Article

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Was Friedrich August Hayek a Utilitarian?

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Abstract: This study critically revises narratives in the literature concerning the relationship between Friedrich August von Hayek's philosophy and utilitarianism, aiming to organize and clarify the discourse in this field. At the heart of Hayek's philosophical system lies the value of individual liberty, defined as the absence of coercion by others. Hayek presents it as a foundational and autonomous value – one that is essential to moral agency and the very essence of morality. He argues that the denial of individual liberty degrades the individual to a mere instrument for others' ends, a stance he deems morally indefensible. Despite this, Hayek explores the consequences (across various dimensions) of adopting or rejecting freedom as a cornerstone of social order to engage those who might undervalue freedom. Such explorations have contributed to the common interpretation of his work as utilitarian – one important, though not exclusive, factor behind this attribution. However, examining his works reveals that this classification does not hold, as his approach does not fulfill the necessary conditions to count as utilitarianism (consequentialist reasoning featured in his philosophy is neither central nor aligns with utilitarian frameworks). Demonstrating that Hayek's philosophy diverges from utilitarianism is essential for its accurate interpretation. Misattributing utilitarianism, and therefore collectivist thinking, to Hayek leads to inaccurate interpretations that undermine the individualistic and libertarian nature of his philosophy.

Keywords: utilitarian justification of norms of liberty; Nonutilitarian liberalism of Hayek; Hayek's concept of liberty

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How can there be a definite limit to the supreme power if an indefinite general happiness, left to its judgment, is to be its aim?
(G.H. von Berg)
Freedom granted only when it is known beforehand that its effects will be beneficial is not freedom.
(F.A. von Hayek)

1 Introduction

Liberty is the cornerstone of Friedrich August von Hayek's philosophy. Using the term without additional adjectives, Hayek considers what is sometimes called individual (and by some, negative) liberty, that is, the absence of coercion of the individual by others. This form of liberty, as Hayek asserts, must be universally accessible, necessitating protection through general rules that are universally applicable. These rules are designed to safeguard the individual's domain of freedom – the realm within which individuals operate autonomously, pursuing their personal goals and values under their own responsibility. These principles must be protected and enforced by a system of positive law (Hayek 2006, pp. 19–20). They derive from a moral tradition that has evolved as humanity has transitioned from tribal communities, which are characterized by personal ties and subordination to local authorities, to complex large societies based on principles of freedom (Hayek 1991, pp. 17–19). Within the framework of these principles (and only within it), a spontaneous order emerges based on the free actions of individuals, allowing those who enjoy individual liberty to coexist in relative harmony (see Hayek 1991, pp. 29–37). Hayek's philosophy manifests profound individualism and criticizes so-called constructivist rationalism (the view that human reason can create a better social order than the one that emerges spontaneously) (see Hayek 1980, pp. 1–32).

Hayek believes that the principles underlying the libertarian order are fundamental and should be accepted even in the absence of a perfect rational justification.[1] He was aware, however, that the once instinctive certainty regarding the inviolability of these principles had diminished. "Once the instinctive certainty is lost, perhaps as a result of unsuccessful attempts to put into words principles that had been observed 'intuitively,' there is no way of regaining such guidance other than to search for a correct statement of what was known implicitly" (Hayek 2013, p. 58). Accordingly, although Hayek regarded these principles as ultimately unprovable and

1 For discussion of whether spontaneous order necessarily entails libertarian conclusions, see Benzecry 2024, pp. 76–90.

not directly deducible from factual premises, he nonetheless held that human reason could recognize their significance and offer a justification for adhering to them.[2]

Hayek's arguments appeal to various ethical systems and draw inspiration from many philosophical traditions. In particular, he refers to the thought of Immanuel Kant and David Hume, in addition to arguments of a conservative and consequentialist nature. Kantian ethics are manifested in his emphasis on the autonomy of the individual and the moral imperative to respect his liberty. However, his approach is not a form of pure Kantianism. Elements of Humean skepticism are also significant, especially when considering the limits of human reason and the evolution of social norms. Hayek's conservative approach, on the other hand, is reflected in his arguments for preserving liberty and the liberal social order – both of which he saw as products of an evolutionary process embedded in tradition. Consequentialism (the main interest here, since utilitarianism is its form) provides arguments based on pointing out the benefits of the free order, such as increased prosperity and the possibility of developing the potential of the individual (see Kukathas 1989, p. 201).[3]

Some commentators on Hayek's thought emphasize the significance of his consequentialist arguments for principles of liberty, viewing them as central to his philosophy (see Gray 1984, Tucker 1994, Kley 1994). This emphasis on the consequentialist justification of liberty is a primary reason, though not the only one, for associating his philosophy with utilitarianism (cf. Kukathas 1989, p. 167). Although utilitarianism is the primary focus of this analysis, it is treated as a specific and particularly controversial form of consequentialism – broader consequentialist considerations are therefore not excluded from the discussion. Given that the utilitarian argument for freedom is considered weak, that utilitarianism as a form of collectivist thought seems to be fundamentally at odds with Hayekian individualism, and that Hayek himself was a critic of utilitarianism, it is essential to consider the validity of the above classification of his philosophy (see Rawls 1971, p. 29).

The central part of the text will first point out the criteria for recognizing utilitarianism. Then, we will present the reasons and contexts for Hayek's association with this position. Beyond the consequentialist argumentation supporting the libertarian order – an essential subject for many theorists analyzing his thought – we will look at additional reasons. These are the associations with utilitarianism in connection with the practical solutions outlined in his works (the state as lessee of a monopoly on coercion, concessions to the expansion of state powers) and because he belongs to the currents to which utilitarianism is often attributed. The following

2 Reason cannot invent moral truths, but it can seek to discover the principles that constitute and legitimize the recognized moral truths, which can be called the law of nature (Hayek 1967, p. 84).

3 Chandran Kukathas uses the term "utilitarianism" here, although later in his work, he argues that Hayek's argument is not utilitarian.

section will present arguments against classifying Hayek as a utilitarian. The discussion will be based on his statements explaining the meaning of consequentialist arguments and their nature in the context of his attempts to legitimize the principles of the libertarian order (other indicated contexts of association with utilitarianism will not be analyzed additionally, both because of the volume of the text and because they are not so decisive that detecting the threads of utilitarianism in them would justify describing Hayek as a utilitarian). Hayek's views on the order of liberty will be contrasted with the assumptions of various forms of utilitarianism.

2 What Makes a Thinker's Philosophy Utilitarian?

When we call someone a utilitarian, we ascribe to him a specific position within consequentialism, according to which the evaluation of actions, possibly rules, social structures, etc., should be made through the lens of utility as a central criterion of that evaluation. Utilitarianism postulates that we should strive to maximize benefits (primarily understood in terms of hedonistic happiness) for the greatest number of people (cf. Freiman 2016, pp. 9–16; Stoiński 2014, pp. 369–374; Machan 2003, p. 91; Geach 1977, p. 91). In social ethics, utilitarians assume a common social goal and subordinate other values to utility as the supreme value. Legitimacy is accorded to these values by their stated contribution to producing this general happiness (Barry 1987, pp. 19–20). Thus, it becomes clear that utilitarianism adopts a collectivist stance. Furthermore, it is evident on utilitarian grounds that "… moral rules will not be absolute" (Freiman 2016, p. 12).

As Armatya Sen (1987, p. 74) noted, utilitarianism rests on the combination of two distinct components: welfarism, the view that something is good if it promotes overall welfare as an expected end-state, and consequentialism, the view that the moral rightness of actions is determined solely by their outcomes. "The fact that utilitarianism incorporates both consequentialism and welfarism has often made it difficult to separate the two elements. But they are, of course, distinct and essentially independent elements."

In analyzing the arguments for the presence of utilitarian elements, it is necessary to consider utilitarianism in its original Benthamite form as well as its more sophisticated variants. In the case of Benthamian utilitarianism, human actions are evaluated directly through the lens of the widely recognized principle of utility, which prescribes the maximization of happiness or the minimization of suffering (cf. Eggleston 2014, pp. 125–143). In rule utilitarianism, on the other hand, the rightness of an action is determined primarily by its compliance with an established system of rules, with the principle of utility serving as the criterion for evaluating these rules (Stoiński 2014, p. 373; Miller 2014, pp. 146–165). While in act

utilitarianism, it is crucial to determine which results are most likely to be achieved by alternative actions (to create a ranking based on a utilitarian scale of values), rule utilitarianism focuses on comparing sets of rules from the perspective of the quality (utility) of the social orders created as a result of recognizing and following these rules (Mack 2006, pp. 265–266). In the case of concepts of – let us say – non-obvious utilitarianism, the term "indirect utilitarianism" is used. The scope of this concept is not sharp (cf. Eggleston 2014, p. 139; Miller 2014, pp. 146–147). Some, like John Gray (1984, p. 96), understand it as any form of utilitarianism beyond Jeremy Bentham's act utilitarianism, including the version proposed by J.S. Mill, while others disagree with such a broad view of the term (see Kukathas 1989, p. 64). It is also sometimes treated as a form of act or rule utilitarianism. However, some authors distinguish forms of indirect utilitarianism that fall into neither category, such as certain forms of preference utilitarianism (see Bykvist 2014, p. 105). Let us recall Gray's intensional definition of "indirect utilitarianism" – though it is vague, it aptly reflects the term's inherent ambiguity: It is a theory of morality and practical reasoning that evaluates all states of affairs through the prism of the utility they contain but condemns any strategy of direct utility maximization as self-destructive (Gray 1984, p. 104).

To meaningfully classify a theory as utilitarian, however, it is not enough that it appeals to consequences or refers to utility in a general sense. Utilitarianism requires both a substantive specification of the final end (such as happiness, preference satisfaction, or welfare), and the elevation of that end into the sole or overriding criterion for moral or institutional evaluation. These are not merely formal properties – they constitute the core logic of utilitarian reasoning. A theory that includes utility-based arguments, but does not make utility the central legitimizing principle of its normative structure, does not meet these criteria.

What is equally important, to properly attribute utilitarianism to someone, it is crucial to analyze not only the presence of the principle of utility maximization in their philosophy but also its role within the system. We must ask whether it serves as a critical criterion legitimizing the basis of their value system. The mere, marginal presence of utilitarian considerations in contexts of lesser importance does not justify labeling someone as "utilitarian." (Designating Hayek's philosophy – which is grounded in the concept of freedom as an autotelic value deeply interwoven with rules establishing order – as utilitarian would be justified only if it can be demonstrated that he uses utilitarian principles to legitimize the rules of freedom. Furthermore, he would need to justify these rules, primarily or exclusively, from a utilitarian perspective).

However, utilitarianism is often hastily ascribed without a thorough examination of the essential criteria. This oversight neglects that utilitarianism falls within the broader category of consequentialist theories and that not every consideration of consequences qualifies as utilitarianism. Such inconsistent identification leads to

conceptual confusion that affects both popular discourse and scholarly writings. Consequentialism is sometimes mistakenly equated with, or even treated as a variant of, utilitarianism. As a result, the analyses that consider the outcomes of proposed solutions are mistakenly interpreted as manifestations of utilitarianism (see Barry 1987, pp. 19–20). Moreover, thinkers are sometimes labeled as "utilitarian" merely because their work contains utilitarian or consequentialist motifs, even if they explicitly advocate for a different ethical framework.

3 Why Hayek is Sometimes Called a Utilitarian?

3.1 On the Order of Liberty from the Perspective of Consequences

In the context of Hayek's reflections on the order of liberty and the legitimacy of its underlying principles, the suspicion that his thought has a utilitarian nature often arises – a suspicion that appears more understandable when seen in light of categories such as "institutional utilitarianism" (Freiman 2016), and one that resonates with themes discussed, in different ways, for example, by Kukathas (1989), Barry (1987), and Aubrey (2022) in their analyses of liberal and Austrian traditions.[4] This is due in part to his observation that freedom "… will, on balance, release more forces for good than for bad" (Hayek 2006, p. 28) – a formulation that emphasizes outcomes and can be read as suggesting that liberty is to be valued at least partly for the beneficial consequences it produces. Hayek pointed out that freedom, in addition to enabling the emergence of moral agency and responsibility, being an expression of respect for the rights of the individual, preventing him from being treated instrumentally, and being a prerequisite for the realization of Kant's postulate that a person can never be treated as a means to someone else's ends, also has positive aspects of a more tangible nature (cf. Hayek 2006, p. 19).[5] Freedom gives individuals the space to develop their potential. Under conditions of freedom, individuals can pursue (and often achieve) their own goals and live according to their beliefs and ideas (within the framework of the above principles). Freedom is a source of spontaneity that fosters creativity and success. The benefits of freedom extend beyond individual achievement, as can be seen from the examples that follow. Freedom facilitates the exploration of diverse solutions, thereby creating the conditions for the mobilization and application of a far greater body of knowledge for the benefit of humanity than any single individual or group could accumulate (see Hayek 2006,

4 See, for example, Kukathas 1989, p. 167: "Hayek offers a utilitarian justification for the liberal order"; Gray 1984, p. 54: "He has been characterized as a moral relativist, an exponent of evolutionary ethics and, less implausibly but nonetheless incorrectly, as a rule-utilitarian.

5 For a more detailed discussion, see Šimo (2020).

pp. 17, 29). In this sense, it is possible to speak of an overall benefit to society – although, notably, Hayek (1980, p. 6) never saw it as a separate entity independent of the individuals who constitute it. An individual living under conditions of freedom can, maybe paradoxically for some, contribute more to others than under systems designed to enforce such contribution (Hayek 2006, p. 9). In an environment of freedom, the rules of law and morality increase the predictability of individuals' behavior and the consequences of their actions, which promotes the realization of each individual's goals. It also allows for adaptation to unforeseen or unpredictable events through the functioning of adaptive mechanisms, which are highly valued by Hayek. In free human societies, as in the free market, these mechanisms produce a form of organization among individuals – referred to as "spontaneous order" – which does not result from the deliberate design of any individual. Instead, it emerges as a consequence of something akin to Adam Smith's "invisible hand" (see Hayek 2006, pp. 3–4, 30–32). "The insight that general rules must prevail for spontaneity to flourish, as reaped by Hume and Kant, has never been refuted, merely neglected or forgotten" (Hayek 1991, p. 73).

Hayek also referred to these insights in his discussions on socialism. In them, he emphasized comparing the opposing economic and social systems, i.e. individualistic liberalism based on free market solutions and socialism with its planned economy, in terms of functionality and efficiency (Kukathas 1989, p. 193). He noted that certain essential aspects of the conflict between the two could be partially resolved on the basis of economics, without reference to values. From an economic perspective, the free market system has proven to be significantly more effective in raising living standards than planned economic systems (Hayek 1991, pp. 7–9). Hayek (2013, p. 19) argued that the system results from the "natural selection" of practices that ensure freedom and enhance the survival of communities. He pointed out that the value of freedom becomes clear when we compare societies in which it is cultivated with societies in which it is lacking. Socialism cannot offer effective solutions because of its intellectual fallacy (the belief that central planning can replace market mechanisms). The consequences of choosing between these systems, as he saw it, are incredibly momentous: "I do claim that, whether we like it or not, without the particular traditions I have mentioned, the extended order of civilization could not continue to exist…and that if we discard these traditions, out of ill-considered notions…of what is to be reasonable, we shall doom a large part of mankind to poverty and death." "The dispute between the market order and socialism is no less than a matter of survival. To follow socialist morality would destroy much of present humankind and impoverish much of the rest" (Hayek 1991, pp. 7, 27).

As indicated earlier, the interpretation of his discussion of the merits of a free social system will be the focus of this paper. The review of these merits, particularly their consequentialist tone, provides the necessary conceptual background for

assessing how Hayek's position may be (mis)read as utilitarian. Special attention will be given to this issue because if Hayek were utilitarian in this fundamental aspect of his political philosophy and axiology, this would have significant consequences – it would justify treating his entire system as utilitarian.

3.2 Justifications for Systemic Solutions

Some elements of Hayek's institutional thinking have been interpreted as bearing utilitarian features. This concerns, for example, references to the usefulness of the state – despite its coercive nature and non-spontaneous origin – as well as the way certain basic social arrangements appear to be justified by the beneficial outcomes they produce. Although Hayek explicitly opposes coercion in principle, he accepts institutional solutions that seem to involve more of it than what would be strictly necessary to protect individual liberty. Such tensions are sometimes read as implying a pragmatic, outcome-oriented rationale, characteristic of utilitarian modes of reasoning.

In light of Hayek's philosophy, any systemic solution should be based on the assumption that coercion, as a denial of freedom, is something that should be reduced as much as possible: "… coercion is evil precisely because it thus eliminates an individual as a thinking and valuing person and makes him a bare tool in the achievement of the ends of another". The maximum possible limitation is not equivalent to the total exclusion of it: "Coercion, however, cannot be altogether avoided, because the only way to prevent it is by the threat of coercion" (Hayek 2006, pp. 19–20). Coercion to obey the rules of law is necessary and justified, and, as Hayek notes, the state generally has a monopoly on coercion. He believed that "[a]lthought it is conceivable that the spontaneous order which we call society may exist without government, if the minimum of rules required for the formation of such an order is observed without an organized apparatus for their enforcement, in most circumstances the organization which we call government becomes indispensable in order to assure that those rules are obeyed" (Hayek 2013, pp. 45–46). As long as a state is minimal, if the activities of the government are limited to fulfilling this role, it is well suited for this purpose – it can effectively prevent arbitrary coercion by individuals (Hayek 2006, pp. 19–20). Hayek also argued that the advantage of such a limited state in guaranteeing compliance with rules is that it allows for predictability, which facilitates better adaptation to conditions. "The interference of the coercive power of government in our lives is most disturbing when it is neither avoidable nor predictable" (Hayek 2006, pp. 125–126). However, it is crucial to reiterate the significance of his strong emphasis on the fact that "… coercion is only justified in order to provide such a framework…". The government must have no "positive" powers. He saw the effective limitation of power as the most critical social problem because once

it has gained a monopoly on the use of coercion and force, it also becomes the greatest threat to individual freedom: "…organizations based on the power of coercion tend to become a strait jacket that proves to be harmful as soon as it uses its powers beyond the enforcement of the indispensably abstract rules of conduct" (Hayek 2013, pp. 465, 473).[6]

In some of Hayek's works, however, there is inconsistency with these basic tenets of his philosophy since he grants the state several functions beyond those previously indicated, namely, the state's involvement in minor forms of redistribution (see Hayek 2006, pp. 193–204). It seems that such inconsistency in views, resulting from concessions made by Hayek in confrontation with statism, is the result of a peculiar confusion on his part between the roles of a political philosopher and what he commonly referred to as a "statesman" – roles that he himself otherwise preached to demarcate (Hayek 2006, pp. 354–355). He explained that a philosopher should propose a maximalist program, unwaveringly defending liberty without considering the question of convenience and never placing security above liberty. On the other hand, the practitioner can and probably should consider how far such a maximalist program can be put into practice under the circumstances. Nevertheless, in these reflections, Hayek seems to speak as a statesman, preoccupied with the following observation: "And where the alternative to security in a dependent position is a most precarious position, in which one is despised alike for success and for failure, only few will resist the temptation of safety at the price of freedom. Once things have gone so far, liberty indeed becomes almost a mockery, since it can be purchased only by the sacrifice of most of the good things of this earth. In this state it is little surprising that more and more people should come to feel that without economic security liberty is 'not worth having' and that they are willing to sacrifice their liberty for security." Therefore "…adequate security against severe privation, and the reduction of the avoidable causes of misdirected effort and consequent disappointment, will have to be one of the main goals of policy." "Some security is essential if freedom is to be preserved, because most men are willing to bear the risks which freedom inevitably involves only so long as that risk is not too great" (Hayek 2007, p. 156).

It appears that, for some commentators, Hayek's portrayal of the minimal state as a framework that generates beneficial outcomes for society, as well as his way of justifying these slight forms of redistribution, lends itself to interpretations associated with what has been termed "institutional utilitarianism" – the view that social and political institutions should be assessed in terms of their overall impact on people's well-being (Freiman 2016, p. 13). Moreover, since the practical political

6 More on coercion in the libertarian philosophy, see e.g. Dominiak (2018); Dominiak and Wysocki (2016).

solutions proposed by Hayek – despite being inconsistent with his general theoretical framework – are paradoxically very well known, often quoted, and treated by some as if they represented the quintessence of his political philosophy, many base their assessment of Hayek's theory primarily on them.[7] Yet in truth, these elements should be understood merely as practical compromises. It is not justified to treat them as a decisive basis for classifying Hayek's political thought, or for determining whether his theory is utilitarian in any fundamental sense.

3.3 Liberalism and Utilitarianism

Hayek is also often associated with utilitarianism as a result of a hasty generalization based on statements about the actual or alleged utilitarianism of other representatives of the intellectual milieu with which his thought is associated – a tendency that can be observed both in popular perception and in certain strands of secondary literature. For example, Ludwig von Mises, Hayek's mentor, has been considered a utilitarian; the utilitarian position is sometimes attributed to the philosophy of the Austrian School of Economics and, more generally, to classical liberalism (even by Mises himself).

The thesis regarding Mises's utilitarianism is controversial.[8] On the one hand, he did not clearly dissociate himself from utilitarianism. Moreover, he sometimes invoked the principle of utilitarianism and even – as it may seem – defended it in some of his statements. On the other hand, a very non-standard understanding of utilitarianism is evident in his thought (see Mises 1979, p. 408). An illustration of his ambivalent approach to utilitarianism can be seen when we study his definition of liberalism (which ostensibly incorporates utilitarian formulas), together with an accompanying comment (which undermines his enthusiasm for a strictly utilitarian attitude): "It is an ideology, a doctrine of the mutual relationship among the members of society and, at the same time, the application of this doctrine to the conduct of men in actual society. It promises nothing that exceeds what can be accomplished in and through society. It seeks to give men only one thing, the peaceful undisturbed development of material well-being for all, in order thereby to shield them from the external causes of pain and suffering as far as it lies within the power of social institutions to do so at all. To diminish suffering, to increase happiness: that is its aim" (Mises 1996, pp. 192–193). "Liberalism has always had in view the good of the whole,

7 As Caldwell (2005, p. 5) points out, the presence of these apparent inconsistencies provides critics with what they see as sufficient grounds for dismissal: "they are solutions, for they provide grounds for dismissing him."

8 Rothbard (1998, p. 210), Block (2005), and Yeager (2000) align his conception with utilitarianism; e.g., Gunning (2005) criticizes such a view, and Barry (1987, p. 74) also expressed doubts.

not that of any special group." "It was this that the English utilitarians meant to express – although, it is true, not very aptly – in their famous formula, 'the greatest happiness of the greatest number'" (Mises 1996, p. 7). A reading of his writings reveals that Mises considered the postulate of the pursuit of prosperity, which is inevitable in any proposal for social order, to be noncontradictory if understood as a general and essentially universal conviction – a praxeological assertion – about the need to remove discomfort as efficiently as possible. In his view, "What distinguishes one social doctrine from another is not the ultimate goal of universal human happiness, which they all aim at, but the way by which they seek to attain this end" (Mises 1996, p. 99). He noted that the principle of utilitarianism becomes problematic when it is imbued with particular content, as it is by the proponents of the welfare state. His very unorthodox definition of utilitarianism is as follows: "A school of thought, neutral as to ends, that holds that social cooperation, ethical precepts and governments are, or should be, merely useful means for helping the immense majority attain their chosen ends" (Mises 2007, vol. 4, p. 1012).

The intellectual tradition of classical liberalism (including the Austrian tradition) is frequently associated with utilitarianism in popular discourse, partly due to its emphasis on faith in spontaneous processes guided by the invisible hand of the market – processes which are often assumed to promote general well-being. Such associations are noted, for example, by Aubrey (2022), who discusses how this interpretive tendency emerges in readings of liberal theory. These processes are recognized for fostering an environment that elevates living standards: "Markets channel self-interest toward the public interest" (Freiman 2016, p. 17). Popular opinion associates this approach with the utilitarian goal of maximizing happiness (the attribution of Benthamite inspiration to liberalism by figures such as Mises and M. Friedman is probably not without influence here).[9] It is hard not to agree with Norman Barry (1987, pp. 19–20) when he observes: "Yet there was always something crude and misleading about bracketing a doctrine of Bentham's, which justifies an activist, welfarist and radical role for government, with the work of the cautious and skeptical figures of the Scottish Enlightenment." He argues that one reason for this misinterpretation is that some who have tried to grasp the liberal tradition have focused on the superficial public policy issues raised by the various concepts, on which there is fairly broad agreement, rather than exploring the different intellectual underpinnings of these seemingly similar positions. In this context, it is evident that the phenomenon of confusing the concepts of consequentialism and utilitarianism, described above, is relatively common, as is the practice of attributing greater significance to consequentialist threads within some theories than they actually

9 Barry refers to broadly conceived libertarian thought; MacIntyre (1978, pp. 280–281) criticized Wolff (1968) for equating liberalism with Mill's "classical utilitarianism".

possess. Recognizing these nuances seems crucial for adequately understanding the classical liberal tradition.

4 Reassessment of Hayek's Philosophical Position

4.1 Are Hayek's Consequentialist Arguments Central to his Philosophy?

In commenting on the motivation for introducing consequentialist arguments, Hayek leaves no doubt about their status in the defense of the liberal order. These arguments are neither unique to Hayek nor constitute his main line of argumentation. Aware of the tendency of some to overestimate his consequentialist arguments, he wrote: "Some readers will perhaps be disturbed by the impression that I do not take the value of individual liberty as an indisputable ethical presupposition and that, in trying to demonstrate its value, I am possibly making the argument in its support a matter of expediency. This would be a misunderstanding. But it is true that if we want to convince those who do not already share our moral suppositions, we must not simply take them for granted" (Hayek 2006, pp. 5–6). He valued freedom regardless of its expediency: "A successful defense of freedom must therefore be dogmatic and make no concessions to expediency, even where it is not possible to show that, besides the known beneficial effects, some particular harmful result would also follow from its infringement" (Hayek 2013, p. 59). He recognized, however, that despite the factual importance of individual freedom (importance for human dignity, moral agency, respect for rights) abstracted from tangible benefits, it is often neglected – this is all the more so because understanding freedom reveals aspects that not everyone may like: "Freedom necessarily means that many things will be done which we do not like." Liberty is inseparable from responsibility for one's own life. This idea is not very popular (this is reflected, after all, in a linguistic convention that includes frequent references to the "burden" or "weight" of responsibility) (cf. Hayek 2006, pp. 17, 63). Living in freedom means acting within a framework of rules, which each of us fills with our own content. Thus, under conditions of freedom, it is possible to make unfortunate choices, make mistakes, harm oneself, fail to achieve success, and even suffer from hunger. In this situation, Hayek also tries to point out the consequences (the prospects of their occurrence) that could attract the attention of even those who, for their convenience, are ready to abandon individual dignity and rights.

In discussions with socialism, it is especially important for advocates of a libertarian order to emphasize the positive prospects it offers. Proponents of

interventionism often try to associate capitalism with poverty while describing the planned economy as the path to prosperity. In this context, it is crucial to note that economic theory provides convincing arguments against such beliefs (Hayek 1991, p. 27). (Hayek (2007, pp. 76–82) supports even his observations on socialism's failure to deliver prosperity with a critical axiological analysis, arguing that the state's abandonment of freedom inevitably results in serfdom).

In view of the above, it should be obvious that presenting consequentialist arguments in favor of the libertarian order, as Hayek does, would not justify calling him a utilitarian, even if he presented some utilitarian arguments – this is clear in the light of Tibor Machan's (2003, p. 92) apt observation that "those who champion utilitarianism tend to believe not in principles but in consequences alone".[10] Hayek believed strongly in principles. The consequentialist arguments he presents are an adjunct to it, not a basis, that could determine the nature of his doctrine.[11] Nor is his emphasis on the importance of principles based on calculating the benefits and losses of implementing them; the point that adherence to principles can promote people's material well-being is not the criterion for assessing the value of freedom. Those who are too quick to call him a utilitarian seem to overlook the fact that it is possible to treat as unquestionable a person's right to freedom and the duty of others to respect it while at the same time pointing to the benefits of doing so, and explaining that "often the best results for society as a whole come from acting in a principled way" (Machan 2003, p. 91).[12]

4.2 Distinguishing Hayek's Consequentialist Argumentation from Utilitarian Reasoning

Commentators differ on whether Hayek's consequentialist arguments for the principles of freedom underlying spontaneous order should be interpreted in terms of utilitarianism. Crucial to resolving this question is the juxtaposition of his concepts with various sorts of utilitarianism. As Barry (1987, pp. 19–20) aptly observes: "When people think of the utilitarian justification for individual liberty and the free market, they tend to think of a utilitarianism defined by the principles of Benthamism (or perhaps that 'humanized' version, or perversion, of the same doctrine produced by J.S. Mill)." However, the theorists who analyze Hayek's alleged utilitarianism in

10 As suggested below, we are not dealing with arguments of that nature here.

11 Even commentators who have contributed to the description of Hayek as a utilitarian admit that "…Hayek never regards social rules in an instrumental light" (see Gray 1984, p. 42; cf. Barry 1987, pp. 12–13).

12 It would be absurd to advocate for societal principles that would result in denying the realization of human potential and lead to evident poverty.

greater depth, such as Barry (1987), Diamond (1980), and Gray (1984), often attribute certain alternative forms of it to him, described, for example, as a "curious type of utilitarianism" (Barry 1987, p. 76) or a "Kantian version of indirect utilitarianism" (Gray 1984, p. 107).

Hayek himself sharply criticized the utilitarian perspective, noting that its assumptions and logical outcomes starkly conflict with his fundamental beliefs. He identified this stance as embodying the constructivist rationalism he opposed (Hayek 2013, p. 184). According to Hayek, such rationalism inevitably leads to dismissing abstract, universally applicable rules (Hayek 2013, p. 32). Bentham's approach to utilitarianism is particularly emblematic of this trend, evaluating each individual action solely based on its outcomes. For Hayek, this approach not only represents a form of immorality but also undermines the conditions necessary for freedom, since – as he argued – "freedom will prevail only if it is accepted as a general principle whose application to specific instances does not require justification" (Hayek 1991, p. 57; 2013, p. 59).

Hayek depicted constructivist rationalism as a viewpoint that inevitably leads to collectivism (individual reasoning is employed to make decisions on behalf of others). This stance directly contradicts individualism, an essential aspect of his philosophy. In the realm of utilitarianism, a collectivist approach towards individuals becomes evident in how it disregards personal intentions, desires, and beliefs if they conflict with the utility principle, substituting these with top-down decisions instead (Hayek 2007, p. 162; Stoiński 2014, p. 381). Such a steadfast focus on general utility risks erasing individual uniqueness and identity, directly challenging the core of libertarian and individualist ethics (see Barry 1987, pp. 19–20; Nozick 1974, p. 39).

Hayek's critique of utilitarianism is notably reflected in his objection to embracing the principle that "the end justifies the means," which he interprets as both constructivist and utilitarian. He perceives this principle as a denial of morality from the perspective of individualist ethics and, simultaneously, as a leitmotif in collectivist ethics. He wrote: "…there is literally nothing which the consistent collectivist must not be prepared to do if it serves 'the good of the whole,' because the 'good of the whole' is to him the only criterion of what ought to be done…There can be no limit to what its citizen must be prepared to do, no act which his conscience must prevent him from committing, if it is necessary for an end which the community has set itself or which his superiors order him to achieve". "Once you admit that the individual is merely a means to serve the ends of the higher entity called society or the nation, most of those features of totalitarian regimes which horrify us follow of necessity" (Hayek 2007, pp. 166–168).

Familiarity with Hayek's views leaves no doubt that Bentham's version of utilitarianism, which proposes a typically constructivist (with all its consequences)

interpretation of morality, is not to be found in him. However, it is worth considering whether Arthur Diamond (1980, p. 355) is correct when he states that constructivism is characteristic only of 'the strict utilitarianism of Jeremy Bentham and his school,' which 'undertakes to judge the appropriateness of conduct by an explicit calculation of the pleasure and pain it will cause,' and suggests that utilitarianism in another version is compatible with Hayek's conception.

Hayek unintentionally supports the notion that his concept may share commonalities with the forms of utilitarianism distinct from Bentham's, capturing them all together under the term "rule utilitarianism." Here is how he saw the difference between act and rule utilitarianism: "The strict utilitarianism of Jeremy Bentham and his school undertakes to judge the appropriateness of conduct by an explicit calculation of the balance of pleasure and pain that it will cause. Its inadequacy has long been concealed by the utilitarians relying in the defense of their position on two different and irreconcilable contentions which have only recently been clearly distinguished, neither of which by itself provides an adequate account of the determination of moral or legal rules. Of these two positions between which the utilitarians constantly shifted, the first is incapable of accounting for the existence of rules and, therefore, for the phenomena which we normally describe as morals and law, while the other is bound to assume the existence of rules, not accountable for by utilitarian considerations and thus must abandon the claim that the whole system of moral rules can be derived from their known utility" (Hayek 2013, pp. 185–186). Essentially, therefore, he explicitly directed his criticism at its act version, which he considered a flawed concept but simultaneously the only coherent variant of utilitarianism. He criticized rule utilitarianism as well, but his criticism was particularly aimed at its inconsistency. He suggested that its emphasis on rules is at odds with the general tenets of utilitarianism, which are inherent in its conception. He conveyed the impression that he does not fundamentally disagree with the tenets of rule utilitarianism concerning the principles but challenges the claims regarding the feasibility of calculating the utility derived from them. This stance could be interpreted as a lack of consistent distance from rule utilitarianism. Eric Mack correctly points out that Hayek, similar to certain commentators, fails to appreciate the distinction between alternative versions of utilitarianism and his own position.[13]

In fact, some of Hayek's critical remarks also apply to alternative forms of utilitarianism, such as rule or indirect utilitarianism. What Hayek's framework and these variants have in common are assertions regarding the fallibility of individuals and the inefficiency of evaluating the costs of competing actions on a case-by-case

13 As Mack (2006, p. 268) aptly notes, Hayek "…tends to classify whatever he rejects in the way of teleological justifications as act-utilitarianism and, by a lack of subcategories he tends to classify whatever he accepts in the way of teleological justification as rule-utilitarianism…".

basis. Additionally, Hayek correctly noted that utilitarians, apart from the Benthamite tradition, reject the simplistic notion that an entire moral system can derive from utility, aligning somewhat with his position (Mack 2006, pp. 268, 274–275). However, there is a fundamental difference between his system and utilitarianism in any version – they are clearly distinguished by their approach to the principle of utility maximization. In utilitarianism, regardless of the variant, the principle of utility is always present as a foundation, so the status of principles as principles is undermined; Hayek's conception fundamentally diverges in this critical aspect.

Regardless of its variant, utilitarianism necessitates attempts to determine (predict) the relative value of alternative concrete orders. Thus, the assumption that rejecting act utilitarianism implies to accepting Hayek's lesson on the impossibility of adequately evaluating actions in terms of utility – due to limited knowledge – is flawed. Utilitarianism invariably depends on understanding concrete outcomes for the totality of actions aligned with its principles. Such knowledge is unattainable in the context of the spontaneous order and the principles of liberty advocated by Hayek. Unlike the utilitarian assumption that norms facilitate the realization of specific end states chosen with full awareness of alternatives, Hayek underscores the importance of adhering to freedom-protecting principles, even if violating them appears to yield immediate or measurable benefits. He advocates for a commitment to "general values whose contribution to particular desirable outcomes cannot be empirically demonstrated" (Hayek 2013, p. 59).[14] Highlighting the intrinsic value of freedom for fostering spontaneous and unforeseen actions, Hayek (2013, p. 55) states, "Since the value of freedom lies in the opportunities it presents for unforeseen and unpredictable actions, we will rarely comprehend what we forfeit through a specific restriction of freedom. Any such limitation, any coercion beyond the enforcement of general rules, aims at a predictable particular outcome, yet what it precludes will often remain unknown." Therefore, while utilitarian categories (even the alternative ones) may apply to designed orders, the spontaneous order Hayek describes eludes precise capture in utilitarian terms (cf. Mack 2006, pp. 268, 274–276).[15]

14 The result, according to Hayek, is the difficulty of maintaining a system of freedom: "The preservation of a free system is so difficult precisely because it requires a constant rejection of measures which appear to be required to secure particular results, on no stronger grounds than that they conflict with a general rule, and frequently without our knowing what will be the costs of not observing the rule in the particular instance."

15 The difference between the two types of order is significant: "A designed society mobilizes its human (and non-human) resources toward the achievement of its [presumed] end or hierarchy of ends. In contrast, a spontaneous social order has no end or purpose of its own; it is a structure and a process that facilitates the pursuit by individuals of their diverse ends and commitments" (Mack 2006, p. 263).

Hayek (2013, p. 184) also mentioned that the term "utilitarianism" is sometimes used, in his opinion incorrectly, "in a wide sense," and then it is "applied to any critical examination of such rules and of institutions with respect to the function they perform in the structure of society." Subsequently, albeit with some resignation, he acknowledges that such a broadly construed utilitarianism could be ascribed to his work. It is important to note that there exists a discernible tendency to conflate the concept of utilitarianism "in the wide sense," a term employed by Hayek, with what is commonly referred to as utilitarianism" in the broad sense." Such conflation is unwarranted. In defining utilitarianism "in the broad sense," we encompass a wide spectrum of variations of utilitarianism, ranging from the most typical to the less conventional. Thus, it includes any doctrine that bases its judgments about the rightness of action on evaluations of the relative value or ranking of alternative available concrete social outcomes without limiting utility merely to categories of pleasure or satisfaction of preferences (Mack 2006, pp. 265–266). In any case, being utilitarian "in the broad sense" presupposes taking into account the criteria for judging utilitarianism (Mack 2006, p. 267). In contrast, Hayek's concept of utilitarianism "in the wide sense" fundamentally refers to any effort to legitimize values. Within this "wide sense," figures such as Aristotle, Thomas Aquinas, and David Hume would also be considered utilitarians (Hayek 2013, p. 223). In short, the attitude to which Hayek refers in the category "utilitarianism in the wide sense" cannot legitimately be called utilitarianism.

Hayek's stance, consequently, does not align with the criteria outlined in Sen's definition of utilitarianism. He cannot be labeled a utilitarian, not even in a broader sense, due to the absence of a "welfarist end state to be achieved" – a hallmark of utilitarian thought. As shown earlier, utilitarianism requires not only a general concern for consequences but also a specific, substantive standard – such as pleasure, preference satisfaction, or overall well-being – as a unifying criterion of evaluation and justification. In social ethics, utilitarians assume a common social goal and subordinate other values to utility as the supreme value. The legitimacy of other principles is derivative, contingent on their contribution to the maximization of this goal. In contrast, Hayek's framework lacks such a foundational standard. Although he does invoke consequences in support of freedom-protecting rules, these are not legitimized by reference to a single aggregative value. Rather, the rules are valued for sustaining the framework of individual liberty and enabling unpredictable, diverse outcomes. His consequentialist arguments are therefore not welfarist; thus, labeling them utilitarian would not be legitimate (cf. Kukathas 1989, pp. 194–197; Mack 2018, p. 70).

This interpretation is consistent with the view proposed by Mack, who describes Hayek's reasoning as "an alternative teleological (but non-utilitarian) justification for rules of just conduct" (Mack 2006, p. 259). He elucidates that in Hayek's conception

of spontaneous order, traditional concepts of purpose, goal, or end of deliberate action find no foothold. Nonetheless, it is possible to discuss a distinct kind of telos, envisaged as "a set of abstract relationships in and through which individuals – in particular ways that are not subject to prediction – will live peacefully and interact to mutual advantage with one another" (Mack 2006, pp. 281–282). In other words, the proposed telos is "the structure or pattern of peaceful coexistence and mutually advantageous coordination among the highly diverse members of a large-scale and pluralist society that will obtain in some concrete but largely unpredictable manifestation when there is general compliance with rules of just conduct" (Mack 2006, p. 277). Hayek himself described it as "a timeless purpose which will continue to assist individuals in pursuit of their temporary and still unknown aims" (Hayek 2013, p. 184) ("…the general rules of law that a spontaneous order rests on aim at an abstract order, the particular or concrete content of which is not known or foreseen by anyone…" (Hayek 2013, p. 48)). Understanding the spontaneous social order in the light of the social sciences only makes it possible to predict that, to repeat, adherence to the general rules of freedom – in particular, the rules that define the rights to personal integrity, property, and contracts – will sustain and promote a pattern or structure of cooperative relations, the concrete form of which will be determined each time this framework is concretized (Mack 2006, p. 278).

5 Concluding Remarks

Some commentators have attempted to label Hayek a utilitarian, simplifying and misinterpreting his position. An analysis of his works shows that while he does appeal to the consequences of adhering to the principles of freedom, such consequentialist reasoning is not the main line of argument in his conception. He sees freedom as a paramount value based on unchanging principles. Emphasizing the positive outcomes of a freedom-based order serves merely as further persuasion for those who do not inherently value freedom. Crucially, the nature of his consequentialist arguments about the foundations of liberty is not utilitarian, which is also true of more sophisticated varieties of utilitarianism than that proposed by Bentham.

Hayek's position can be summarized as follows: "It is essential that we should relearn frankly to face the fact that freedom can only be had at a price and that as individuals we must be prepared to make severe material sacrifices to preserve our liberty." (Hayek 2007, p. 156). "If the choice between freedom and coercion is thus treated as a matter of expediency, freedom is bound to be sacrificed in almost every instance" (Hayek 2013, p. 55). It is thus essential to choose liberty "against the expediencies and exigencies of the social machinery" (Hayek 2007, p. 216).

A correct understanding of this aspect of Hayek's thought has a significance that goes far beyond semantic precision. Incorrect categorizations often lead to misinterpretations of other aspects of his philosophy, such as in the analysis put forth by Gray (1984, p. 53). By interpreting Hayek's alleged utilitarianism as an attitude that excludes the possibility of individual choice, he arrives at the unwarranted conclusion – a glaring falsehood that he was not an individualist despite his own declarations.

Reducing the ideas of Hayek – a prominent defender of liberty and critic of all forms of collectivism and social engineering – to a utilitarian pursuit of general happiness diminishes the fundamental importance that liberty holds in his philosophy. If arguments for a free social order are based solely or primarily on utility, they rest on a rather unstable foundation. As Machan (1994, pp. 92–93) points out, utilitarian reasoning opens the door to abandoning liberty in favor of other systems, should they promise more tangible benefits. A more durable defense of liberty requires seeking deeper normative foundations that are not solely dependent on outcomes.[16]

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16 A similar argument was made by Murray Rothbard, who asserted that "justice, not the feeble reed of mere utility, must be the motivating force if liberty is to be achieved" (Rothbard 1998, p. 258).

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