Act or Rule, or Both? A Multi-level Account of Mill’s Utilitarianism
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Utilitarianism, one of the most historically significant moral theories, requires moral action to be focused on the maximization of utility—utility defined as the best possible consequences. John Stuart Mill argued that utility is the greatest happiness for the greatest number of people. In considering Mill’s formulation of utilitarianism, later philosophers have begun to reinterpret how to put his utilitarianism into action. The two most discussed interpretations are act and rule utilitarianism: the first focuses on acts that promote utility; the second, on rules that promote utility. Mill presents his theory in a way that suggests act utilitarianism: his Greatest Happiness Principle is written in terms of “acts”, and act utilitarianism was the convention at the time he was writing. However, his utilitarianism is best seen as a multi-level theory of utilitarianism, incorporating aspects of both act and rule utilitarianism.

In order to assess Mill’s utilitarianism, the contemporary discussion of act and rule utilitarianism will first be surveyed, then, the strength and weaknesses of act and rule utilitarianism will be examined. Finally, one can assess the multi-level theory: how it is constructed, and how it best represents a workable system of utilitarianism.
Two Formulations of Utilitarianism: Act and Rule

The two major varieties of utilitarianism are act utilitarianism and rule utilitarianism. The maximization of utility, in each case, is what is most important. Within the context of John Stuart Mill’s utilitarianism, utility is maximized via the Greatest Happiness Principle, which states that one should act in such a way that it maximizes happiness.

In act utilitarianism, the right action is that which maximizes happiness. Roger Crisp describes this as a direct moral theory, since right action is directly determined from the maximizing principle. On the other hand, in rule utilitarianism, rightness or wrongness doesn’t depend on actions, but rules that maximize happiness when most or all people accept them. This is an indirect application of the maximization principle, since right action is determined in accordance with such rules, rather than the maximizing principle itself (Routledge 102).

Rule utilitarianism thus adds in a further clause that incorporates the actions of “most people”. By specifying that right action is action in accordance with rules, which, if most or all people followed them, would maximize happiness, rule utilitarianism has very different consequences than act utilitarianism. Significantly, it puts less pressure on the moral actor: for example, if a moral actor were to maximize happiness on a global scale, in act utilitarianism she might feel compelled to give most or all of her salary to charity in order to maximize happiness, because she knows that not everyone will help those in
need. In rule utilitarianism, if everyone gave 10% of their salary to charity as a rule, it would be sufficient to help those in need, and would maximize happiness—so she should give 10% of her salary to charity. As one can see, it is much less demanding for a moral actor to act in accordance with rule utilitarianism.

Although these two species of utilitarianism will be the ones that concern us most, they are not the only varieties possible. As James Griffin notes, the Utility Principle can be applied to many different functions: acts and rules, of course, but also the consequences of generalizing particular decisions ("utilitarian generalization"), the plans of groups willing to cooperate in producing best consequences ("cooperative utilitarianism"), or to our motives ("motive utilitarianism") (346). By far, rule and act utilitarianism, are the most-discussed in the literature. But the presence of these other functional possibilities of the Utility Principle demonstrates that the utilitarian has many more options than simple act and rule utilitarianism.

John Stuart Mill, Henry Sidgwick, and G. E. Moore produced systems of normative ethics: their utilitarian theories provide guidelines for right action (Smart 3). But these systems of normative ethics are complicated by the various modes of interpreting utilitarianism. When it comes to making a tough ethical decision, act utilitarianism and rule utilitarianism might generate different results. For example, according to act utilitarianism, one could argue that a person can lie if it preserves the greatest good in a certain circumstance. The act is permissible, provided that it will maximize
happiness. The same idea evaluated according to rule utilitarianism seems to give us the opposite result: a person should not lie, even if it may conceivably maximize happiness in a particular case, because a rule which allowed lying would not maximize happiness in general. This seems to imply that, depending upon the way that you apply the utility principle, a utilitarian approach could result in very different decisions.

**Act Utilitarianism and Its Discontents**

Roger Crisp argues that Mill is an act utilitarian, as evidenced by Mill’s basic formulation of the Greatest Happiness Principle, which specifies the evaluation of actions. Julia Driver, in her encyclopedia article on “The History of Utilitarianism” notes that at the period Mill was writing, act utilitarianism was more or less the convention. After Hume, there was a tendency to move away from character evaluation and focus on act evaluation. Jeremy Bentham, notably a huge influence for Mill, himself focused on act-evaluation.

Act utilitarianism is the most straightforward version of utilitarianism: one makes a connection between the right action and its consequences, with the further stipulation that the best consequences are those that maximize happiness (Hursthouse 26). Of course, act utilitarianism will not do if left on its own: the simplest version of act utilitarianism would be self-undermining. If people try to consciously maximize the good at all times, they will probably fail. Single-level act utilitarianism, in which a person consciously tries to maximize welfare at every
opportunity, seems a nearly impossible task (Crisp, Routledge 106). Since we are faced every day by a barrage of events, it would take enormous amounts of time and thought to sort through the consequences and determine right action in each case. All one’s time would be spent calculating the welfare values of possible courses of action (Crisp, Routledge 107). As James Griffin puts it, this sort of morality would fail due to our shortage of “time, facts, and fellow-feeling” (Crisp, “Utilitarianism” 147).

Further, according to this same simple version of act utilitarianism, it would be permissible to kill, hurt, or lie to others, provided that it maximizes happiness. Simple illustrations bring out these problematic elements of act utilitarianism: is it right for an EMT to purposefully allow a person in critical condition to die, in order that their organs can save the lives of many others? Is it right to selfishly lie to someone if it were guaranteed they would never find out the truth. Whether the stakes be large or small, act utilitarianism merely requires that right action maximizes happiness—even if such an action is intuitively problematic, even horrifying.

As noted in the previous section, act utilitarianism can also be extremely demanding: if a person gauged actions according to act utilitarianism, she might consider herself to be obligated to extreme amounts of self-sacrifice. Whether such constant, extreme sacrifice is even psychologically plausible may be doubted, but again, it illustrates the limitations of basic act utilitarianism. This simple act utilitarianism has many problems, certainly. Further, Griffin says that act utilitarianism ignores moral education, strong self-bias, limitations to
foresee the future, and the complicated structure of our desires (347). For this reason, Mill and other writers build more sophisticated versions of utilitarianism, discussed in the third section of this essay. The next section, however, will focus on rule utilitarianism and both its benefits and drawbacks.

**Rule Utilitarianism and its Discontents**

Rule utilitarianism, in conceiving of utility as a set of rules that would (hopefully) maximize utility if most or all people accepted it, is doing more than simply applying the utility principle to rules as part of decision-making. It is as if rule utilitarianism slips in, in extra measure, a sort of categorical imperative: what will maximize happiness if most to all people act that way? The function of universalization is given to us by the set of rules, accepted by most to all people.

In comparing act and rule utilitarianism, the philosophical perspective changes from maximizing happiness by action, to maximizing according to rules. This brings out some of the strengths of rule utilitarianism, especially in contrast to act utilitarianism: it is simpler (moral rules are much less numerous than moral actions), less demanding, and can potentially correct for the problematic aspects of a simple act utilitarianism.

It would not, for example, allow us to kill, harm, or lie to others simply for maximization of the good. The drawbacks to rule utilitarianism are pointed out in Brad Hooker’s article on “Rule Consequentialism”: since
the 1970s, it has been assumed that rule utilitarianism is undermined by one of two problems: either it collapses into act utilitarianism or it is incoherent. The first problem is that, since rule utilitarianism has a commitment to maximize the good, a situation in which an act in accordance with the correct rules does not maximize utility would cause one to revise the rule in order to maximize utility in similar cases. This revised system of rules would eventually require the same actions as act utilitarianism—causing the system to be more complicated, while doing no more work. The second problem is that while rule utilitarianism has an overall commitment to maximizing utility, the fact that it doesn’t always maximize utility in an individual case (because one follows the rules, instead of maximizing utility) renders it incoherent with its goals.

In both cases, the reply is built into the reasons for adhering to rule utilitarianism in the first place: that rule utilitarianism maximizes utility, if most or all people adhere to those rules. The supposed reason that rule utilitarianism would create a series of more and more revised rules that collapse into act utilitarian would not be sufficient—because utility maximization applies at a different level. The utility maximization at the level of acts wouldn’t matter, because the whole system would work to maximize utility. The same applies to the second objection: rule utilitarianism would serve to maximize utility, simply at the level of rules. It is holistically coherent, serving to maximize utility as a global system.

The new trouble with rule utilitarianism, then, is that instead of having one measure of right action, you have
many: the many rules which are conducive to utility. Rule utilitarianism, thus, faces a new problem: conflicting requirements. If two rules required opposite courses of action, which do you abide by?

In order to systematize one’s rule utilitarianism, one must create a structure by which you may decide which rules are more important. In order to do so, some philosophers, such as Richard Brandt, ask one to apply the utility principle on a further level. Brandt asks: what kind of moral code would a rational person support for a society in which he was to live? Brandt argues that this code would be broadly utility-maximizing (Griffin 248). In Brandt’s version of rule utilitarianism, the conflict between rules could be solved by looking at the differing strengths of motivation (Griffin 349).

The positive features of this approach are clear: by applying the utility principle on a higher level than rules—applying it to the system of rules itself—one is sure to create a way to arbitrate between conflicting rules that is, as a whole, utility-maximizing. Such a method could apply at large to a society at whole, or at a smaller scale: rules for biologists or computer scientists, for example. What rule utilitarianism does exceedingly well is provide impartial justification for many of the moral rules we find intuitively plausible, which it does better than many other theories (including act utilitarianism) (Hooker).

But there still remain certain problems: Griffin argues that Brandt’s rule utilitarianism is weak in dealing with exceptions (what to do in a special case where general rules don’t seem to be sufficient), and with the personal
side of morality (one’s special perspective as an individual, and one’s ties to friends and family, etc.). (Griffin 349).

In the first criticism, while a complete system of rules might maximize utility individually and as a system, it is likely that in a quickly-developing world an exceptional situation may arise which the system of rules isn’t able to grapple with. Certain exceptional situations may provide moral dilemmas: rule utilitarianism might require one to act in a certain way, but it doesn’t seem to react sufficiently to all the pertinent details about the case.

In the second case, Brandt’s rule utilitarianism doesn’t take the individual’s moral perspective into consideration. By always acting in accordance with rules that might maximize utility, if only if everyone followed them, a person may have to sacrifice his personal well-being or the well-being of those he has close connections to—his friends or family, perhaps—because rule utilitarianism requires acting in such an impartial manner. In other words, while rule utilitarianism corrects for many of the flaws of act utilitarianism, it may itself have flaws that preclude its practical application.

**Multi-Level Utilitarianism**

So we can see that rule utilitarianism can be problematic as well, just as simple act utilitarianism is problematic. The best solution is a multi-level version of utilitarianism: on one level, the easier cases will be resolved by conventional morality, our typical set of rules of how to react to certain circumstances (in other words, a quasi-rule utilitarianism). In harder cases, one is allowed
to appeal to the act-utilitarian principle, to maximize happiness in a particular situation.

Such a multi-level solution is Mill’s answer to the limits of utilitarian theory. In everyday life, it might be better to appeal to conventional morality: human beings don’t have enough time, knowledge, or psychological capacity to deal with every possible action individually (Crisp 147). Even though we might be short of time or facts individually, humans as a species learn the tendencies of actions over time. A utilitarian would argue that customary morality is founded on utility, due to one’s attentiveness to the happiness of oneself and other (Crisp, Routledge 108).

In other words, a customary morality should be akin to a rule utilitarian system, one habitual for members of society. Customary morality itself can be mended to best reflect the utilitarian principle. Mill’s social project, in fact, aimed at educating people so that their conventional morality is utilitarian. That noted, while the rules of customary morality save time, they do not ultimately justify any action (Crisp, Routledge 109), especially since any conventional morality, as it stands, is not exactly a rule utilitarian system. Precise rightness and wrongness of an action must be determined in accordance with the Greatest Happiness Principle.

This is the reason one may wish to argue that Mill holds a multi-level view. In most cases, we can just follow customary morality (Crisp, Routledge 109). One should not consult the principles of utility except when two principles of conventional morality conflict, and in that
case, one defers to the act utilitarian principle: how to act in order to maximize happiness (Crisp, Routledge 110). The multi-level utilitarianism advocated for by Mill, and more recently Crisp, is meant to withstand the problems of the lack of knowledge of facts, time to consider, and the limits of psychological self-control possible in a human. Our lack of ability is (for the most part) corrected for by conventional morality, which would itself be refined according to utilitarianism in order to usually guide us to right action. In cases where our revised conventional morality wasn’t sufficient, we would appeal to the Greatest Happiness Principle as the ultimate gauge of right action.

All things considered, which view would best subsume Mill’s philosophy? It seems obvious that Mill himself would have been, strictly speaking, an act utilitarian. But because of the limitations of act utilitarianism, he allows for a more psychologically plausible reliance on conventional morality. We may find that this multi-level perspective is the strongest version of utilitarianism. As Crisp says, “The focus of moral theories should be as broad as possible, encompassing acts, character, motives, rule-following or whatever—life as a whole” (Routledge 98). Perhaps that is the best advice: to keep utilitarianism unassigned to one limited mode of application, and to realize that rule and act utilitarianism are best used by being treated as complementary, not contradictory.
Works Cited


