

# Part IV

## Mill's Moral Philosophy

## 20

## Mill's Art of Life

GUY FLETCHER

Towards the end of *A System of Logic*, John Stuart Mill makes some intriguing, suggestive, and neglected claims about what he calls “The Art of Life.” Despite the comparatively little attention that the Art of Life has received in the extensive scholarly literature on Mill, it turns out to be extremely important to understanding his moral philosophy and his practical philosophy more generally. It reveals Mill to be a much subtler philosopher than some presentations of his views would suggest. It also insulates him from many unwarranted criticisms.

In this entry I proceed by picking out some elements of Mill's discussion of the Art of Life, explaining them and then examining their significance. I pick and choose from Mill's discussion; I do not cover everything that he says that is of interest.

### 1. Arts and Sciences Distinguished: Metaethical Mill?

Mill begins his discussion of the Art of Life by drawing a distinction between everything that has come before in *A System of Logic* and his new focus for the remainder of the work:

In the preceding chapters we have endeavored to characterize the present state of those among the branches of knowledge called Moral, which are sciences in the only proper sense of the term, that is, inquiries into the course of nature. It is customary, however, to include under the term moral knowledge, and even (though improperly) under that of moral science, an inquiry the results of which do not express themselves in the indicative, but in the imperative mood, or in periphrases equivalent to it; what is called the knowledge of duties; practical ethics, or morality. (*Logic*, VIII: 943)

This introduces Mill's shift of focus from the theoretical to the practical, from “natural science” to “moral science.” Mill's claim here appears to be that as a field of inquiry

practical ethics is to be distinguished (at least in part) by the way in which its conclusions are expressed, namely in the imperative mood rather than the indicative. Mill immediately makes clear that this feature of practical ethics is a consequence of a more general distinction between *arts* (of which ethics is one part) and *sciences*:

Now, the imperative mood is the characteristic of art, as distinguished from science. Whatever speaks in rules, or precepts, not in assertions respecting matters of fact, is art; and ethics, or morality, is properly a portion of the art corresponding to the sciences of human nature and society. (*Logic*, VIII: 943)

Both points are also visible in the account of the distinction(s) between science and art he gives in *Essays on some Unsettled Questions of Political Economy* thus:

Science is a collection of *truths*; art, a body of *rules*, or directions for conduct. The language of science is, This is, or, This is not; This does, or does not, happen. The language of art is, Do this; Avoid that. (*Essays on some Unsettled Questions of Political Economy*, IV: 312)

Despite Mill's initial characterization of the science/art distinction as *grammatical* this cannot be what he meant. Mill would have been aware that many moral assertions are plainly not couched as imperatives but, rather, use the indicative ("stealing is wrong," "Jane is virtuous"). The same goes equally for other arts so one should doubt that Mill really meant to be drawing a distinction based on grammar. It seems much more likely that his real point is to be found in his distinguishing between science, which is concerned with how the world is, and art which is concerned with something else. Mill in fact provides such a gloss thus:

Propositions of science assert a matter of fact: an existence, a coexistence, a succession, or a resemblance. The propositions now spoken of [i.e., Art] do not assert that anything is, but enjoin or recommend that something should be. They are a class by themselves. A proposition of which the predicate is expressed, by the words *ought* or *should be*, is generically different from one which is expressed by *is*, or *will be*. (*Logic*, VIII: 949)

There are at least three ways of interpreting Mill's division between arts and sciences. One way is to think that Mill is simply latching onto the fact that morality and other practical arts are *normative* subject-matters, where a subject matter is normative when it is concerned with how something *ought* to be, or would best be, in some respect or by some standard (aesthetic, prudential, ethical). Call this first interpretation "Arts as Normative":

*Arts as Normative*: For Mill, arts are distinctive in being concerned with how things *ought* to be in some respect, rather than how they actually *are*.

Note that *Arts as Normative* is silent on the traditional questions of metaethics. It says *nothing* about normative properties. Further, it is silent on the state(s) of mind constituting normative thought (such as the *thought* that stealing is wrong) and also silent on the correct approach to understanding normative language such as moral assertions (e.g., "stealing is wrong"). *Arts as Normative* is reminiscent of Moore's "Open-Question

Argument” and of “Hume’s Law” in drawing our attention to the fact that normative thinking is somehow distinct from thinking about how the world is (where metaethics is the attempt to explain *what* this distinctiveness consists in). In normative thinking we are not concerned simply with how the world actually is but, rather, with how it would be good for it to be or how it ought to be.

A second interpretation, one championed by Ryan (1970), sees Mill as not (only) highlighting the *normativity* of arts, as opposed to sciences, but as in fact concerned with the states of mind that constitute normative thought and with the correct theory of normative assertions. On this interpretation, Mill is a non-descriptivist in metaethics (and likely a non-cognitivist). Call this “Arts as Non-Descriptivist”:

*Arts as Non-Descriptivist:* For Mill, arts are distinctive in being comprised wholly of judgments and utterances that are not truth-apt (not capable of being true or false).

Such a non-descriptivism would say that utterances of, for example, “torture is wrong” should not be understood as assertions or descriptions but rather in some non-descriptivist manner. Some non-descriptivist models for such a view to appeal to are imperatives (“go home!”), exclamations (“ouch!”), and expressions (“boo!”). All three kinds of utterance are incapable of being true or false and, on this interpretation, the same is true of utterances within practical arts. Thus on this interpretation the indicative grammatical form of “tax avoidance is wrong” is misleading for whereas the statement “John is tall” attributes the property of tallness to John, the statement “tax avoidance is wrong” does not attribute a property of wrongness to tax avoidance.

Anti-descriptivism about moral language is typically paired with a *non-cognitivist* theory of moral *judgments* (where the *judgment* that comprises (e.g.,) thinking that torture is wrong is to be contrasted with *utterances* of “torture is wrong”). A traditional non-cognitivist view says that moral judgments are not belief-like or representational states of mind but rather desire-like or *affective* states of mind. Having highlighted this natural pairing, I will, for the moment, focus on the non-descriptivist thesis, leaving aside the (complementary) non-cognitivist thesis.

Christopher Macleod has recently proposed a third interpretation of Mill’s arts/science distinction one which, like the second interpretation, is compatible with but more committal than *Arts as Normative*. Macleod (2013: 213) argues that we should read Mill as a metaethical cognitivist and *non-naturalist*. He outlines the cognitivist element of the interpretation thus:

[A]n equally consistent reading would be to attribute to him the view that the alternative to factive statements about the world are truth-apt statements that are not about the way the world is. It is consistent with cognitivism, as a thesis about truth-aptitude that moral statements are not made true by corresponding to the way the world is, but in some other way.<sup>1</sup>

The non-naturalist element of Macleod’s (2013: 214) Mill is explained thus:

Truth in moral statements might, for Mill, be characterized in a way other than correspondence to the worldly facts...All we properly gather from his [Mill’s] definition...is that noncognitivism and a *cognitivism taking in truths that are not about the way the world is*

are the only options open to Mill. It does not help us to arbitrate between the possible interpretations. And, as I hope is shown by the growing consensus that a belief in truths about a nonworldly normative domain is consistent with naturalism, it is not obvious that such an interpretation would be in philosophic tension with Mill's naturalistic ontology.

On Macleod's non-naturalist cognitivist interpretation, Mill thinks moral judgments are beliefs and moral utterances are descriptive and what is distinctive about them is their ascription of *non-natural* or non-worldly normative properties. Thus moral assertions can be true or false it is just that they are *not* made true by how the world *is* or by the instantiation of any natural property. The normative subject matter is distinctive in being about these *normative* properties. Macleod argues that this reading is left equally open by Mill's remarks and that this interpretation is to be preferred on grounds including avoiding anachronism.

To briefly recap, the first, most minimal, interpretation I suggested was that Mill is simply distinguishing between normative and non-normative subject matters. Interpretation two claimed that Mill offers a non-descriptivist gloss on the nature of such normative thought and talk. Interpretation three claimed that Mill offers a cognitivist non-naturalist, gloss on the nature of such normative thought and talk.

Which of these interpretations is the correct way to read Mill? Is he drawing our attention only to the normative subject matter of the arts or is he *also* offering a complementary theory of normative thought and talk?

Actually no interpretation stated above is clearly correct and, oddly enough, each is undermined by the very same passage, one coming immediately after Mill's remarks about the difference between propositions featuring "ought" and those featuring "is." He writes:

It is true that, in the largest sense of the words, even these propositions assert something as a matter of fact. The fact affirmed in them is, that the conduct recommended excites in the speaker's mind the feeling of approbation. This, however, does not get to the bottom of the matter; for the speaker's approbation is no sufficient reason why other people should approve; nor ought it to be a conclusive reason even with himself. (*Logic*, VIII: 949)

This counts against the *Arts as Normative* approach by seeming to engage in metaethical theorizing about the nature of normative utterances, that they assert something as a matter of fact.

Here is how the passage undermines a non-naturalist cognitivist interpretation. If Mill were a non-naturalist cognitivist he would think that the largest sense of "fact" includes true ethical statements. These are facts, facts about how the world ought to be rather than how it is. A desire to make the distinction between the non-normative realm and the normative realm maximally clear might lead one generally to call the former the realm of the *factual* (in a manner analogous to the contemporary use of "descriptive" as a *contrast* with "normative," even by metaethical cognitivists). But if Macleod's non-naturalist reading were correct then, when Mill is explicitly taking "fact" in the *widest* sense of the word, he should be willing to say that the propositions of arts can be facts. (I am assuming that Mill is referring to the widest possible sense of "fact," possibly along with "proposition" and "assert.") However, he is not. Thus the passage counts against Macleod's *Arts as Non-Naturalist Cognitivist* interpretation.

What is extremely interesting is that *in this widest sense*, Mill allows that the propositions of art do *assert something* factual namely that the conduct excites in the speaker some *feeling* of approbation (presumably he means approbation or *disapprobation*, depending on the judgment). As such the passage *also* undermines the *Mill as Non-Descriptivist* interpretation. If Mill has metaethical issues in mind in this passage, then he is not defending a *pure* form of non-cognitivism. Or, more concessively, this passage reveals that Mill did not *consistently* put forward a pure form of non-cognitivism. Depending on how we read “assert,” and take into account Mill’s claim that this applies only in its largest sense, Mill may be suggesting commitment to some form of dual-content (or “hybrid”) view, wherein moral utterances report the speaker’s attitude and also do something else, such as express a desire-like attitude.<sup>2</sup>

One might over-hastily conclude from this passage that we should interpret Mill as claiming that what is asserted in this widest sense – the propensity of the conduct to excite approbation in the speaker – is the *whole* of the meaning of normative utterances. If this were the whole of the meaning of the propositions of arts then Mill would, in fact, be a kind of speaker-relativist or subjectivist, taking normative utterances to be mere reports of the speaker’s own state of mind. However, this simply *cannot* be the correct way to read Mill here. If the report of excitement of feelings of (dis)approbation were the *whole* story of the propositions of arts, then the propositions of arts would be propositions of science. Propositions of arts would straightforwardly be reports of how the world is (but focused on the small part of the world located within us).

The upshot of this is that this passage provides strong, though admittedly defeasible, evidence against all three interpretations suggested so far (as well as conclusive evidence against a *Mill as Speaker-Relativist* interpretation). The first interpretation is undermined by Mill’s engaging in metaethical speculations. The second and third interpretations are undermined by the *content* of those speculations. On the basis of this passage Mill’s Art of Life does not contain a consistent commitment to a pure form of non-cognitivism nor to a form of non-naturalist cognitivism.

In interpreting these remarks of Mill’s the interpretive options left standing are that either (1) Mill is simply highlighting the normative subject matter as distinct from inquiry into how the world actually is (i.e., interpretation one) but inadvertently giving the *impression* of engaging in metaethical speculation about normative utterances; (2) Mill is a precursor to modern hybrid theories in metaethics, theories that take moral utterances to have both descriptive and expressive elements.

I lack the space to pursue the issue of whether there is sufficient extra evidence to adjudicate between these, and further, interpretations. What is important is that I have shown that both the *Mill as Non-Cognitivist* and Macleod’s recent *Mill as Non-Naturalist* interpretations are somewhat undermined by Mill’s remarks. I now move on to my second theme.

## 2. The Content of the Art of Life

What makes up Mill’s Art of Life? Mill’s initial discussion suggests that it contains only *morality* but it quickly becomes clear that the Art of Life has three departments, namely: Morality, Prudence (or Policy), and Aesthetics – “the right, the expedient, and the beautiful or noble” (*Logic*, VIII: 949).

One passage from *Utilitarianism* apparently contradicts this composite picture of the Art of Life. There Mill writes that morality “may accordingly be defined, *the rules and precepts for human conduct*” (*Utilitarianism*, X: 214). Unless we read “human conduct” implausibly narrowly, Mill’s remark unwittingly suggests that *all* rules for human conduct are part of morality. But Mill’s discussion of the Art of Life is repeatedly explicit that morality is not all of practical reason. Further, Mill’s charge against Comte of being “morally intoxicated,” and his admonishing Bentham for only focusing on moral evaluation, suggest that Mill simply presents his view erroneously in *Utilitarianism*. In fact, the passage in which Mill explains Bentham’s mistake provides a, partly mitigating, explanation of why Mill occasionally gives the mistaken impression that morality is all of the Art of Life. He writes that Bentham:

is chargeable ... for the ‘error, or rather one-sidedness ... of treating the *moral* view of actions and characters, which is *unquestionably the first and most important mode of looking at them*, as if it were the sole one: whereas it is only one of three, by all of which our sentiments towards the human being may be, ought to be, and without entirely crushing our own nature cannot but be, materially influenced. (*Bentham*, X: 112)

In light of this passage, the criticism of Comte, and the numerous explicit tripartite divisions in the discussion of the Art of Life, it is impossible to plausibly read Mill as thinking that it contained only morality.

One complication for the tripartite division outlined above is that Mill’s equivalent division in the first two editions of the *Logic* has “the art of education” rather than “aesthetics” (*Logic* VIII: 943). Then, in *Bentham*, Mill divides things in a way that may or may not be more than terminologically different from the morality-prudence-aesthetics division thus

Every human action has three aspects,—its *moral* aspect, or that of its *right* and *wrong*; its *aesthetic* aspect, or that of its *beauty*; its *sympathetic* aspect, or that of its *lovableness*. (*Bentham*, X: 112)

Having highlighted these actual and possible differences in Mill’s view I will nonetheless proceed to discuss the Art of Life using his most settled division, namely that into Morality, Prudence, and Aesthetics, and move onto further discussion of its details.

Mill spells out a number of different and highly significant features of the Art of Life in general. First, Mill thinks that there must be first principles of conduct that will tell us “the goodness or badness, absolute and comparative, of end or objects of desire” (*Logic*, VIII: 951). He also describes such first principles as giving us general premises “determining the proper objects of approbation, and [...] the proper order of precedence among those objects” (*Logic*, VIII: 949). Such principles – which Mill explicitly refers to as *the principles of Practical Reason* in general – and the “principal” conclusions to be drawn from them are what he means by the “Art of Life” (*Logic*, VIII: 949–50). It is important to note here that Mill repeatedly and explicitly claims that the first principles are about the *value* of objects of *desire* or *approbation*. Thus the first principles are axiological – about value – rather than deontic or directive.

Second, Mill makes clear that *all* arts aside from those that comprise the Art of Life – Mill mentions architecture and medicine as examples – are subordinate to the Art of Life as *only* the Art of Life can adjudicate and declare the *objects* of such subordinate arts to be desirable or *worth* pursuing. All other arts are then “a joint result of laws of nature disclosed by science, and of the general principles of teleology, or the doctrine of ends[.]” (*Logic*, VIII: 949).

Third, Mill thinks that there is in fact one principle, an *ultimate* teleological principle of practical reason, that governs *all* compartments of the Art of Life – morality, prudence, and aesthetics. He mentions those who suggest we have an innate moral faculty which enables us to determine the correct moral principles, and the interplay between them, before signaling his doubts about such a view coupled with the observation that it:

[W]ould provide only for that portion of the field of conduct which is properly called moral. For the remainder of the practice of life some other general principle, or standard, must still be sought; and if that principle be rightly chosen, it will...serve quite as well for the ultimate standard of Morality, as for that of Prudence, Policy or Taste. (*Logic*, VIII: 951)

Thus Mill's ultimate principle is only correctly understood as both distinct from and the *foundation* of his theory of morality, prudence, and aesthetics, rather than being identical with any part thereof.

Fourth, Mill believes that this *one* principle, capable of acting as a foundation for all compartments of the Art of Life, is that:

all rules of practice ought to conform, and the test by which they should be tried, is that of conduciveness to the happiness of mankind, or rather, of all sentient beings. (*Logic*, VIII: 951)

Thus Mill's principle is monistic, in being concerned only with happiness and it is also applied to *rules of practice* (including their ends or aims).

Fifth, this fundamental principle of teleology, the principle which *justifies* all rules of practice, or arts, is Mill's “Greatest *Happiness Principle*” or, to give it its other name, Mill's “principle of utility”. We see this from his introducing the principle as the ultimate principle of teleology before adding in a footnote “For an express discussion and vindication of this principle, see the little volume entitled ‘Utilitarianism’” (*Logic*, VIII: 951).

To summarize, Mill's supreme principle of teleology or practical reason is the principle of utility. The principle evaluates the desirability of objects of desire and evaluates *rules of practice* based on the desirability or value of their objects. The principle is the foundation for each of morality, prudence, and aesthetics and it evaluates these, and other, rules of practice solely in terms of the resultant happiness for all sentient beings.

So far I have followed Mill in referring to the Art of Life as containing morality, prudence, and aesthetics. However, it is unclear exactly how to understand “prudence” and therefore to determine whether the Art of Life actually contains three separate categories. Assuming for the moment that there are the three categories outlined initially, Mill describes the second category using each of “prudence”, “policy”, and “the expedient.” An initial problem is that of vagueness. Whilst we would understand what



Mill meant if he simply said “prudence” – namely well-being or prudential value – “expediency” and “policy” are rather vague. A secondary problem is how to distinguish between morality and the vague category of prudence or policy (and, indeed, aesthetics) given that, as we have already seen, they share the same foundational principle, the principle of utility. A third problem is that, at least in the passage above, Mill makes it sound as if prudence and policy are distinct when he writes “serve quite as well for the ultimate standard of Morality, as for that of Prudence, Policy or Taste.” However, this comes very soon after his apparently referring to one department as “Prudence or Policy.” Perhaps this is a slip on his part and that he means for “prudence” and “policy” to be the names of one department.

As for how to distinguish the compartments of the art of life, my *hunch* is that Mill divides them according to the different *sentiments* that the judgments involve. Aesthetic judgments are (presumably) judgments of warranted admiration or some such.<sup>3</sup> That leaves us with the question of what distinguishes moral judgments and how to distinguish these from judgments of prudence or policy. Having raised this question, I postpone further discussion until the next section, as I think we find an answer in Mill’s *Utilitarianism*.

### 3. The Art of Life and Mill’s *Moral* Philosophy: Mill’s *Utilitarianism* and Utilitarianism

Having seen the content of the Art of Life, I will now turn to showing how Mill’s discussion of the Art of Life helps us to better understand his moral theory and works such as *Utilitarianism*. This will involve the features of the Art of Life given above along with some additional features of Mill’s discussion that also shed light on his moral theory.

One result of paying close attention to Mill’s Art of Life is that it renders untenable any reading of Mill in *Utilitarianism* which *identifies* his Principle of Utility with a form of utilitarianism in the modern sense (specifically, a particular family of theories of *morally right action*). One example of such a theory is what I will call “Modern Day Act Utilitarianism”:

*Modern Day Act Utilitarianism*: an action is morally right if and only if it maximally promotes net happiness for all sentient creatures.<sup>4</sup>

As we have seen, Mill’s principle of utility is: (1) distinct from a moral theory through being the *foundation* of his moral theory; (2) more *general* in being the foundation of morals, prudence, and aesthetics; (3) not itself a criterion of rightness but only about the value of objects of desire or approbation. Mill’s reference to the principle of utility and to “utilitarian doctrine” must then be understood to refer only to his single teleological principle, one about the value of outcomes or objects of desire.<sup>5</sup> So much is, or should have been, clear from Chapter 4 of *Utilitarianism*, which contains two passages that make clear what Mill means by “Utilitarianism.” The first is: “The utilitarian doctrine is that happiness is desirable, and the only thing desirable, as an end; all other things being only desirable as means to that end” (*Utilitarianism*, X: 234). The second is:

[T]his state of the will is a means to good, not intrinsically a good; and does not contradict the doctrine that nothing is a good to human beings but in so far as it is either itself pleasurable, or a means to attaining pleasure or averting pain. But if this doctrine be true, the principle of utility is proved. (*Utilitarianism*, X: 239)

Thus when reading Mill's moral philosophy and *Utilitarianism* in particular we must be careful not to identify what Mill means by "utilitarianism" and "the principle of utility" with utilitarianism in its modern form (or any other theory of morally right action). Furthermore, from this observation we know that, however, Mill's *proof* of the principle of utility is supposed to work, its conclusion is only about goodness, about the desirability of happiness (alone), not about morally right action.

One might object here that Mill refers to utility as "the test of right and wrong" (*Utilitarianism*, X: 209). He does but he is also explicit in saying that utilitarianism is the *grounds* or *foundations* of a moral standard, rather than a moral standard itself. (*Utilitarianism*, X: 210.) So whilst *Utilitarianism* is supposed to provide at least some part of a moral theory and the principle of utility is part of the story, what Mill means by "utilitarianism" is not *itself* a moral theory but the foundations thereof.

Second, once we are aware of the general and not narrowly moral nature of the principle of utility we might use this to resolve an alleged puzzle in interpretation of Mill's moral philosophy, one stemming from an apparent tension between claims Mill makes about morality.

Some commentators have wondered how, if at all, Mill's commitment to utilitarianism can be squared with remarks he makes about duty, justice, and punishment. The first part of this puzzle is the view, rejected above, that Mill's utilitarianism is *Modern Day Act-Utilitarianism*, namely the claim that an action is morally right if and only if it maximally promotes net happiness for all sentient creatures.

The second part of the puzzle arises from passages where Mill characterizes morality, as distinct from prudence or expediency, in his discussion of morality and justice. He writes:

We do not call anything wrong unless we mean to imply that a person ought to be punished for doing it – if not by law by the opinion of his fellow creatures; if not by opinion, by the reproaches of his own conscience. This seems the real turning point of the distinction between morality and simple expediency. (*Utilitarianism*, X: 246)

Duty is a thing which may be *exacted* from a person, as one exacts a debt. Unless we think that it may be exacted from him, we do not call it his duty... There are other things, on the contrary, which we may wish that people should do, which we like or admire them for doing, but yet admit that they are not bound to do; it is not a case of moral obligation; we do not blame them, that is, we do not think that they are proper objects of punishment... I think there is no doubt that this distinction lies at the bottom of the notions of right and wrong[.] (*Utilitarianism*, X: 246)

The puzzle arises from the problem that there is no obvious necessary connection between (1) actions deemed wrong by *Modern Day Act Utilitarianism* and (2) actions which we ought to respond to with blame or punishment. It could easily be the case that an action fails to maximize net happiness for all sentient creatures even though we ought not to punish the person or expose them blame or censure, and indeed perhaps the

opposite could be true also. Furthermore, it is difficult to see how *Mill*, given his brilliance, could have thought there is a necessary connection between actions that fail to maximize utility and actions whose agents are fitting objects of punishment of some sort.

Paying attention to the discussion in the *Art of Life* might help us to resolve this puzzle. First, once we understand the nature and scope of Mill's principle of utility, we can simply reject the first element of the puzzle, the idea that Mill's "utilitarianism" is a defense of *Modern Day Act-Utilitarianism*. For the reasons given earlier, Mill's utilitarianism/principle of utility is more fundamental and more general than his moral theory. His principle of utility is not *Modern Day Act-Utilitarianism*. So this interpretive tension arguably does not arise.

Second, and returning to the issue of distinguishing between prudence and morality within the *Art of Life*, another way to resolve the alleged interpretive tension is to interpret the passages about praise, blame, and punishment as not providing a criterion of moral rightness (a criterion that tells us which acts are morally wrong). Instead, the passages propose a theory of moral rightness and wrongness *judgments*, one in which such judgments are conceptually connected with meriting punishment (where punishment is construed broadly so as to encompass self-directed guilt feelings). Mill's remarks suggest a view of moral wrongness in which it is essentially that of being what makes punishment (construed broadly) merited.<sup>6</sup> If this is the right way to read the passages then Mill is not in these passages offering a substantive theory of morality – an account of which actions are right and wrong – but a way of identifying the distinctive content of *moral judgments*, as opposed to other kinds of practical, normative, judgments. Thus, again, the distinguishing mark of morality within the art of life is the particular sentiments involved.

The claims that Mill makes in the passages about punishment and duty are instructive in provide an extra level of detail to his *Art of Life*. In these passages Mill is, I suggest, attempting to both (1) mark out the *moral* domain from the prudential (and presumably the aesthetic) and (2) specify how justice is distinguished from morality more generally. As Mill puts it, the "real turning point of the distinction between morality and simple expediency" is that moral judgments are judgments of warranted (broad) punishment (*Utilitarianism*, X: 246). Presumably judgments of "prudence," "expediency," and "policy" would then be judgments of warranted sentiments such as general (non-moral) preference, choice, or wish to be the case (or that people do).<sup>7</sup>

#### 4. Rules in The Art of Life: Mill Wasn't a Rule Utilitarian

A major focus for scholarship on Mill's moral philosophy has been the question: is Mill an act utilitarian or a rule utilitarian about morality?<sup>8</sup> A typical, contemporary, formulation of each alternative form of utilitarianism is thus:

*Modern Day Act Utilitarianism*: an action is morally permissible if and only if it maximally promotes net happiness for all sentient creatures.

*Modern Day Rule Utilitarianism*: an action is morally permissible if and only if it is permitted (or required) by a set of rules that maximally promotes net happiness for all sentient creatures.<sup>9</sup>

(These are general statements of these kinds of view so they omit certain details and they are not necessarily the strongest versions of each.)

One might complain that there is no great significance to the issue of whether Mill's view in *Utilitarianism* is *really* a defense of one or the other view. There seems to be sufficient textual evidence for each interpretation, no evidential smoking gun on either side, and little obvious *need* to decide the issue. Whilst sympathetic to these concerns, I proceed to show that Mill's discussion of the Art of Life generates some new evidence on this issue, evidence that plausibly settles the issue *against* the reading of Mill as a *rule-utilitarian*. (Note that I *do not* say that he was therefore proposing act utilitarianism. These are not the only options.)

I begin with some evidence that might be given in *favor* of the rule-utilitarian reading. Mill repeatedly and explicitly describes the three compartments of the Art of Life (morality, prudence, and aesthetics) as sets of *rules* and he explicitly compares them with other arts, such as medicine or architecture, which he also conceives of as bodies of rules. Correspondingly, in *Utilitarianism* he writes:

This [pleasure and avoidance of pain], being, according to the utilitarian opinion, the end of human action, is necessarily also the standard of morality; which may accordingly be defined, the rules and precepts for human conduct, by the observance of which an existence such as has been described might be, to the greatest extent possible, secured to all mankind; and not to them only, but, so far as the nature of things admits, to the whole sentient creation. (*Utilitarianism*, X: 214)

From this passage, and the discussion of the Art of Life, it is clear Mill thinks of morality as necessarily a body of rules. This is grounds for thinking that the moral theory he puts forward is a form of rule utilitarianism wherein an action is morally right if and only if it is permitted by rules the observance of which produces most happiness to sentient creatures.

The analogy Mill draws between the Art of Life and other arts also supports the rule-utilitarian reading. It would be odd to think of the art of medicine, for example, as consisting simply of the instruction: *do what maximizes healthy outcomes*. (Call this principle "Maximize Health.") The obvious problem is that such a rule provides no guidance for the kinds of situations in which it is needed and would, if taught and followed, lead to considerable amount of unnecessary suffering. Correspondingly, in the case of morality, if the rule of morality was simply *act to maximize net happiness* and this were propagated then it is highly likely to lead to a lot of unnecessary suffering. Thus Mill's repeated claims that morality and the Art of Life are *arts*, and that they are analogous to arts like medicine, is reason to think that he is a rule utilitarian. For just as an art cannot plausibly consist of *Maximize Health* then neither can morality be simply comprised of *act utilitarianism*.

The correct rejoinder to this is that even if Mill is not a rule utilitarian, nevertheless he can allow rules or secondary principles to play a crucial role in moral thinking. The crucial difference is that secondary principles must be (mere) *rules of thumb* or rules that serve an *epistemic* role. Rather than being part of what *makes* an action right, they serve simply to provide clues as to what is right or wrong according to some distinct criterion. Thus, the reply goes, the objection ignores the possibility of allowing morality as an art to include such *secondary* principles.

Deciding between these two interpretations solely on the basis of *Utilitarianism* is, I think, impossible. A fresh take emerges however if we switch to Mill's discussion of the Art of Life. For Mill says a great deal in *System of Logic* that suggest the view that moral rules, and practical rules more generally, are mere rules of thumb, thus undercutting the rule-utilitarian interpretation. I lay out this textual evidence now.

Mill explicitly says that practical business contains:

cases in which individuals are bound to conform their practice to a pre-established rule, while there are others in which it is part of their task to find or construct the rule by which they are to govern their conduct.

He then claims that:

[T]he ... practitioner, who goes by rules rather than by their reasons, like the old-fashioned German tacticians who were vanquished by Napoleon, or the physician who preferred that his patients should die by rule rather than recover contrary to it, is rightly judged to be a mere pedant, and the slave of his formulas.<sup>10</sup> (*Logic*, VIII: 944)

He then adds:

[I]n the complicated affairs of life, and still more in those of states and societies, rules cannot be relied on, without constantly referring back to the scientific laws on which they are founded...By a wise practitioner, therefore, rules of conduct will only be considered as provisional. (*Logic*, VIII: 945)

And further:

How much greater still, then, must the error be, of setting up such unbending principles, not merely as universal rules for attaining a given end, but as rules of conduct generally; without regard to the possibility, not only that some modifying cause may prevent the attainment of the given end by the means which the rule prescribes, but that success itself may conflict with some other end, which may possibly chance to be more desirable. (*Logic*, VIII: 946)

Each piece of text clearly suggests a view of the rules of an art as mere rules of thumb. In each of them it is acknowledged that rules are helpful generally but it is consistently urged that we should not fetishize them by regarding them as having ultimate authority in a case nor should we be afraid to consult their foundation.

In these passages Mill is clearly giving expression of a general view of rules, and a general worry about slavish rule-following, of which the incoherence objection to rule consequentialism is a specific form. This incoherence objection is that if rule-consequentialism is to be a coherent alternative to act consequentialism, then it requires slavish adherence to rules even in situations where happiness would be promoted more by breaking them. But such adherence seems odd when the justification for the rules was their being the set maximally conducive to happiness. To put the challenge in rhetorical question form: If the rules were chosen on the basis of maximal-happiness-promotion, why should one stick to them even when breaking them would promote even more happiness?

The passages here make clear that Mill thinks of rules as secondary principles or rules of thumb and he explicitly rejects the view that we should stick to the best set of rules even when doing so would be suboptimal. In light of this, it is extremely unlikely that Mill's moral theory, outlined in *Utilitarianism*, was anything like *Modern Day Rule-Utilitarianism*.

The discussion of rules in the Art of Life also provides a useful set of textual evidence to explain why Mill can *sound* so much like a rule-utilitarian. Mill provides a prescient account of why rules are indispensable (even if they are not the fundamental moral principles). He writes that:

for the sake of convenience, rules must be formed from something less than this ideally perfect theory...because, if all the counteracting contingencies...were included, the rules would be too cumbrous to be apprehended and remembered by *ordinary* capacities, on the common occasion of life. (*Logic*, VIII: 945. My italics.)

He also remarks that rules of conduct:

Being made for the most numerous cases, or for those of most ordinary occurrence, they point out the manner in which it will be least perilous to act, where time or means do not exist for analyzing the actual circumstances of the case, or where we cannot trust our judgment in estimating them. (*Logic*, VIII: 946)

...the common rule may very properly serve as an admonition that a certain mode of action has been found by ourselves and others to be well adapted to the cases of most common occurrence; so that if it be unsuitable to the case in hand, the reason of its being so will be likely to arise from some unusual circumstance. (*Logic*, VIII: 946)

This clearly suggests a view of rules as being generally necessary means to overcome the limitations of ordinary agents, particularly epistemic limitations. This is understandable given that, as any self-aware utilitarian should allow, a utilitarian moral theory would, if consciously applied to each action by each agent, lead to vastly inferior outcomes than the inculcation and (less than total) adherence to a set of moral rules. Mill would have been well aware of the disastrous consequences of a utilitarian principle being promulgated, inculcated, and consciously implemented by everyone. The epistemic and other limitations of humans require us to use something other than the utilitarian principle in making decisions in most cases and Mill was aware of the benefits from using such secondary principles to overcome our limitations. Such rules can correctly be regarded as defeasible by the *wise practitioner* though of course they cannot generally be promulgated in such terms (for otherwise the problems stemming from our epistemic and other limitations would resurface as each of us, thinking ourselves a wise practitioner, would be too likely to erroneously think that the rules did not apply in the case in hand). Thus whilst Mill thought that adherence to such rules even in the situations that were clear exceptions to them would be unwarranted, he rightly saw that moral rules are an indispensable part of moral decision-making and moral education, given the epistemic and other limitations that agents manifest. Given the attitude to practical rules that he displays in the Art of Life, a reading of *Utilitarianism* as being a defense of rule utilitarianism is, I suggest, untenable.

I have argued so far that Mill was not a rule utilitarian and that such an interpretation is undermined by many points he makes about rules in his discussion of the Art of Life. Further textual support for this comes from remarks he makes about character (and the proximity of these to the claims about rules). He remarks first that “the promotion of happiness is the ultimate principle of teleology” (*Logic*, VIII: 951). He then qualifies this by saying that happiness should neither

be the end of all actions or even of all rules of action. It is the justification, and ought to be the controller, of all ends, but is not itself the sole end. (*Logic*, VIII: 952)

Thus Mill does not think that people should consciously strive to promote happiness with all actions, nor even does he think that rules of conduct should be formulated in terms of promoting happiness. Mill admits that there are cases of virtuous actions and virtuous elements of character which lead people on occasion to fail to produce maximal happiness but he insists that fundamentally the reason why these character traits are noble and should be aimed for by individuals is precisely that “...on the whole more happiness will exist in the world, if feelings are cultivated which will make people, in certain cases, regardless of happiness” (*Logic*, VIII: 952). Thus the cultivation of a nobleness of will and conduct should be a specific ultimate end which should take precedence over our own happiness or that of others. But the reason why we should have this aim is that “this ideal nobleness of character, or of a near approach to it, in any abundance, would go further than all things else towards making human life happy” (*Logic*, VIII: 952).

It is clear from the passage that Mill thinks that in moral education we should aim to endow people with character traits that will lead them on occasion to be insensitive or averse to ways of acting that will promote happiness but we should do this precisely because of the ultimate effects on happiness of people having such traits. Put briefly, having people around who are motivated directly by loyalty, for example, is more conducive to happiness than educating people to aim at maximally promoting happiness.

Here’s how this helps to undermine the rule-utilitarian interpretation. Mill gives great importance to moral rules because of the problems with encouraging people to seek to maximize happiness with their actions. There are too many ways in which our ordinary cognitive limitations will see us actually produce less happiness for this to be a sensible route to take. Thus we need rules to (e.g.,) speed up deliberation, to keep us away from disastrous options, and the like. Mill’s claims about what kinds of character we should inculcate dovetail with this claim about the necessity of moral rules. In both cases our human limitations and the exigencies of practical life make it necessary that we not aim at, or be directed solely by, a concern to maximally promote happiness. Thus rules, whilst not of fundamental moral importance, are nonetheless to be given great weight in decision-making and education.

If this is correct, Mill was giving an early expression of what nowadays would be called “*Sophisticated Utilitarianism*”. Sophisticated Utilitarianism, as developed by Railton (1984),<sup>11</sup> is the claim that Utilitarians should distinguish between (1) the utilitarian criterion of moral rightness and (2) any particular decision procedure, especially that of applying the utilitarian criterion of rightness to one’s actions. This distinction is, strictly speaking, orthogonal to the distinction between act and rule utilitarianism. The

distinction is motivated by the fact that it is likely better, in terms of utility promotion, if agents do *not* consciously strive to implement the utilitarian criterion of rightness (due to various kinds of epistemic and affective limitations of agents). Thus even if one embraces an act utilitarian criterion of rightness one can still think that moral rules are extremely important *as a decision procedure* for only by following them will most agents be directed to perform the right actions. I suggest that Mill, in his discussion of rules and of character, gives an early expression of this view and the plausible grounds for it.

I close with a question and a reckless speculation in answer to it. The question: why is Mill *so* much more emphatic about the provisional, rule-of thumb, nature of moral rules and other practical rules in *A System of Logic* than in *Utilitarianism* – a text which can reasonably, even if incorrectly be read as defending rule utilitarianism? This puzzle is made deeper by the respective dates of the publication. Mill's less clear position is in *Utilitarianism*, which appeared in 1861, whereas his clearer view and arguments for it, come in *A System of Logic*, which appeared first in 1843. There will likely be no one simple answer to this question but part of the answer might be the different expected *readerships* of the two works. If one thought that moral rules are necessary as props to aid decision-making of agents with ordinary, and hence limited, capacities then one would perhaps be reticent about making this clear in a work that was likely to have a semi-popular readership. Thus Mill may have had reasons, reasons that stem from observations he makes about practical rules in *A System of Logic*, to be less than fully explicit about the non-fundamental status of (secondary) moral principles.

## Notes

- 1 The original passage has a typo in the last sentence (an extra “not”), which I omit.
- 2 A possibility anticipated by Ryan (1970: 190). For a survey of such views see for example Fletcher (2014).
- 3 See Eggleston, Miller, and Weinstein (2011: 7).
- 4 See Fletcher (2013).
- 5 For a similar interpretation see Brown (1973).
- 6 For support see Lyons (1976), and especially Miller (2010: 86).
- 7 For similar interpretations see Jacobson (2008) and Macleod (forthcoming).
- 8 See, for example, Urmson (1953).
- 9 For the most worked out form of rule consequentialism see Hooker (2000).
- 10 For further discussion, see Eggleston (2011).
- 11 Railton's discussion concentrates on the more general class of consequentialist views but that makes no difference here, so to avoid confusion I stick with utilitarianism.

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GUY FLETCHER

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