

Philosophy 104, Business Ethics, Queens College, Spring 2007

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I. Brief review

Before the break, we were discussing utilitarianism and some criticisms of the theory.

We discerned three clauses of the utilitarian theory:

1. Consequentialism: Acts are right or wrong depending on the consequences they yield.
2. Hedonism: States of affairs are evaluated according to the total amount of happiness in them.
3. Egalitarianism: Every one should be counted equally.

We saw some problems with egalitarianism, like whether we should count animals.

We also wondered whether we should try to maximize average happiness or total happiness.

More seriously, we saw some difficulties with the hedonism clause, including the problems arising from consideration of Nozick's experience machine.

It looked as if happiness is not our actual goal in life.

But, replacing hedonism with personal preferences brought its own problems.

Now, we consider some problems with the consequentialism clause.

II. Criticism of Utilitarianism #2: Utilitarianism has difficulty accounting for our notions of justice.

Consider a situation in which better consequences arise from performing an injustice.

For example, consider Nielsen's case of The Magistrate and the Threatening Mob, p 150.

Harwood considers two other cases of problems with retributive justice: the scientist who murders his wife while developing a cure for cancer, and the extreme punishment of parking offenders.

In general, utilitarianism, which is forward-looking, seems to conflict with justice, which is backward-looking.

The utilitarian account of justice depends on emphasizing the precedent effect.

If you break a promise, you encourage others to break their promises.

Thus, the consequentialist urges us to keep our promises, not because there is something special about making a promise, but because the consequences of breaking that promise are generally worse, in the long run, than the consequences of keeping it.

Nielsen relies on precedent to oppose what he calls the conservative.

(We will look at Kant, for an example of conservatism.)

The conservative says we should never sacrifice an innocent.

The utilitarian considers the matter.

Nielsen quotes Anscombe as saying that even considering the matter is a sign of moral corruption.

This is also the point about the apriority of morality, or whether it should hold in all possible worlds.

The conservative wants rules to hold always and everywhere.

The utilitarian wants to deal with each case on its own merits.

For the utilitarian, there are no strict moral rules which hold a priori, in all possible worlds.

Nielsen's point is that the precedent of judicial miscreance would have such an overwhelming negative effect that it would not be worth sacrificing the innocent person.

If Nielsen is right, then the criticism based on the example of the threatening mob is dismissed.

Similarly, we could probably find other good scientists to take up the murderer's work, or arrange a situation in which he could continue his work while incarcerated.

The case of the parking offenders is particularly implausible, on reflection.

Who is really served by such a well-observed law?

Do we really think that Singapore's proscriptions against chewing gum are socially useful?

Utilitarians rely on precedent to deal with other infringements of justice.

Utilitarians generally seek justice, but justice is generally just defended by utility.

If there are odd cases in which an apparent injustice is licensed, we might have to give up our intuitions about what is the right thing to do.

That is, maybe sometimes sacrificing an innocent is morally acceptable.

Another aspect of the utilitarian account would entail emphasizing long-term benefits of seeking justice.

Consider: Who should we pay better, the harder worker or the needier worker?

The surface utilitarian answer is to pay the needier one.

But long-term considerations may push us to pay the harder worker better.

It may be better to provide incentives to workers, and not alienate the harder workers.

That is, utilitarianism may be able to account for notions of justice by appeal to long-term benefits.

One of these benefits is the precedent effect: How will my actions encourage others to behave?

Justice and utilitarianism are sometimes incompatible.

Utilitarianism requires we look forward, justice that we look backward.

In these cases, either we give up our notions of justice or we give up utilitarianism.

The borderline cases are difficult, and we should not reject a moral theory on the basis of weird cases.

III. Criticism #3: Utilitarianism has difficulty accounting for our notions of rights.

Consider Nielsen's innocent fat man in the cave, p 149.

It seems like we should use the dynamite, but doing so surely violates the fat man's rights.

This relates, in an obvious way, to criticism #3.

Harwood's cases of distributive justice (the starving lifeboat occupants, the accidental organ donor, and the utility monsters) are easily interpreted as being about rights.

We saw that the utilitarian can rely on precedent to accommodate some common-sense moral intuitions about rights and justice.

But, maybe there are important cases which sway us away from utilitarianism.

Nielsen argues that the case of the fat man should not sway us from utilitarianism.

For, we are not ignoring the rights or interests of the fat man, or acting callously.

We are merely weighing the same rights and interests of the others who will die unless we kill him.

Indeed, the conservative seems to violate common sense in this case.

But, consider the peeping tom, who secretly adds his own happiness.

It looks like the utilitarian defends the peeper.

The objections concerning justice and rights are reasonable enough that we might not merely dismiss them.

IV. Rule utilitarianism

An alternative response to criticisms #3 and #4, then, is to adjust the theory.

If our intuitions about justice and rights are so strong, we can just add rules to insure that rights are protected and that justice is served.

If we want to protect rights and justice and maintain utilitarianism, we can make rules for the utilitarian to follow.

We call a utilitarian theory which presents specific principles of action Rule Utilitarianism:

The right act is the act that conforms to the general rule that creates the greatest happiness for the greatest number.

How rule utilitarianism avoids act utilitarianism's problems of rights and justice

Should you peep?

In this instance, you might gain more pleasure than anyone loses.

But which rule should we follow:

Rule #0: Do not peep.

Rule #1: Peep if you want.

If we adopt Rule #1, some people would get caught.

Then, the overall unhappiness of those whose rights are violated outweighs the titillation of the peepers.

So, I shouldn't peep.

An aside on preference rule utilitarianism:

The above theory is Hedonistic Rule Utilitarianism.

We could alternatively adopt Preference Rule Utilitarianism:

The right act is the act that conforms to the general rule that creates the greatest fulfillment of personal preferences for the greatest number.

Note that utilitarianism is a family of theories, not just one theory.