Spring 2016

What is the ethically ideal form of self-defense legislation? A Utilitarian analysis

Jacqueline J. Jessop
James Madison University

What is the Ethically Ideal Form of Self-Defense Legislation? A Utilitarian Analysis

---

An Honors Program Project Presented to

the Faculty of the Undergraduate

College of Arts and Letters

James Madison University

---

by Jacqueline Joy Jessop

May 2016

Accepted by the faculty of the Department of Philosophy and Religion, James Madison University, in partial fulfillment of the requirements for the Honors Program.

FACULTY COMMITTEE:

Project Advisor: Mark Piper, Ph.D.,
Associate Professor, Philosophy and Religion

Reader: Peggy S. Plass, Ph.D.,
Professor, Justice Studies

Reader: David K. McGraw, J.D.,
Professor, Integrated Science and Technology

HONORS PROGRAM APPROVAL:

Bradley R. Newcomer, Ph.D.,
Director, Honors Program

PUBLIC PRESENTATION
This work is accepted for presentation, in part or in full, at the Honors Symposium on April 14, 2016.

Table of Contents

List of Figures

Figures

Acknowledgements

I wish to thank Dr. Mark Piper, my advisor, for his invaluable role in aiding me throughout the thesis process and for all of his support and encouragement along the way. I would also like to thank both of my readers, Dr. Margaret Plass and Professor David McGraw. Your assistance and support have been incredibly valuable throughout this process. I am thankful to have been able to work with each of you.

I also wish to thank my friends and family for their support throughout this whole process. Thank you to my roommates, Brittany, Kirstie, and Megan, as well as my close friends, Alex and Veronica, for both tolerating and encouraging me throughout the rough patches of this experience. Finally, thank you to my parents John and Nancy Jessop for always encouraging me to challenge myself and to overcome any obstacles and for teaching me the value of a strong work ethic and of achieving my goals. Your support and encouragement has been tremendously valuable to me.

Introduction

In this paper, I will answer the question of which type of self-defense legislation best satisfies utilitarianism when implemented within an American, democratic system[1] and, consequently, which type should be implemented throughout the United States. The three main forms of self-defense legislation which I will be comparing and analyzing are Stand Your Ground laws, Castle Doctrine, and Duty to Retreat laws. Stand Your Ground laws provide the most leniency toward those acting in self-defense, Duty to Retreat laws have the highest restraints on what is considered permissible self-defense, and Castle Doctrine provides a balance of the two. While Duty to Retreat requires those under attack to retreat as much and as far as possible before defending themselves and Stand Your Ground essentially requires no retreat before self-defense, Castle Doctrine requires retreat whenever possible outside of the home and allows for self-defense without retreat inside the home.

In order to determine which form of self-defense legislation best satisfies the demands of utilitarianism, these forms of self-defense legislation can be analyzed politically, legally, or ethically. If I were to analyze these laws politically, I would analyze them using a specific political platform as my guide. To analyze the laws legally, I would approach the issue by comparing the laws in terms of their effectiveness and constitutionality. I intend to provide an ethical analysis by using the principle of utility (utilitarianism), which will involve determining which of the various laws provides the most good to the most people affected by those laws. While each form of analysis has its own distinctive approach, there are instances in which they overlap. For this paper, I will use aspects of other forms of analysis to add to my primarily ethical analysis as necessary.

[1] Throughout this paper, I will be analyzing self-defense legislation in the context of the American democratic system. For the sake of concision, I may not refer to it in this way each time, but it is the system to which I am referring in the context of my analysis.

My primary thesis is that, based on a utilitarian analysis, Castle Doctrine is the form of self-defense legislation that best satisfies the demands of utilitarianism and, for this reason, that it should be implemented throughout the United States.

I will proceed in the following way. First, I will clarify utilitarianism and explain my purpose in using utilitarian moral theory in the present study to determine which of the three major types of self-defense laws has the best utilitarian credentials and should thereby be implemented throughout the United States. Then, I will explain the three forms of self-defense legislation (Duty to Retreat, Castle Doctrine, and Stand Your Ground laws). Next, I will engage in an ethical utilitarian reasoning of the benefits and criticisms of these forms of legislation. Finally, I will analyze these benefits and criticisms in order to determine which has the highest utilitarian value. My key thesis will be that Castle Doctrine is the ideal form of self-defense legislation from the standpoint of utilitarianism.

Utilitarianism and Its Place in This Study

Utilitarianism is a form of consequentialism, specifically, the form in which "the best overall consequences"[2] are defined as those that bring about the most good to the greatest number of people. While utilitarianism is not the only form of consequentialism, all variations of consequentialism rely on the idea that the consequences of an act are what define it as morally right or wrong.[3] For my purposes, I will only be addressing the utilitarian form of consequentialism.

The primary goal of utilitarianism is to maximize utility, or to provide the most good to the most people, by increasing satisfaction and decreasing dissatisfaction. Jeremy Bentham, a British philosopher who helped shape utilitarianism as a school of thought, defines utility as "that property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness . . . or . . . to prevent the happening of mischief, pain, evil, or unhappiness."[4] Essentially, to maximize utility is "to make life better by increasing the amount of good things (such as pleasure and happiness) in the world and decreasing the amount of bad things (such as pain and unhappiness)."[5]

---

[2] Haines, William. Consequentialism. (n.d.) *The Internet Encyclopedia of Philosophy*. Retrieved from http://www.iep.utm.edu/conseque/. Web. 24 Jul 2015.
[3] Ibid.
[4] Bentham, Jeremy. *An Introduction to the Principle of Morals and Legislation*. Oxford: Claredon Press, 1879. *Google Book Search*. Web. 8 Oct. 2015. 2.
[5] Nathanson, Stephen. Act and Rule Utilitarianism. (n.d.) *The Internet Encyclopedia of Philosophy*. Retrieved from http://www.iep.utm.edu/util-a-r/. Web. 11 Aug 2015.

Utilitarian Measurement of Ethical Value

To use utilitarianism as an accurate form of ethical reasoning, there has to be a way to measure ethical value. There are two primary ways to measure utility: cardinal utility and ordinal utility. Cardinal utility assigns numerical values to the acts in question, acting as a "quantitative method."[6] One example of a system that utilizes cardinal utility is the likert numerical rating scale. Many surveys will use this form of measurement, asking participants to choose a number between 1 and 5 or between 1 and 10 to rank their responses to certain questions or factors.

The other form of measurement of utility is ordinal utility. Ordinal utility ranks or compares the levels of satisfaction occurring from an act qualitatively, without assigning numerical values.[7] One example of such a form of measurement of utility is "Famine, Affluence, and Morality" by Peter Singer, a famous philosopher.[8] In his essay, he refrains from using numerical rankings to justify his points. Rather, he provides arguments for and criticisms against his points, acknowledging the potential consequences of various decisions and the utilitarian value of making one decision over another.

For the purpose of this paper, I will employ a measurement of ordinal utility. I will do so by comparing three variables. First, I will compare the intensity, or the levels of satisfaction or dissatisfaction resulting from an act. Next, I will compare the certainty or uncertainty of an act, that is the likelihood that the act will result in the aforementioned satisfaction or dissatisfaction. Finally, I will compare the extension, which is the number of people affected by the acts in question. By focusing on these three key elements, I will be able to provide sufficient

[6] "Difference Between Cardinal and Ordinal Utility." *Difference Between.com*. Difference Between, 30 Apr 2013. Web. 26 Feb 2016.
[7] Ibid.
[8] Singer, Peter. "Famine, Affluence, and Morality." *Philosophy & Public Affairs*. 1.3 (1972) : 229-243. *JSTOR*. Web. 1 Mar 2016.

justifications without being impeded by the necessity to determine and defend specific numbers for each variable.

For a fuller understanding of the system of measurement that I will be using throughout the paper, I will provide a brief example. Imagine that someone has to choose between going to a bar with a few friends and going to the hospital to visit a friend who has been in a very bad car accident. To eliminate confusion, I will refer to the person making the decision as Smith and the person in the hospital as Jones. The group of friends will continue to be referenced in such a manor or as "them," since they are the only plural group involved in this example.

First, I must address the intensity of satisfaction and dissatisfaction produced by each option. The intensity of satisfaction from going to the bar will likely be moderate because while the group of friends will likely enjoy themselves, the event isn't exceptional for them. The intensity of dissatisfaction will also be moderate because Smith will likely feel guilty over his decision not to visit Jones. Assuming that Jones is awake and coherent, the intensity of satisfaction resulting from Smith's decision to visit the hospital will likely be high because Jones will receive a lot of satisfaction and Smith will receive some satisfaction from visiting Jones and increasing Jones's satisfaction in such a circumstance. The intensity of dissatisfaction from going to visit Jones is low. Even though Smith may feel left out of the night's outing with the group of friends, it is likely that they would understand why Smith could not go out with them, especially if going out was not an exceptional event for them.

Next, I must evaluate the likelihood of the satisfaction and dissatisfaction. Going to the bar will have a high likelihood of satisfaction. Smith knows that he gets along with his friends and that they usually have fun together. In addition, they enjoy drinking, but none of them have

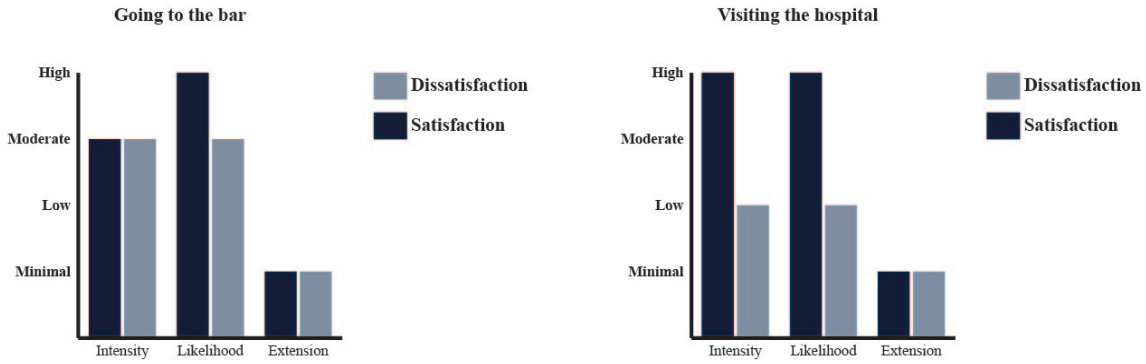
tendencies to drink too much. Moving on to dissatisfaction, going to the bar has a moderate likelihood of dissatisfaction. Assuming that Smith cares for his friend in the hospital and has at least a moderate tendency to feel guilt, he would likely feel guilty in such a situation. However, being at a bar with his other friends may distract him, which decreases the likelihood of dissatisfaction from high to moderate. Returning to Jones in the hospital, again assuming he is conscious and coherent, visiting the hospital has a high likelihood of satisfaction. It has a low likelihood of dissatisfaction, however, because Smith is likely to be focused on visiting with Jones rather than wondering about his other friends' night.

Finally, I must evaluate the extension of the satisfaction and dissatisfaction created by each decision. The extension of satisfaction for the decision to go to the bar is minimal because it only affects Smith and his friends that are going out. The dissatisfaction is even more minimal as it affects only Smith. Similarly, the extension of satisfaction of going to the hospital is minimal because it affects Smith and Jones. The extension of dissatisfaction of going to the hospital is the same as that of the dissatisfaction of going to the bar because, again, it only affects the Smith.

In order to determine which is the more ethical decision, I must compare the measurements of levels, likelihood, and number of people affected by the satisfaction and dissatisfaction of each act. Going to the bar has a moderate level of satisfaction with a high likelihood and a minimal extension. The same decision has a moderate level of dissatisfaction with a moderate likelihood and a minimal extension. Visiting the hospital has a high level of satisfaction that is highly likely with minimal extension. It also has a low level of dissatisfaction with a low likelihood and minimal extension. Because visiting the hospital has high levels and likelihood of satisfaction with low levels and likelihood of dissatisfaction, it has a higher utility than going to the bar, which only has a high likelihood of satisfaction with moderate levels of

satisfaction and dissatisfaction and a moderate likelihood of dissatisfaction. The extension for each option is negligible, so it does not contribute to this decision of utility (see Figure 1).

Figure 1



Throughout my analyses, I will be using graphs similar to Figure 1 above as visual aids in order to help viewers better understand and keep track of the rankings given each variable. I would like to acknowledge that I understand that these graphs aren't perfectly precise. They are intended to be rough predictions, as is the intention of ordinal measurement. They allow a comparison without needing to be terribly detailed or to have numerical values. To quote Aristotle in reference to the imprecision of ethics, "we must be satisfied to indicate the truth with a rough and general sketch."[9] That is my intent with these graphs, to provide a rough sketch that will aid the readers throughout my analyses.

Actual Versus Foreseeable Consequences in Utilitarian Analysis of Self-Defense Laws

One complication with using utilitarianism as the ethical guideline for analyzing the various forms of self-defense legislation is the divide between basing utilitarianism on actual consequences versus basing it on foreseeable consequences. Utilitarians who believe that

[9] Aristotle. "The Nicomachean Ethics." *Ethics: Selections from Classical and Contemporary Writers*. Ed. Oliver A. Johnson and Andrews Reath. Boston: Cengage Learning, 2012. 67. Print.

judgments of right and wrong should be based on actual consequences focus their analyses on consequences that have actually occurred once the action has been taken. They choose to analyze retrospectively. For example, if a woman chose to save one man from drowning instead of saving three others from being hit by a train and the man she saved went on to cure world hunger, based retrospectively on actual consequences of that one man's contribution to society, the woman would have made the right decision. Conversely, for those who believe that judgments of right versus wrong should be based on foreseeable consequences, the rightness or wrongness of an act depends on what can be known at the time that the act occurs. Returning to the woman's choice between saving a drowning man and three facing a collision with a train, her right decision would likely be to save the three men, assuming the one man was not yet in the process of ending world hunger, because that would foreseeably add the better consequence of saving three lives over one. By saving three lives, she would maximize utility because the satisfaction would stem from three men and their families and friends rather than from one and would outweigh the dissatisfaction of the loss of one life and the sadness of his friends and family. Conversely, had she made the decision to save the one, the loss of three lives as well as the dissatisfaction from their friends and families would outweigh the satisfaction that the one man and his friends and family received from his life being saved, so the utility would be less than had she saved the three men.

For the purpose of this paper, I will assess Castle Doctrine based on the foreseeable consequences using an analysis of the information available to me, including, when possible and applicable, the results of previously implemented self-defense laws. My use of foreseeable consequences for my analysis is not a judgment on which form of utilitarianism is correct; it is simply a requirement of practicality. One cannot make assessments based on actual

consequences when actual consequences are unavailable at the time of reflection because they have yet to occur.

Act Versus Rule Utilitarianism in Utilitarian Analysis of Self-Defense Laws

Another complication with using utilitarianism as the ethical guideline for analyzing the various forms of self-defense legislation is the divide among utilitarians between act utilitarianism and rule utilitarianism. Act utilitarians "focus on the effects of individual actions."[10] According to act utilitarianism, what is ethically right may be different in every different situation, so every situation must be addressed individually to determine the ethically appropriate course of action, that action which will, in that specific instance, "produce the most good."[11] Rule utilitarianism, conversely, "focus[es] on the effects of types of actions"[12] over time. Rule utilitarians argue that moral rules can be set in place to decide moral actions for various types of situations and that any given situation can be governed by such rules to produce the highest utility. For them, "a specific action is morally justified if it conforms to a justified moral rule, . . . [which] is justified if its inclusion into our moral code would create more utility than other possible rules (or no rule at all)."[13] In addition to saving time from constantly having to assess each daily action, setting up these rules also serves to limit human error and corruption by setting a standard by which everyone must abide, rather than expecting individuals to always

[10] Nathanson, Stephen. Act and Rule Utilitarianism. (n.d.) *The Internet Encyclopedia of Philosophy*. Retrieved from http://www.iep.utm.edu/util-a-r/. Web. 11 Aug 2015.
[11] Ibid.
[12] Ibid.
[13] Ibid.

find the best possible decision for each circumstance.[14] Using these rules allows efficient, coherent adherence to utilitarian ethical principles.

Rather than choose between rule utilitarianism or act utilitarianism for use in my analysis, I intend to employ a hybrid of the two. As with the complication of foreseeable versus actual consequences, I am not making a judgment as to whether rule or act utilitarianism is better. Rather, in this instance, I believe that both forms are useful in coordination. Rule utilitarianism maximizes utility by saving time because to debate the ethical decision for every single act would be tedious and unreasonably time consuming. Act utilitarianism, however, also plays a vital role by allowing for individual considerations to be given to cases that may not fit neatly into a category guided by an ethical rule. For instance, if there is a rule in place that a man should not invade a friend's boundaries by entering his or her home without invitation, but he sees that his friend's house is beginning to catch fire, the typical rule may be broken in favor of expediency in the face of an emergency. It becomes acceptable for him to enter in order to help ensure his friend's safety. For these reasons and further reasons that I will discuss below, I have chosen to employ a hybrid form of utilitarianism that utilizes both rule and act utilitarianism.

[14] Nathanson, Stephen. Act and Rule Utilitarianism. (n.d.) *The Internet Encyclopedia of Philosophy*. Retrieved from http://www.iep.utm.edu/util-a-r/. Web. 11 Aug 2015.

Justification for the Use of Utilitarianism to Analyze Self-Defense Laws

Now that I have defined utilitarianism and outlined the forms of utilitarianism that I intend to use in my ethical analysis of self-defense legislation, I will attempt to justify utilitarianism as the appropriate ethical theory with which to analyze self-defense legislation. For the sake of space constraints, I will focus on providing reasons why utilitarianism is appropriate rather than delving into why other ethical theories would be less useful in analyzing self-defense legislation. Once I have justified my use of utilitarianism to assess the various types of self-defense laws, namely Castle Doctrine, Duty to Retreat, and Stand Your Ground laws, I will be able to use utilitarianism to analyze these laws.

I will justify my use of utilitarianism as the ethical standard for analysis of self-defense legislation by showing that democratic ideals mirror utilitarian ideals in important ways. More specifically, I will show how, through various parts of its definition, utilitarianism mirrors democratic governance. Because I am basing my analysis on self-defense legislation as it pertains to the United States and because my conclusion will be that Castle Doctrine is the ethically ideal form of self-defense legislation and thereby the form that should be implemented throughout the United States, it is appropriate that I justify my use of utilitarianism in analyzing self-defense legislation in relation to American democratic government.

Majority Rule

The key way in which democracy is similar to utilitarian ideals and practices is through majority rule. Majority rule, which is a critical element of democracy, seeks to do what is best for the majority. It is essentially "an institutional way of determining the happiness of the

greatest number,"[15] or an institutional way of judging and making policy according to utilitarian standards. In majority rule, there are two forms of votes, which are used to determine what the people want and what will be best for them. There are direct votes, or direct democracy, and there are indirect votes, or representative democracy. Direct democracy allows individuals to vote for specific changes, such as occurs in a referendum.[16] A referendum is "an event in which the people of a county, state, etc., vote for or against a law that deals with a specific issue : a public vote on a particular issue."[17] Conversely, in representative, or indirect, democracy, people vote for knowledgeable leaders to decide, or at least vote on, specific issues on their behalf.[18]

These forms of majority rule are intended to maximize utility because "[i]n general, what people believe to be constitutive of their interests do indeed constitute their utilitarian interests"[19] and because the most practical way to determine what is best for people is through asking them or allowing them to choose representatives whose decisions are meant to reflect the beliefs and needs of their constituents.

---

[15] Ely, John Hart (1978) "Constitutional Interpretivism: Its Allure and Impossibility," *Indiana Law Journal*: Vol. 53: Iss. 3, Article 2. Available at: http://www.repository.law.indiana.edu/ilj/vol53/iss3/2. 335.
[16] Thomas, David A. Lloyd. "Kantian and Utilitarian Democracy." *Canadian Journal of* Philosophy. 10.3 (1980) : 395-413. JSTOR. Web. 26 Jul 2015. 407.
[17] Referendum. 2015. In *Merriam-Webster Online*. Retrieved from http://www.merriam-webster.com/dictionary/referendum.
[18] Riley, Jonathan. "Utilitarian Ethics and Democratic Government." *Ethics*. 100.2 (2007) : 335-348. *JSTOR*. Web. 26 Jul 2015. 344-347.
[19] Thomas, David A. Lloyd. "Kantian and Utilitarian Democracy." *Canadian Journal of* Philosophy. 10.3 (1980) : 395-413. JSTOR. Web. 26 Jul 2015. 410.

The Application of Rule and Act Utilitarianism and Its Similarity to American Democratic Government

The second way in which a definition of utilitarianism is aligned with democratic governance is through the application of rule utilitarianism and of act utilitarianism. Rule utilitarianism sets standards, like laws, and act utilitarianism allows for the possibility of trumping the general rules under extreme circumstances and protects against the misapplication of such rules. In this way rule utilitarianism is much like the legislative branch of government and act utilitarianism is similar to the judicial branch of the government. While it is important to have laws to govern the citizens, as is set forth in rule utilitarianism, there are, at times, situations that cannot be accurately handled by following pre-established rules. When such cases arise, act utilitarianism allows for particular judgments based upon the specifics of the individual situation.

Similarly, the judicial branch is there to protect citizens from being punished for ethical behavior when such behaviors violate the legislative rules that have been put in place. Imagine, for instance, that someone is nearing death in the passenger seat of your vehicle, but, on your way to the hospital, you come across a red light. There are no other cars on the road to potentially cause an accident, and if you wait at the light, your passenger will almost certainly die before you arrive at the hospital. What should you do? Local traffic laws state that you are prohibited from running a red light, but you are ethically expected to preserve life to the best of your ability. Most people, very likely including a judge or police officer, would consider your duty to save a life when possible of higher utility than the rule to stop at red lights. Therefore, when following the rules seems clearly to lead to a serious loss of utility, act utilitarianism may allow it to be broken in order to attain higher utility, in this case, by preserving life.

The acknowledgement of both the judicial and legislative branches of government, of act and rule utilitarianism, is important when assessing laws because while it is important to have standards for citizens to follow, the laws cannot always cover every situation that could occur. For this reason, the legislative branch of the government, which is responsible for creating laws, mirrors the focus of rule utilitarianism, while the judicial branch of the government, the courts that judge whether a law was broken (or even whether a law is constitutional) mirrors the focus of act utilitarianism. That is one of the ways in which our government keeps itself in check and strives to protect its citizens. Because the three forms of self-defense legislations that I am analyzing are laws, and thereby have to be enacted by the legislative branch, it would follow that their creation and modification would fall mostly under rule utilitarianism. The individual cases where the laws are contested or where an assertion has to be made as to whether they protect or prohibit certain behaviors in a given situation, falls under act utilitarianism as determined by the judicial court system.

Objections to the Use of Utilitarianism to Analyze Self-Defense Laws

There are, however, certain objections that arise in using utilitarianism for an ethical analysis of laws. In order to defend my use of utilitarianism in my analysis of self-defense laws, I must first address these objections.

Utilitarianism Allows Tyranny of the Majority to Occur

One objection is that linking democracy and utilitarianism will create a tyranny of the majority in which there is no minority voice. The fear here is that a "ruling class"[20] will be formed of the majority and will thereby rule only on its own behalf, so that by seeking the most good for the greatest number, such judgments will actually be wholly neglecting or punishing those whose preferences do not align with the majority.[21] Because associating utilitarianism and democracy has the potential to create such an issue, this objection suggests that utilitarianism should not be used to analyze laws, specifically, in the case of this paper, self-defense laws.

However, this objection fails to consider the intent of a democratic system. When direct democracy is not feasible, often due to population size constraints, indirect democracy, in which a representative is chosen for a given population, is the necessary alternative.[22] The elected representatives are not solely responsible for voting on behalf of those who elected them but on behalf of the entire population that they represent. While they are generally chosen because their beliefs align with the majority more than their opponents' beliefs, they are still responsible for acting on behalf of and for the benefit of those who did not elect them in addition to those that

[20] Riley, Jonathan. "Utilitarian Ethics and Democratic Government." *Ethics*. 100.2 (2007) : 335-348. *JSTOR*. Web. 26 Jul 2015. 347.
[21] Ibid.
[22] Ibid.

did. If representatives vote in favor of legislation that will provide the most good to their constituency, then it stands to reason that they will be acting according to utilitarian ideals (providing the greatest good to the most people).

Although there is merit in the above response, I want to clarify that my primary interest is to defend an ethical ideal. This has value even if it is not always followed in practice. My intent in this paper is not to decide whether the democratic system as a whole is functioning successfully or in what ways the system itself should be modified. Rather, my intent is to ethically analyze self-defense legislation within a functioning American democratic system. This returns to the idea of analysis based on actual or foreseeable consequences. I cannot know fully how a system will react to certain laws nor can I know fully whether a system will function properly in the future. My analysis then must be based on the present and, as applicable, the past. As such, I will not analyze as though the system will become corrupted. Rather, acknowledging the purpose of the democratic system, I will argue for the form of self-defense legislation that has the highest utilitarian value while functioning within such a system.

Utilitarianism Provides the Wrong Answers According to General Assumptions of Morality

Another objection to the use of utilitarianism to analyze self-defense legislation is the argument that utilitarian analysis "gives the wrong answers to moral questions."[23] Specifically, the objection is that "utilitarianism implies that a certain act is morally permissible or required . .

[23] Nathanson, Stephen. Act and Rule Utilitarianism. (n.d.) *The Internet Encyclopedia of Philosophy*. Retrieved from http://www.iep.utm.edu/util-a-r/. Web. 11 Aug 2015.

. [even when such an act] conflicts with widespread, deeply held moral beliefs."[24] For example, someone providing this objection may claim that, according to utilitarianism, a doctor would be allowed to kill one healthy person in order to use his or her organs to save five sick people.[25] If this were to be the case, it follows that actions in other areas, such as self-defense, may be permitted despite the fact that the general populous deems them immoral. As another example, if a victim of assault were to attack the man who had previously attacked her, she may prevent him from attacking her again in the future, thus maximizing utility. However, assault that is not in immediate self-defense is not usually considered morally permissible within American culture. If utilitarianism were in fact to permit this, then it would appear that utilitarianism is an improper theory for analyzing self-defense legislation.

However, by acknowledging the idea of trumping that may occur within rule utilitarianism, such issues may be overcome. Trumping is the idea that a rule may be overcome either by another rule that provides more utility in the moment or by simply breaking the rule in order to maximize utility. For the example of the doctor mentioned above, when rule utilitarianism is added to the equation, the doctor's oath to do no harm would trump his desire to help five other people. With the example of the woman attacking a man who had previously attacked her, the rule against attacking another person would apply overruling her goal of preventing further attack. Furthermore, in many situations, the likelihood that he would attack her again is very low. If the likelihood is higher, such as if she knows her attacker intimately, a more utilitarian option would likely be for her to learn how to defend herself in case he attacks again rather than becoming the aggressor herself. Similarly, again in regards to self-defense, if

[24] Nathanson, Stephen. Act and Rule Utilitarianism. (n.d.) *The Internet Encyclopedia of Philosophy*. Retrieved from http://www.iep.utm.edu/util-a-r/. Web. 11 Aug 2015.
[25] Ibid.

self-defense results in a death, the rule that a person should be able to defend him or herself may be trumped by the rule that a person should not needlessly kill another person if, say, there are reasonable alternatives. Conversely, if the attacked had no alternatives, the rule that he or she should be able to defend him or herself may trump the rule that one person should not kill another, specifically using the justification that he or she would have alternately been murdered without cause. Allowing rules to supersede others with less prominence or lower utilitarian value or allowing a rule to be broken when necessary to maximize utility minimizes the issue of the potential for utilitarianism to allow immoral acts. [26]

[26] While problems may still exist, they will be rare. Furthermore, if existing rules lead to morally unacceptable outcomes, they can be to be reevaluated and replaced as necessary.

Forms of Self-Defense Legislation

Now that I have addressed utilitarianism as my mode of analysis for self-defense laws and defended this usage, I may move into analyzing and defending the ideal form of self-defense legislation. In order to do this, I must first clarify the forms and histories of self-defense legislation that shall be discussed.

Duty to Retreat

The first form of self-defense legislation to be enacted was Duty to Retreat. Duty to Retreat states that "[t]he fact that the defendant was wrongfully attacked cannot justify her use of force likely to cause death or great bodily harm if by retreating she could have avoided the need to use that force."[27] Essentially, this means that self-defense is only justifiable if there is no possible avenue of retreat. However, "no duty to retreat is required where it is difficult to extricate oneself safely from the affray,"[28] so self-defense is acceptable under Duty to Retreat as an absolute last resort.

The American Duty to Retreat law was drawn from English common law.[29] Homicide could only be pardoned (or ordered) by the king. The only exception was for self-defense; to trigger this defense "the man who committed the homicide must have first retreated until his back was to a wall."[30] However, certain American state supreme courts (Indiana and Ohio)

---

[27] Carpenter, Catherine. "Of the Enemy Within, The Castle Doctrine, and Self-Defense." *Marquette Law Review*. 86.4 (2003) : 654-700. *Google Scholar*. Web. 26 Jul 2015. 654.
[28] Ibid. 663.
[29] Levin, Benjamin. "A Defensible Defense?: Reexamining Castle Doctrine Statutes." *Harvard Journal on Legislation*. 47.2 (2011) : 523-555. *Google Scholar*. Web. 26 Jul 2015. 530.
[30] Ibid. 527-528.

determined that following "'cowardly' (English) values of retreating in the face of conflict"[31] contradicted "ideals held by 'the American mind.'"[32] These sentiments were affirmed in *Brown v. United States*[33] when the US Supreme Court "effectively disregarded the duty to retreat . . . and concluded that '[d]etatched reflection cannot be demanded in the presence of an uplifted knife.'"[34] Such opposition led to modifications of Duty to Retreat, leading to different forms of self-defense legislation.

Castle Doctrine

Castle Doctrine was developed as an exception to Duty to Retreat. Within Castle Doctrine, "those who are unlawfully attacked in their homes have no duty to retreat, because their homes offer them the safety and security that retreat is intended to provide."[35] There is still a general requirement to retreat when possible, but this requirement is limited to outside of the home.[36] In some cases, Castle Doctrine is expanded to include individuals' vehicles and workplaces,[37] as well as their property outside of the home.[38] Like Duty to Retreat, Castle Doctrine is also based in English common law.[39] It has, however, found its way into American

[31] Levin, Benjamin. "A Defensible Defense?: Reexamining Castle Doctrine Statutes." *Harvard Journal on Legislation*. 47.2 (2011) : 523-555. *Google Scholar*. Web. 26 Jul 2015. 529.
[32] Ibid. 530.
[33] *Brown v. United States*. 256 U.S. 335 (1921).
[34] Levin, Benjamin. "A Defensible Defense?: Reexamining Castle Doctrine Statutes." *Harvard Journal on Legislation*. 47.2 (2011) : 523-555. *Google Scholar*. Web. 26 Jul 2015. 529.
[35] Carpenter, Catherine. "Of the Enemy Within, The Castle Doctrine, and Self-Defense." *Marquette Law Review*. 86.4 (2003) : 654-700. *Google Scholar*. Web. 26 Jul 2015. 656.
[36] Randall, Mark and Hendrik DeBoer. "The Castle Doctrine and Stand-Your-Ground Law." *OLR Research Report*. 24 Apr 2012. Web. 24 Sep 2015. <https://www.cga.ct.gov/2012/rpt/2012-R-0172.htm>
[37] Donovan, David. "New Self-Defense Law Gets a Second Look: A Florida Shooting Puts Spotlight on North Carolina's 'Stand Your Ground' Law." *North Carolina Lawyers Weekly*. 27 Apr 2012. *LexisNexis*. Web. 23 Sep 2015.
[38] Carter, Jackson Wiley. "Take your Guns to Town: Expanding the Scope of the Second Amendment Beyond the Home." *Social Science Research Network*. (2013). *Google Scholar*. 26 Jul 2015. 13.
[39] Ibid. 12.

common law as well, "stem[ming] from the common law belief that a man's home is his castle."[40] The home, the "castle," is a "sanctuary"[41] from which a person should not, under Castle Doctrine, be forced to flee. It is the last line of defense.

Stand Your Ground

Stand Your Ground laws act as an expansion of Castle Doctrine. While Castle Doctrine allows self-defense without retreat inside the home, but calls for retreat when outside the home, Stand Your Ground laws extend self-defense without retreat beyond the home, office, property, or vehicles.[42] According to Stand Your Ground laws, "a person is justified in the use of deadly force and does not have a duty to retreat if he reasonably believes that such force is necessary to prevent imminent death or harm to himself or someone else, or to prevent a serious crime."[43] Stand Your Ground has three key elements that either distinguish it from or build upon the previously discussed forms of self-defense legislation. They are as follows: "(1) elimination of the duty to retreat; (2) if acting otherwise legally, a presumption that the defender had a reasonable fear of death or serious bodily injury; (3) immunity from civil damages."[44] It is important to note that Stand Your Ground laws permit the use of deadly force in self-defense without retreating only so long as the person who uses deadly force is in a place he or she is

[40] Carpenter, Catherine. "Of the Enemy Within, The Castle Doctrine, and Self-Defense." *Marquette Law Review*. 86.4 (2003) : 654-700. *Google Scholar*. Web. 26 Jul 2015. 665.
[41] Ibid. 667.
[42] Carter, Jackson Wiley. "Take your Guns to Town: Expanding the Scope of the Second Amendment Beyond the Home." *Social Science Research Network*. (2013). *Google Scholar*. 26 Jul 2015. 1, 14.
[43] Donovan, David. "New Self-Defense Law Gets a Second Look: A Florida Shooting Puts Spotlight on North Carolina's 'Stand Your Ground' Law." *North Carolina Lawyers Weekly*. 27 Apr 2012. *LexisNexis*. Web. 23 Sep 2015.
[44] Ibid. 14.

legally allowed to be and was not in the process of breaking the law prior to using deadly force.[45] It is also important to recognize that "[t]he basic rule [of Stand Your Ground] is if you are at fault in starting an encounter with lethal force, you don't get to claim self-defense when the other person responds with lethal force."[46]

[45] Sherman, Amy. "Self-Defense Deaths in Florida Have Increased Dramatically Since 'Stand Your Ground' Became Law in 2005, Lawmaker Claims." *Tampa Bay Times: Politifact.com Edition*. 26 Mar 2012. *LexisNexis*. Web. 23 Sep 2015.

[46] Donovan, David. "New Self-Defense Law Gets a Second Look: A Florida Shooting Puts Spotlight on North Carolina's 'Stand Your Ground' Law." *North Carolina Lawyers Weekly*. 27 Apr 2012. *LexisNexis*. Web. 23 Sep 2015.

Utilitarian Arguments Regarding Duty to Retreat as the Ethically Ideal Law for Self-Defense

Now that I have explained my purpose in using utilitarianism to analyze self-defense legislation and have explained the three forms of self-defense laws, I can analyze these laws in order to determine which law has the most utilitarian value and should thereby be implemented throughout the United States. I will begin with Duty to Retreat as it was the first legislation enacted and is the most restrictive.

In determining the utility of maintaining Duty to Retreat, the level of satisfaction is low. As a law that requires absolute retreat prior to use of force in self-defense, Duty to Retreat provides the least protections to those who have used self-defense to protect themselves.[47] So, while it does offer protection to those who have defended themselves in a manner that is clearly determined by an outside party as having been a last resort, there are others whose use of self-defense may remain unprotected if such use is not found to have been an absolute last resort. The level of satisfaction then is low because it covers a smaller number of specific circumstances with a more limited definition of what is classified as acceptable self-defense. The level of dissatisfaction is high because there are severe consequences to being charged with a violent crime. In a case where Duty to Retreat does not protect a victim of attack who has defended him or herself because the court determines that he or she could have fled further before resorting to physical defense, that victim of attack could be charged with using violent force. The resulting level of dissatisfaction experience by the person who is so charged is high as a result of the severe consequences of being charged with a violent crime.

[47] Carpenter, Catherine. "Of the Enemy Within, The Castle Doctrine, and Self-Defense." *Marquette Law Review*. 86.4 (2003) : 654-700. *Google Scholar*. Web. 26 Jul 2015. 654.

The likelihood of satisfaction for maintaining Duty to Retreat is high because the satisfaction comes from the protections that are afforded by the law. These protections are highly likely to be maintained because in cases where the legitimacy of self-defense is brought into question so long as Duty to Retreat is the law in place, it is the law that will be used. This means that the protections given to those who act in self-defense under Duty to Retreat will be those that are extended to victims in court and that the satisfaction produced by these protections will be attained. The likelihood of dissatisfaction from maintaining Duty to Retreat is low because it is rare for self-defense to be tried as unlawful anyway. [48] If self-defense is rarely tried as unlawful, then it is unnecessary to modify the protections given because the protections will go largely unused. Assuming Duty to Retreat, as the form of self-defense legislation that offers the least protections to those who are acting in self-defense, is the current form of legislation, then any protections that extended beyond Duty to Retreat would also go largely unused if they were to be implemented by enacting a different form of self-defense legislation just as those protections afforded by Duty to Retreat go largely unused. If the protections go unused, then they are unnecessary. If adding further protections beyond Duty to Retreat is unnecessary, then Duty to Retreat is all that is needed. If the victims are not being legally punished for defending themselves, then it is unlikely that they will be penalized by a system that offers them fewer protections, such as Duty to Retreat. Therefore, the likelihood of dissatisfaction from maintaining Duty to Retreat is low.

The extension for satisfaction from maintaining Duty to Retreat is low as well. If the law is rarely being used in self-defense cases, then the number of cases in which it will be used should be low. And, if the number of cases is low, then the number of people involved in these

[48] Levin, Benjamin. "A Defensible Defense?: Reexamining Castle Doctrine Statutes." *Harvard Journal on Legislation*. 47.2 (2011) : 523-555. *Google Scholar*. Web. 26 Jul 2015. 525.

cases and thereby affected by them should also be low. Since such use of the law in cases is what produces the satisfaction, the low number of cases affected by its use equates to a low number of people affected by its use and thereby affected by the satisfaction. The extension for dissatisfaction is also low for the same reasons. If the number of cases the law is applied to is low, then the number of people affected by those cases and thus able to receive dissatisfaction as a result is also low.

Conversely, replacing Duty to Retreat with a form of legislation that is less restrictive and, as a result, serves to protect those who have acted in self-defense has a high level of satisfaction. This is the case because those who acted in self-defense that may not have been protected under Duty to Retreat will be protected from the negative consequences associated with violent charges, such as assault or even murder. By expanding the definition of self-defense that is accepted as justified, there will be an increase in circumstances that produce satisfaction. The increase in circumstances that would allow the production of satisfaction would lead to significantly higher levels of satisfaction than were produced by maintaining Duty to Retreat because the levels of satisfaction would be built with more forms of satisfaction. From the framework set up above, in which the primary argument against changing Duty to Retreat is that it is unnecessary, the intensity of dissatisfaction will be low, primarily stemming from the necessary effort required to replace any one law with another of the same form. In this case, that effort would be required to replace Duty to Retreat legislation with either Castle Doctrine or Stand Your Ground laws.[49] While there is effort required in changing such laws, which would lead to some level of dissatisfaction, the effort is not great enough to be classified as moderate or high. Rather, when compared to other forms of dissatisfaction, such as that of being charged with

[49] At this moment I am not addressing the value of each of the other forms of self defense legislation comparatively, simply the value of maintaining versus replacing or modifying (since the laws are, in part, modifications of their predecessors) Duty to Retreat.

a violent crime by acting "unjustly" in self-defense, which could be produced within the framework of the affects of maintaining Duty to Retreat or replacing it with another form of self-defense legislation, the dissatisfaction created by the effort required to change the law is low.

The likelihood of satisfaction from changing the self-defense law from Duty to Retreat is low, mirroring that of the dissatisfaction gained from maintaining the law because, again, it is rare for self-defense to be tried as unlawful. [50] If it is rare for self-defense to be tried as unlawful then the instances in which satisfaction will be developed from a case in which the new self-defense legislation is used will likely also be rare. If the cases are rare, then the opportunities for satisfaction to occur through the cases will also be limited. This causes the low likelihood of satisfaction. The likelihood of dissatisfaction resulting from the change is high because the effort required in changing any legislation is an intrinsic part of the American democratic system. The American democratic system requires that a law must be voted on and agreed upon by multiple parties in order to be enacted into legislature. Furthermore, as self-defense legislation varies by state, this process would need to be executed in all fifty states in order for it to be implemented throughout the United States. This is important as the purpose of this paper is to determine which self-defense legislation is ideal based on a utilitarian ethical analysis and, as such, which should be implemented throughout the United States. Because the dissatisfaction is produced by the effort required to change the law and, as described above, the American democratic system requires such an effort in order to change the law, there is a high likelihood that such dissatisfaction will be produced.

[50] Levin, Benjamin. "A Defensible Defense?: Reexamining Castle Doctrine Statutes." *Harvard Journal on Legislation*. 47.2 (2011) : 523-555. *Google Scholar*. Web. 26 Jul 2015. 525.

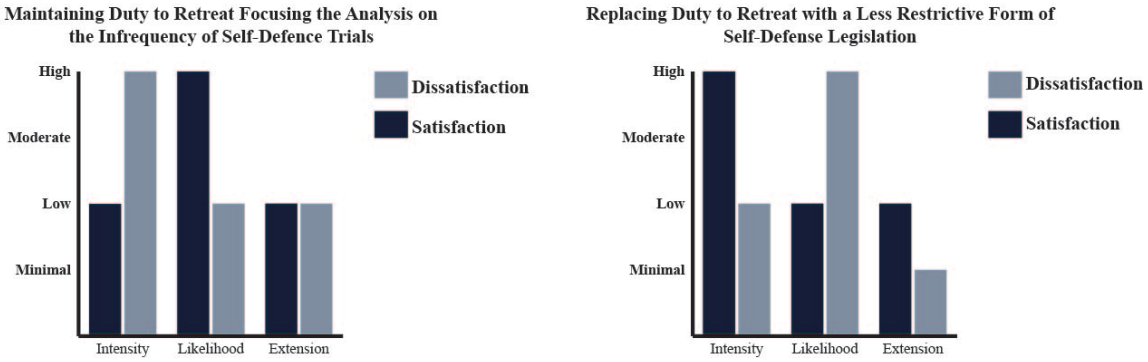
The extension of satisfaction from changing the law will be low because, as addressed above, the cases in which a person using self-defense is tried are infrequent.[51] Because the cases are infrequent, the number of people who are involved in those cases is limited. The people involved in those cases are the ones who could receive satisfaction as a result of changing the law from Duty to Retreat. However, there is still no guarantee that each case in which self-defense is tried using Castle Doctrine or Stand Your Ground will be found in favor of the person who has employed self-defense. Because it cannot be determined how frequently these cases will be found in favor of the person who has employed self-defense and, therefore, it cannot be determined how many people will actually receive satisfaction resulting from winning such cases, the extension of satisfaction is low. The extension of dissatisfaction of changing the law will be minimal because the people who must exert effort to change a law are a small, specific group within the political system. While, as discussed above, this group does extend to the legislative bodies for each of the fifty states, the people in the groups still represent a very small proportion of the country as a whole.

Maintaining Duty to Retreat is highly likely to have a low level of satisfaction that affects a low number of people and has a low likelihood of having a high level of dissatisfaction that affects a low number of people. Conversely, replacing Duty to Retreat with a less restrictive form of legislation has a low likelihood of having a high level of satisfaction that affects a low number of people and highly likely to have a low level of dissatisfaction that affects a minimal number of people (see Figure 2). Based on this analysis, because of the high intensity of satisfaction possible with only a low level dissatisfaction for a very small group, replacing Duty

[51] Levin, Benjamin. "A Defensible Defense?: Reexamining Castle Doctrine Statutes." *Harvard Journal on Legislation*. 47.2 (2011) : 523-555. *Google Scholar*. Web. 26 Jul 2015. 525.

to Retreat with a less restrictive form of self-defense legislation is the preferable option compared to maintaining Duty to Retreat.

Figure 2



The second argument in favor of Duty to Retreat is that the less restrictive forms of self-defense legislation go against the "overriding desire to protect the sanctity of life whenever possible."[52] This argument suggests that "the protection of sanctity of life outweighs the slight risk of peril that such flight may bring."[53] Basically, this means that Duty to Retreat is necessarily restricting rather than overly restricting and that the people whose use of self-defense earned them violent crime convictions in court were not in fact using self-defense or at least not using it appropriately. Rather than defend themselves in such manners, as may be permitted in Stand Your Ground and Castle Doctrine, those people should have fled until it was impossible to do so. If self-defense was an insufficient defense for them, then they must have had alternatives to defending themselves, such as fleeing. If such protections should not be extended as they would be under the less restrictive forms of self-defense legislations, namely Stand Your Ground and Castle Doctrine, then Duty to Retreat must be maintained or re-implemented in areas where the other forms have replaced it.

[52] Carpenter, Catherine. "Of the Enemy Within, The Castle Doctrine, and Self-Defense." *Marquette Law Review*. 86.4 (2003) : 654-700. *Google Scholar*. Web. 26 Jul 2015. 656.
[53] Ibid. 659.

In response to this argument, an opponent could return to the precedent set by *Brown v. United States*[54] that "[d]etached reflection cannot be demanded in the presence of an upended knife."[55] This is an important point for a utilitarian analysis to consider because the possibility exists that a person who has been attacked may try to flee when there is no safe way to do so in order to abide by the law stating that they must do so whenever possible. Furthermore, it is the attacker who is initiating the danger. Forbidding others to protect themselves from the intruder risks putting more lives in danger. Likely, the lives being put in danger by the Duty to Retreat legislation are those of otherwise law-abiding, innocent people.

If this is the case, the level of dissatisfaction of allowing such a citizen's life to be cut short or hindered by injury because he is prohibited from protecting himself would be high. That is to say that the level of dissatisfaction caused by maintaining Duty to Retreat would be high. Death comes with a high level of dissatisfaction, especially when it is unprovoked, as does any level of significant harm. Conversely, the level of satisfaction of maintaining Duty to Retreat is moderate because it does protect some of the victims of attack who defend themselves and because it gives more protection toward those who initiate the attack. In the previous analysis, I argued that maintaining Duty to Retreat would allow a low level of satisfaction resulting from those who are protected by the law. In this instance, that low level has been increased to a moderate level by the addition of an acknowledgement of the satisfaction gained on the part of those who initiate the attack.

The likelihood of the dissatisfaction that would arise from maintaining Duty to Retreat is moderate. This is the case because the decision as to which situation requires retreat versus which situation requires self-defense may be hard to ascertain, especially, as set by *Brown v.*

[54] *Brown v. United States.* 256 U.S. 335 (1921).
[55] Ibid. 343.

United States,[56] when such a decision must be made in an instant when faced with attack.[57] If, as with Duty to Retreat, victims are prohibited from protecting themselves in some instances, then victims must make a decision in each situation as to whether they are permitted to protect themselves or risk potential legal ramifications. If the victims are forced to make this decision, they will be more likely to consider whether defense is permissible. Each victim that pauses before defending him or herself is made more vulnerable by doing so. This increases the likelihood that he or she will be met with great harm, possibly death. The likelihood of the satisfaction achieved by maintaining the law is high. The satisfactions that are produced are of those who are in fact protected by the law in court for their use of self-defense and of those who are protected from defense while initiating an attack. If a person has defended him or herself justly according to the law and is being tried in court regarding his or her self-defense, then the law should be used to justify such defense. As justifying such forms of defense is the purpose of the law, it stands to reason that such results would follow. As for the person who initiates the attack, he or she has a higher likelihood of escaping the encounter unharmed if his or her victims are questioning what rights the law gives them to defend themselves. Furthermore, the attacker will have a higher probability of attaining legal retribution for a violent defense incurred against him or her if, as with Duty to Retreat, the law is strict about what forms of self-defense are justifiable. While it cannot be guaranteed that all of these effects will occur, it is highly likely that at least one of them will, especially since each result has a moderate to high probability of occurrence.

The extension of the dissatisfaction of maintaining Duty to Retreat is moderate because, in the context of those who must face the decision as to whether to defend themselves or flee, all

[56] *Brown v. United States.* 256 U.S. 335 (1921). 343.
[57] Ibid.

of them must make a decision. This suggests that at least most will consider the law, however briefly, but it cannot be guaranteed that all of them will struggle with their decision because of the law. Because it cannot be guaranteed that all of them will struggle with the decision, I have not assigned it a high extension. But, it is likely that a decent portion of those who consider the law will be at a higher risk of harm from this pause or from a resulting decision not to defend themselves. This is the reason that the extension of dissatisfaction is moderate. The extension of satisfaction is also moderate because it extends to the victims who defend themselves justly according to the law and to the aggressors who are protected from having unjust defense used against them. By including these two separate groups, the extension is sufficient to surpass a ranking as minimal or low. However, because the groups affected exclude anyone who acts in self-defense that is not protected by Duty to Retreat, it cannot be considered to have a high extension.

Returning to an analysis of replacing Duty to Retreat with a less restrictive form of self-defense legislation, doing so would lead to a low level of dissatisfaction. Replacing Duty to Retreat with a less restrictive form of self-defense legislation furthers protections for the victims of initial aggression by allowing them more legal leniency for acting in self-defense. The dissatisfaction, then, that would come from changing the law from Duty to Retreat would primarily come from those who initiated conflict and were met with harm as the result of their victims' self-defense. However, these aggressors would likely be aware of their increased risk of harm from their victims acting in self-defense as a result of the change in the law. If they are aware of the change in the law and the associated increased risk of harm to the aggressor, they would have to make the decision as to whether the potential benefit of the attack outweighs the increased risk of harm. Their decision to initiate an incident displays their acceptance of that risk.

Someone with an awareness of the risk that may befall them as a consequence of their action cannot assume the same level of dissatisfaction as someone who receives such harm as the result of another's action. Additionally, unlike maintaining the law, which could lead to fear of legal reciprocation for self-defense on the part of the victims, changing the law to a less restrictive form would only lead to fear on the part of the initiator of the conflict of the consequences of his or her actions. And, if his or her fear is introduced, then he or she may be less likely to initiate a conflict, which leads to less dissatisfaction coming from such a conflict. So, changing the law from Duty to Retreat would lead to a low level of dissatisfaction.

Conversely, the level of satisfaction that would come from replacing Duty to Retreat with a less restrictive form of self-defense is high because it extends the protections of the victims against legal prosecution. Under Duty to Retreat, victims of assault are limited as to how and when they can defend themselves against attack. Changing the law would serve to lessen these restrictions. With fewer restrictions, victims of attack would be free to protect themselves without fear of breaking the law or the legal repercussions thereof. They could protect themselves without hesitating, which allows them to avoid the increased risk of harm associated with hesitating in the face of physical danger. They may even be less likely to be attacked in the first place if potential aggressors reconsider their attacks based on the awareness that they may be met with harm from their victim's self-defense. Furthermore, the victims that had acted in self-defense will be more likely to find legal protection should their actions be contested in court. The combination of legal protections for the victim that acted in self-defense, his or her increased safety from fear of legal repercussions and from the danger associated with hesitating in the face of assault, and a slightly decreased frequency of attack serve to provide a high level of satisfaction.

The likelihood of dissatisfaction in this situation is moderate. Changing the law from Duty to Retreat means that there will be less restrictions on the definition of acceptable self-defense. Less restrictions on the definition of acceptable self-defense necessarily increases the legal protections on behalf of those who act in self-defense. If more forms of self-defense are permissible, then more forms are permissible against the aggressors, which serves to lessen the legal protections available to the aggressors against self-defense. This leads to more dissatisfaction on the part of the aggressors. However, there is no definitive way to ascertain how often this will occur under a different form of law when it would not have occurred under Duty to Retreat because, as the previous argument stated, self-defense is rarely tried as unlawful anyway. [58] Because, despite the reasons suggesting it is likely, this cannot be determined to occur with certainty, it cannot be assigned a high likelihood. So, it instead receives a moderate likelihood. However, the likelihood of satisfaction in this situation is high because protecting a larger group of victims who have utilized self-defense is the key distinction between a less restrictive form of self-defense legislation and Duty to Retreat. With the change from Duty to Retreat to a form of self-defense legislation with fewer restrictions on what constitutes justifiable self-defense, more legal protections will become available to those who have acted in self-defense. If the protections are available, then it stands to reason that they will be used as necessary, which makes them highly likely to be used. If the protections provided by different forms of self-defense legislations are highly likely to be used, then they are highly likely to produce the resulting satisfaction.

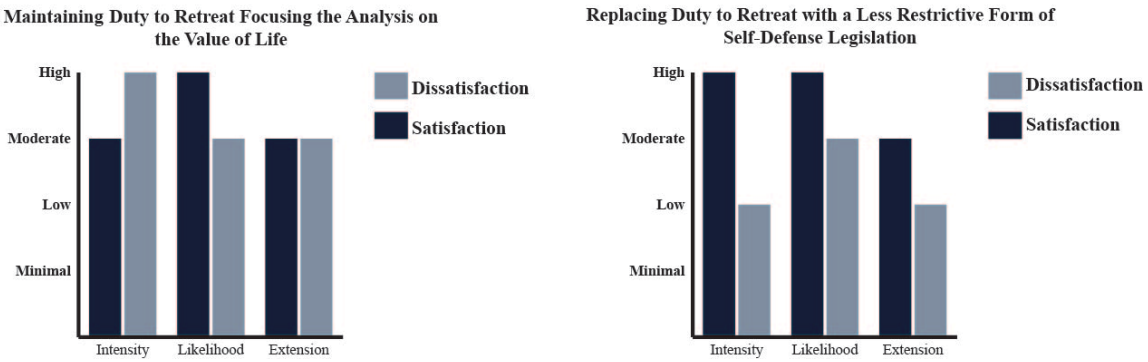
The extension of dissatisfaction is low because the only group of people included is the aggressors who have initiated the incident. Since there is only one group affected and that group

[58] Levin, Benjamin. "A Defensible Defense?: Reexamining Castle Doctrine Statutes." *Harvard Journal on Legislation*. 47.2 (2011) : 523-555. *Google Scholar*. Web. 26 Jul 2015. 525.

is not exceptionally large, the extension of dissatisfaction is low. The extension of satisfaction is moderate because those affected by the change will include two groups of victims: those whose use of self-defense was permitted under Duty to Retreat and those whose use was not permitted under Duty to Retreat but is permitted under a less restrictive form of self-defense legislation. While neither of these groups may be exceptionally large, there are two separate groups involved, which combine to form a large group. For this reason, the extension of satisfaction is moderate because a moderate number of people are affected by the satisfaction.

Maintaining Duty to Retreat is highly likely to have a moderate level of satisfaction for a moderate number of people and moderately likely to have a high level of dissatisfaction for a moderate number of people. Replacing Duty to Retreat with a less restricting form of self-defense legislation is highly likely to produce a high level of satisfaction for a moderate number of people and moderately likely to have a low level of dissatisfaction for a low number of people. Replacing Duty to Retreat has a higher level of satisfaction with the same likelihood and extension of satisfaction and a lower extension and much lower level of dissatisfaction with the same likelihood of dissatisfaction as maintaining Duty to Retreat (see Figure 3). Based on this analysis, replacing Duty to Retreat has more utility than maintaining it in the terms of this argument.

Figure 3



The two arguments put forth in defense of Duty to Retreat as the ethically ideal form of self-defense legislation are subject to strong criticisms. These arguments aim to maintain the strictest regulations on self-defense, but maintaining such regulations puts undue risk on the innocent victims of attack who, under Duty to Retreat, would be prohibited by law from protecting themselves in many instances. Based on my utilitarian analysis of the two arguments utilizing the three factors of intensity, likelihood, and extension, the criticisms against maintaining or reverting to Duty to Retreat are stronger than the arguments on behalf of doing so.

Utilitarian Arguments Regarding Stand Your Ground as the Ethically Ideal Law for Self-Defense

Now that I have provided the benefits of and criticisms against Duty to Retreat as the ethically ideal form of self-defense legislation, I will move on to discuss Stand Your Ground legislation as it provides the opposite extreme from Duty to Retreat, serving as the least restrictive form of self-defense legislation.

The primary argument in favor of Stand Your Ground laws is that Castle Doctrine's provisions should extend beyond the home, which is essentially the premise of Stand Your Ground. Castle Doctrine provides an exception from the Duty to Retreat for the home, so Stand Your Ground extends this allowance against retreat beyond the home. The defense of this assertion is that if people are unable to defend themselves, there is less deterrence for criminals. If criminals know that the law limits upstanding citizens' ability to protect themselves, then citizens will be easier targets. Conversely, if, as is the case with Stand Your Ground laws, law-abiding citizens have more freedom to protect themselves, then the criminals will be assuming more risk by attacking them. It is likely that at least some criminals will choose to avoid this risk, which would lead to a decrease in attacks.

By deterring and thereby lessening the frequency of attacks, Stand Your Ground leads to high levels of satisfaction. Fewer attacks lead to high levels of satisfaction because preventing attacks prevents harm and increases safety. Increased safety and the prevention or mitigation of harm allows for higher levels of satisfaction. The main source of dissatisfaction, then, would come from the criminals who may have been deterred from initiating conflict because of this fear. However, the dissatisfaction felt by the criminals who are deterred from committing crime

would be minimal. This minimal level of dissatisfaction comes from the fear they may feel when considering initiating an attack and from any negative consequences that may result from their decision not to initiate an attack. For example, if the attack in question were a mugging, the would-be attacker would lack the money he or she would have attained through the mugging as a result of refraining from mugging a potential victim. Nevertheless, the level of dissatisfaction is not higher than minimal because the negative affects of an aggressor choosing not to initiate an incident may be outweighed by positive events such as avoiding jail or being harmed by the victim. Unfortunately, it is hard to assess what effects these events would have because they would be the unexpected and unintended consequences. Since they would be unexpected and unintended, these consequences cannot be fully assessed without the event actually taking place to produce them.

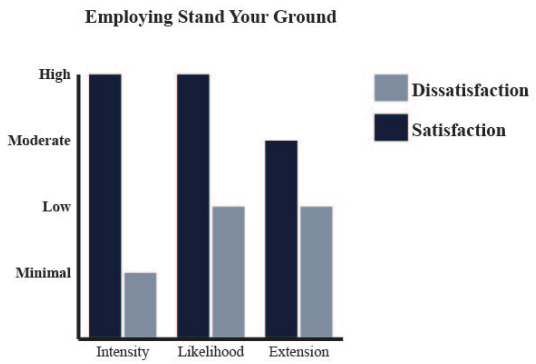
The likelihood of the satisfaction is high because criminals tend to focus on what is best for them rather than what is best for those around them. So, an increased risk to the criminals who would otherwise initiate a conflict is very likely to lead to at least some of them deciding not to initiate the incident because the risk to their well-being is too high. The likelihood of dissatisfaction would be low because, as addressed above, it is hard to assess what effects a would-be aggressor's decision not to attack would have. The unintended consequences of an attack, such as going to jail or suffering injury, cannot be determined prior to their occurrence. So, if a person decides not to act as aggressor, it is hard to determine whether such a decision results in the dissatisfaction of missing out on the perks of the assault or whether such a decision protected him or her from bad consequences, thus nullifying the dissatisfaction.

The extension of the satisfaction of employing Stand Your Ground laws is moderate because it has the potential to prevent attacks against a large population over time. If aggressors

are deterred from attacking, then the people that they would have attacked are spared. This has the potential to add up to a large number of people that are spared over time if the law remains in place, as it should if it is the ethically ideal form according to a utilitarian analysis. While it may not protect a huge percentage of the people who are at risk of being attacked and thereby cannot receive a high extension, it could protect a lot of people over time and thus earns a moderate extension. The extension of the dissatisfaction involved is low because it only affects would-be aggressors. The extension of dissatisfaction is judged to be lower than that of satisfaction on the supposition that some percentage of the deterred aggressors may have otherwise become repeat offenders. If they chose to initiate a conflict once and got away with no or minimal physical harm or legal repercussions, they could easily have decided to become repeat offenders because it seemed easy. If a would-be criminal was prevented from becoming a repeat offender by his or her decision not to initiate a conflict in the first place, then he or she would have multiple potential victims that would be spared from attack. If there are multiple situations in which one would-be criminal's decision positively affected multiple would-have-been victims, then the extension for dissatisfaction affecting the would-be criminals should be lower than the extension of satisfaction for the would-have-been victims. For this reason, the extension for dissatisfaction is low while the extension for satisfaction was moderate (see Figure 4).[59]

[59] For the purpose of this specific analysis, I will be analyzing segments individually rather than in comparison to one another.

Figure 4



The problem here is that Stand Your Ground has been shown to provide leniency beyond where it was intended, so the above-mentioned factors are not the only factors that must be considered. If Stand Your Ground laws allow people to act in "self-defense" beyond situations in which such defense is actually necessary, then there is the potential for intense and extensive dissatisfaction. One specific example of this abuse of Stand Your Ground laws is provided by *State v. Zimmerman*. In *State v. Zimmerman*, a jury found George Zimmerman not guilty of manslaughter or second-degree murder for shooting Trayvon Martin on the grounds of self-defense.[60] On the night of the incident, George Zimmerman, who was serving as the captain of the neighborhood watch, had "call[ed] 911 to report a 'suspicious person'"[61] in his gated community. The 911 operator told him to stay in his vehicle and avoid confrontation.[62] Instead, Zimmerman approached Martin, at which point, according to Zimmerman, there was an altercation, which is supported by a medical report from the day following the incident stating that he had "a fractured nose, two black eyes and two lacerations on the back of the head."[63]

[60] "Judgment of Not Guilty." *State of Florida vs. George Zimmerman*. Eighteenth Judicial Circuit, 13 Jul 2013. Web. 26 Feb 2016. < http://www.flcourts18.org/PDF/Press_Releases/Judgment_of_Not_Guilty_7_13_13.pdf>
[61] Trayvon Martin Shooting Fast Facts." *CNN Library*. Updated Feb 2016. Web. 26 Feb 2016. <http://www.cnn.com/2013/06/05/us/trayvon-martin-shooting-fast-facts/>
[62] Ibid.
[63] Ibid.

While "Zimmerman waive[d] his right to a 'stand your ground' pretrial immunity hearing,"[64] he was still being tried in a state with Stand Your Ground laws, which means that the laws were still prevalent in the trial regarding self-defense in Florida. George Zimmerman did not stand his ground; he engaged Martin, and he did so against the instructions of the 911 operator. Stand Your Ground was intended to allow people to protect themselves without having to fear whether they would be prosecuted for doing so, not to allow them to initiate a dangerous situation.[65] As Jeb Bush, the former governor of Florida who initially signed the legislation into place, stated, "'Stand your ground' means stand your ground. It doesn't mean chase after somebody who's turned their back."[66]

Unfortunately, the outcome of *State v. Zimmerman* suggests that Stand Your Ground can be used to justify more than simply self-defense in the face of imminent danger. The above analysis (see Figure 4) must be amended with the addition of this information. While this information may not have changed the intensity, likelihood, or extension of the satisfaction achieved, it has an effect on each of these categories as they relate to dissatisfaction achieved.

If the law can be used to justify such instances of self-defense, where the question of who acted as aggressor versus victim is hard to answer and needless killing is possibly permitted, then the dissatisfaction produced will be immense. As discussed in the section analyzing Duty to Retreat, death, especially needless death, is met with a high level of dissatisfaction. For this reason, employing Stand Your Ground with the addition of the potential for misuse is likely to have a high level of dissatisfaction.

---

[64] Trayvon Martin Shooting Fast Facts." *CNN Library*. Updated Feb 2016. Web. 26 Feb 2016. <http://www.cnn.com/2013/06/05/us/trayvon-martin-shooting-fast-facts/>

[65] Crump, Benjamin. "A vote for Trayvon Martin." *The Washington Post*. 18 Aug 2013. *LexisNexis*. Web. 23 Sep 2015.

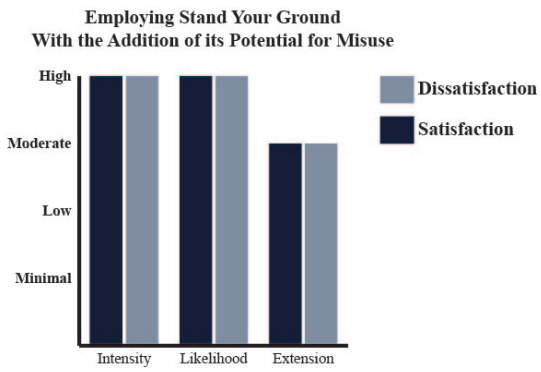
[66] Ibid.

With *State v. Zimmerman* acting as both an example and a precedent that will encourage further misuse, Stand Your Ground is highly likely to lead to such dissatisfaction. If the law has been abused once, it is likely to be abused again. The fact that its abuse has been documented as a part of a court decision serves to strengthen this susceptibility to misuse by giving it legal precedence.

Finally, the extension of the dissatisfaction would be moderate because it has the potential to allow self-defense justified attacks against a large population over time. Again, if Stand Your Ground is the ethically ideal form of self-defense legislation based on a utilitarian analysis, then it should be implemented and maintained until such time as it is no longer ethically ideal. This extends the period over which people may be affected indefinitely, which increases the number of people affected as a result. While it may not affect enough people to be considered to have a high extension, the number of people that could be affected over time by the misuse of Stand Your Ground is sufficiently substantial to earn a moderate extension.

With the addition of the possible dissatisfaction brought on by acknowledging the potential for Stand Your Ground to be abused, a comparison of the three categories of satisfaction versus those of dissatisfaction leaves the observer without a justification as to whether the benefits (in this case, the satisfaction) outweigh the risks (the dissatisfaction) (see Figure 5). As Figure 5 shows, satisfaction and dissatisfaction for employing Stand Your Ground are now equal in terms of intensity, likelihood, and extension.

Figure 5



The criticism against Stand Your Ground as the ethically ideal form of self-defense legislation is strong. Stand Your Ground has been subject to abuse and misuse. It has been manipulated once, so the precedent has been set, and further manipulation is likely to follow. Instances of further manipulation will likely lead to instances of dissatisfaction similar to that of the Trayvon Martin case, thus continually decreasing utility. However, the satisfaction provided by employing Stand Your Ground that comes from loosening restrictions in order to protect those who utilize self-defense is very closely matched with the dissatisfaction produced. In order to determine whether the intensity and likelihood of dissatisfaction is acceptable, it is important to address the final form of self-defense legislation, Castle Doctrine, to compare its satisfaction and dissatisfaction with that of Stand Your Ground. In the next section, I will compare the satisfaction and dissatisfaction derived from Stand Your Ground to that which comes from Castle Doctrine.

Utilitarian Arguments Regarding Castle Doctrine as the Ethically Ideal Law for Self-Defense

Now that I have addressed the benefits of and criticisms against both Duty to Retreat and Stand Your Ground, I will provide the same acknowledgements for Castle Doctrine, which serves as a middle ground between the other two legislations as far as the restrictions of the law. Because the satisfaction and dissatisfaction of Stand Your Ground counteracted each other, this section must also include a comparison of Castle Doctrine against Stand Your Ground in order to determine which form is ideal based on a utilitarian analysis.

The first argument on behalf of Castle Doctrine as the ideal form of self-defense legislation is that it is necessary to have an exception from Duty to Retreat where the home is concerned. "The sanctity of one's home must be recognized, even in the face of loss of life"[67] because the home is the ultimate retreat. If there is, in any instance, a duty to retreat, then there must be a place to retreat where one can find safety. The most natural place for this would be the home, the sanctuary. If the security associated with an individual's home were to be stripped away by laws that required them to flee from said home in the face of danger, there would be several negative consequences.

First, people would be less likely to feel safe in their own homes. If people are unable to feel safe in their own homes, then they will be less likely to be able to use their homes to relax and recover from the various stresses of daily life. Furthermore, if people cannot feel safe at home, then their quality of sleep will deteriorate, which can negatively affect their physical and mental health as well as put strain on relationships. This would lead to high dissatisfaction.

[67] Carpenter, Catherine. "Of the Enemy Within, The Castle Doctrine, and Self-Defense." *Marquette Law Review*. 86.4 (2003) : 654-700. *Google Scholar*. Web. 26 Jul 2015. 658.

Second, eliminating the home as a sanctuary from retreat would require people to leave their homes and their material possessions vulnerable to the aggressor. While I do not believe that material goods are of higher value than human life, I also find it hard to accept that a victim should be forced to give an aggressor full access to his or her belongings. Imagine that you store your birth certificate, social security card, or passport in your home. If you are required to leave your home because you are prohibited from defending yourself against the intruder, then that intruder gains access to all of these documents. If an intruder has access to these documents, he or she has the opportunity to create substantial dissatisfaction for the victim by stealing his or her identity.

Third, if one person is required to leave his or her home when a person threatens him or her within it, then others living in the house may be vulnerable to entering a dangerous situation unbeknownst. While it is likely that the person who fled would try to inform the others living there of the danger, it is possible that he or she may forget because of the intensity of such a situation. Furthermore, there are instances in which someone cannot be reached or cannot be reached in a timely manner for any number of reasons, which could become very dangerous if he or she were to enter the home without warning.

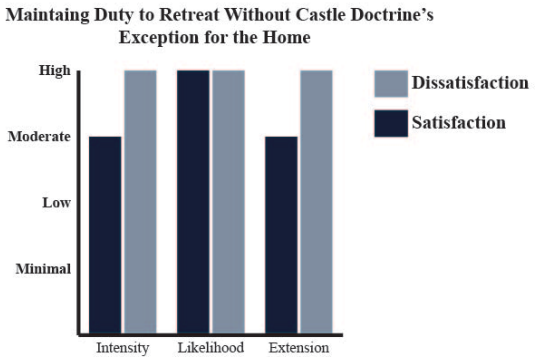
Finally, victims might be more likely to defend themselves at home despite the law, deciding that they cannot leave their home in the hands of the intruders. In doing so, the otherwise law-abiding citizens could be punished for refusing to accept any of the previously mentioned risks associated with leaving their home to those who meant them harm. Again, there is the potential for high levels of dissatisfaction resulting from the homeowners being punished for refusing to leave.

Based on the four potential consequences above, maintaining Duty to Retreat without Castle Doctrine's exception of the home as a sanctuary could result in high levels of dissatisfaction. The likelihood of at least one of these events occurring is high because there are several different options that would lead to such dissatisfaction. Even if not all of the options came to fruition, it is very likely that at least one of them would. The extension is also high, most prominently because of the first listed cause of dissatisfaction, which was the loss of ability to feel safe in the home. This could affect anyone regardless of whether they ever actually face intruders, extending beyond the typical classification of those affected in extension. The typical classification of those affected in extension is relegated to those directly affected by the decision being analyzed. In this case, the decision being analyzed is whether Stand Your Ground is the ethically ideal form of self-defense legislation. Those who are neither victims nor initiators of attack would not typically be considered in such an analysis. The other possible situations also have the potential to affect anyone whose home is invaded or who is attacked in his or her own home. While the number of people affected by these other factors is lower than the number affected by the permanent fear within their homes, these factors still have the potential to affect a large percentage of the people who would typically be considered in such an analysis, specifically a large percentage of victims of assault in their own homes.

The values for the satisfaction of maintaining Duty to Retreat without the Castle Doctrine exception for the home come from section V (see Figure 3), which analyzed Duty to Retreat. These include a moderate level of satisfaction from protecting some victims of attack and the attackers, a high likelihood of satisfaction because such results are intrinsic within the law, and a moderate extension of satisfaction because it extends to aggressors and some victims. In summary, maintaining Duty to Retreat without Castle Doctrine's exception for the home is

highly likely to result in moderate levels of satisfaction that will affect a moderate number of people and highly likely to result in high levels of dissatisfaction that will affect a high number of people (see Figure 6).

Figure 6



Adding Castle Doctrine's exception of the home from one's duty to retreat would have a high level of satisfaction. It would maintain the safety of the home and deter intruders from entering the home while still seeking to minimize harm derived from conflicts outside of the home.

It would have a high likelihood of satisfaction as well because of the risk that would be assumed by anyone deciding to intrude into another's home. If would-be aggressors know that there is a substantially increased danger in attacking another in their home, especially if this danger is contained within the home rather than everywhere as with Stand Your Ground, then they will be less likely to attack another within his or her home. If people are less likely to be attacked in their homes, then they are more likely to reap the satisfaction that accompanies adding Castle Doctrine's exception of the home to one's duty to retreat. Furthermore, an awareness that their home is protected as their ultimate sanctuary under the law is likely to bring people a sense of comfort, or at least to remove the concerns that may accompany the alternative legal position.

The extension of satisfaction in this situation is also high because the number of people who are able to find comfort in the safety of homes extends beyond the number of those who actually face aggressors or intruders. It also includes those who only consider or are aware of the possibility that they could become victims at some point. This extends the extension beyond the group that would typically be considered in making such a decision, meaning that the extension has to be high as it encompasses a larger group than is even typically analyzed.

The primary source of dissatisfaction for Castle Doctrine is the increased risk of harm to the aggressor, but this is low because it only occurs once the aggressor has entered another's home. Outside of the home, the traditional tenets of Duty to Retreat still apply, which serve to mitigate harm as much as possible. It is low rather than minimal because the risk of any harm provides substantial levels of dissatisfaction to surpass what would be considered minimal. It is low rather than moderate because the aggressors still have protections outside of their victims' homes.

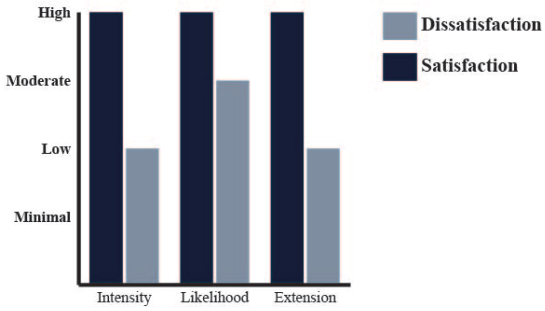
The likelihood of dissatisfaction is moderate. It is not guaranteed, but it is quite possible that people will be more likely to defend themselves within the home given the exception from retreat for the home. If they are more likely to defend themselves, then they are more likely to cause harm to their attackers as a result. This harm is the dissatisfaction produced by the decision to implement or maintain Castle Doctrine as the ethically ideal form of self-defense legislation.

Finally, the extension of dissatisfaction is low because the exception from Duty to Retreat for the home will only cause dissatisfaction for those aggressors who still choose to initiate an incident by entering others' homes illegally. This is a small category because it is only a percentage of one group. The group in reference contains those who initiate incidents. The

percentage of the group included consists of those who initiate incidents specifically within another's home, which is presumably a smaller subset.

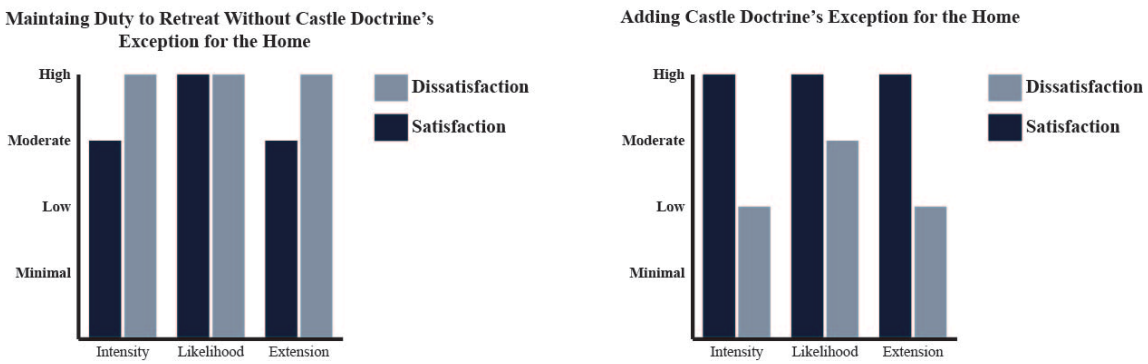
To summarize, adding Castle Doctrine's exception from Duty to Retreat to the home is highly likely to result in high levels of satisfaction affecting a high number of people and moderately likely to result in low levels of dissatisfaction affection a low number of people (see Figure 7).

Figure 7 **Adding Castle Doctrine's Exception for the Home**



By comparing the results of maintaining Duty to Retreat without Castle Doctrine's exception for the home to that of adding the exception and thereby changing the law to Castle Doctrine, it is clear that changing the law to Castle Doctrine is the preferable choice. This is the case because adding Castle Doctrine's exception for the home has a high likelihood of high levels of satisfaction that will affect a high number of people with lower likelihood, intensity, and extension for dissatisfaction. Conversely, maintaining Duty to Retreat as it stands is highly likely to result in high levels of dissatisfaction for a high number of people. While the likelihood of satisfaction for maintaining Duty to Retreat is high, the levels and extension are lower (see Figure 8). Between its higher levels of satisfaction and its lower levels of dissatisfaction, adding the Castle Doctrine exception is the more utilitarian and thereby ethically preferable choice.

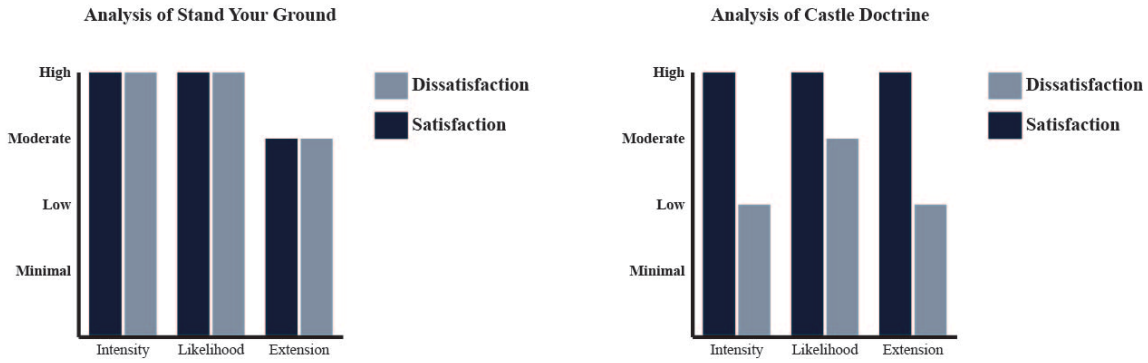
Figure 8



The previous analysis combined with the analyses contained in the section V (Utilitarian Arguments Regarding Duty to Retreat as the Ethically Ideal Law for Self-Defense) show that Duty to Retreat is not the ethically ideal form of self-defense legislation. Moreover, they show that Castle Doctrine is ethically preferable to Duty to Retreat based on a utilitarian analysis.

Now, I must compare Castle Doctrine and Stand Your Ground to determine which is in fact the ethically ideal form of self-defense legislation using a utilitarian analysis. To do this, I will compare the results of analyzing each law. For Stand Your Ground, I will use the results shown in Figure 5. For Castle Doctrine, I will use the results depicted by Figure 7. For convenience, these results have been collected below into Figure 9, which will be used for the following analysis.

Figure 9



In comparing Stand Your Ground and Castle Doctrine, both have high likelihoods of producing high levels of satisfaction. While Castle Doctrine has a high extension of satisfaction,

Stand Your Ground's extension of satisfaction is moderate. Although their results for satisfaction are very similar, the results of dissatisfaction produced by Stand Your Ground and Castle Doctrine vary substantially. Stand Your Ground has a high likelihood of high levels of dissatisfaction while Castle Doctrine only has a moderate likelihood of low levels of dissatisfaction. In addition, the extension of dissatisfaction of Castle Doctrine is lower that that of Stand Your Ground. A comparison of these results shows that Castle Doctrine is ethically preferable to Stand Your Ground due to its higher extension of satisfaction and its lower results in all categories regarding the production of dissatisfaction.

Conclusion

Duty to Retreat is too restrictive. From the above analysis of arguments in favor of Duty to Retreat, Duty to Retreat is shown to have regulations that are strict to the point of minimizing the satisfaction and, at times, increasing the dissatisfaction of the victims of attack who are prohibited from protecting themselves from harm. The utilitarian arguments against maintaining Duty to Retreat are stronger than those arguments on behalf of maintaining it.

Stand Your Ground provides enough leeway for abuse that it counteracts the benefits gained by allowing more protections for the victims of attack who utilize self-defense. In the case of Trayvon Martin, the law's original intent was ignored in favor of a broader interpretation of acceptable defense, which resulted in the production of a lot of dissatisfaction. Maintaining Stand Your Ground laws is likely to produce similar dissatisfaction recurrently as a legal precedent has been set that such abuse is permissible.

Castle Doctrine, however, allows further protections for those who act in self-defense than Duty to Retreat, namely the freedom from retreat in the home, while still minimizing the risk of misuse that Stand Your Ground exhibits. The satisfaction gained by Castle Doctrine outweighs that of Duty to Retreat without providing unacceptable results regarding dissatisfaction. The satisfaction provided by Castle Doctrine also rivals that of Stand Your Ground, and the dissatisfaction of Castle Doctrine is less than that of Stand Your Ground.

Based on the above analysis, this paper asserts that Castle Doctrine is the ethically ideal form of self-defense legislation for implementation into an American democratic system based on the principles of utilitarianism. As such, it is the form that should be implemented throughout the United States.

References

Aristotle. “The Nicomachean Ethics.” *Ethics: Selections from Classical and Contemporary Writers*. Ed. Oliver A. Johnson and Andrews Reath. Boston: Cengage Learning, 2012. 67. Print.

Bentham, Jeremy. *An Introduction to the Principle of Morals and Legislation*. Oxford: Claredon Press, 1879. *Google Book Search*. Web. 8 Oct. 2015.

Brown v. United States. 256 U.S. 335 (1921).

Carpenter, Catherine. “Of the Enemy Within, The Castle Doctrine, and Self-Defense.” *Marquette Law Review*. 86.4 (2003) : 654-700. *Google Scholar*. Web. 26 Jul 2015.

Carter, Jackson Wiley. “Take your Guns to Town: Expanding the Scope of the Second Amendment Beyond the Home.” *Social Science Research Network*. (2013). *Google Scholar*. 26 Jul 2015.

Crump, Benjamin. “A vote for Trayvon Martin.” *The Washington Post*. 18 Aug 2013. *LexisNexis*. Web. 23 Sep 2015.

“Difference Between Cardinal and Ordinal Utility.” *Difference Between.com*. Difference Between, 30 Apr 2013. Web. 26 Feb 2016.

Donovan, David. “New Self-Defense Law Gets a Second Look: A Florida Shooting Puts Spotlight on North Carolina’s ‘Stand Your Ground’ Law.” *North Carolina Lawyers Weekly*. 27 Apr 2012. *LexisNexis*. Web. 23 Sep 2015.

Ely, John Hart (1978) "Constitutional Interpretivism: Its Allure and Impossibility," *Indiana Law Journal*: Vol. 53: Iss. 3, Article 2. Available at: http://www.repository.law.indiana.edu/ilj/vol53/iss3/2

Haines, William. Consequentialism. (n.d.) *The Internet Encyclopedia of Philosophy*. Retrieved from http://www.iep.utm.edu/conseque/. Web. 24 Jul 2015.

"Judgment of Not Guilty." *State of Florida vs. George Zimmerman*. Eighteenth Judicial Circuit, 13 Jul 2013. Web. 26 Feb 2016. <http://www.flcourts18.org/PDF/Press_Releases/Judgment_of_Not_Guilty_7_13_13.pdf>

[1] Trayvon Martin Shooting Fast Facts." *CNN Library*. Updated Feb 2016. Web. 26 Feb 2016.

Levin, Benjamin. "A Defensible Defense?: Reexamining Castle Doctrine Statutes." *Harvard Journal on Legislation*. 47.2 (2011) : 523-555. *Google Scholar*. Web. 26 Jul 2015.

Nathanson, Stephen. Act and Rule Utilitarianism. (n.d.) *The Internet Encyclopedia of Philosophy*. Retrieved from http://www.iep.utm.edu/util-a-r/. Web. 11 Aug 2015.

Randall, Mark and Hendrik DeBoer. "The Castle Doctrine and Stand-Your-Ground Law." *OLR Research Report*. 24 Apr 2012. Web. 24 Sep 2015. <https://www.cga.ct.gov/2012/rpt/2012-R-0172.htm>

Referendum. 2015. In *Merriam-Webster Online*. Retrieved from http://www.merriam-webster.com/dictionary/referendum.

Riley, Jonathan. "Utilitarian Ethics and Democratic Government." *Ethics*. 100.2 (2007) : 335-348. *JSTOR*. Web. 26 Jul 2015.

Singer, Peter. "Famine, Affluence, and Morality." *Philosophy & Public Affairs*. 1.3 (1972) : 229-243. *JSTOR*. 1 Mar 2016.

Sherman, Amy. "Self-Defense Deaths in Florida Have Increased Dramatically Since 'Stand Your Ground' Became Law in 2005, Lawmaker Claims." *Tampa Bay Times: Politifact.com Edition*. 26 Mar 2012. *LexisNexis*. Web. 23 Sep 2015.

Thomas, David A. Lloyd. “Kantian and Utilitarian Democracy.” *Canadian Journal of Philosophy*. 10.3 (1980) : 395-413. JSTOR. Web. 26 Jul 2015.

“Trayvon Martin Shooting Fast Facts.” *CNN Library*. Updated Feb 2016. Web. 26 Feb 2016. <http://www.cnn.com/2013/06/05/us/trayvon-martin-shooting-fast-facts/>