The Direct Inverse Effect

by

Suhail Vawda

Abstract

This paper discusses the two primary groups of jurisprudential theories, Utilitarianism and Deontology, and attempts to show that there is a phenomenon that occurs when the results are opposite to what was expected. When this happens, the Utilitarian position prior to the results would become a Deontological position after the results, and vice versa i.e. the Deontological position prior to the results would become a Utilitarian position after the results, provided that the results are opposite to what was expected. This is The Direct Inverse Effect.

This has been approached not from an entirely critical position, but from a position that attempts to encourage the reader to move away from confining oneself to either of these groupings. Since positions can only be held retrospectively, one should move away from holding these positions when deciding on how to act. Both of these theories have merit, and both can and should be used where applicable. This has been demonstrated by the use of opinions of philosophers and hypothetical scenarios. This shows that aligning to any jurisprudential grouping prior to the results is of no significance, and instead each decision should be made on a case by case basis utilising both Utilitarianism and Deontology.

Introduction

Of the two primary groupings of Jurisprudential Theories, Utilitarianism and Deontology, it can be said that the two essentially are concerned about different things. Utilitarianism is the grouping of theories that concerns itself primarily with the ends of an action or decision. Deontology primarily concerns itself with doing the morally right thing or abstaining from doing the morally wrong thing. Both of these groupings do have their advantages and faults, as will be discussed below.

This piece will attempt to demonstrate a phenomenon between the two.

It has been a criticism of jurisprudence that either of these groups or any theory in their ambits can be used as ex post facto justifications of decisions, viewpoints and actions.

This article attempts to narrow in on that criticism and to demonstrate the proposed 'Direct Inverse Effect'. This effect states that, "the theory one holds changes completely if the outcome is opposite to what was expected."

One usually holds a jurisprudential position on any act based on one's viewpoint. This could either be Utilitarian or Deontological. One holds such view based on the expected outcome of the act. If the outcome is opposite to what was expected, if the results are contrary to what was anticipated, then the jurisprudential position one would hold after the act is different. If one holds a Utilitarian position prior to an act expecting a certain outcome, and the act then produces an outcome opposite to what was expected by the Utilitarian, then after the result the Utilitarian would hold a Deontological position regarding the act. If one holds a Deontological position prior to an act because it can be considered to be morally right, and the act then produces an outcome opposite to what was expected by the Deontologist, then after the result the Deontologist would hold a Utilitarian position regarding the act.

This phenomenon shows that, because positions can only be held retrospectively, that any jurisprudential position one holds prior or during an act is of no meaning. This is due to the fact that there can be no guaranteed outcome. Only once the results of an act are guaranteed can one hold a jurisprudential position that is of any consistency and value.

This article does not stop at identifying this issue, but proposes a solution through answering the following questions:
- How should a society make a decision?
- What is evil?
- From where does society derive its morals?

From these, it is proposed here that in making a decision, society should 'attempt to prevent the most amount of evil that could potentially be done.' This utilises both Utilitarian and Deontological groups of thought, and favours one or the other based on the type of decision that needs to be made. Neither theory is perfect, but maybe utilising the strengths of both is the best solution to bridging the gap between the two jurisprudential groups.

Comparison between Utilitarianism and Deontology

There are two primary groups of Jurisprudential Theories, being Utilitarianism and Deontology[1]. While Utilitarianism focuses primarily on justifying means through the source of most "happiness" and is "an idea that society is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all individuals belonging to it."[2] Utilitarianism was developed by two British thinkers, John Stuart Mill and Jeremy Bentham, and has been the ideology that fostered several reformation movements such as the abolition of the death penalty, equality of the sexes and the decriminalisation of homosexuality[3].

Deontologists seem to take a stand based solely on morality by not acting in any questionable manner regardless of the outcome, whether it leads to worse outcomes or not. Deontology, "falls within the domain of moral theories that guide and assess our choices of what we ought to do.[4]" The central figure of Deontology is Immanuel Kant, a German philosopher who is known as one of the most influential philosophers of recent times. " Deontology is simple to apply. It just requires that people follow the rules and do their duty. This approach tends to fit well with our natural intuition about what is or isn't ethical.[5]"

Both of these theories have shown to be lacking in some areas. Utilitarian's may fall short, for example, when mob justice surfaces due to the justification of most acquired happiness. This is called The Justice Objection.[6] An example of this which has been seen several times in recent history is the act of genocide. "It might be the case that in a given society, the extermination of a certain minority (E.G 100 people) would generate an increase in happiness for the majority (E.G 1,000,000 people.) Utilitarianism's GHP would determine that in this case, genocide was the morally right act to perform, since the consequence of the action would promote happiness in the larger portion of the population.[7]"

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[1] J.P. Moreland "Ethics Theories- Utilitarianism Vs. Deontological Ethics" 2009 Christian Research Journal 3.
[2] Rawls *A Theory of Justice* (1972) 22.
[3] Bilchitz Metz and Oyowe *Jurisprudence in an African Context* (2017) 134.
[4] https://plato.stanford.edu/entries/ethics-deontological/#DeoThe (09-03-2020)
[5] https://ethicsunwrapped.utexas.edu/glossary/deontology (06-04-2020)
[6] Pojman *Strengths and Weaknesses of Utilitarianism* (2009) 131.
[7] All Answers Ltd "Utilitarian Response to Objections Regarding Justice And Supererogation Philosophy Essay." ukessays.com (31-03-2020).

Deontologists may fall short when the overall effect due to lack of action causes greater harm than acting decisively, although admittedly questionably; the "irrationality of our having duties or permissions to make the world morally worse.[8]" An example of this is the Luftsicherheitsgesetz[9] which was a response to the 11 September 2001 attacks. It was a proposal to allow the Bundeswehr to use weapons against commercial aeroplanes if it becomes apparent that it was intended to be used as a weapon by hijackers. This was declared as unconstitutional by the Federal Constitutional Court of Germany as it would be a violation of human dignity under Article 1 of the German constitution. Although moral, this decision can be critiqued for essentially taking a back seat and allowing the hijackers to potentially cause more damage than if the aeroplane was to be shot down, be it in terms of human lives and damage to property.

In Law and Morals, this can be somewhat justified by Pound, who argues that a rule cannot be a rule unless it is a legal rule[10], and ought not to be a legal rule if it ran counter to a moral rule.[11] Aristotle, though, argues that a decision can only be moral if it develops human capacities,[12] which leads to grey areas regarding whether or not something can be both immoral while simultaneously be good for humanity; this is a Utilitarian counterargument against Deontology.

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[8] Alexander, Larry and Moore, *Deontological Ethics* (2007).
[9] BVerfG Judgment of the First Senate 15 February 2006.
[10] The rule of law will not be discussed in this article as this article concerns itself with the theories of justice.
[11] Pound *Law and Morals* (1987) 92.
[12] Reeves *Problems of Philosophy and Society* (1988), 25.

The Direct Inverse Effect Theory

There seems to be a phenomenon which is demonstrable. When asked to ponder on the issue of Land Expropriation Without Compensation in South Africa, the stance taken on the issue, due to prior research and learning from world history (Venezuela and Zimbabwe being the prime examples), that it will not work. In Southern Africa, it continues to be a volatile topic. It is meant to address the concerns of the majority post-colonialism but it also has, "the capacity to destroy the economic foundations of the nation.[13]" In attempting to justify the probable failure of this policy by using Deontology, which could have been formulated in the statement, "the 'right' thing was attempted, so the outcome does not matter." Then looking at the Utilitarian view that would have also been surmised in the statement, "the outcome was far worse than what would have happened had the policy not been implemented." This line of thinking follows both the Utilitarian and Deontological views.

Then, thinking, no matter how improbable it may be, what if it works? The justification of the Utilitarians would then be that the outcome brought much more happiness, therefore was justified. The Deontologists would have opposed the policy due to the means being immoral, regardless of the effectiveness if the means can in any way be described as 'bad'.

This is sound, but there arise contradictions which can be explained through the Direct Inverse Effect. From the example above, it shows that the Utilitarians would become Deontologists if the outcome was the opposite and vice versa for the Deontologists. The people who opposed the policy of Land Expropriation Without Compensation prior to the results of said policy would still oppose it post the results. Their justifications, though, would change from being Utilitarian prior to the outcome and would then be Deontological post the outcome. Prior to the outcome, the Utilitarian argument by those who oppose the policy would be that the policy would cause greater unhappiness than happiness, and therefore should not be implemented. If the policy does work, and causes greater happiness, then the argument against the policy by

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[13] Adekoye *African Renaissance - Land expropriation in Zimbabwe and its lessons for Namibia and South Africa* (2019) 106.

those who opposed it prior to the results would be Deontological by claiming that the implementation of the policy was morally wrong, regardless of the outcome.

The people who were in favour of the policy of Land Expropriation Without Compensation would have a Deontological view of the policy. This is because it can be considered as a morally good thing to do in attempting to redress the injustices of the past. This line of thinking does not concern itself with the outcome of the policy. If the policy is effective and does work, then after the outcome is confirmed, the people who supported the policy prior to the outcome would have a Utilitarian argument for the support of the policy, by claiming that the policy resulted in more overall happiness.

It is also concerning that each of the theories would not have a concrete view of the policy. It has been a criticism of jurisprudence that either of these groups or any theory in their ambits can be used as ex post facto justifications of decisions, viewpoints and actions[14].

This is because of the Direct Inverse Effect.

> *The theory one holds changes completely if the outcome is opposite to what was expected.*

If the results of any action succeed, the theories of justice hold true, but if the results of the same action show failure, then the theories completely inverse.

This leads to the next logical step. It would, therefore, be logical to think that, because the position can only be held based on the outcome, these theories can only be held retrospectively. One needs to ensure an outcome in order to justify means or ends; and since nothing in life can ever be guaranteed except death and taxes, these theories can be daringly argued are of no meaning when constructing opinions on a proposed, or occurring, event. People, thus, do not prescribe to overall theories, but positions on actions and the theory then followed is based on the outcome of the action. If the outcome is opposite to what was expected, then the jurisprudential grouping one falls under would change completely. This means that if the outcome is opposite to what was expected, the Utilitarians would hold Deontological views after

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[14] Graybosch "Justification Ex Post Facto?" 1986 *The Southern Journal of Philosophy 24*(3) 335-349.

the outcome is guaranteed and the Deontologists would hold Utilitarian views after the outcome.

Demonstrable Examples of this Theory

Australian forest and rainfall policy

An example of this changing view is the environmental policy in Australia. Land was expropriated for the purposes of conserving and bolstering forests because it was believed that it would encourage rainfall. This was proven to be a falsehood, and did not happen, but now the justification of that land policy regarding the forests is aesthetic as well as reducing the amount of carbon-dioxide.

Because the results could not have been guaranteed when the policy was enacted, the people who were in favour of such policy due to the expected ends, being the expected increase in rainfall which would have produced more overall happiness, now still support the policy, but utilise a more Deontological approach rather than the Utilitarian. While still using the supply-side view in supporting the policy prior to the expected conclusion, the supporters would have utilised Utilitarian thinking, once the results were opposite to what was expected and there was no increase in rainfall, the same supporters of the policy would use Deontological reasoning to justify it by claiming that the reduction of CO2 and to preserve pleasing aesthetics are morally correct, regardless of whether or not the policy succeeded or failed in its original aims.[15]

The Utilitarians in that particular case are now Deontologists, and the Direct Inverse Theory holds true. This, according to Averroes, Maimonides, and St Thomas cannot be justified as there, according to them, cannot be two different kinds of truths which contradict each other.[16] One cannot be content with a failed outcome if one supported an action because of an opposite expected outcome, but this can also be described

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[15] Bennett and Barton "The enduring link between forest cover and rainfall: a historical perspective on science and policy discussions" 2018 *Forest Ecosystems 5*(1) pp.1-9.
[16] Schmitt and Skinner *The Cambridge History of Renaissance Philosophy* (1988) 670.

outside of this philosophical viewpoint through the phrase, "bad things sometimes happen perfectly.[17]"

Negotiations with the Nazis

Soon after Sir Winston Churchill was thrust into 10 Downing Street, as Adolf Hitler was sweeping through continental Europe, he was met with a proposed solution to the conflict for Britain. He was one of, if not the lone voice in the previous decade against negotiations with the Nazi's. Lord Halifax was one of the biggest advocates for appeasement in the 1930s, but when Sir Winston became the Prime Minister of Great Britain and Northern Ireland, this issue of appeasement rearose.

The Italians were proposed to be intermediaries in the negotiations, but Sir Winston was to have none of it. "The minute Britain accepted some Italian offer of mediation, Churchill knew that the sinews of resistance would relax. A white flag would be invisibly raised over Britain, and the will to fight will be gone.[18]" But the *primus inter pares* meant that, even though Churchill was Prime Minister, he still had Halifax trying to convince him to negotiate.

Halifax can be said to have used Utilitarian reasoning. He would have thought it better to negotiate with Hitler rather than the alternative, which would be war. This would have increased the overall happiness for the greatest number of people. Churchill, on the other hand, can be said to have used Deontological reasoning.

The Utilitarian argument in favour of the negotiations was that it would stop the war with the Nazis, would save many British and German lives and would thus lead to greater overall happiness. This was not the case. Churchill chose not to negotiate as Germany had a history of breaking treaties.

The Deontological position, which can be said was one Churchill held, was because negotiating with the National Socialist German Workers' Party was morally wrong. This position did not take into account the proposed results, as Churchill was convinced that either way, and he was proven to be correct, that it would result in war, only that Britain would be less prepared.

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[17] No particular source can be found, but a Professor once said it to me, and it made me think.
[18] Johnson *The Churchill Factor* (2015) 13.

The Second World War ensued, and Sir Winston won and was and still is known as the saviour of Europe; the greatest ever Briton. The Utilitarians who supported Halifax, after the result that Churchill didn't negotiate but won the war, still hold the position that the negotiations should have taken place. The Jurisprudential position of these policy supporters would be Deontological post the results. They would argue that negotiating with Hitler was the morally correct thing to do, regardless of the outcome.

The Deontological position pre-World War Two of opposing the negotiations due to it being morally wrong, would turn into a Utilitarian argument post the war. It would be argued that not entering into the negotiations led to Britain being more prepared and thus, winning the war. This led to the most overall happiness as the Nazis were defeated and never mind Britain, but the whole of Europe would not be under National Socialist[19] rule.

This example also illustrates the Direct Inverse Effect. The jurisprudential positions held prior to the results changed if the results are opposite to what was expected.

Critiques of the Theory

A counterargument that may be used is that a society can adopt a theory of justice, use past experience and make decisions on prospective or occurring events based on the past actions. This is a very fair point, but it is largely counterintuitive due to the retrospective nature of theories of justice.

A critique can be that, since Deontologists do not associate themselves with the outcome, but rather by doing the morally right thing, then how is it that their position would change based on an opposite outcome? A response to this would be that having a Deontological position entirely does not negates an outcome, rather that it is considered far less than the morally correct action. The expected outcome is considered but it does not directly affect the opinion on any particular action.

Another critique would be that this theory does not always work if the outcome is different, only if it is directly opposite. If a Utilitarian argument is used in support of a

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[19] https://www.britannica.com/topic/Nazi-Party accessed 08-09-2020.

policy and the results are not what was expected, but something similar and comparable, then the ex post facto justification would also be Utilitarian. An example would be if a policy was initiated to save a particular species of endangered sea creature, but it instead saved another endangered sea creature, the support of the policy would still be considered to be Utilitarian.

A deontological argument pre-results would still be a deontological argument if the results are not directly opposite. If the expected results are that a policy would work even though it is morally wrong, and the outcome is that the policy in fact succeeded in its aims, then the argument against the policy would still be Deontological as it could still be seen as morally wrong, regardless of the outcome.

Proposed compromise between Utilitarianism and Deontology

Then, how should one go about, from a philosophical point of view, making a decision? Both of the groups of theories, Utilitarianism and Deontology, have merit. Then why shouldn't both of these groups be taken into consideration? When one, or a society, needs to make a decision, it should:

> *Attempt to prevent the most amount of evil that could potentially be done.*

Sir Roger Scruton, a great modern conservative philosopher admires Kant. He claims that Kant is "the greatest modern philosopher" and that he was moved by nothing more than duty[20].
Ayn Rand, another great modern conservative philosopher is not a fan. She claims that he "closed the door of philosophy to reason.[21]"
Why would both of these scholars who should prima facie be on the same 'side', being conservatives, have such differing views?

Sir Roger Scruton primarily focuses on conserving culture, art and beauty. He has written several books and made films on this[22]. This falls directly in line with Kant's

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[20] Scruton *Kant: A very short introduction* (Vol. 50) OUP Oxford.
[21] Rand *The New Intellectual* (1963) 30.
[22] He has written books such as *How To Be A Conservative* (2014) and created films such as *Why Beauty Matters* (2009).

theology, the preservation of historic and beautiful things. Ayn Rand, on the other hand, focuses on economics. She advocates for complete free markets and the dangers that big government brings. "Rand was among the first to identify the problem of the modern state's terrifying power and make it an issue of popular concern. She was also one of the first American writers to celebrate the creative possibilities of modern capitalism…[23]" This is more of a Utilitarian argument and she focuses on the greatest happiness for the greatest number of people from an economic standpoint. Both of these figures, Sir Roger and Rand, are both conservative thinkers for entirely different theological reasons.

This would lead one to believe that society should not necessarily favour one jurisprudential group over the other, but rather utilise both depending on which would fit best.

This can be better explained using hypothetical scenarios. In Scenario A, a government funded art museum, which is located in a centuries old building, is propositioned to be demolished in order to build student accommodation. Ayn Rand would argue that the government should not have as much power and the best thing economically would be to create student accommodation. Sir Roger Scruton would be vehemently against the destruction and follow a Deontological position by claiming that it would be morally wrong, regardless of whether or not a greater number of people would be happy. He would quote Sir Winston by saying something along the lines of us shaping our buildings and thereafter they shape us. It is clear that not being decisive in having an opinion on the demolition is easy. This would be a tough decision to make.

In Scenario B, the same facts apply, but instead of a government funded art museum housed in an historic building, it is an old desolate building with not much history, meaning or appeal. The only thing keeping it from being destroyed is the age, granting it historic status. It could be fair to assume that the Utilitarian view would be to demolish the building for student accommodation and the Deontological view would be to preserve the history.

The facts in both scenarios are similar, but the single difference would easily sway thought. This is whether the proposition above can be explained. Why be staunchly

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[23] Burns *Goddess of the market: Ayn Rand and the American right* (2009) 3.

Utilitarian or Deontological when it is easily argued that following a Deontological position in Scenario A and a Utilitarian position in Scenario B are both correct. Each scenario must be determined on its own merits by taking into account factors such as historical value of buildings, the economic benefit of an action, the long-term effects of an action, the societal worth of priceless art and more. One cannot create an exhaustive list as an infinite number of possible scenarios would lead to an infinite list, but the essence remains. Follow either based on whichever group prevents the greatest amount of evil that could be done and following Deontology in Scenario A and Utilitarianism in Scenario B justifiably does this.

The proposed compromise's response to Evil Scepticism and its global application.

What is evil? This may fall short due to the resurgence of 'Evil-Sceptics', who believe that society should rid itself of the concept of 'evil'[24], that it is an unconvincing argument. In this regard, because of the number of different opinions, cultures, interpretations and so on in this ever-expansive world, a highly specific definition is not possible. A globalised world requires a globalised definition, so the simplest definition of the word should be used.

> *Evil is to denote profound immorality[25].*

The issue of morality and from where society derives it has been a topic of discussion and debate for millennia. This article will not go into depth regarding this, but it is important in the point it attempts to portray. Those who are more religious would believe that morality comes from God through scriptures and prophets. "Morality is not defined by majority vote; it is not what is politically correct. It is not what happens to be in Vogue. Even if all of mankind agrees that the immoral is moral, for us as Muslims,

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[24] Calderand Todd *The Concept of Evil* (2013).
[25] This definition is an extract which has been modified from Jung and Zimbardo *Good and Evil. Collected works* (1953) 20-37.

the immoral shall remain immoral.[26]" This is desirable because the standards of morality would largely be consistent throughout time; the same things were wrong, are wrong and will be wrong, and the same things that were right, are right and will be right. This consistency is the biggest draw for this.

The less religious would believe that humans are born with an innate reasoning that determines what is moral and immoral. Robert A Hind argues that "…there is no need to search for a transcendental source of morality…[27]"This is not something the religious folk would deny, but the inconsistency of the standard of morality throughout time and place is its biggest downfall. What was immoral yesterday may be a grey area today and accepted as a norm tomorrow. This is often attempted to be discredited by the use of extreme arguments, which are often disproven, but the slippery slope still remains.

Another argument that must be made is that even with the use of religion as the basis of morality, cultures and religious values have intertwined all over the world. The way one group of people interpret a text may be quite different from others, and to then add different people interpreting different religious texts would undoubtedly lead to very little in common apart from the very basics.

This leads one to think that there could be no universal standard for morality[28], but why have one in the first place? With the standard of morality so different in so many parts of the world[29], it can be up to the society that needs to make a decision to decide on what would prevent the most amount of evil.

If there is a discrepancy, it could easily be justified through societal differences, and in this current state in which we reside, ever increasing globalisation and with access to knowledge being very easy for whoever searches, it will likely lead to tolerance and understanding.

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[26] Qadhi *Morality in Islam: The Higher Man and The Moral Argument*
https://www.youtube.com/watch?v=wAsJ9eUO53Y (14-04-2020).
[27] Bergson and Carter *The two sources of morality and religion* (1935) 268.
[28] Although Kant, a major figure in Deontology, believes that "moral judgements are objective, rational and universally binding." Scruton *From Descartes to Wittgenstein* (1981) 159.
[29] It is immoral to show your legs in the east but the belly is fine, where the opposite is true in the west.

Conclusion

Utilitarianism and Deontology both have advantages and disadvantages. These two jurisprudential groups. Utilitarianism focuses on the overall happiness achieved for the greatest number of people, and Deontology focuses on acting in a manner that is morally correct. Through examples taken from history, the Direct Inverse Effect is shown. This is a theory that says that if the results of an action are opposite to what was expected, then the jurisprudential group which one fits into changes. If the results are opposite to what was expected, the Utilitarians prior to the results will fall into the Deontological grouping after the results, and vice versa.

A proposed compromise can be that society, or even people, should not confine itself into a particular grouping, but should rather utilise the best aspects from each group and use them both where applicable. This has been shown through two very similar hypothetical scenarios.

Instead of simply following a jurisprudential grouping, society should attempt to prevent the most amount of evil that could potentially be done. While there are lengthy discussions regarding what is evil and where society finds morality, these discussions will never produce a universal answer. In turn, different societies should decide their own standards of morality and in this ever increasingly globalised world, there will be less conflict and more tolerance.