Precedent Utilitarianism
Version 1.1: Mar 10, 2007 1:15 pm US/Central

Douglas Reay

This work is produced by The Connexions Project and licensed under the
Creative Commons Attribution License *

Abstract

An examination of the standard objections to Utilitarianism from the perspective of one particular
sub-type: Precedent Utilitarianism

1 Summary

This module examines the standard questions raised about Utilitarianism from the perspective of one par-
ticular sub-type: Precedent Utilitarianism. By the end of this module, the student should be:

- Able to define Precedent Utilitarianism
- Decide for themselves the validity of the standard objections
- Know where to look for further information

2 Context

Philosophy : Ethics : Normative ethics : Consequentialism : Utilitarianism : Precedent Utilitarianism

It may be argued that Precedent Utilitarianism, like Rule Utilitarianism and Motive Utilitarianism, is
merely Act Utilitarianism with a strong emphasis on one particular type of consequence of an act. However,
since in practice this emphasis can lead not only to different conclusions for individual situations but also a
different way of arriving at those conclusions, it is worth considering in isolation.

3 Definition

Precedent Utilitarians believe that when a person compares possible actions in a specific situation, the
comparative merit of each action is most accurately approximated by estimating the net probable gain in
utility for all concerned from the consequences of the action, taking into account both the precedent set by
the action, and the risk or uncertainty due to imperfect information.

3.1 Inconsistency - Objection

In time, everything in the universe will eventually be affected by even the smallest action. Trying to estimate
ALL the consequences of ALL the possible outcomes of ALL the possible actions in a situation is too complex
and time consuming. Anyone who tried to actually use Precedent Utilitarianism as stated would end up
sitting thinking, doing nothing. Since sitting thinking does not produce the most utility, the theory itself
advocates that we should use some other ethical theory to make our decisions instead. It is therefore
inconsistent.

3.2 Inconsistency - Response

Any theory of ethics that is universally true should hold as well for small blue furry creatures from Alpha Centauri as it does for humans. It therefore cannot be specific to human physiology, psychology or social resonances. Precedent Utilitarianism states what the most accurate approximation of the merit of actions would be, not that humans are capable of achieving this for their every action in daily life. Applying Precedent Utilitarianism to the question "How should humans make ethical decisions in their daily lives?" tell us not that perfection is unachievable and should therefore be entirely discarded, but that we can use it as a yard stick to measure other faster but less accurate approximations, and that in more important situations (such as when a country's leader makes decisions significantly affecting the nation's wealth, lives and laws) it is worth using slower but more accurate ones.

3.3 Undefined - Objection

What is utility? Is it pleasure? Pleasure and absence of pain? Is it freedom, happiness, self-fulfilment, or some combination thereof? Do animals experience pleasure and happiness? Do they experience it the same as humans? Do humans experience it the same as each other? Even babies? How do you stick a number on it so you can compare the net utility of 100 slightly happy people with that of 99 very happy people and one dead person? Who decides?

3.4 Undefined - Response

Precedent Utilitarians believe that what is worthwhile can be summarised by a single quantity (call it "utility"), and that decisions about actions can be based on the estimates of the effects of actions upon this quantity. Beyond this, on the exact details of what utility actually is, there is some disagreement. However, applying Precedent Utilitarianism to the question "If two definitions of utility are sufficiently close in practice that the resulting estimations are indistinguishable within the bounds of uncertainty due to imperfect information, does it make a difference which one you use?" gives the answer, "No". Utility can be thought of as "retroactive preference" - what you would have chosen for yourself with perfect rationality and hindsight. That may seem complex, but hospitals do similar calculations all the time when making decision about organ donation based on the expected increase of "quality life years" for different recipients. While people differ in theory on how important self-awareness is, to a first approximation people generally consider humans to be equally capable of experiencing utility, with cats, dogs, dolphins, elephants, whales and chimps on some lower level. At the basic level humans actually have a fairly high level of agreement, even between cultures, that certain types of malicious act are bad and certain types of altruistic act are good. And individuals, at any particular moment, never end between three options, preferring A to B, B to C and C to A. In other words, in mathematical terms, utility can be represented by a single ordered quantity, and whether it can be defined in words or not, it is well understood enough to be used in practice.

3.5 Unliveable - Objection

Precedent Utilitarianism does not distinguish between action and inaction. Except for the precedent set, it makes no distinction between actively murdering 100 babies and letting 100 babies die because you didn't give up your marriage and dedicate your life to sending all your money to famine relief efforts. It has no concept of "good enough" and expects you to do your best 100% of the time. No human can live up to that. It just causes needless guilt.

3.6 Unliveable - Response

Precedent Utilitarianism has no concept of a good or bad person. It makes no judgement about whether a person who on one occasion deliberately chooses a slightly less that optimal course of action is worthy or sinful. That's a concept built into human psychology, that has no place in a truly universalisable ethical theory. You can applying Precedent Utilitarianism to the question "How should I try to live my life?" and

it may give different answers for different people. Some people are likely to produce the most utility with their life if they strive for perfection at all times and feel guilt when they fail. Others will work best when aiming for something achievable. Others still might work best with other possible mental attitudes, such as striving for inner harmony of purpose.

3.7 Counterintuitive - Objection

The largest group of objections to Utilitarianism come under this category. The general form of such objections is "Here's a carefully constructed isolated situation. In this situation, I think that Utilitarianism tells me I ought to do X. I think that doing X, under any circumstances is wrong or likely to cause bad consequences if everyone did it or was known to do it. Therefore Utilitarianism is wrong."

The list of such actions normally raised includes:

1. Not Voting
2. Putting strangers before family
3. Destroying the environment
4. Creating over population
5. Hurting a few innocents to please the many
6. Not punishing the guilty
7. Acting from false motives

3.8 Counterintuitive - Response

The general response to most of these objections is that it ignores the precedent set, and that in any real situation the Precedent Utilitarian would in fact not do X, because doing so would tend to make for a society that was very low in utility. Some of these do, however, raise other interesting points, and we will be discussing them in some detail. First, though, an exercise for the student:

FOR EACH OF THE ABOVE COUNTER INTUITIVE ACTIONS, TRY TO THINK UP A SITUATION IN WHICH TAKING THAT ACTION IS THE TEMPTING OPTION, THEN TRY TO ANALYSE THE SITUATION FROM A PRECEDENT UTILITARIAN PERSPECTICE.

Try this now, before reading on.

3.8.1 1. Not Voting

Suppose you live in a district where the candidate you want to win is the favourite and likely to win by a landslide. Should you spend your time casting yet another vote for her that will make no difference to the result, or spend that same time help a charity? And yet, if everyone on your side thought that way and didn't vote, the candidate would not get in.

The precedent utilitarian might take into account a couple of factors. They might consider voter participation in itself to be a good thing. They might also use a probabilistic argument. If 2000 votes are needed to win the seat this time, but in previous elections 12000 people have turned out to vote for your party, then if this time at least $1/6$ of those turn up, the candidate will win. Therefore the voter could roll a die, and vote on a "6" and help out at the charity on a 1-5. (Or, more likely, to give a winning margin and take into account uncertainty, vote on a "5" or "6").

3.8.2 2. Putting strangers before family

You only have enough money to buy one Christmas present. Do you give it to your wife or to some stranger who earns less than your wife and might appreciate it more?

There are lots of half way houses possible with this example, but the general principle raised is whether you have any general obligation to look after and be loyal to those closest to you. Not just your family, but your town, your country, your species. In many of these situations, you will have taken on a specific

obligation (e.g. wedding vows) or there exists a traditional obligation which serves a positive function and so there is a utility in supporting its existence. There may also be practical selfish considerations, which make you more likely to keep trying to live an ethical life, if you can chose between two options of similar net utility one of which vastly helps you personally.

But there is a third factor here that is of more general applicability. Information. The more you know about a person or situation, the less uncertainty there is when deciding whether an action will have a positive or negative impact. And since the magnitude of the impact needs to be weighted by the uncertainty, that means it really is ok to favour your wife over a stranger, other things being mostly equal. The same applies when considering the utility of those alive now when compared to those who might or might not be alive one thousand years from now.

3.8.3 3. Destroying the environment

Beautiful landscapes, snowy mountains, majestic trees, complex eco systems, untouched wildernesses. Surely it is utilitarian thinking, treating these things as having no value beyond what they can do for man, that has cause so much destruction?

The word "utilitarian" has a meaning outside ethics of "useful" or "functional", sometimes opposed to "decorative" or "artistic". Precedent Utilitarianism on the other hand has no preference for being simplistic, and can quite happily take into account the value of valuing such things for themselves. It is, again, a situation where you have to ask yourself "Is a society where such things are habitually treated with distain a society in which you would like to live?"

3.8.4 4. Creating over population

If all humans are born with equal potential to experience utility, then surely the more humans the better? In fact, should we not expand our numbers as quickly as possible, to the maximum we can support with our technology?

Shelving for the moment the issue of how many humans this planet can reliably support in the long term, and the risks of destructive war inherent in competition for resources, this pre-supposes that just because a human can experience a high utility that they will get a chance to in any society, however over crowded and unpleasant.

3.8.5 5. Hurting a few innocents to please the many

What price injustice? How can you ever justify deliberately hurting an innocent person, however bad the consequences of not doing so?

Countries only have finite budgets, that have to be split between health, railroad safety, the justice system, and many other things. No country can afford to give every citizen the best health care that money can buy. There comes a point where you reach diminishing returns. Where you say, "I have an additional $1,000,000. If I put it into heath, I will on average save just 1 more life. If I put it into railway safety, I will on average save 10 more lives.". Similarly with the justice system. There is only so much money you can spend on additional safe guards for the innocent. Sooner or later you reach a point where you say "I know that this policy, if implemented, will on average harm 5 innocent people a year. But to reduce that to 4 a year would cost an extra $15, 000, 000 which is better spent elsewhere."

From a Precedent Utilitarian perspective, every society places a large but not infinite value on protecting the innocent, and this is just another factor to take into account, like the chance of being struck by lightning.

3.8.6 6. Not punishing the guilty

With rights come responsibilities. If someone tries to mug me, they are ignoring their responsibilities under the laws of society, and are therefore consenting to give up their rights. Why should I take any account of their utility when deciding how to respond, if they have given up the right to have it taken into account?

And if they do get put in prison, I don't want them pampered and given free education programs; I want them punished so that they suffer what I suffered. Isn't the best precedent to hang the lot of them?

From a Precedent Utilitarian perspective, having your utility taken into account is not a 'right'. Rights, and responsibilities are a human thing, which may be a good idea (one which will cause positive utility if encouraged) but are not fundamental. The criminal justice system that will create most utility may vary from society to society (and is perhaps more a question of sociology or psychology, than philosophy). A Precedent Utilitarian will take into account the utility of the criminal just as much as that of the victim. But they will also take into account the utility of possible future victims, possible future victims of others inspired by the original criminal and tax payers having to cope with the effects of crime.

On the question of how "wrong" an action taken was, when it comes to deciding a sentence in court, a Precedent Utilitarian is quite happy to take into account legality, motivation and what might have happened or was intended to happen, as well as what did happen, because the precedent set by doing so effects future utility.

3.8.7 7. Acting from false motives

When John makes a promise to pay me $10, I trust him, because I know that John believes in keeping promises. If Dave, the Precedent Utilitarian, tells me "I promise to pay you $10", I don't trust him as much as I trust John, because I know that Dave doesn't believe that keeping promises is an absolute good, and that today he might think that promise keeping is a socially useful institution worth supporting, but that there are other things he thinks are equally worthwhile, and what about tomorrow? And never mind my opinion of what Dave would really mean if he said "I love you" or "You are my friend".

This is a tricky one. If John's sole behavioural restriction in life is keeping his word, then perhaps he really is more trustworthy than Dave on this point. But it is more likely that John believes in a number of additional things, such as not stealing, protecting his property, paying his taxes on time, not letting his boss down. And for most of the time, John would hope to be able to keep all these. But what about when they come into conflict? If he is short on money, how does John choose between two of his beliefs? In such circumstances, Dave is no less trustworthy than John, and Dave has a predictable way he uses to choose between conflicting commitments or rules of thumb and so could in fact be considered to be the more reliable of the two.

4 Test Yourself

How does Precedent Utilitarianism differ from Rule Utilitarianism?

How would Precedent Utilitarianism advise a judge to take into account the motives of a thief being sentenced?