

## Stealing<sup>1</sup>

Normative ethical theories are intended to guide us in knowing and doing what is morally right. It is therefore very useful to consider theories in relation to practical issues, in order to understand the theories and their implications better. The primary purpose of this handout is to think about how three normative theories - utilitarianism, Kantian deontology and Aristotelian virtue ethics - would respond to the practical issue of stealing.

### STEALING

To steal is to take someone else's property with no intention of returning it and without their permission (or without the legal right to do so). To own property involves a system of rights. I own my books, for instance. This means that I am free to use them (read them, keep them where I want, etc.), but no one else is free to use them unless I say so. And so because property involves individual rights, whether or not we may steal is a matter of justice, of what each person is 'due'. I am 'owed' what I own, e.g. it should be returned to me if borrowed, and so to deprive me of my property through stealing or refusing to return it looks like a violation of justice. We start from the presumption that stealing is wrong, but arguments might overturn that presumption. What do our three theories say?

### UTILITARIANISM

Act utilitarianism, in its simplest form, says that an action is right if it maximises happiness, and wrong if it does not. So it does not phrase the rightness or wrongness of an action in terms of justice. If stealing, on some occasion, creates greater happiness than not stealing, then it is morally right on that occasion. Otherwise, it is morally wrong. It may well be that stealing usually leads to more unhappiness in the world, on balance, so it is usually wrong.

But we also recognise that it can be morally permissible to steal in certain situations. For instance, we might say that it is okay to steal in order to save a life or when we are in dire need, and especially if we steal from someone wealthy and so won't be significantly harmed by the loss of their property. Or again, we may think that it is okay to steal from the wealthy where property is unjustly distributed, especially if we intend to benefit the poor - a 'Robin Hood' kind of stealing. Furthermore, we may argue that it would be right to steal something that the owner intended to use for harm, e.g. stealing a gun from someone planning a murder. Act utilitarianism can argue that it recognises these intuitions - these are all occasions on which stealing would lead to greater happiness than not doing so.

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<sup>1</sup> This handout is based on material from Lacewing, M. (2017) *Philosophy for AS and A Level: Epistemology and Moral Philosophy* (London: Routledge), Ch. 3, pp. 322-7

However, a society in which people stealing was permitted whenever it increased happiness could indirectly lead to greater unhappiness. People would become afraid that others will steal from them whenever the thief convinced himself that it would bring about greater happiness. In such a society, people would cease to trust each other, and so overall, the act utilitarian approach to stealing would diminish happiness.

John Stuart Mill recognises the importance of property rights and the importance of rights to feeling secure. Having and respecting property rights contributes most to happiness in the long term, and Mill comments that justice is 'most sacred and binding part of all morality'. This suggests that we should never violate someone's rights for some other purpose, e.g. maximising happiness on this occasion, and so we should never steal. But the examples given above, of Robin Hood or stealing in dire need, indicate that such a strict rule is counterintuitive. There need to be exceptions.

How would rule utilitarianism deal with this? Rule utilitarianism says that an action is right if, and only if, it complies with those rules which, if everybody followed them, would lead to the greatest happiness (compared to any other set of rules). Perhaps there should be no property - perhaps the world would be a happier place if no one owned anything? If so, rule utilitarianism would say that we should have a rule forbidding ownership. However, this isn't relevant to whether *stealing* is morally right. Stealing assumes that there is property - no property, no theft. You can't steal something if it doesn't belong to someone else. If we want to bring about a world without property, stealing is not the way to do so - we will need new laws. Meanwhile, while there is property, people become very upset if it is stolen from them. So we cannot justify stealing by arguing that the world would be better off without property. We can only argue that a world in which stealing is impossible would be happier than a world in which there is property. But if there is property, the rule 'Do not steal' creates more happiness than a rule that allows stealing freely.

Is there a better rule regarding stealing, one that allows exceptions? Like Mill, rule utilitarians look at the long term consequences, and following a clear, simple rule will probably lead to better consequences overall than trying to build in lots of exceptions. Although the simple rule won't lead to the best consequences in every case, exception clauses may tempt people to think that their situation is 'exceptional' and lead them to steal when they should not - and so a rule with exceptions won't, in practice, lead to the best consequences in every case either, because people won't follow it.

One solution for rule utilitarianism is to keep the simple rule against stealing, but add another, 'general purpose' rule: 'in circumstances in which not doing something will lead to significant and immediate harm, then do that thing even if that means breaking some other rule'. This would allow stealing to prevent significant and immediate harm.

## KANTIAN DEONTOLOGY

Kant argues that we should 'Act only on that maxim through which you can at the same time will that it should become a universal law' - his 'Categorical Imperative'. Acting on the maxim 'To steal something I want if I can't afford it' leads to a contradiction when universalised. Stealing can only be the right thing to do if everyone could do it. However, if we could all just help ourselves to whatever we wanted, the idea of 'owning' things would disappear. Now, by definition, you can't steal something unless it belongs to someone else. Stealing presupposes that people own things. But people can only own things if they don't all go around helping themselves whenever they want. So it is logically impossible for everyone to steal things. In other words, it is inconceivable - a contradiction in conception - for everyone to steal things. We can't conceive of the maxim 'To steal something I want if I can't afford it' being a universal law, so we can't rationally will it to be a universal law. And so stealing (at least stealing just because one wants something) is wrong. (As argued above, the objection that a world without property involves no contradiction in conception or will is irrelevant.)

However, does this apply to all stealing? For instance, the maxim 'To steal in order to save a life' would not, if universalised, lead to the end of property, because it is rare that anyone would need to steal for this purpose.

However, it is unlikely that Kant would agree with this amendment. Our maxim is still 'To steal', and it is this that causes the contradiction in conception, so perhaps the purpose for stealing isn't relevant. Stealing to save a life is still stealing, it is the same *kind of action* as stealing because one wants something.

Actually, this last claim can be challenged. Perhaps the maxim of stealing to save a life is actually 'To save a life, even if by stealing'.

Kant's Categorical Imperative obviously allows that we should pursue good ends, such as saving lives; indeed, it is a contradiction in will not to help others. But the whole idea of justice and rights is that there are constraints on *how* we pursue good ends. Kant agrees - the duties of justice are more stringent than the duties of virtue (doing good). So we should not steal.

Kant gives a second formulation of the Categorical Imperative, known as the Formula of Humanity: 'Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end'. This provides another argument that rules out stealing. To steal from someone involves not allowing them to make an informed choice. Why not just ask them to give you what you want? Of course, that is preferable. But what if they refuse? Is it always wrong to steal from someone who, in refusing to help, doing something that is morally wrong?

If we disagree with the answers Kant's theory gives us, we can use example of stealing to object to the theory. For instance, we can object that in morally bad circumstances, where someone will die or we live in a repressive and unjust

regime, stealing is justified, but because Kant's theory doesn't recognise this, it gives us the wrong answers.

## **ARISTOTELIAN VIRTUE ETHICS**

Aristotle's account of justice is largely deontological. The virtue of justice is defined primarily in terms of doing just actions. Although Aristotle does not understand justice in terms of rights (the concept was invented later by the Romans) or as constraints on what we may do, he comments in the *Nicomachean Ethics* that there are some actions that are never in the mean, but always wrong, and he includes stealing among them. Stealing is always a matter of injustice, of depriving someone of their 'due' or 'fair share'.

What about stealing in an unjust situation, where some people have more than is fair while others are poor? There are two possible responses Aristotle might offer, depending on how the situation came about. Aristotle distinguishes unjust states of affairs from unjust actions. In the first scenario, an unjust state of affairs has come about through no one's action. This is unfortunate. However, to deliberately choose to do an unjust act, such as stealing, is worse, and so can't be justified just by appealing to an unjust state of affairs. In the second scenario, the unjust state of affairs has come about through people's actions, e.g. the rich are deliberately exercising their power to keep the poor poor. This situation demands justice in rectification, to make equal what has been made unequal. Stealing is not normally an act of justice in this sense, but if it were (Robin Hood again?), then it could be justified.

A third response is to disagree with Aristotle that stealing is an act that is never in the mean. We could generalise the argument just made to say that stealing can be justified if it does not involve depriving someone of their 'due' or 'fair share'. When this is so will require practical wisdom, but we should not assume that just because someone owns something that they own it 'fairly'. Or again, we may argue that even if stealing does (appear to) violate justice, it may be justified by appealing to some other virtue, such as kindness in saving someone's life. Conflicts between virtues must be resolved by practical wisdom.

## **A FINAL THOUGHT**

A final way of thinking about stealing, which is available to rule utilitarianism, Kantian deontology and Aristotelian virtue ethics, is to revisit property rights. Property rights are not 'absolute'. I cannot do *whatever* I want with my books, e.g. I can't start a fire inside a cinema with them, I can't throw them at people, I can't withhold them from the government if I haven't paid my tax, and I can't keep them if they were stolen from someone else. There are limitations to ownership.

How does this help? To steal something from someone, that person must own it, i.e. their property rights over it must be legitimate. If someone steals your phone, you aren't stealing if you take it back without their permission. If, in the tales of Robin Hood, the rich did not own their wealth because they had literally stolen it from the poor, then we could say that Robin Hood didn't steal from the rich at all.

He simply returned to the poor what was stolen from them. But perhaps a better description is that the rich did not own their wealth according to *just* laws of ownership, e.g. the taxes that it came from were *clearly* exploitative and so unjust. Robin Hood did steal from them, but if their ownership was unjust, then perhaps his stealing was no violation of justice, and so not wrong.

There remains the question of which theory can best explain this thought.