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**1] Utilitarianism collapses into contractarianism.**

John J. **Thrasher**, Assistant Professor in the Philosophy Department and the Smith Institute for Political Economy and Philosophy at Chapman University, Reconciling Justice and Pleasure in Epicurean Contractarianism, Ethical Theory and Moral Practice, Vol. 16, No. 2 (April **2013**), pp. 423-436 ///AHS PB

**If** you do not, on every occasion, refer each of your actions to the goal of nature, but instead turn prematurely to some other [criterion] in avoiding or pursuing [things], your actions will not be consistent with your reasoning (KD 25). **This goal of reasoning and action is the absence of pain** and the tranquility that comes from living without fear (KD 3).4 This kind of pleasure, ataraxia, is unhindered tranquility, rather than a sensation of active pleasure.5 It is a psychological fact, according to Epicurus, that we do actually seek ataraxia and that our lives go best, from a subjective point of view, when we pursue ataraxia. It is the natural goal of beings like us. If fear of the gods, death, and pain constitute sickness of the soul, removing those ailments constitutes its health. This psycho logical hedonism creates the justification for the normative hedonism that practical reason ing should aim at ataraxia.6 The normative ideal of Epicurean practical rationality is a hedonistic form of instrumental rationality with the final end of ataraxia. In the parlance of modern decision theory, it is a maximizing theory of rationality. Given a set of ordered preferences, individuals chose rationally when they choose to act on their highest valued goals. To choose less pleasure rather than more pleasure when given the choice is paradig matically irrational and contrary to nature. Given this conception of practical rationality and virtue, it is hard to see how one can single-mindedly pursue pleasure and accept the constraints of justice. Traditionally, virtue ethical theories solve this problem by making the virtue of justice constitutive of happiness with deontic restraints built into the formal conditions of happiness.7 To use the Rawlsian terminology, the right flows naturally out of the good.8 This solution, however, will not work for the Epicurean. Unlike in Aristotelian or Stoic virtue theory, the standard of Epicurean happiness is not an objective, formal standard, but rather the subjective, psychological state of ataraxia. The Epicurean has a reason to (j> only if he or she believes that (J)-ing will reliably lead to the final end of ataraxia. If all reasons are instrumental in this sense, how is it possible for the Epicurean to have reason to constrain his or her pursuit of the goal of nature by the deontic demands of justice? To give a plausible account of justice, the Epicurean needs to explain how to justify the demands of justice as a means to the final end of ataraxia. One version of this problem arises in the context of friendship. Epicurus claims . .every friendship is worth choosing for its own sake, though it takes its origin from the benefits it confers on us" (VS 23). Given this statement about the value of friendship and KD 25, how can friendship be non-instrumentally valuable while also being beneficial because of the benefit it confers? Some have argued that genuine friendship is impossible unless we amend the basic egoistic element of Epicurean practical rationality.9 In contrast, Matt Evans argues that there are two basic approaches to understanding friendship in a consistently egoistic way (Evans 2004, 413). Friendship as "indirect egoism" involves incorporating the good of a friend or of friendship generally into one's own good. This is the interpretation that Timothy O'Keefe favors (O'Keefe 2001a). The alternative is Evans's preferred view, "direct egoism," that one's own good "stands or falls" with the good of one's friend (Evans 2004, 413). Indirect egoism is, for O'Keefe, a two-level hedonistic theoiy. Choice of desires is governed directly by hedonic concerns and those desires then pick out particular actions, which are only indirectly related to the original hedonic calculus (O'Keefe 2001a, 300-302). In contrast, Evans's direct egoism applies the hedonic calculus to action selection. Evans maintains that Epicureans can "reason their way to friendship" through direct egoistic means (Evans 2004, 423). What is true of friendship will likely be true of justice so it is imperative to determine whether the Epicurean hedonic calculus is meant to apply to actions (direct egoism), desires (indirect egoism), or something else entirely. The direct egoist interpretation has the benefit of being the easiest to reconcile with KD 25. The indirect egoist interpretation makes it easier to understand how the Epicurean can incorporate friendship and justice into hedonism. Another possibility, between direct and indirect egoism, is what Gregory Kavka calls "rule egoism" (Kavka 1986, chap. 9). Although Kavka developed his version of rule egoism in the context of understanding Hobbes's ethical theory, there are enough similarities between the two accounts for a plausible Epicurean version as well. The hedonic calculus applies directly to rules rather than to desires or action. Furthermore, rules can be generalizations over desires or actions, e. g. "don't cultivate a desire for riches" or "seek out friends." The first is a rule that indicates what desires will lead to pleasure whereas the second is a rule that indicates a particular set of actions that will likely lead to pleasure, namely having friends. **Rule egoism has several benefits over direct and indirect egoism. First, it is more general. Both actions and desires are mentioned throughout KD and VS as the possible object of choice. Rule egoism recognizes the importance of both actions and desires to the end of ataraxia and accounts for both in terms of rules. Second, rule egoism is simpler and likely more reliable than direct or indirect egoism. It is reasonable to expect that the typical Epicurean would be bewildered in the face of the multiplicity and complexity of choices that would face him or her on any given day. The stress of deliberating over actions on the direct egoist interpretation of KD 25 would often create anxiety rather than tranquility. Similarly, it is not clear that, given the complexity of the world, the direct approach would reliably lead to ataraxia. The indirect approach is not better on this count partly because desires do not necessarily pick out unique action in decision situations, partly because the indirect egoist faces the same problem as the direct egoist at the level of desires. By using rules, however, the Epicurean can rely on the knowledge embodied in the rules without having to deliberate in each case.** This explains the reason that Epicurus spends so much time in his writing listing rules and maxims. He gives rules about how to reduce sexual passion (VS 18), the irrationality of suicide (VS 38), the danger of envy (KS' 53), and the dangers of great wealth (VS 67). In all of these cases, and many more, Epicurus is passing on wisdom about how to reliably achieve ataraxia. He is playing the part, of a guide who has walked down life's tangled road and is reporting to those who have yet to see everything he has seen. These maxims or rules are the embodiment of the successful use of practical rationality in the past. Following these types of rules is, therefore, an application of direct egoism in an indirect way. Given the limited cognitive capacity and time of the Epicurean rational agent, relying on rules as a guide can be, following Gigerenzer and Goldstein, a "fast and frugal" way of reasoning based on heuristics communicated as rules or maxims (Gigerenzer and Goldstein 1996). **Instead of choosing over the expected outcome of individual acts, the rule egoist chooses sets of rules to follow based on the expected outcome of following that rule or set of rules** (Kavka 1986, 358-359). In the next section we will see how understanding Epicurean practical rationality as "rule-hedonism" makes it possible to reconcile Epicurean practical rationality with justice. 3 The Possibility of the Contract Once we understand Epicurean practical rationality as applying to rules rather than to particular actions or desires, we can see how the Epicurean can reconcile the imperatives of practical rationality with the demands of justice. **A particular social contract is a set of rules that regulates behavior in certain public settings.** The Epicurean agrees to a particular set of rules in order to more reliably achieve and maintain personal ataraxia. We might wonder, however, why the Epicurean would need a contract at all. Why wouldn't the first personal application of practical rationality be sufficient for ataraxia? Why is the social **contract** necessary? In a world of practically rational Epicureans, the social contract seems either otiose or harmful. Either the contract recommends what practical rationality would recommend or it conflicts with practical rationality. On its face, Epicurean contractarianism looks either unnecessary or impossible. I will argue here that the Epicurean social contract is both necessary and possible. **The social contract is necessary, as I will argue in the next section, for its coordinating, assuring, and specifying functions**. The social contract is possible because of the role that rules can play in Epicurean practical rationality. In this section I will argue that the Epicurean social contract is consistent with Epicurean practical rationality and, hence, possible, while fulfilling an important social role. The Epicurean social contract is fundamentally instrumental; **it is a "pledge of reciprocal usefulness neither to harm one another nor be harmed**" (KD 35). To be consistent with Epicurean practical rationality, then, the contract must secure benefits that would not be possible without the contract. If, however, one only has reason to enter into a contract because of the benefits, what reason does one have to follow the contract when there are no benefits and only costs? This is the heart of the concern that the Epicurean cannot be a good citizen. If citizenship involves the possibility of sacrifice, why should we expect the Epicurean to comply? Here again, we see the same kind of problem that we saw in §2 concerning friendship; the solution is also similar.

**2] Utilitarianism requires a system of individual preference in order to be normative, which means my framework is a prior question.**

**Gauthier**, David P. *Morals by Agreement*. Oxford: Clarendon, **1986**. Print ///AHS PB BRACKETED FOR CLARITY

A position both subjectivist and absolutist seems implicit in the views of many defenders of one of the most influential modern moral theories, **utilitarianism**. John Stuart Mill suggests such a position in his attempt to offer a sort of proof for the principle of utility - **subjectivist in saying that 'the sole evidence it is possible to produce that anything is desirable is that people do actually desire it', and absolutist in insisting 'that each person's happiness is a good to that person, and the general happiness, therefore, a good to the aggregate of all persons'. 22 But there is an evident awkwardness in this union** of subjectivism and absolutism noticeable in Mill's own statement, **which in passing from a seemingly relativist premiss (that each person's happiness is a good to that person) to an absolutist conclusion (that the general happiness is a good to all persons) has generally been held to exemplify the fallacy of composition**. Utilitarianism finds itself under pressure to move away from a conception of value at once subjective and absolute. The most plausible way to resist this pressure would seem to be to accept a universalistic conception of rationality, and to argue that since rationality is identified with the maximization of value, and rationality is universal, then what is maximized, value, must similarly be universal -- the same from every standpoint. If however utilitarianism remains true to its roots in the economic conception of rationality, then either subjectivism or absolutism gives way. On the one hand value may be conceived as relative, but a special form of value, **moral value**, is introduced, which **is the measure of those considered preferences held from a standpoint specially constrained to ensure impartiality**. On the other hand value may be conceived as objective, as the measure of an inherent characteristic of states of experience -- enjoyment -- that affords a standard or norm for preference. This is not the place to embark on a discussion of these positions, so that we shall merely (but dogmatically) affirm that a hundred years of ever more sophisticated efforts to avoid Mill's fallacy have not advanced the cause of utilitarianism a single centimetre. But we shall of course give more serious attention, especially to the second of the above ways of defending utilitarianism, as we continue the exposition of our own theory.

#### 3] Bindingness –

#### That Negates-

#### [1] Stronger IPRs help equalize the bargaining field for developing countries to check western coercion which would diminish their place as world enforcer. Therefore, it’s not in mutual self-interest for them to remove IPs because they want to keep their own economies ahead of others.

**Hassan et al 10** “Intellectual Property and Developing Countries: A review of the literature: by Emmanuel Hassan, Ohid Yaqub, Stephanie Diepeveen. RAND Corporation is a nonprofit research organization providing objective analysis and effective solutions that address the challenges facing the public and private sectors around the world. [https://www.rand.org/content/dam/rand/pubs/technical\_reports/2010/RAND\_TR804.pdf] // ahs emi

Commonly, FDI and trade are seen as key determinants for economic development and poverty reduction in developing countries. Inward FDI can generate important spillovers for developing economies, resulting in the upgrading of domestic innovative capacity, increased R&D employment, better training and support to education. For most developing countries, international trade allows them to acquire high value-added goods through importation that are necessary for economic development, but which are not produced domestically. In turn, exports allow developing countries to transform underutilised natural resources and surplus labour into foreign exchange, in order to pay for imports to support economic growth. Consequently, a central aim of the literature has been to examine how stronger IPRs in developing countries can give incentives to firms in developed countries to undertake cross-border investment in, and to export their goods to, these countries. Recalling the ambiguous relationship between IPRs and the individual strategies of single firms from a theoretical point of view, researchers have investigated empirically the effects of stronger IPRs on inward FDI in developing countries and exports from developed to developing countries. The empirical evidence suggests that stronger IPRs may positively affect the volume of FDI and exports, particularly in countries with strong technical absorptive capabilities where the risk of imitation is high. When such risk is weak, particularly in the poorest countries, firms in developed countries do not seem to be sensitive to the level of protection in developing countries. Using disaggregated data on FDI and trade, the empirical literature also shows that stronger IPRs impact on the composition of FDI and trade. First, stronger IPRs seem to encourage FDI in production and R&D rather than in sales and distribution. Second – and more surprisingly – stronger IPRs do not have any effect on the exports of hightechnology products. There are at least two explanations for this somewhat surprising result. Many high-tech products are difficult to imitate, thereby international trade for these products is less sensitive to the level of protection than for other products. Furthermore, firms in developed countries may choose to distribute their high-tech products through FDI or licensing, instead of exporting them directly. Intellectual property rights, international technology transfer and domestic innovation Increasingly, harnessing technological progress is viewed by policymakers as a key priority to boost economic growth and improve living standards. In an open economy, technological progress can be driven either by technology diffusion or technology creation. In less advanced economies, technology absorption can drive economic growth because countries at the forefront of technology act as a driver for growth by expanding the stock of scientific and technological knowledge, pulling other countries through a ‘catch-up’ effect. However, the strength of this ‘catch-up’ effect at the technology frontier decreases with the level of technological development, to the benefit of technology creation. Indeed, technology creation by domestic firms becomes progressively more important as a country moves closer to the technology frontier, because catching up with the frontier translates into increasingly smaller technological improvement. The empirical literature has examined the effects of IPRs on technological progress through these two main channels: technology absorption (i.e. international technology transfer) and technology creation (i.e. domestic innovation). The empirical evidence suggests that stronger IPRs in developing countries may encourage international technology transfer through market-based channels,1 particularly licensing, at least in countries with strong technical absorptive capacities. In the context of strong IPRs, firms in developed countries are more inclined to transfer their technologies to developing countries through licensing rather than through exports and FDI, since such rights allow them to retain control over their technologies. In the presence of weak IPRs, multinationals in developed countries seem to prefer to retain control over their technologies through intra-firm trade with their foreign affiliates in developing countries or FDI. Nevertheless, the historical evidence shows that many developing countries have benefited from international technology transfer through non-market-based channels, especially reverse engineering and imitation, thanks to weak IPR regimes. The empirical literature also shows that stronger IPRs can encourage domestic innovation, at least in emerging industrialised economies. Nevertheless, the empirical literature suggests the existence of a non-linear function (i.e. a U-shaped curve) between IPRs and economic development, which initially falls as income rises, then increases after that.

#### [2] IP rights are included in multiple international contracts – the aff violates that.

**Franklin 13** - “International Intellectual Property Law” by Jonathan Franklin\* He earned his A.B., A.M. Anthropology and J.D. degrees from Stanford University and M.Libr. with a Certificate in Law Librarianship from the University of Washington. Prior to the University of Washington, he spent five years as an reference librarian and foreign law selector at the University of Michigan Law Library. In law school, he was a Senior Editor of the Stanford Environmental Law Journal and a Note Editor for the Stanford Law Review. He is a member of the American Association of Law Libraries. [https://www.asil.org/sites/default/files/ERG\_IP.pdf] // ahs emi

The most important international agreements in intellectual property law are listed here. Many of them are available in multiple formats, including Microsoft Word, PDF, and HTML. In addition, This page was last updated February 8, 2013. 5 the links below link to the main pages for those treaties, rather than the HTML texts so that the reader can also find related protocols, notifications and signatories. ● Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS")(http://www.wto.org/english/docs\_e/legal\_e/legal\_e.htm#TRIPs) ● Berne Convention for the Protection of Literary and Artistic Works (http://www.wipo.int/treaties/en/ip/berne/index.html) ● Hague Agreement Concerning the Deposit of Industrial Designs (http://www.wipo.int/hague/en/legal\_texts/) ● International Convention for the Protection of New Varieties of Plants(http://www.upov.int/en/publications/conventions/index.html) ● Madrid Agreement Concerning the International Registration of Trademark (http://www.wipo.int/madrid/en/legal\_texts/) ● Paris Convention for the Protection of Industrial Property (http://www.wipo.int/treaties/en/ip/paris/index.html) ● Patent Cooperation Treaty (http://www.wipo.int/pct/en/texts/index.htm) ● Trademark Law Treaty (http://www.wipo.int/treaties/en/ip/tlt/index.html) ● Universal Copyright Convention (http://portal.unesco.org/en/) For other substantive, registration and classification treaties, see the treaty sections at the World Intellectual Property Organization (WIPO) (http://www.wipo.int/clea/en/index.jsp), IPRsonline (http://www.iprsonline.org/legalinstruments/international.htm), the Compleat World Copyright Web site (http://www.compilerpress.ca/CW/multi\_i.htm) and the intellectual property page at the Electronic Information System for International Law (EISIL) (http://www.eisil.org/). For bilateral treaties, one of the best sources is IPRsonline(http://www.iprsonline.org/legalinstruments/bilateral.htm). The focus of this Chapter is international law. Although it includes references to national domestic law (foreign law) and comparative law sources, other sites comprehensively cover national domestic law, such as WIPO’s Collection of Laws for Electronic Access (CLEA)(http://www.wipo.int/clea/en/index.jsp) (which is also referred to as WIPO Lex) or UNESCO’s Collection of National Copyright Laws(http://portal.unesco.org/culture/en/). For additional web sites that compile national intellectual property laws and decisions, see the relevant 6 section below. Practical Law Company’s Cross-border: Intellectual Property & Technology (http://us.practicallaw.com/about/cross-border-intellectual-property-technology) provides a substantial list of country comparisons touching on intellectual property law.

## 2

#### Utilitarianism is morally repugnant:

#### [1] Util creates a moral obligation to oppress people, when their suffering would cause a greater amount of happiness for the majority.

Jeffrey **Gold**, Utilitarian and Deontological Approaches to Criminal Justice Ethics

According to utilitarianism, an action is moral when it produces the great-est amount of happiness for the greatest number of people. A problem arises, however, when the greatest happiness is achieved at the expense of a few. For example, **if a large group were to enslave a very small group, the large group would gain certain comforts and luxuries (and the pleasure that accompanies those comforts) as a result of the servitude of the few**. **If we were to follow the utilitarian calculus** strictly, **the suffering of a few (even intense suffering) would be outweighed by the pleasure of a large enough majority**. A thousand people’s modest pleasure would outweigh the suffer-ing of 10 others. Hence, utilitarianism would seem to endorse slavery when it produces the greatest total amount of happiness for the greatest number of people. This is obviously a problem for utilitarianism. **Slavery and oppression are wrong regardless of the amount of pleasure accumulated by the oppressing class. In fact, when one person’s pleasure results from the suf-fering of another, the pleasure seems all the more abhorrent.** The preceding case points to a weakness in utilitarianism, namely, the weak-ness in dealing with certain cases of injustice. Sometimes it is simply unjust to treat people in a certain way regardless of the pleasurable consequences for others. A gang rape is wrong even if 50 people enjoy it and only one suffers. It is wrong because it is unjust. To use Kant’s formulation, it is always wrong to treat anyone as a mere means to one’s own ends. When we enslave, rape, and oppress, we are always treating the victim as a means to our own ends.

#### [2] Because only consequences determine if specific actions are good or bad, utilitarianism justifies horrific conclusions since no state of affairs could ever be intrinsically bad in and of itself.

**Vallentyne**, Peter. *Against Maximizing Act-Consequentialism*. **2006**, mospace.umsystem.edu/xmlui/bitstream/handle/10355/10174/AgainstMaximizingActConsequentialism.pdf?sequence=1.

**If** core **consequentialism is true, then any action with maximally good consequences** (in a given choice situation) **is permissible**. The main argument in favor of this claim is the following: **P1: An action is morally permissible if it is best supported by insistent moral reasons for action. P2: The value of consequences is always an insistent moral reason for action. P3: The value of consequences is the only insistent moral reason for action. C: Thus, an action is morally permissible if it maximizes the value of consequences.** This is the same argument given in the previous section for the impermissibility of actions that do not have maximally good consequences, except that (1) the appeal to insistent reasons has been made explicit, (2) the necessary conditions of the original P1 and C have been converted to sufficient conditions, and (3) the qualification in P3 that allowed the possibility of some prior constraints has been dropped. P1 is highly plausible. An action that is best supported by insistent moral reasons is surely permissible. P2 can be challenged, as I did earlier, on the ground that beyond some point the value of consequences ceases to be an insistent moral reason (once consequences are good enough, their value may only be a non-insistent reason). For the present purposes, however, we can grant this claim. The crucial claim is P3. It is implausible, because there are insistent moral reasons other than the value of consequences. There are also deontological insistent reasons, and these, or at least some of these, are lexical prior to the value of consequences. In particular**, individuals have certain rights that may not be infringed simply because the consequences are better.** Unlike prudential rationality, morality involves many distinct centers of will (choice) or 15 **interests, and these cannot simply be lumped together and traded off against each other.**16 **The basic problem with standard versions of core consequentialism is that they fail to recognize adequately the normative separateness of persons.** Psychological **autonomous beings** (as well, perhaps, as other beings with moral standing) are not merely means for the promotion of value. They **must be respected and honored**, and this means that at least sometimes certain things may not be done to them, even though this promotes value overall. An innocent person may not be killed against her will, for example, in order to make a million happy people slightly happier. This would be sacrificing her for the benefit of others.

#### This puts the affirmative in a double bind: Either A) we intuitively know killing people is wrong in which case you reject util out of principle or B) they condone death as good in which case their advantage would flow neg.

#### Two Impacts:

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#### [2] They read morally repugnant arguments. Thus the alternative is to drop the debater, to ensure that debate remains a space safe for all – the judge has a proximal obligation to ensure inaccessible practices don’t proliferate. Accessibility is a voting issue since all aff arguments presuppose that people feel safe in this space to respond to them.