

## Arguments Against Utilitarianism

### Characterising the Objections and how they are related

Questions in thinking about objections

1. Are these objections unique to utilitarianism? Do they apply to all ethical theories?
2. Are these objections circumvented by other variants of utilitarianism? Do Rule and Multilevel utilitarianism make significant progress regarding these objections?
3. Do these objections even work? Are they potent objections? Or do they mistake the role played by ethical theories in dictating our lives?

Questions in thinking about utilitarianism and morality

1. Is there a meaningful difference between permissible and the obligatory? Should there even be such a difference

Types of objections

- Substantive/extensional objections: our moral theory fails to correctly or adequately capture what is right and wrong; our moral theory may deem certain actions that we think are decisively right to be wrong
  - This arises through thought experiments and intuitions
  - For instance, a moral theory may consider sacrificing one man to save five others to be right, when intuitively it is wrong
- Explanatory objection: our moral theory fails to correctly explain why an action is right or wrong
  - This arises through the justification of the moral theory
  - For instance, utilitarianism may make an explanatory error in why we deem stealing wrong → hypothetically, it is wrong not because it reduces utility, but because it infringes on some categorical imperative derived from reason
  - So the explanatory objection implies that one could deny a moral theory on the grounds that it explains our moral intuitions wrongly, while agreeing that the moral theory does capture substantively, what we consider to be moral and immoral
- Deontic objection: our moral theory fails to account for special deontic properties for our actions
  - Since utilitarianism only allows for the maximally good action to be considered right and everything else to be considered wrong, utilitarianism renders the maximally right action to be obligatory, and everything else to be considered forbidden
    - Consider an ordered set from the least utility conducive to the most utility conducive action: only the supremum of the set is considered right and obligatory. Given that this specific action is the least upper bound, every other action in the set is now forbidden
  - Utilitarianism then excludes the deontic property of the supererogatory

- Supererogatory actions are those which engender moral praise, but are not obligatory: running into a fire to save a child
- Utilitarianism excludes the supererogatory because: (i) it is the utility maximising action and thus it is obligatory; (ii) it is not the utility maximising action and thus it is forbidden

## Integrity Objection

What the problem is

- Bernard Williams: Utilitarianism leaves no room for us to accommodate our special projects, person pursuits and prerogatives, and thus cannot accommodate our integrity
  - Crisp coins an analogy that Williams means integrity as **integrity in a work of art**: Artistic integrity is generally defined as the ability to omit an acceptable level of opposing, disrupting, and corrupting values that would otherwise alter an artist's or entities' original vision in a manner that violates their own preconceived aesthetic standards and personal values
  - So basically, our capacity to preserve our own sense of self; our vision of who we want to be and how our life should be
    - This is constituted by our deeply held moral principles, our social and relational commitments and our personal projects → this defines the individuality of our lives
- Aspects of integrity: essentially having to do with **preserving the sphere of agential authority**
  - **Principles**: Forces us to violate our deeply-held principles
    - Jim and the Indian and George and the chemical weapons
  - **Personal prerogatives**: Forces us to give up our personal prerogatives and often deems the pursuit of personal relationships impermissible
- Aspects of the objection (decomposing the objection)
  - **Substantive objection**: does it not matter morally in certain situations that it is you in particular who are acting in a certain way; are there not constraints on what you can do
  - **Explanatory objection**: utilitarianism requires us (through its decision procedure and moral thinking) to employ an unrealistic notion of a self that can float free of specific commitments and concern itself solely with welfare maximisation
    - So it begins from an unrealistic (and thus false) standpoint of the unencumbered self; if it begins from a flawed premise/account of human nature, it follows that the explanation of morality is flawed as well
- Key intuitions that we must consider

- TE1: George being offered a job to create chemical weapons. He is morally objected to this but is told if he does not take up the job, someone enthusiastic would take his place and thus lead to far more developments of chemical weapons that he would allow.
  - Williams suggests that act utilitarians would advance that it is *obvious* that George should take the job
  - However, it does not seem obvious that George should take the job; intuitively, we would not blame George for not
- TE2: Jim being forced to shoot 1 Indian so that 19 live by an evil captain vs him not doing anything and the captain shooting all 20
  - Again, act utilitarians deem it obvious that Jim shoot the single person
  - But given that Jim has deeply held principles against killing people, utilitarianism's demands would force him to violate his integrity
  - Intuitively therefore, we think that if Jim does not kill the single person, he has done nothing wrong since the preservation of his integrity is his personal prerogative (it is within the scope of his agential authority)
- Lessons from the intuitions
  - Do we accept the utilitarian conclusion? Substantive considerations
    - Utilitarianism does not seem to allow for agential authority/personal prerogatives and neither does it seem to allow for special constraints in what we ought to do
  - Do we accept the way that utilitarians look at these questions? Explanatory considerations
    - Perhaps Jim should kill the single person but not because it is of maximal utility, but because it aligns with some virtue of being able to make sacrifices/bravery
- Substantive objections
  - Ignoring special constraints to what we can do
  - Excluding the existence of personal prerogatives, agential authority and agent-relative reasons in pursuing certain ends
- Explanatory objection
  - Ignores agent-relative reasons for pursuing certain ends
  - Williams: utilitarianism can only make the **most superficial sense of human desire and action**
    - We ignore our own characters, desires, goals, projects and commitments and ask not 'What should I do?' but 'What does utilitarianism require of any person so situated in this position in order that the history of the world go as well as possible'?
    - Our moral responsibility is a result of coincidence → I am just a representation of the satisfaction system who happens to be near

certain causal levels at a certain time → does not matter that the moral agent is you specifically

- So utilitarianism is wrong in its explanation of rightness as maximising the good, because this **undermines our individuality** inextricably tied to being human
- Crisp: utilitarianism provides **too narrow** a view of the reasons for human action; by supposing that maximising utility is the only reason for moral action, it neglects agent-relative reasons such as special relationships
  - Imagine Smith who has a friend in the hospital but has a crucial work meeting that would provide more utility overall
  - Even if utilitarianism is right in thinking that going for the work meeting is the right action, we should still think it plausible that Smith has a **special reason to visit you just because you are her friend** (existence claim)
    - Godwin: there is indeed a magic in the pronoun “my”
  - And if visiting her friend is the right action, it seems to follow that maximising utility is not the right action, but her special commitment to being her friend
- Utility maximisation seems to **be the wrong reason** for pursuing our ends; there seems to be cases that we ought to do the action with suboptimal utility or even negative value
  - Imagine Smith is the president of an NGO and is running a considerable gala dinner to raise funds. Donors are excited to meet her and she would be able to garner moderately more funds for the charity. She just received notice that her close friend has gotten into a car accident and is comatose. She is going to die. There is 0 value in Smith visiting her. But does she still not have a special obligation to do so, over the dinner?
  - **The Father.** A father’s son has leukaemia and is about to die in a week. He is comatose. The father plays a crucial role in an innovative AI company that betters the world. He knows that if he visits his son this last week, it will cause him so much anguish and pain that he will not be able to go back to work for a month. He will likely get fired and the company’s next innovation will be significantly delayed.
    - Utilitarianism would suggest that the right thing for the father to do would be to not visit his son
  - Runs counter to two intuitions
    - The first is that regardless of what the father does and how much value we ascribe to either action, we do not think that he has done anything wrong. The father’s special commitment

is his personal prerogative – he ought to have autonomy over whether to fulfil his commitments.

- The second observation is even stronger: Some may say that realising fatherhood has significant value, and thus may be why the father visiting his son may be right. But it seems that the lower the scenario's capacity for value promotion, the more significant fulfilling the special relationship is. The fact that the son is comatose, that the father is causing more pain and anguish, engenders a greater significance of fulfilling that special relationship. Even if realising fatherhood has value, the decrease of net welfare, on utilitarian grounds, should not incline us to morally defend the father even more. So, it cannot be right that we deem his actions *immoral*

■ Two conclusions from this

- First, the importance of our special commitments is not based on how much consequentialist value they have. Utilitarianism makes an explanatory mistake in *why* we consider our special commitments important. It follows that utilitarianism cannot correctly and possibly justify our special commitments as right since they are important irrespective of consequentialist value; rather, our special relationships seem to possess some non-consequentialist value (bound to beg the question against consequentialism)
  - So utilitarianism's wholly consequentialist foundation seems untenable, because it excludes important non-consequentialist considerations and value embodied by our special commitments and personal prerogatives
- Second, what matters is not whether the father is acting in the right way. What matters is that the father ought to have agential authority to fulfil his personal commitments, and this needs to be considered permissible by utilitarianism

## Solution

Jackson's expected utility solution: Focuses on examining how utilitarianism's criterion of rightness can account for why we think pursuing our personal prerogatives and special commitments are morally right

- To Jackson the criterion of rightness must adopt a probabilistic notion of value, rather than an actualist notion of value
  - What this essentially means is that the right action is decided *ex ante facto* (prior to the actual consequences) based on the probabilities of each

outcome for that particular action, rather than ex post facto, where the action is evaluated based on the actual consequence that arises

- So the right action is determined by which action maximises the expected value where the expected value of each action  $j$  is determined by the summation of objective probability function  $Pr(O_i|A_j)$  multiplied by the consequentialist value derived from that outcome for each outcome  $i$ , given action  $j$

Rule of action:

$$\max \sum_i Pr(O_i|A_j) \times V(O_i)$$

$Pr(O_i|A_j) :$

agent's objective probability function of outcome

$V(O_i) :$

objective value function of outcome  $i$

- The nature of the probability function is **agent-neutral** in the sense that the expected value of each action's outcome is **not affected by agent-relative** reasons such as greater care for his special commitments; it is **only affected by the information** the agent has regarding the likelihood of each outcome
  - Note that since the probability function is contingent on the agent's cognitive ability and information the agent has, it is necessarily subjective in the sense of **being restricted to the moral agent's viewpoint**
  - Despite being subjective, it remains agent-neutral in a way that is consistent with utilitarianism's requirement of **impartiality**: that everyone's utility counts for the same
    - This impartiality is captured by the objective value function  $V(O_i)$  which simply takes any outcome  $i$  as its argument, and churns out some utilitarian value **based solely on its consequentialist calculation methodology**
    - So the value function  $V(O_i)$  is identical to an actualist utilitarian value function – Jackson merely multiplies it by a probability function to transform actual value into expected value
    - The consequentialist value function assigns no value to the intention of maximising expected utility
      - Our decision theory has no intrinsic value on the consequentialist account → its only value is its tangible welfare impacts

- The subjective probability function is an idealisation of the agent's beliefs in the sense that they are not misinformed but accurate
    - There exists the possibility of culpable ignorance
- Reasons why the probabilistic criterion of rightness is adopted
  - A1: The criterion of rightness should be limited by an agent's epistemic constraints (intuitionistic argument)
    - An agent cannot possibly know which of the probabilistic outcomes
    - Consider the case of a doctor with the option between a drug that has a 100% chance of partially curing a patient vs a drug that has a 90% chance of killing a patient and a 10% chance to completely cure the patient
      - Even if the doctor chose the second drug and it turned out to have been successful, intuitively, we would think that the doctor chose the wrong action because he was more likely to cause significant damage than not. Thus, the doctor, in not maximising expected value, had **no proper reason to choose** the riskier drug other than pure, baseless hope
  - Adjacently and less significantly, it circumvents the problem of moral luck (which explains our intuitions)
    - When we give moral praise, we usually do so because people are responsible for the good deed
    - In the doctor case however, given that probabilistic outcomes are exogenous to our actions, he was not responsible for the good deed since it was completely unexpected that it gave a superior outcome
      - In effect, he did not commit the good deed, "probability" did
  - A2: If the criterion of rightness is independent of an agent's epistemic constraints, then the moral theory is self-defeating by not giving a proper guide to action
    - Suppose consequentialism says nothing about the mind of the agent: merely that the right action is action with property X, for some consequentialist treatment of X which pertains solely to what in fact would happen and not at all to what the agent thinks
    - Williams makes the point that consequentialism must say something about the right decision → objective consequentialism gives no figment of what the right guide to action is (though it creates a standard for us to test our guides against) since what actually happens is subject to probability
    - On the other hand, if consequentialism is expressed in its subjective variation and about how we are supposed to make moral decisions and it says to think along X lines. What if then thinking along those lines is discovered to have bad consequences in certain situations

- Jackson proposes that his decision theoretic account of consequentialism disarms the second horn of the dilemma by answering that in such situations, the agent ought not to think along those lines (because after all he commits to subjective probability) → why does objective consequentialism not allow for this non-committal
- How this can solve the integrity/demandingness objection
  - Thus conceived, Utilitarianism now allows us to help those dearest to us (our loved ones) as opposed to those distant from us because the probability of success in helping them (given that we have more knowledge regarding their needs and wants) is significantly higher
    - So, it may be the case that the expected value is maximised by pursuing our special commitments and person prerogatives
- Problems with the solution
  - Incompatible with modern developments
    - Singer points out that with modernisation, information technology and instant communication, our epistemic constraints are not as severe as Jackson assumes – we can know the needs of the children starving in Africa by looking it up
      - Even if one counters by pointing out that interpersonal connection provides more intimate knowledge of the situation than internet based knowledge, it is obvious that the difference between how both types of information elevates your capabilities in helping each group of people is miniscule
    - Moreover, it tends to be the case that for affluent people, the raw value that you can produce by helping those distant from you (suffering children) is infinitely greater than the raw value you can produce by helping those nearest to you
      - It tends to be that those nearest to you face troubles that seem undeniably trivial compared to the starvation that the poor face – they teether on the edge of death
      - And if we accept that helping one person live for a few more months produces much much greater value than helping your neighbour when his car breaks down, it seems difficult to consistently accept that when adjusting for expected value, it turns out that helping your neighbour produces more expected value than helping the poor
  - Narrow in scope; neglects significant aspects of the integrity objection
    - What about the example of Jim and the Indian when one's deeply and reasonably held principles are being violated by utilitarianism?



- Jackson's solution only deals with a specific class of the integrity objection, relating to special commitments and personal relationships
  - It may not even be extended to salvaging the pursuit of personal projects because the value behind these acts of self-realisation are often minimal compared to what value you could provide to others distant to you
- Cannot overcome the explanatory objection
  - Does not address the concern that utilitarian reasoning seems to be intuitively the wrong reason for pursuing personal commitments and relationships → in fact, it seems to exacerbate it by perpetuating the cold, utilitarian rationality in justifying our pursuit of personal commitments
    - See father example in trying to prove this point
  - Even if one adopts some sophisticated utilitarianism and does not act on the basis of utilitarianism when engaging with his special commitments, we seem to be committed to the fact that that specific decision procedure the agent used (that he loves his wife) is the correct reason for celebrating her birthday and is **why the action is right**, and not because of some utilitarian/consequentialist reasoning

Denying that integrity is an actual objection because it is self-contradictory

- On one hand, integrity emphasises the need for a sphere of agential autonomy because of our personal projects and special commitments
  - But autonomy mandates that we need to be able to critically evaluate the value of these projects and commitments → if we shield them from evaluation, we are essentially claiming that, to an extent, are personal prerogatives are morally infallible → obviously not the case
- So it may not make sense for us to speak of "integrity" because our projects and commitments should always be up for scrutiny → makes no sense for us to preserve our commitments for the sake of it; morality grants us a framework to evaluate them
  - But of course, morality should not be so destructive as to remove ourselves from everything
  - Consider also that if morality is universal and forces us to reevaluate our projects, would our new projects not be convergent with one another? So actually, morality disables our autonomy by dictating that our projects ought to converge with one another
- Should not exaggerate autonomy to be the Kantian conception of escaping determination by any contingency or whatsoever + refuse to conflate autonomy with sheer independence from others

## **Alienation Objection**

What the problem is

- Utilitarianism forces us to make decisions in a way that seems contrary to being human and so is intolerably negatively self-affecting
  - The highly rational, utilitarian way in thinking about what we ought to do alienates us from our special commitments because it abstracts us away into an **impartial spectator** when we decide what to do
  - It neglects that we have agent-relative reasons for pursuing our personal prerogatives and special relationships
  - The alienation objection is therefore the **consequence** of the explanatory problem in utilitarianism
- Decision procedure problem: Self-alienation aspect
  - Railton: By employing universal principles in our decision procedures and our moral deliberations, we regard others in ways that alienate them from our considerations and relationships
    - Counterintuitively, we seek justification for our actions to help them not by virtue of them or our relationships, but from the cold, abstract utilitarian principle
    - Important form of alienation in moral practice (applied in both decision-procedure and criterion): the sense that morality confronts us as an alien set of demands, distant and disconnected from our actual concerns
  - **John and Anne**: John is the model husband to Anne and shows great sensitivity towards the needs of Anne. He feels great affection for her. But he justifies his actions by saying “I have always thought that people should help each other when they’re in a specially good position to do so. I know Anne better than anyone else does, so I know better what she wants and needs. Besides, I have such affection for her and it is no great burden. I get great satisfaction out of it. Just think how awful marriage would be, or life itself, if people didn’t take special care of the ones they love.”
    - John demonstrates alienation: there is an estrangement between their affections and their rational deliberative selves
      - **An abstract and universalising point of view mediates their response to others and to their own sentiments**
      - Continuous with Mill’s application of a general rule to a particular instance: nothing inherent about that particular instance and thus cannot accommodate special relationships
    - John is not necessarily suffering in the utilitarian sense from this lack of alienation; it simply contradicts how we conceive of humans as agents **already situated** within social circles and bounded by personal commitments

- So, the way in which utilitarianism traditionally forces us to make decisions alienates us from our personal relationships and special commitments, **inhibiting us from being able to deeply engage in these relationships in a way that makes us distinctly human**
- Criterion problem: Explanatory inadequacy
  - Source of disagreement: AUs think that we should be a cool and rational calculator of welfare, with no personal attachments, affections or concerns and so evaluates rightness based on such an emotionless model of humanity
    - Williams offers a contrary, emotionally engaged agent who allows themselves to develop deep partial attachments to others, and who lives by or at least consults emotions in moral situations
      - Such a person may create special constraints against the unthinkable (killing) or may pursue person relationships for emotional and sentimental reasons
      - They allow their emotions and sentiments to influence their actions directly
  - Crisp argues that at the level of theory, it is not as if an act utilitarian must treat utilitarianism as completely independent of emotion
    - Rather, Crisp finds that it is open to the utilitarian to argue that our sentimentality and moral emotions towards our loved ones are **justified by utilitarianism**
      - Mill's proof is this kind of argument, by saying that the utility principle is what tacitly influences our common sense morality and our intuitions
      - However, this is **merely a theoretical possibility**; it seems more likely that utilitarianism does not permit such coherence with our sentimentality
  - The more important point is that utilitarianism fails to give sufficient weight to moral emotions and the reasons for why we pursue certain actions that they reveal
    - It seems counterintuitive that in cases such as loving your wife or caring for your children, the reason for your action is utility maximisation, rather than embodying the virtue of love and caring for your children because for their sake
    - The inherent explanatory inadequacy within utilitarianism is not only that it cannot square off against certain intuitions, but that it provides **reasons for actions that are alien** to the moral agent in the case of special commitments
    - Utilitarianism confronts us with an alien set of demands, distant and disconnected from our actual concerns
- Note that alienation is not always a bad thing

- Often desirable that people achieve some distance from their sentiments of one another

## Solution

### Railton's sophisticated consequentialism (essentially MLAU)

- Basically, Railton proposes that we dispense with the act utilitarian decision procedure and instead look towards what kinds of people are the happiest
  - Note that they have strong loyalties to friends
  - So dispensing the AU decision procedure is **consistent** with objective hedonism as a criterion of rightness
  - We **do not need to be committed to consequentialist deliberations** and the agent can fully recognise that he develops his dispositions because they are necessary for promoting the good
  - Objective consequentialism has the virtue of not blurring the **distinction** between the **truth-conditions** of an ethical theory and **its acceptance conditions in particular contexts**
- I depart from Railton in thinking that subjective hedonism must be dismissed
  - In fact, in observing what kinds of people are happiest, I am not making the claim that if I were to do what they do, I would definitely be happiest; rather, I am making the claim that if I follow their deep engagement in their commitments, I would probably be very happy, such that I maximise expected happiness
- Railton's counterfactual condition: the sophisticated hedonist may not always act for the sake of happiness, since he may do various things for their own sake or for the sake of others. But he would not act as he does if it were not compatible with leading an (objectively) hedonistic life/it does not maximise utility
  - So if a devil told someone that he had to be fully Kantian, otherwise he would destroy the world, the agent adopting a fully Kantian perspective would still meet the counterfactual condition and qualify as a sophisticated hedonist because he would not have adopted Kantianism should it not have been the utility maximising option
  - How far removed can the criterion of rightness be from our chosen decision procedure and motivational structure?

### Adopting a plurality of ends beyond hedonism (Railton)

- A pluralistic approach in which several goods are viewed as intrinsically, non-morally valuable — such as happiness, knowledge, purposeful activity, autonomy, solidarity, respect and beauty
  - One mistake of dominant consequentialist theories is their failure to see that things other than subjective states can have intrinsic value → desire theory & hedonism

- Related is the misconception that we need to reduce all intrinsic values to one — happiness
- First, in divorcing subjective states (the happiness produced by the action) from their objective counterparts (the actual action), and claiming that we seek the latter exclusively for the sake of the former, utilitarianism cuts us off from the world in a way made graphic by the experience machine
  - The experience machine affords us decisive subjective advantages over actual life: few, if any, in actual life think they have achieved all they could want → but most rebel against it
  - It matters what we actually do and are as well as how life appears to us
- Second, the reduction of all goals to the purely abstract goal of happiness and pleasure treats all other goals instrumentally
  - Knowledge and friendship may promote happiness but is this a fair characterisation to say that this is the only way in which they are valuable?

#### Problems with Railton's solution

- Does not address the explanatory objection
  - As per usual
- Open to empirical objection; it does not guarantee that this sophisticated variation of consequentialism will adopt such a non-alienating decision procedure
  - Railton: Possible that the happiest sort of lives ordinarily attainable are those led by people who would reject even sophisticated hedonism, people whose character is such that if they were presented with a choice between two entire lives, one of which contains less total happiness but nonetheless realises some other values more fully, they may choose against maximal happiness
  - It may be the case that RU is the optimific set of rules upon internalising the cost of the motivational structure → a difficult, open empirical question
  - In fact, Railton initially points out that the alienation problem may not cause a reduction in consequentialist value at all → even less likely for a sophisticated hedonist's motivational structure to be adopted
- Standard issues with OLT: aggregation problems, explanatory problems and ironically, alienation problems
  - How can we claim that OLT reduces alienation in our moral theory, when it plausibly confronts us with an **alien definition of what is good for us**

#### Demandingness Objection

What the problem is (very related to integrity objection)

- Doctrine of negative responsibility: ignores the distinction between **causing** something to happen and **allowing** something to happen

- The problem is not that utilitarianism thinks that allowing people to die and causing them to die are both wrong, but rather that utilitarianism is indifferent between both scenarios, ascribing **equal** moral (dis)value to both actions
  - After all, Peter Singer argues that if we walked past a pond and see a child drowning, we ought to help him should it pose no significant cost to ourselves
  - The problem is that utilitarianism does not appreciate that causing someone to die is worse than letting him die
- Another aspect of negative responsibility is that utilitarianism becomes a rather unfair moral doctrine because it makes you **responsible for what other people do**
  - First, it punishes seemingly innocent agents for other's immoral actions
    - Consider the fact that the world would be a better place if everyone donated 1% of their income to the poor
    - As more and more people violate this moral rule, those who have donated would be required to donate even more of their income (say 10% instead of 1%)
      - It seems completely unfair that because other people are immoral and do not donate their income, I have to now donate more of my income despite having donated my corresponding amount
      - Singer objects to this intuition: consider the scenario that there are 2 boys drowning and both you and your partner ought to now save one boy each. Imagine your partner does not save his boy. You now ought to save both boys. Even if we accept that this seems unfair to you, one could not deny that saving both boys is the right action for you to undertake
      - It could be that morality by nature is demanding and unfair
- Rest is the same as integrity because in forcing us to violate our integrity, utilitarianism is demanding

## Solution

### Sobel's impotence of the demandingness objection

- Basically, a non-demanding theory on moral agents/benefactors is demanding on the sufferers.
  - He further argues that we must look towards a distinction between the moral value of a theory **causing compliance costs** on its actors vs **allowing costs to happen** on the recipients of actions.
  - This is similar to whether there exists a moral distinction between requiring that costs happen on the benefactors vs letting these costs happen on the beneficiaries

- Consequentialism implies that only outcome values matter, and thus adopts the doctrine of negative responsibility: consequentialism is indifferent between whether someone let these outcome values occur or caused these outcome values to arise + is indifferent between who is responsible for these outcome values → the action or responsibility of the agent is secondary to the occurrence of the outcome value
  - Thus, the demandingness objection requires us to break from these consequentialist assumptions before launching the attack. We have to deny consequentialism before constructing the demandingness objection, implying that the demandingness objection itself is not a fundamental objection.
  - The demandingness objection is in effect begging the question against consequentialism and utilitarianism
- The main justification for the demandingness objection is not simply that the compliance costs of utilitarianism are too high, but that these costs are those that we are morally entitled not to pay
  - This means that it supersedes any utilitarian or consequentialist calculation
  - To say that there is a significant moral distinction between requiring and permitting is just to say that a moral theory is less accountable for what it permits than what it requires
    - But consequentialism holds one fully accountable for what one allows will be too demanding with respect to what one may allow
    - So one must object to the doctrine of negative responsibility

Denying the uniqueness of this charge (particular for negative responsibility)

- Negative responsibility as a doctrine may not be exotic
  - Singer points out we ought to save the person drowning in the pond
  - Many legal systems adopt such a doctrine in punishing people who knowingly allow something bad to happen
- The key problem is that utilitarianism treats causing something bad to happen and allowing something bad to happen with complete indifference
  - Surely, intentionally killing someone is worse than letting someone die?
    - On retrospect, this doctrine seems largely acceptable
    - Killing someone seems marginally worse than letting someone die → is this simply a result of our psychological dispositions and not actually a reliable intuition

## Miscellaneous considerations

- Is the distinction between deontic properties meaningful? Should we distinguish between the permissible and obligatory (in that the set of obligatory actions is a strict subset within the set of permissible actions)?
- Are the objections uniquely against utilitarianism?
  - No for alienation (especially the decision aspect) → applies to any universal

moral theory such as Kant too

- No for the explanatory objection towards utilitarianism (that cuts across alienation and integrity)
  - Case can be made that deontology/categorical imperative-like theories also do not give space to moral sentiments; it may better allow us to have agential authority in pursuing personal prerogatives, but it still excludes moral emotions from influencing which action is right



# Utilitarianism and Justice

## Defining Justice

Three main types

- Claim-rights
  - A (moral) duty you have towards me which gives rise to a correlative claim-right that I can impose on you
    - For example, if you borrow my copy of The Logic Manual, you now have a duty to return it to me in a good condition. This gives rise to a correlative right that I am owed my copy of the book back in good condition
  - So there is a reciprocal relationship in that I am owed something from you, while you owe me something/have an obligation/duty to do something for me
    - In general, A's claim against B that B do X is logically equivalent to B's duty towards A to do X: claims and duties are in this way correlative
  - How can rights limit the pursuit of valuable goals
    - By imposing duties on their objects, claim-rights limit the freedom of others to choose the best, or maximising option
      - They must (at least sometimes) do what the claim-right requires even when they promote the goal better by not doing so
- Liberty-rights
  - Liberty rights are not prescriptive like duties and obligations; instead, they focus on **preserving the sphere of agential autonomy**
    - Consider: Because I own a house, I have the right to enter the house whenever I want
    - Content of the right pertains to MY action, rather than something about your actions → it is a right for me to do something rather than to have something done for me
    - My right to enter the house is also accompanied by a right not to enter it; so it boils down to agential autonomy over what wants to do.
  - It could be said that liberty rights are held against everyone
    - Summers thinks that it imposes no duty, but I think it imposes a negative kind of duty onto everyone: for people NOT to do X such as interfere with my life
  - Liberty rights limit the pursuit of valuable goals
    - By conferring liberties on their subjects, liberty rights secure the freedom of right-holders not to choose the best, or maximising option
      - They may sometimes choose to do what the liberty-right permits even when they would promote the goal better by not doing so

- Under the existence of liberty rights, since the utility principle no longer holds a monopoly over the rule to action; utility maximisation is now a matter of constrained optimisation, maximising utility subject to constraints on liberty
- The inviolability of liberty rights
  - Separateness of persons (Rawls): we are distinct individuals with our own distinct rational plan of life → how can we be called upon by society to sacrifice our life goals and sometimes our life for other people?
    - We need to appreciate that people are distinct entities
    - Of course, some forced sacrifices are intuitively permissible but others, like forcing people to sacrifice their life for another, seem completely unjust
  - So at the very least, the inviolable right to life proves the existence claim of at least one inviolable right → grounded in intuitions
- Distributive Justice
  - Along what dimension should we distribute primary goods such as income?
    - What kinds of distributions are considered fair
    - Patterned distributions: a fair distribution is an allocation of goods that follows a certain pattern (equality, maximising the minimum etc)
    - Historical distributive justice: a fair distribution is an allocation of goods in accordance with procedural regulations like fair transfer/acquisition of goods
  - What is the domain of distributive justice? Sen's Equality of What?
    - Utilitarians are concerned with how to distribute utility amongst people (not actual goods)
    - But there is an equally important question about what type of equality we are striving towards as an ideal of fairness

## Mill's position on Justice and Utilitarianism

Main tension in Mill's position: Mill is trying to justify a deontological application of rights via a utilitarian moral principle

- The discontinuity is between the implicit utilitarian claim that anything is contingent on/subordinate to utility such that it can be overridden by an action with higher utility vs the deontological application of rights such that these rights are considered inviolable
  - How can rights be subordinate to utility and yet considered inviolable?
- Harm principle: the actions of humans should only be limited insofar as to prevent the harm of others

Mill's analysis of justice

- Originates from the word "justice"

- Stresses that our sentiment of justice is not correspondent to some objective reality; rather, we can only accept notions of justice that are congruent with utilitarianism, and revise aspects of justice which are inconsistent with utilitarianism
- Mill identifies characteristics of things we describe as just or unjust; he thinks that our notions of injustice and justice share a common explanatory basis in the principle of utility
  - Depriving **legal rights**; unjust laws because they violate people's **moral rights**; People are thought to **deserve** good if they do good and vice versa; **impartial** judgement is fair; justice dictates that people ought to be treated as **equals** and are entitled to the same rights/irrelevant considerations must be excluded in distributing goods and rights

Difference between Justice and Morality (I think that justice is a subset of morality or an extension of morally grounded principles)

- Morality covers the ground of imperfect and perfect obligations, but justice is restricted to the domain of perfect obligations
  - Imperfect obligations: actions that are required but not at any particular time
    - I have an obligation to be charitable but when and whom I am charitable are up to me – is this really true? Surely in order to maximise utility, we would be required to give our charity to those who need it the most, when they need it the most
  - Perfect obligations: Some other person has a correlative right to my obligation/duty; I owe the person and have a duty to pay him back + he has a right to me paying him back
- Mill argues that any case of injustice always involves both 'a wrong done, and some assignable person who is wronged'
  - Justice implies something which is not only right to do and wrong to do but which some individual person can claim from us as his moral right'
  - Can cover the base of liberty rights as well (violation of this rights is by some specific assignable person); problem is that then there is no distinction between liberty rights and weaker claim rights because they are **negatively defined in terms of injustice**

Mill's understanding of justice as a higher class of moral requirements because it protects sources of welfare/higher pleasures

- Mill argues that "justice is a name for certain moral requirements, which, regarded collectively, stand higher in the scale of social utility, and are therefore of more paramount obligation, than any others"
- But Mill denies that such rights are inviolable. Rather, he argues that only particular situations of exceeding importance can "override the general maxims of justice"

- So rights and justice as *a class of moral requirements* are of paramount importance, but this does not preclude the existence of specific circumstances that can override the general demands of justice
- For example, it may be allowable for one to steal in order to save a life
- So, Mill constructs a hierarchy of rights; if one is to violate a right, it is because the situation calls for **the preservation of a more important/valuable right**
  - This is consistent with thinking that some rights are inviolable, because there would exist a right that sits on top of the hierarchy, such that no other right is more valuable than it
- **Inconsistency #1:** But clearly, the problem with utilitarianism is that we can violate more valuable rights with a higher quantity of lower valued rights
  - **Key thought experiment:** Suppose everyone had a right to watch the football match. Everyone also has a right to life. It is intuitive that a right to life is more valuable than a right to watch the football match. But imagine that we must sacrifice a single man's right to life in order to power a billion televisions such that a billion families can watch the football match. By the utilitarian calculus, this would be permissible. Why is there such a gap between the demands of morality and the demands of justice?
  - **Insight:** The utilitarian principle, assuming all outcomes are valued along some ordinal scale of consequentialist value, would imply that there always exists some quantity of lower valued rights that overcomes a higher valued right
  - Of course, can overcome this with Mill's qualitative hedonism
- **Inconsistency #2:** While our intuitive notions of justice dictate that we can sacrifice one person's right for a greater number of people's equal valued right
  - **Key thought experiment:** Imagine we could cut someone up to save five people. We forcibly sacrifice his right to life to preserve 5 others' right to life. The problem of course is that we violate a person's right to life while the others' right to life is not being violated since they are dying naturally, which is why we think it unjust. But utilitarianism is committed to thinking it is morally required of us to violate that single right to life
  - **Insight:** Utilitarianism does not give inherent value to the **act of violation**, only the **outcome of the absence of the right**.
  - **Insight:** Utilitarianism does not respect the distinctions of persons, such that it assumes that we can freely and unboundedly reallocate our value amongst people to maximise societal utility.
    - Rawls: It wrongly extends the rational ability of a single man to allocate value across different parts of his life to maximise lifetime utility, to a society composed of different, separate individuals with distinct life plans.

- So while Mill seems to argue for a deontological application of rights (according to Summers), he inconsistently thinks that the general principles of justice are not absolute
  - Rights are not basic trumps over the demands of utility (Dworkin) because they are subordinate to it
  - Sources of utility protected by justice are more important as a class than other sources, so in particular cases, the interest in security can be overridden
  - But assuming Mill's qualitative hedonism and a lexicographical ranking of rights, this can only be the case when another's right is violated → so in effect, Mill can still argue for the deontological application of rights
- Ultimately, Mill's position is this: his argument from his general ethical theory to the harm principle is utilitarian, but his application of the harm principle to particular cases is deontological
  - Because his argument to the harm principle is utilitarian, and any utilitarian justified principle is contingent on the fact that it is maximally good, Mill can consistently think that the general principles of justice are not absolute while advocating a deontological application of the general principles of justice
  - Accordingly, on the assumption that the harm principle meets utilitarianism's empirical requirement for it being maximally good, it can be applied universally to all cases as if a deontological rule

## Brief Overview of Alternative Theories of Justice

Both accept the existence of inviolable rights but differ in what allocation of goods are considered fair

Rawls' Egalitarianism

Principles (lexically ordered  $1 > 2b > 2a$ ):

1. Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all
2. Social and economic inequalities are to be arranged so that they are both
  - 2a. to the greatest benefit of the least advantaged, consistent with the just savings principle [Difference principle], and
  - 2b. attached to offices and positions open to all under conditions of fair equality of opportunity

Rawls' Argument

- Motivation
  - Begins from a social contractarian notion of justice
  - Attempts to embody the impartial spectator by abstracting away everyone's knowledge about who they are in terms of identities and states but retains a thin theory of the good (wanting more primary goods)

- Original position and veil of ignorance
  - In the original position and veil of ignorance, due to the constraints of needing to be able to commit to these principles + the fact that such decisions are irrevocable and monumental, Rawls proposes that people would adopt a maximin decision strategy, that is, maximising their minimum prospect
  - Because people would not know if they would be a minority race, they would not choose a principle that allowed for such discrimination in the distribution of offices and positions
    - They would also want to ensure that even if they are the worst off, they are not too disadvantaged
  - This leads to basic, inviolable principles of liberty such as a right to life and also the difference principle

### Nozick's Libertarianism

Principles: justice in acquisition, justice in transfer and justice in rectification

- Motivation for a procedural notion of distributive justice
  - Objection to patterned theories of distributive justice
    - **Wilt Chamberlain Argument:** Consider that D1 is an egalitarian's favoured distribution. Assume that in a population of 101, everyone has \$100. Now imagine that Wilt Chamberlain is playing and everyone wants to watch him. He then strikes up a contract with the stadium that everyone who comes to watch must pay \$10. Assume everyone comes to watch him. This would result in Wilt Chamberlain personally having \$1100 which would be significantly more than the average person's (excluding Wilt) wealth which would be \$90. Call this new distribution D2. The problem arises when D2, which violates the egalitarian's preferred distribution, is intuitively fair because everyone consented to watching Wilt Chamberlain play and paid accordingly.
    - Moreover, in order to bring D2 back to D1, the social planner would have to persistently invade people's liberties during redistribution since the market would continually generate distributions that violate D1
    - So patterned theories of justice seem to be wrong – Nozick then advocates for fairness in terms of the *procedure* in which goods are allocated, not in terms of the actual distribution the goods
  - Side constraints
    - Kantian "treating people as ends in themselves"

### Criticisms on the Utilitarianism notion of Justice

Cannot accommodate liberty rights

Both objections are fundamentally explanatory in nature: they try to explain why utilitarianism **cannot capture our substantive notions and convictions** about justice by arguing that utilitarianism relies on **flawed premises**

- Rawls' separateness of persons critique
  - Utilitarianism's teleological foundations leads it to define the right in terms of the good, and define the good independently and prior from the right
    - So the right cannot set constraints which are independent from the good
    - In contrast, justice as fairness is deontological which defines the right independently from the good → the concept of the right is prior to that of the good; in this sense, the right is designed to set constraints on the pursuit of the good: "impose restrictions on what are reasonable conceptions of one's good"
  - Utilitarianism undermines the separateness of persons by extending the rational principle of one man to freely distribute and maximise utility along different points in his life to that of society; the utilitarianism therefore thinks that society can similarly unboundedly reallocate utility across persons
    - Utilitarianism wrongly conflates different people into a single man
    - This mistake arises from the fact that while the man holds a single life plan at any point in time, society is constituted by discrete individuals with different life plans at any one point in time
      - It does not seem just that one person ought to sacrifice the realisation of his life plan for another's who is wholly unrelated to him
      - Society is constituted by a plurality of distinct persons with separate systems of ends; it follows that each person's system of ends are detached from one another in that one person's loss **cannot be compensated** by another's gain
    - Our individuality and individual life plans ought to be protected such that there is no reason to think that my loss can be compensated by another's gain; for in order to justify such transfers, one must have a **right to my compensation to him**, and **I must have a duty to compensate another**
      - The utilitarian reason that "he has a right to your compensation because it is utility maximising" seems **insufficiently strong to constitute a right** because I am not actually compensating him for anything
      - If we think that such claim-rights can be motivated by such weak reasoning, then the whole conception of personal ownership will be lost

- So a person's liberty right such as right to property and right to life can be easily sacrificed for the sake of greater overall utility
- Nozick's side constraints critique
  - Nozick's critique closely follows Rawls. He objects to the idea of society employing the rational principle of one man to redistribute utility amongst people. In fact, he goes much further in arguing that there actually does not exist a social entity
    - But there is no *social entity* with a good that undergoes some sacrifice for its own good. There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more. What happens is that something is done to him for the sake of others. Talk of an overall social good covers this up
  - Nozick argues that what makes it rational for someone to incur a cost now is to avoid incurring a greater cost
    - But for society, it is someone incurring the cost without the avoidance of a greater cost or some overall net gain in his personal good
  - Nozick begins from Kant's premise that people ought to be treated as ends in themselves
    - Such unbounded redistribution of the good amongst people treats people as means to some societal (if such a thing even exists) end or even to the ends of others
    - Nozick maintains that the endorsement of the imposition of sacrifices on individuals for the sake of *any* (non-trivial) conception of the social good—even, e.g., distribution-sensitive conceptions of the social good—fails to recognize the status of individuals as ends-in-themselves.
  - Nozick makes the **substantive point** that what utilitarianism gets wrong is not incorporating side constraints into our pursuit of the good → any intuitively unjust act can be plausibly justified by utility
    - The paradigmatic example of this for Nozick is the right to life or the prohibition of killing → such constraints are imposed because the violations of such rights are wrong
  - But consequentialists have 2 objections to this:
    - First, the wrongness of killing is because of the consequentialist outcome disvalue
    - Second, the badness of the consequences of multiple actions of a given sort can be aggregated so that (typically) the total badness of the results of a bunch of wrongful actions of that sort will be greater than the badness of the results of one action of that sort.



- For example, the total badness associated with *W*'s (unprovoked) killings of *X*, *Y*, and *Z* will (typically) be greater than the badness associated with *A*'s (unprovoked) killing of *B*. It follows that it will (typically) be wrong for *A* to abstain from killing *B* if that is the only way to prevent *W*'s (unprovoked) killings of *X*, *Y*, and *Z*.
- But Nozick can deny the first consequentialist reason through deontic premises such as treating humans as ends in themselves which in turn denies the second
  - Are our intuitions right with regards to the killing 1 vs killing 5 situation (aka trolley situation)? What makes our inclinations different between the kidney and the trolley situation?
  - Our intuitions seem to be secure only when it is a matter of sacrificing the right to life for a greater quantity of lesser rights (such as property) → so a deontological approach of side constraints seem to fare better than utilitarianism at least in this respect
- Nozick's point is that human lives have distinct nonconsequentialist values in themselves that cannot be traded off with one another

The maximisation aspect of utilitarianism cannot accommodate distributive justice/fairness

- Aggregation problems within utilitarianism
  - Utilitarianism is distribution insensitive
    - Does not matter that 1 person has 10000 the utility in the world and 99 people have nothing vs 100 people have 100 utility each since both have equal overall utility
  - But we want to ground distributive justice upon moral foundations; and it seems that distributive justice, in wanting to say that the distribution of utility among people matters, conflicts with utilitarianism's claim that distribution does not matter

## Responses to criticisms

### On Distributive Justice

- Prioritarianism: Weighted utility maximisation (betrays pure utilitarianism but better than nothing)
  - The idea is that we assign weights according to how worse off the individual is
    - This is so that in maximising weighted utility, the worst off would be prioritised even in utility space
    - Note that the weights do not affect how much utility the individual actually gets
    - But the result is that in maximising utility, it would be likely the case that the worst off are prioritised in distribution

- Could be a democratic exercise on how to assign these weights
- Strictly speaking, prioritarianism does not assign intrinsic value to relations between individuals, but only to the absolute level of utility experienced
  - So if one experiences an absolute level of low utility, he will be assigned a high weight → this does not change if other people are better or worse off than him
  - Though we can only determine what constitutes “low” utility by comparison?
- Concern: on what basis do we give weights to the worse off?
  - It does not seem to arise from the utilitarian foundations because we seem to be saying that some people’s value intrinsically matters more than others
  - The reasoning in assigning weights seem to be social contractarian or deontological rather than on the basis of outcome values → after all, these weights do not affect the actual amount of utility experienced
  - Does not cohere with a strong conception of impartiality: that everyone’s value matters equally, *ceteris paribus*
- Resolution on impartiality
  - While it may fail to capture the strong form of impartiality, it still captures the weak form of impartiality by maintaining agent-neutrality
  - Maintaining agent-neutrality: it doesn't matter who is the worst off
    - What matters is the rank of the individual in how much utility they have, not the individual specifically
    - We are not invoking specific characteristics of a particular individual such as causal reasons for why he is lower ranking (such as starting out poor, or being lazy to find a job) which we may deem as irrelevant considerations
    - So this weighted utility maximisation remains blind to particular characteristics of each individual
  - Only concerned with abstract well-being values assigned to abstract individual lives
    - No assignment or bias of weights to specific lives → assignment depends solely on whether one has low or high utility
- Resolution on coherence with utilitarianism
  - This solution seems to be a hybrid between utilitarianism and deontology since it partially invokes deontological/contractarian reasoning in assigning weights
  - However, it still remains dominantly consequentialist since what determines rightness still depends on the maximisation of utility. Only now it is the weighted maximisation of utility

- So rightness of an action is still dependent on outcome values, but the aggregation of these outcome values depends on contractarian reasoning
  - Advantages: avoids the symmetrical pitfalls of tyranny of anti-aggregation and tyranny of aggregation
    - Tyranny of aggregation is that it does not matter that a class of people receives 0 utility, as long as utility is maximised
      - This solution makes it much more difficult for this to be the case
    - Tyranny of anti-aggregation is that we have to give up large increases in utility for marginal increases in the utility of the worst off (Rawls' leximin/maximin strategy)
      - This solution does not give rise to a lexicographical prioritisation of the worst off → a large enough increase in utility overall can in fact be better than marginal increases in utility of the worst off
- Equality as a consequentialist value
  - Expand the desirable end to include equality; basically OLT
  - Consequence
    - Then we would have to accept that a world would be better off in one respect when everyone is actually worse off
    - Consider World A where utility over 2 people is {19,1} and World B where utility is {-10,-10}
    - One would be committed to saying that world B is better than world A in at least one respect (equality) despite everyone being worse off in actuality
  - Difficult to justify the intrinsic value of equality/disvalue of inequality
    - Intrinsic: implies that you are worse off just because of **the existence of someone** who is better off than you → not simply that you are concerned by this inequality
      - But utilitarianism would object to you being worse off without this affecting your subjective states
- Achieve the Nozickian/procedural notion of distributive justice
  - Empirical argument: the best world with maximal utility would be one that regulated the transfer and acquisition of goods according to Nozick's principles of justice
  - If we did not have such fair rules of transfer and acquisition, then theft and conquest would run rampant → chaos akin to the state of nature would ensue, and societal security, as Mill cites, is extremely utility conducive
  - Say that this fulfils distributive justice according to Nozick

- Counterpoint: utilitarianism still cannot justify the deontological application of such rules
  - We can imagine a maximal utility world where Nozick's fair acquisition and fair transfer without coercion may be applied in 99 cases and not in 1 (because the utility gain from the theft is much more than the consequences of that theft → imagine it's unknown such that no one will be prompted to steal)
  - But Nozick demands that the rules be applied to 100 of the cases since they are to be applied deontologically
- Empirical arguments are limited to wishful thinking

### On Liberty Rights

- Brink's MLAU: Adoption of liberty-preserving rules
  - Follows Mill's use of rules as secondary principles
    - Mill argues that adopting liberty protecting rules would be maximally conducive to utility in the long run because it preserves societal security and societal security provides a lot of utility overall
    - So a utilitarian argument to the secondary rules but a deontic application of these rules
  - These secondary principles are only endorsed if they maximally promote the good
    - In times of conflict between rules, Mill suggests appealing to the principle of utility directly to arbitrate between the rules
  - Objection #1: Does not achieve the theoretical inviolability of rights
    - The system of rules needs to meet the counterfactual condition, according to which the system of rules would be given up should it not maximise utility
    - So even if we perhaps accept that the system of liberty-preserving rules are utility maximising, these liberties are still not inviolable because they are subordinate to utility
    - It remains a **theoretical possibility** that these liberties are overridden should one day a set of rules that does not protect liberties are found to be more utility conducive
    - So utilitarianism does not sufficiently capture the strength of the inviolability of rights
    - Of course it may be begging the question against utilitarianism, for to sufficiently capture the strength of the inviolability of rights, one may have to begin from deontological assumptions → but because the inviolability of rights and the protection of our autonomy seems inextricable from our intuitions of justice, it seems that the burden is

on the moral theory to accommodate for these intuitions, rather than for us to change our own intuitions

- Objection #2: MLAU makes negligible progress
  - We cannot truly be sure that, from any theoretical argument, liberty-preserving rights are in fact the utility maximising scenario
  - In fact, it is very easy to think of sacrificing one man to power the radio station (we sacrifice his autonomy and right to life/self-determination) such that the overall utility is maximised while preserving everyone else's liberties. And to meet Mill's security requirement, no one knows of this
    - But justice requires that even the violation of a single person's liberties is impermissible and unjust
- Brink: liberties as pre-eminent goods
  - Weak interpretation: liberties preserve the promotion of higher pleasures
    - Allowing for autonomy protects the promotion of higher pleasures such as reading poetry and philosophy (after all, most tyrants destroy books upon taking power → liberties could be seen to be a necessary condition for higher pleasures)
  - Strong interpretation: liberties themselves are higher pleasures
    - The experience of freedom and living could be seen to pass Mill's desire test in that any competent judge would desire these things than anything else
  - Since liberties are lexicographically preferred to everything else, they would be deemed inviolable, as  $u(L1, a1) > u(L2, a2)$  if and only if  $L1 > L2$  or both  $L1 = L2$  and  $a1 > a2$ 
    - Given that liberties are now the primary criterion for determining utility, we can never sacrifice liberties for the sake of some gain through other pleasures
    - So liberties are discontinuously better than other pleasures
  - Objection: Self-defeating since lexicographical preferences cannot be represented over a real-valued utility function
    - Intuition of the proof is that by the density of the rationals in the reals, for some arbitrary value  $L1$ , we will find a rational number  $q(L1) > q(L2)$  for some  $u(L1, a1) > q(L1) > u(L1, a2)$  when  $a1 > a2$  and repeat the same logic for  $L2$  where  $L1$  does not equal  $L2$ . What this function does is to map out a one to one function from the reals to the rationals which is impossible following Cantor's diagonalisation proof since any subset of rationals are countably infinite while any subset of real numbers are uncountably infinite. So there does not exist a utility representation for lexicographical preference ordering

- So if we cannot translate lexicographical preferences into utility numbers, any attempt to incorporate rights via Mill's higher/lower pleasure distinction and lexicographical preference ordering would undermine the whole utilitarian enterprise

## Miscellaneous Questions

- Does it matter that the demands of morality and the demands of justice are incompatible or inconsistent? [Convoluting answer]
  - Intuitively, justice constitutes duties which give rise to a correlative right in some other person – the duty-holder ought to do something while the right-holder has something that ought to be done for him.
    - For instance, my right to free speech imposes an obligation on you not to censor me.
  - So, it makes sense why Mill thought that justice constituted a special class of 'moral requirements' – justice dictates what people *ought* to do when they have a right against or duty towards someone, while ethical theory does this *in general*.
  - Since morality provides a justification for what we ought to do and justice imposes a specific type of duties like not infringing upon the liberties of others, morality itself would justify the obligations imposed by justice.
  - In this sense, justice is a subset of moral obligations. Therefore, if we have strongly held convictions of justice, our theory of morality must try to accommodate them.

CONCLUSION: Utilitarianism's consequentialist foundations are fundamentally incompatible with a deontological application of inviolable rights but can make some progress with regards to distributive justice