

# Act and Rule Utilitarianism

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

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

## The historical development of Rule Utilitarianism.

During the 1950's some philosophers started to consider the place of rules in utilitarian thinking. It was already accepted that it was necessary to use rules to help you choose the right action because the problems of calculating the consequences on each and every occasion would almost certainly result in you frequently choosing something less than the best course of action. However, a more significant role for rules was thought to solve some of the more devastating criticisms levelled at utilitarianism. In the 1950s and 1960s articles were published both for and against the new form of utilitarianism and through this debate the theory we now call Rule Utilitarianism was created. It was in these articles that some of the classic arguments against Act Utilitarianism were presented and discussed. On occasions this was because the author of the article was trying to argue for some kind of rule utilitarianism on other occasions because the author was trying to argue against utilitarianism of any kind.

## Problem of duties

"There are some actions that we think we have a duty to do, although they themselves produce no good consequences, because such actions would produce good consequences if they were generally practised. There are some actions which we think we have a duty to refrain from doing...

I refrain from walking on the grass of a well-kept park lawn, not because I think that my walking on the grass is going to damage the lawn to such an extent as to detract from anybody's pleasure in contemplating it, but because I realise that, if everybody else who walked in the park were to do likewise, the grass in the park would be spoilt."<sup>1</sup>



## Promise keeping

"...if one has, for example, promised to do something it is one's duty to do it at least partly because one has promised to do it and not merely because of consequences."<sup>2</sup> To bring the issue into sharp focus the examples usually consisted of promises to a dying relative that were not witnessed by anyone else or 'desert island' promises made by the survivor before they were rescued.

## Punishment and justice

"Suppose that a sheriff were faced with the choice either of framing a Negro for rape that had aroused hostility to the Negroes (a particular Negro generally being believed to be guilty but whom the sheriff knows not to be guilty)—and thus preventing serious anti-Negro riots which would probably lead to some loss of life and increased hatred of each other by whites and Negroes—or of hunting for the guilty person and thereby allowing the anti-Negro riots to occur, while doing the best he can to combat them. In such a case the sheriff, if he were ... [an act]... utilitarian, would appear to be committed to framing the Negro."<sup>3</sup>



<sup>1</sup> Jonathan Harrison, *Our Duty to be Just*, 1953

<sup>2</sup> J.O. Urmson, *The Interpretation of the Moral Philosophy of J.S. Mill*, 1953

<sup>3</sup> H.J. McCloskey, *An Examination of Restricted Utilitarianism*, 1957

## The motivation for moving to Rule Utilitarianism



"Act-utilitarianism, at least given the assumptions about what is valuable which utilitarians commonly make, has implications which it is difficult to accept. It implies that if you have employed a boy to mow your lawn and he has finished the job and asks for his pay, you should pay him what you promised only if you cannot find a better use for your money. It implies that when you bring home your monthly pay-check you should use it to support your family and yourself only if it cannot be used more effectively to supply the needs of others. It implies that if your father is ill and has no prospect of good in his life, and maintaining him is a drain on the energy and enjoyments of others, then, if you can end his life without provoking any public scandal or setting a bad example, it is your positive duty to take matters into your own hands and bring his life to a close. A virtue of rule utilitarianism, in at least some of its forms, is that it avoids at least some of such objectionable implications."<sup>4</sup>



It is very important to remember that whilst these are criticisms of act-utilitarianism it doesn't mean that act-utilitarians necessarily accepted them or had no reply. How do you think Bentham would have responded to these criticisms?

## Criticisms of Rule Utilitarianism

J.J.C.Smart says **Rule Utilitarianism is a form of rule worship**. He argues that it is irrational to abide by a rule if you know that breaking the rule will result in greater happiness or less misery. "Is it not to erect [the rule] into a sort of idol if we keep it when breaking it will prevent, say, some avoidable misery? Is not this a form of superstitious rule worship (easily explicable psychologically) and not the rational thought of a philosopher?"

The early proponents of Rule Utilitarianism had already recognized that there would be a problem if rules came into conflict and Toulmin suggested that in these cases it would be possible to revert to a consideration of the actual consequences.<sup>5</sup> Smart pointed out that 'Act Optimifically' might therefore be counted as one of the rules. In this case there would always be a conflict if one of the other rules led to a less than optimal outcome. For this reason Smart argued that **Rule Utilitarianism collapses into Act Utilitarianism**.

McCloskey argued that **Rule Utilitarianism ignores justice**. Most students know about McCloskey's story of the unjust sheriff who hangs the innocent man. This is usually presented to highlight the difference between Act and Rule Utilitarianism. However, McCloskey argues that even the rule utilitarian cannot escape the charge of injustice. He suggests that rules might be framed so as to allow exceptions, e.g. Don't punish an innocent person unless doing so brings about valuable consequences and does not weaken the existing institution of punishment. It is entirely possible that having some unjust rules might maximise happiness, e.g. some forms of slavery; punishing the guilty along with their whole family; or retrospective legislation.



The rule 'Don't drive through red lights' leads to counter-intuitive conclusions in emergency situations so perhaps we should have the rule, 'Don't drive through red lights except in emergency situations.'  
In what way does this illustrate a problem with rule-utilitarianism?



Give a clear explanation of the difference between the act-utilitarian use of rules and the rule-utilitarian use of rules.

<sup>4</sup> R.B.Brandt, Toward a Credible Utilitarianism, 1963

<sup>5</sup> S.E.Toulmin, The Place of Reason in Ethics, 1950