it is not a wrong action. When thus interpreted, the words ought, and right and wrong, and others of that stamp have a meaning: when otherwise, they have none"[13].

Bentham imagines a discussion with a man disposed not to relish the principle. I shall transcribe the more relevant stretch of the argument:
- "If he is inclined to think that his own approbation or disapprobation, annexed to the idea of an act, without any regard to its consequences, is a sufficient foundation for him to judge an act upon, let him ask himself whether his sentiment is to be a standard of right and wrong, with respect to every other man, or whether every man's sentiment has the same privilege of being a standard to itself?
- In the first case, let him ask whether his principle is not despotical, and hostile to the rest of human race?
- In the second case, whether it is not anarchical, and whether at this rate there are not as many different standards of right and wrong as there are men and whether even to the same man, the same thing, which is right today, may not (without the least change in its nature) be wrong tomorrow? and whether the same thing is not right and wrong in the same place and at the same time ? and in either case, whether all argument is not at an end ? and whether, when two men have said, "I like this" and "I don't like it", they can (upon such a principle) have anything more to say?".

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11   "Principles of International Law", in John Bowring (ed.), *The Works of Jeremy Bentham*, 1838-43 (reprint New York, Russell, 1962), II, p. 537.
12   "Constitutional Code Rationale", in *First Principles Preparatory to Constitutional Code*, ed. P. Schofield, Oxford, Clarendon Press, 1989, ("Collected Works"), p. 235.
13   *An Introduction*, p.13.

It has been noticed by Ross Harrison[14] that this argument strongly resembles Wittgenstein's argument against the possibility of a private language when he says: "But in the present case I have no criterion of correctness. One would like to say: whatever is going to seem right to me is right"[15]. In other words, whoever uses "right" and "wrong" whenever he has a sentiment of approbation or disapprobation does not know the meaning of the rules of "right" and "wrong".

Unfortunately Bentham does little more than to show that the standard of right and wrong in morals must be common. This is, I take it, transcendental enough.

Is it that we can also say, as did Hare, that the formal element of utilitarianism "needs only to be rephrased in order to come extremely close to Kant ; there is a very close relation between Bentham's 'Everybody to count for one, nobody for more than one' (ap. Mill, 1861: ch. 5 s.f.) and Kant's 'Act only on that maxim which you can at the same time will that it should become a universal law' (1785:52)"[16].

The critics of utilitarianism defend generally that the similarity between both formulae is but superficial. "Everybody to count for one" simply means that each portion of pleasure or of pain registers but once in the calculation of happiness, with no respect to the human being. It does not avoid the sacrifice of the individual against his own will as long as this enlarges utility. It would justify killing indiscriminately the civil population in war, as a way of abbreviating it, or kill an innocent black, as in "La Putain Respecteuse" of Sartre, to avoid the racial uprising which would provoke many deaths. Even if such consequences could be avoided in the name of collective well-being, it would be the case that some discrimination and some coercion of a minority of slaves for example could be justified if it contributed for the increase of general well-being. Utilitarianism could not ever guarantee human rights. Mill, in an effort to justify them, would have to seek another basis. To say this in Hart's words: "The utilities which, according to Mill, are the stuff of those universal rights to which all individuals are entitled, are forms of the individual good of those who have such rights. They are the essentials of individual human well being and things no individual human being can possibly go without. They are identified quite independently of general utility as if the criterion was to do exclusively with individual good not general utility."[17]

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14   "The Only Possible Morality", *The Aristotelian Society, Supp.*, Vol.4, 1976, 29.
15   *Philosophische Untersuchungen*, 258.
16   Hare, *Moral Thinking*, Oxford, Clarendon, 1981, 4-5.
17   H.L.A.Hart, „Natural Rights: Bentham and John Stuart Mill", *Essays on Bentham*, Oxford, Clarendon, 1982, 96.

Some utilitarians tried to avoid some of these consequences, recognising that, on certain occasions, it is not consonant to utility to consult utility, to say it in words which Bentham considered full of meaning but unacceptable[18]. Mill defended that the general utility is better served by those who are more concerned with virtue than with the calculus of utility. Society would mostly benefit, if it cultivated such dispositions so that the greater part of us reacted many times in a non-utilitarian way and allowed a few to become heroes and saints. Such a version of utilitarianism is in part self-effacing. It is not self-defeating, because the rule, according to which we should forget utilitarianism, is still an utilitarian rule[19].

Hare attempts to reach similar conclusions by being *rule utilitarian* at the intuitive level of moral thinking and, in this way, assuring conformity in practically everything with the dominant opinion, and act *utilitarian* at the critical level, at which one selects the rules which should be used at the intuitive level and arbitrates between them in cases of conflict. As we are not archangels, we cannot, in conflict situations, know everything that is relevant and come to decision about it in time; so, in these situations, we should follow only our well formed intuitions, that is to say, behave as rule utilitarian. Hare's theory is not self effacing because the rules of rule utilitarianism are determined at the critical level. We should be sufficiently self-critical to allow that rule *utilitarianism* governs our habits and intuitions and also leads our actions in the majority of occasions. The difficulty arises because rule utilitarianism is ambiguous in conflict situations and giving up thinking critically is generally bad and, in such cases, even worse.

These answers make the difference between utilitarianism and the Kantian ethics of duty in practice less relevant, but do not keep away the underlying objection. The objection is that utilitarianism cannot but sustain the thesis that only pleasures i.e., a person's desires or preferences count, although only once, and, therefore, the persons themselves do not count. For Kant instead, only individual persons "count" in the sense that only they are "ends in itself", which necessarily govern the will, and therefore, are not "at the service of the will"; whilst other ends are "subjective ends", ends for a certain person, who by means of her action reaches a certain result. For Kant, the existence of each individual person has in itself an absolute value[20].

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18   *An Introduction*, 14 n. d.
19   Ver Mill, "Utilitarianism", 235-237; on self efacing and self defeating ethical theories, see: Derek Parfit, *Reasons and Persons*, Oxford, Clarendon, 1984, 485.
20   *Grundlegung zur Methaphysik der Sitten*, 1785, 64; ver também 65, 77, 78.

Can then the formula "everybody to count for one" mean that no-one has greater value as a person than any other person? Can utilitarianism accept such a theory? If we depart from an *a priori* foundation of utilitarianism on the basis of the meaning of moral concepts, the aforementioned question becomes a question of knowing if the sentences containing moral words imply, due to the meaning of these words, that people who consequently should behave in a way recommended in these sentences, have a value which can not be reduced to other values which take place by their actions. To sum up : is it necessarily good or desirable to exist as a person as a necessary condition of something being good or desirable ?

Hare goes to the point of saying that "I is not wholly a descriptive word but in part prescription in identifying myself with some other person either actually or hypothetically, I identify with his prescriptions. In plainer terms, to think of the person who is about to go to the dentist as myself, is to have now the preference that he should would not suffer as I believe he is going to suffer"[21]. In short : "To become moral is, first of all, to contemplate the hypothetical situation in which are actually going to be states of another person would be states of oneself, and thus to acquire a hypothetical concern for the satisfaction of the preferences of oneself in that hypothetical situation; and then because of universality, to find oneself constrained (unless one takes the amoral escape route) to turn this merely hypothetical concern into an actual concern for the satisfaction of the preferences of actual other person. In plainer terms, morality requires us to argue: since if I were going forthwith to have the preferences which he actually has, I must now prescribe that they should be satisfied, and since morality admits no relevant differences between 'I' and 'he', I am bound, unless I become an amoralist, to prescribe that they be satisfied. This prescription would have to compete with others, but it is enough to have secured a place in the competition. And what establishes the truth of the first 'since'-clause is the implicit prescriptivity of the word 'I'"[22].

I think Hare is right when he underlines that sentences of "duty" imply that I will accept them if I put myself in place of any other person or, what will eventually result in the same process of thought, if the preferences of others are treated as if they were mine. It is because of this that these sentences are universal. But this means that another person's preferences are morally relevant only because they are as if they were mine. It is this that is meant by taking the place of another person and this constitutes a valued difference in relation to the mere preferences of others. This does

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21   *Moral Thinking*, 96-97.
22   *Ibid*, 223.

not imply that my preferences are better than yours, but that yours as much as my preferences are self-preferential, containing, therefore, a right to relevance in taking a decision. In other words: to become moral is, in the first place, to have respect for oneself and for others or to love oneself and others before having respect or loving them for one reason or another[23]. The rule of mutual respect would derive analytically from any possible ethics, including utilitarianism, I suppose.

3. FROM MILL TO ARISTOTLE

For his part, John Stuart Mill invokes Kant to characterize his own theory when he says that "the general principles of what has been called Teleology or the Doctrine of Ends"—and utilitarianism is just is own version of Teleology— "borrowing the language of the German metaphysicians —Mill is here referring to Kant— may also be termed, not improperly, the principles of Practical Reason"[24]. But Mill does not explain why, so we are left with what can be reconstructed from Bentham. Departing not from utilitarianism to arrive to Kant, but in opposite direction from Kant to utilitarianism, Mill says that when Kant "propounds as the fundamental principle of morals, 'So act, that thy rule of conduct might be adopted as a law by all rational beings,' he virtually acknowledges that the interest of mankind collectively, or at least of mankind indiscriminately, must be in the mind of the agent when conscientiously deciding on the morality of the act."[25] As a matter of fact, Kant holds that such a formulation of categorical imperative is equivalent of another that takes humanity as an end in itself: "So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means."[26] This formulation however refers to humanity "indiscriminately" and not "collectively", a point that Mill left open in the *System of Logic*, without further discussion. About the first formulation of the categorical imperative says Mill in other passage that Kant can't find but utilitarian arguments to justify its application. So are immoral rules of conduct unacceptable for Kant, because "the *consequences* of their universal adoption would be such as no one would choose to incur."[27]

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23   Ernst Tugendhat, *Probleme der Ethik*, Stuttgart, Reclam, 1984, 138 ss., 160 ss.
24   *A System of Logic*, VI, XII, 6 (ed. Robson, *Collected Works*, London, Routledge, 1974, 949-950).
25   *Utilitarianism* (1861), *Essays on Ethics, Religion and Society*, ed. J. M. Robson, *Collected Works*, X, Toronto, University of Toronto Press, 1969, 249.
26   *Grundlegung zur Metaphysik der Sitten*, 1785, 66-67 (Akademie-Ausgabe, 429) (H. J. Paton's translation).
27   *Utilitarianism*, 207.

If Mill makes bold statements about Kant without much argument, in respect to Aristotle, he develops in the *System of Logic*, without naming Aristotle, many arguments that allow for a close proximity between utilitarianism and Aristotelianism:

– Both have practical reasoning as method;
– Both have the same ground, Mill's practice corresponds to Aristotle's *praxis* ;
– For both, happiness is the ultimate end;
– For both, the virtues are means for happiness.

a. Practical reasoning as method

"The Method of Ethics —says Mill— can be no other than that of Art, or Practice in general." And he adds: "Now, the imperative mood is the characteristic of art, as distinguished from science. Whatever speaks in rules or precepts, not in assertions respecting matters of fact, is art."[28]

The method of ethics or of practice in general is explained by Mill as follows: "The art proposes to itself an end to be attained, defines the end, ands it over to the science. The science receives it, considers it as a phenomenon or effect to be studied, and having investigated its causes and conditions, sends it back to art with a theorem of the combination of circumstances by which it could be produced. Art then examines these combinations of circumstances, and according as any of them are or are not, in human power, pronounces the end attainable or not. The only one of the premises, therefore, which Art supplies, is the original major premise, which asserts that the attainment of the given end is desirable. Science then lends to art the proposition (obtained by a series of inductions or of deductions) that the performance of certain actions will attain the end. From these premises Art concludes that the performance of these actions is desirable, and finding it also practicable, converts the theorem into a rule or precept."[29]

Mill's explanation fits entirely into an Aristotelian practical syllogism, as the following "technical" syllogism of the art of medicine[30]:

1. The subject is to be healthy
2. To be healthy one's bodily state has to be uniform
3. If he is made warm his bodily state will be uniform

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28   *A System of Logic*, 943.
29   *Ibid.*, 944.
30   *Metaphysics*, Z, 1032b 18-21. For further elaboration on this example and on technical syllogism, see: Anthony Kenny, *Aristotle's Theory of the Will*, London, Duckworth, 1979, 125-146.

4. If he is rubbed, he will be heated
5. Rubbing is in the physician's power
    Since, according to Aristotle, the conclusion of a practical syllogism is an action:
6. The physician rubs him.

Combining this example with Aristotle's assertion that "the premises of art are of two kinds, of the good and of the possible"[31], 1 is a premise of the good and 5 a premise of the possible. 2, 3 and 4 are premises of transition of the science of physiology. From them and from 1 derive the following premises of the good:

2'. The subject's bodily state is to be uniform
3'. The subject is to be made warm
4'. The subject is to be rubbed.

Aristotle's premises of the good are in Mill's language the rules or precepts in which the art of medicine does speak. Mill would probably add, instead of 6:

6' The physician is to rub him.

This is not Aristotle's, but it is certainly Aristotelian, since Aristotle would have to allow for it.

b. Practice as the domain of practical syllogism

Mill thinks that there is one art of life, which governs practice as the class of the actions of every one, the domain of practical syllogism, although he does not use the phrase. "For the purposes of practice —he says—, every one must be required to justify his approbation; and for this there is need of general premises, determining what are the proper objects of approbation, and what the proper order of precedence among those objects." And he adds: "These general premises, together with the principal conclusions which may be deduced from them, form (or rather might form) a body of doctrine, which is properly the Art of Life, in its three departments, Morality, Prudence or Policy, and Æsthetics; the Right, the Expedient, and the Beautiful or Noble, in human conduct and works. To this art (which, in the main, is still to be created) all other arts are subordinate; since its principles are those which must determine whether the special aim of any particular art is worthy and desirable, and what is its place in the scale of desirable things."[32]

For Aristotle too practice is the domain of practical syllogism. However he does not subordinate the arts to practice as Mill does. Aristotle

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31   *De motu animalium*, 701a 24.
32   *A System of Logic*, 949.

distinguishes the end of action —and therefore the practical reasoning conducive to action— in practice (*praxis)* and in production (*poesis)*. The last one characterizes the art or *technique (techne)*. "For —he says— while production has an end distinct from itself, this could not be so with practice, since the end here is the good practice itself."[33] The last assertion must be understood in the sense that the good practice is the ultimate end, which is reached by choosing the good practice among all possible practices, that is, by choosing such an end of action that is, in Aristotle's words, "the good and best"[34] among all possible ends of actions. Such an end of action can then be said a means for the ultimate end of the good practice. So we have that in the production (and also in the arts) the action is justified in view of a given end, whose goodness is not to be justified (in the medical art the action is justified by making healthy, but that it is good to make healthy is not to be justified), but in the practice the action is to be justified in view of all possible ends. Passing from the actions to the habitual state, or capacity, that becomes effective through them, Aristotle makes a correspondent distinction between art (*techne*) and wisdom (*phronesis*). Art is the capacity to produce, by means of productive syllogism, which includes the rules of actions having a particular end or good, which is proposed at the start without demonstration or evidence. Wisdom is the capacity to practice well, by means of practical syllogism (in a strict sense), which includes the rules of actions envisaging the good and best, or the general good of life (living well), that Aristotle identifies with happiness, which is proposed at start as evidently good[35]. Therefore it is clear that for Aristotle it does not make sense to speak of a general art of life to which all the other arts are subordinate by means of practical syllogisms. It is true, however, that Mill gives a definition of art different from Aristotle's, and there is no obstacle to consider wisdom as an art in Mill's sense, since it uses the practical syllogism, which includes rules, and nothing more is needed to be an art in that sense. It still remains that there is no single body of logical derivation, by means of practical syllogisms, of the various arts from the art of life.

This remaining difference has its source in what is in my opinion the basic difference between Aristotle and utilitarianism in respect to the very conception of the task of ethics. Aristotle does not seek a general premise of every action —of the kind of the principle of utility—, which is the

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33   *Nichomachean Ethics*, VI, 1140b 3-4, 6-7.We link both sentences, following Gauthier-Jolif, *L'Éthique à Nicomaque*, Louvain, Publications Universitaires, 1970.

34   VI, 1144ª 31-33. Crisp (Aristotle, *Nicomachean Ethics*, Cambridge, Cambridge University Press, 2000) translates: "the end or chief good".

35   *Nicomachean Ethics*, VI, 1140a 25-28, 1140b 4-6, 1144ª 3-6.

foundation of a body of rules like almost an axiomatic system. He is clearly aware of the difficulty to live a coherent life and to make compatible —or to prefer among— the diverse ends of practice, which have to be weighted in the deliberation giving cause to action[36]. In fact, what is good for one end can be bad for another end. This is even true of the virtues, which have their siege in the character, and are habitual states or capacities also causing action: it is well known how the courage of Achilles was equally good for war and bad for piety. Now, Aristotelian ethics is constructed similarly to life, with the logical difficulties of deliberation, proceeding from bellow and not from above.

Nevertheless, Mill's thought is close enough to Aristotle's. Aristotle does not exclude that the ends of medicine be considered within the practice. If it is true that the physician as such does not deliberate about making healthy or not[37], it is certainly a thoroughly practical question, whether he should cure or doing something else, such as politics or philosophy. I also think that the Aristotelian ethics opens, like Mill's —and Bentham's and Kant's—, to the reasons of others. Aristotle, once he has included in the definition of wisdom that "it is concerned with what is good and bad for a human being"[38], says: "This why we think Pericles and people like him are practically wise, because they can see what is good for themselves and what is good for people in general". The justification of good practice is done at last by envisaging every possible end of action, including the ends of other's actions. Others can also question how rational the deliberation is, by invoking their own ends, and then the answer must be given by seeking their approbation.

c. Happiness as the ultimate end

Mill declares his conviction, "that the general principle to which all rules of practice ought to conform, and the test by which they should be tried, is that of conduciveness to the happiness of mankind, or rather, of all sentient beings"[39].

Aristotle's concept of happiness is not mainly linked to being sensible to pleasure and pain, but to the full flourishing of one's capacities and, therefore, to virtues. Furthermore, happiness does not result from the same combination of virtues for every one, and it depends, not only on virtues, but also on luck.

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36   See *Nicomachean Ethics*, VI, 1139a 31-34.
37   *Nicomachean Ethics*, V, 1112b 12-13.
38   *Nicomachean Ethics,* VI, 1140b 5-6.
39   *A System of Logic*, 951.

d. The virtues as a means to happiness

In spite of the differences in the foundations of ethics, Mill's utilitarianism coincides in its results with some kind of Aristotelian ethics of virtues.

"I do not mean —says Mill— to assert that the promotion of happiness should be itself the end of all actions, or even of all rules of action. It is the justification, and ought to be the controller, of all ends, but is not itself the sole end. There are many virtuous actions, and even virtuous modes of action, (though the cases are, I think, less frequent than it is often supposed,) by which happiness in the particular instance is sacrificed, more pain being produced than pleasure. But conduct of which this can be truly asserted admits of justification only because it can be shown that on the whole more happiness will exist if feelings are cultivated which will make people, in certain cases, regardless of happiness. I fully admit that this is true: that the cultivation of an ideal nobleness of will and conduct should be to individual human beings an end, to which the specific pursuit either of their own happiness or of that of others (except so far as included in that idea) should, in any case of conflict, give way. …The character itself should be, to the individual, a paramount end, simply because the existence of this ideal nobleness of character, or of a near approach to it, in any abundance, would go further than anything else towards making human life happy, both in the comparatively humble sense of pleasure and freedom from pain, and in the higher meaning of rendering life, not what it now is almost universally, puerile and insignificant, but such as human beings with highly developed faculties can care to have."[40] Such a version of utilitarianism is partly self effacing. But it is not self defeating, since the rule according to which utilitarianism should be forgotten is still utilitarian.

However, it has to be recognized that in the interpretation of Aristotle I have been suggesting a similar difficulty seems to emerge: how to pass from a theory of wisdom based on practical syllogism in the universe of intersubjective practice to a theory of individual happiness inclusive of virtues?

I think that there is no passing here from a theory to another, but refining or developing of different parts of a sole ethics which is from start of virtues and of happiness. The ends of action are not acquired from a life without ends, there are envisaged and justified on the basis of a social life already full of ethical intentions. Aristotle's definition of the virtues

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40   *A System of Logic*, 952. See also Mill, "Utilitarianism", 235-237.

presupposes the Greek ethical experience. The development of an ethics of virtues —and also of an ethics of happiness— in Aristotle is made within such an experience as a control by reason of a part of its steps. Finally Aristotle's ethics follows the model of the rational reconstruction of the life of each of us.

Looking back at our starting question: are utility, duty and right alternative foundations of ethics and political philosophy? The natural answer is no, since alternative foundations are no foundation. But I see no difficulty in admitting that the foundation of ethics is the end of the road and there are many starting points and so many ways of marching in. If it is so, the foundation of ethics has to explain why it is so. I do not know of better arguments for the unity of ethics than those of Bentham and Stuart Mill. Of both, Mill was the one who strived to embrace the theories of his major contenders, Aristotle and Kant. He could never succeed in speaking in one voice with them. But he contributed a lot to make philosophical ethics a common ground for discussion, where philosophers of various proveniences understand each other.

Esperanza Guisan is a true disciple of Mill. In her written work, and specially in her book *Introducción a la Ética*[41], as well as in her teaching, in the many international meetings of the Sociedad Iberamericana de Estudios Utilitaristas and in the review *Telos* —she founded both— philosophical ethics is at home, a home where in the spirit of Stuart Mill philosophers of various intellectual origins strive to understand each other and create a common ground for the sake of better ethics and hopefully with it of a better mankind.

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José De Sousa E Brito
Universidade Nova de Lisboa
e-mail: josesousabrito@yahoo.com

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41   Esperanza Guisán, *Introducción a la Ética,* Madrid, Cátedra, 1995.