

The rules are not to be bent on occasion, if the referee supposes that more pleasure will accrue to the spectators or players by the cheat. If people know that this is likely to happen, their whole attitude changes, and the game may become impossible. The inflexibility of the rules is one thing that makes the game possible. Similarly, says the indirect utilitarian, we can only gain the general happiness, and particularly components of it such as security, by implementing fairly inflexible rules. We give each other property rights, fixed laws that bring determinate and foreseeable justice, and we instil general dispositions to conduct that can be relied upon, whatever the circumstances.

Or perhaps we should say, almost whatever the circumstances. Hume pointed out that when things are bad enough, rights that would otherwise stand firm give way:

*What governor of a town makes any scruples of burning the suburbs, when they facilitate the approaches of the enemy?*

In a sufficient emergency, even quite basic civil liberties properly go to the wall. In an emergency, for instance, to get the spectators out of the threatened stadium, a referee might properly give a false call to terminate the game. But emergencies are rare, and it requires judgement to know when one is upon us. Emergencies permit exceptions, because the old stabilities and certainties can be reborn as soon as the emergency is over. A governor who burned the suburbs in wartime does not forfeit his general standing as protector of the laws, whereas one who appropriates a house during peacetime for his favourite nephew does. The one can still be trusted, whereas the other cannot.

For Hume, therefore, the edifice of justice and rights is a social creation. It is necessary, for human beings cannot manage without each other, and the structures are needed for cooperation with each other. These include at least the ability to give contracts, and the ability to hold property, and each of these needs is described in the

language of deontology – justice and rights. These are there purely to promote and protect the good of society. They are necessary, but, when things get too bad, they are subordinate to that same end.

Are we happy with that subordination? Indirect utilitarianism is a kind of compromise. It is consequentialist overall, but in the conduct of life, just as in the conduct of a game, rules and principles have the paramount authority that deontologists wish. Like many compromises, it gets suiped at from each side. Utilitarians of a more direct, down-to-earth stripe may worry about the rationale for following a rule in a case where even a little utility is gained by bending it. Isn't this just making a fetish of the rule: 'rule-worship'?

Most contemporary moral philosophers are much more admiring of justice and rights, and fear their contamination by anything so vulgar as an aim or purpose. Hence it has become fashionable in moral philosophy to jeer at utilitarianism. Some writers stress virtuous agents whose integrity does not allow them to compromise principles for utilitarian ends. Others stress the virtue of agents who do not look forward to what good may come of their actions, but look backward, and apply principles to the context of action. The literature is full of lurid cases in which the man (or woman) of principle stands fast, and admirably so. But indirect utilitarianism looks set to cope with these: *of course* we value the person of integrity who cannot compromise his or her principles for the sake of general utility. For this is far the best disposition to cultivate and to admire, even if, very, very rarely, the spectators perish in the stadium because of it.

Some people stress that utilitarianism 'does not take seriously the separateness of persons' – the idea being that it subordinates the rights of the individual to solidarity with the general welfare. It is too deaf, according to these critics, to the plaintive cry coming from a particular individual whose concerns have been sacrificed to the general good. This charge is particularly ironic given that utilitarianism started with the ambition of breaking down the