

skies in carbon dioxide? Why shouldn't we bury toxic waste in containers that will fall apart in a hundred years? It would not be against *our* interests to allow such actions; it would only harm our descendants. So, we may do so. Or consider oppressed populations. When the Europeans colonized new lands, why weren't they morally allowed to enslave the native inhabitants? After all, the native inhabitants did not have the weapons to put up a good fight. The Europeans could benefit most by enslaving them, not by cooperating with them.

This objection does not concern some minor aspect of the theory; it goes right to the root of the tree. The Social Contract Theory is grounded in self-interest and reciprocity; thus, it seems unable to recognize the moral duties we have to individuals who cannot benefit us.

CHAPTER 7

The Utilitarian Approach

Given our present perspective, it is amazing that Christian ethics down through the centuries could have accepted almost unanimously the . . . doctrine that "the end does not justify the means." We have to ask now, "If the end does not justify the means, what does?" The answer is, obviously, "Nothing!"

JOSEPH FLETCHER, *MORAL RESPONSIBILITY* (1967)

7.1. The Revolution in Ethics

The late 18th and 19th centuries witnessed an astonishing series of upheavals: The modern nation-state emerged from the French Revolution and the wreckage of the Napoleonic empire; the revolutions of 1848 showed the transforming power of the ideas of "liberty, equality, and fraternity"; and in America, a country with a new kind of constitution was created, and its bloody civil war would put an end to slavery in Western civilization. All the while, the Industrial Revolution was bringing about a complete restructuring of society.

It is not surprising that new ideas about ethics emerged during this era. Jeremy Bentham (1748–1832) made a powerful argument for a novel conception of morality. Morality, he urged, is not about pleasing God, nor is it about being faithful to abstract rules. Morality is about making the world as happy as possible. Bentham believed in one ultimate moral principle, namely, the Principle of Utility. This principle requires us, in all circumstances, to produce the most happiness that we can.

Bentham was the leader of a group of philosophical radicals whose aim was to reform the laws and institutions of England along utilitarian lines. One of his followers was James Mill, the distinguished Scottish philosopher, historian, and economist. James Mill's son, John Stuart Mill (1806–1873),

would become the leading advocate of utilitarian moral theory. John Stuart's advocacy was even more elegant and persuasive than Bentham's. Mill's little book, *Utilitarianism* (1861), is still required reading for serious students of ethics.

At first glance, the Principle of Utility may not seem like such a radical idea; in fact, it may seem too obvious to mention. Who could argue with the idea that we should oppose suffering and promote happiness? Yet, in their own way, Bentham and Mill were as revolutionary as the other two great intellectual innovators of the 19th century, Darwin and Marx.

To understand why the Principle of Utility was so radical, we have to appreciate what it *leaves out* of its picture of morality: Gone are all references to God or to abstract moral rules "written in the heavens." Morality is no longer to be understood as faithfulness to some divinely given code or some set of inflexible rules. As Peter Singer (1946–) would later put it, morality is not "a system of nasty puritanical prohibitions . . . designed to stop people [from] having fun." Rather, the point of morality is the happiness of beings in this world, and nothing more; and we are permitted—even required—to do whatever is necessary to promote that happiness. This was a revolutionary idea.

The utilitarians were, as I said, social reformers as well as philosophers. They intended their doctrine to make a difference, not only in thought but in practice. To illustrate this, we will briefly examine the implications of their ideas for three practical issues: euthanasia, marijuana, and the treatment of non-human animals. These issues do not by any means exhaust the practical applications of Utilitarianism; nor are they necessarily the ones that utilitarians would find most pressing. But they do give us a good sense of how utilitarians approach moral issues.

7.2. First Example: Euthanasia

Sigmund Freud (1856–1939), the legendary psychologist, was diagnosed with oral cancer after a lifetime of cigar smoking. During his final years, Freud's health went up and down, but in January of 1939 a large swelling appeared in the back of his mouth, and he would have no more good days. Freud's cancer was active and inoperable, and he was also suffering from heart failure. As his bones decayed, they cast off a foul smell, driving

away his favorite dog. Mosquito netting had to be draped over his bed to keep flies away.

On September 21, at the age of 83, Freud took his friend and personal physician, Max Schur, by the hand and said, "My dear Schur, you certainly remember our first talk. You promised me then not to forsake me when my time comes. Now it's nothing but torture and makes no sense any more." Forty years earlier Freud had written, "What has the individual come to . . . if one no longer dares to disclose that it is this or that man's turn to die?" Dr. Schur said he understood Freud's request. He injected Freud with a drug in order to end his life. "He soon felt relief," Dr. Schur wrote, "and fell into a peaceful sleep."

Did Max Schur do anything wrong? On the one hand, he was motivated by noble sentiments—he loved his friend and wanted to relieve his misery. Moreover, Freud had asked to die. All this argues for a lenient judgment. On the other hand, according to the dominant moral tradition in our culture, what Schur did was unacceptable.

The dominant moral tradition in our culture is Christianity. Christianity holds that human life is a gift from God, and only God may decide when it will end. The early church prohibited all killing, believing that Jesus's teachings permitted no exceptions to the rule. Later, some exceptions were made, chiefly to allow capital punishment and killing in war. But other kinds of killing, including suicide and euthanasia, remained forbidden. To summarize the church's doctrine, theologians formulated the rule: *the intentional killing of innocent people is always wrong*. This conception, more than anything else, has shaped Western attitudes about the morality of killing. That is why we may be reluctant to excuse Max Schur, even if he acted from noble motives. He intentionally killed an innocent person; therefore, according to our moral tradition, what he did was wrong.

Utilitarianism takes a very different approach. It asks, which action available to Max Schur would have produced the greatest balance of happiness over unhappiness? The person with the most at stake in the situation was Sigmund Freud. If Schur had not killed him, Freud would have lived on, in wretched pain. How much unhappiness would this have involved? It is hard to say precisely; but Freud's condition was so bad that he

preferred death. Killing him ended his agony. Therefore, utilitarians have concluded that euthanasia, in such a case, is morally right.

Although this kind of argument is very different from what one finds in the Christian tradition, the classical utilitarians did not think they were advocating an atheistic or anti-religious philosophy. Bentham suggests that the faithful would endorse, not condemn, the utilitarian standpoint if only they viewed God as a *benevolent* creator. He writes:

The dictates of religion would coincide, in all cases, with those of utility, were the Being, who is the object of religion, universally supposed to be as benevolent as he is supposed to be wise and powerful. . . . But among the [advocates] of religion . . . there seem to be but few (I will not say how few) who are real believers in his benevolence. They call him benevolent in words, but they do not mean that he is so in reality.

The morality of mercy killing might be a case in point. How, Bentham might ask, could a benevolent God forbid the killing of Sigmund Freud? If someone were to say that God is kind but he requires Freud to suffer more before dying, this would be exactly what Bentham means by “calling him benevolent in words, but not meaning that he is so in reality.”

The majority of religious people disagree with Bentham, and not only our moral tradition but our legal tradition has evolved under the influence of Christianity. Among Western nations, euthanasia is legal in only a handful of countries. In the United States, it is simply murder, and a doctor who intentionally kills her patient could spend the rest of her life in prison. What would Utilitarianism say about this? If, on the utilitarian view, euthanasia is moral, should it also be legal?

In general, we don’t want to outlaw morally acceptable behavior. Bentham was trained in the law, and he thought of the Principle of Utility as a guide for both legislators and ordinary people. The purpose of the law, he thought, is to promote the welfare of all citizens. In order to serve this purpose, it should restrict people’s freedom as little as possible. In particular, no activity should be outlawed unless that activity is harmful or dangerous to others. Bentham opposed, for example, laws regulating the sexual conduct of consenting adults. But it was

Mill who gave this principle its most eloquent expression, in his book *On Liberty* (1859):

the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. . . . Over himself, over his own body and mind, the individual is sovereign.

Thus, for the classical utilitarians, laws against euthanasia are not only contrary to the general welfare, they are also unjustified restrictions on people’s ability to control their own lives. When Max Schur killed Sigmund Freud, he was helping Freud end his life in the manner that Freud had chosen. No harm was caused to anyone else, and so it was no one else’s business. Consistent with his utilitarian philosophy, Bentham is said to have requested euthanasia in his final days, although we do not know whether this request was granted.

7.3. Second Example: Marijuana

William Bennett was America’s first “drug czar.” From 1989 to 1991, as President George H. W. Bush’s top advisor on drug policy, he advocated the aggressive enforcement of U.S. drug laws. Bennett, who holds a Ph.D. in philosophy, said, “The simple fact is that drug use is wrong. And the moral argument, in the end, is the most compelling argument.” Bennett’s “moral argument,” it seems, is just the assertion that drug use is wrong, by its very nature. What would utilitarians think about this? For them, there is no “simple fact” as to whether drug use is immoral. Rather, the moral argument must address the complex question of whether drug use increases or decreases happiness. Let’s think about one drug in particular: marijuana. What would a utilitarian say about the ethics of pot?

People have strong feelings on this topic. Younger people who use drugs might be defensive and deny that pot causes any harm at all; older people who don’t use drugs might be judgmental and fail to distinguish marijuana from harder drugs like cocaine and methamphetamine. A good utilitarian will try to put such feelings aside. What are the pros and cons of marijuana, according to Utilitarianism?

The main benefit of pot is the pleasure it brings. Marijuana can greatly enhance the pleasure of sensory activities, such as eating, listening to music, and having sex. This fact is almost never mentioned in public discussion; people seem to assume that enjoyment is irrelevant to morality. Utilitarians, however, disagree. For them, the whole issue is whether pot increases or decreases happiness.

How pleasurable is marijuana? Some people love it; some people don't like it; and a lot depends on whether it is used in a comfortable setting. Thus, it is hard to generalize. But the facts suggest that many people enjoy getting high. Marijuana is the most popular illicit drug in America: One-third of Americans have tried it; 6% have used it in the past month; and Americans spend more than \$10 billion per year on it, despite the threat of prison.

What unhappiness does marijuana cause? Some of the charges made against it are unfounded. First, marijuana does not cause violence; pot tends to make people passive, not aggressive. Second, marijuana is not a "gateway drug" that causes people to crave and use harder drugs. Often, people do use pot before using harder drugs, but that is because pot is so widely available. In neighborhoods where crack cocaine is easier to get, people usually try crack first. Third, marijuana is not highly addictive. According to the experts, it is less addictive than caffeine. Utilitarians do not want to base their assessment on false information.

Marijuana, however, does have some real disadvantages, which the utilitarian must weigh against the benefits. First, some people do get addicted to pot. For the addict, quitting is painful and difficult. Second, long-term heavy use can cause mild cognitive damage, which may decrease happiness. Third, getting high all the time would make a person unproductive. Fourth, *smoking* pot is bad for your respiratory system; one joint may be as bad for your lungs as about six cigarettes. However, ingesting marijuana in other ways—for example, by baking it into brownies—should not be bad for your lungs at all.

What do utilitarians conclude from all this? When we look at the harms and benefits, the occasional use of pot hardly seems to be a moral issue at all; there are no known disadvantages to it. Thus, utilitarians consider casual use to be a matter

of personal preference. Heavy marijuana use raises more complex issues. Does the pleasure one gets from long-term, heavy use outweigh the disadvantages? It is not easy to say, and utilitarians may disagree on this issue.

So far we've been discussing the individual's decision of whether to use marijuana. What about the law—should pot be illegal, according to Utilitarianism? Utilitarians believe that people tend to be happier if they have more freedom, and drug laws do reduce freedom. This counts in favor of legalization. What other factors are relevant?

If marijuana were legal, more people would use it, and several worries arise from that fact: society as a whole might become less productive; taxpayers might get stuck with the medical bills of heavy users; and more people might drive while high. It should be noted, however, that marijuana impairs driving ability only slightly, because people who are stoned drive cautiously and defensively.

On the other hand, society would be better off insofar as marijuana replaced alcohol as a drug of abuse: stoned citizens are unproductive, but alcoholics miss even more work because alcohol creates a hangover; alcoholism is especially expensive in terms of health care; alcohol impairs driving ability much more than pot does; and, finally, drunks are far more violent than potheads. One possible benefit of legalizing pot would be fewer alcoholics.

Also, there are two big costs to maintaining the current laws. The first is the lost revenue for society. With marijuana illegal, society spends money on criminal enforcement; with marijuana legal, society collects money from taxing pot. Legalizing marijuana in the U.S. would save about \$7.7 billion per year in enforcement costs, and it would generate between \$2.4 and \$6.2 billion in tax revenue, depending on whether pot was taxed normally or at the higher rate at which alcohol and tobacco are now taxed.

But the greatest cost is the harm done to the offenders. In the U.S., over 850,000 marijuana arrests are made each year, and more than 44,000 people are currently in prison for marijuana offenses. Not only is being arrested and incarcerated horrible, but ex-cons have trouble finding decent jobs. Utilitarians care about these harms, even though the harms are inflicted on lawbreakers who knew they might be punished.

Thus, almost all utilitarians favor the legalization of marijuana. On the whole, marijuana is less harmful than alcohol or cigarettes, which Western societies already tolerate. However, utilitarians must be flexible; if new evidence emerges, showing marijuana to be more harmful than was previously thought, then the utilitarian view might change.

7.4. Third Example: Nonhuman Animals

The treatment of nonhumans has traditionally been regarded as a trivial matter. Christians believe that man alone is made in God's image and that animals do not have souls. Thus, by the natural order of things, we can treat animals in any way we like. Saint Thomas Aquinas (1225–1274) summed up the traditional view when he wrote:

Hereby is refuted the error of those who said it is sinful for a man to kill brute animals; for by the divine providence they are intended for man's use in the natural order. Hence it is not wrong for man to make use of them, either by killing them or in any other way whatever.

But isn't it wrong to be *cruel* to animals? Aquinas concedes that it is, but he says the reason has to do with human welfare, not the welfare of the animals:

And if any passages of Holy Scripture seem to forbid us to be cruel to brute animals, for instance to kill a bird with its young, this is either to remove man's thoughts from being cruel to other men, lest through being cruel to animals one becomes cruel to human beings; or because injury to an animal leads to the temporal hurt of man, either of the doer of the deed, or of another. . . .

Thus, people and animals are in separate moral categories. Animals have no moral standing of their own; we are free to treat them in any way we please.

Spelled out as baldly as this, the traditional doctrine might make us a little nervous: It seems extreme in its lack of concern for nonhuman animals, many of which are, after all, intelligent and sensitive creatures. Yet only a little reflection is needed to see how much of our conduct is actually guided by this doctrine. We eat animals; we use them as experimental subjects in our laboratories; we use their skins for clothing and

their heads as wall ornaments; we make them the objects of our amusement in zoos and rodeos; and we track them down and kill them for sport.

If one is uncomfortable with the theological "justification" of these practices, Western philosophers have offered plenty of secular ones. Philosophers have said that animals are not *rational*, that they lack the ability to *speak*, or that they are simply not *human*—and all these are given as reasons why their interests are outside the sphere of moral concern.

The utilitarians, however, would have none of this. On their view, what matters is not whether an animal has a soul, is rational, or any of the rest. All that matters is whether it can experience happiness and unhappiness. If an animal can suffer, then we have a duty to take that into account when deciding what to do. In fact, Bentham argues that whether an animal is human or nonhuman is just as irrelevant as whether she is black or white. He writes:

The day *may* come when the rest of the animal creation may acquire those rights which never could have been withheld from them but by the hand of tyranny. The French have already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. It may one day come to be recognized that the number of the legs, the villosoity of the skin, or the termination of the *os sacrum* are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason, or perhaps the faculty of discourse? But a full-grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day or a week or even a month old. But suppose they were otherwise, what would it avail? The question is not, Can they *reason*? nor Can they *talk*? but, Can they *suffer*?

If a human is tormented, why is it wrong? Because that person suffers. Similarly, if a nonhuman is tormented, it also suffers. Whether it is a *human* or an *animal* that suffers is simply irrelevant. To Bentham and Mill, this line of reasoning was conclusive. Humans and nonhumans are equally entitled to moral concern.

This view may seem as extreme, in the opposite direction, as the traditional view that grants animals no moral standing at all. Are animals really to be regarded as the equals of humans? In some ways, Bentham and Mill thought so, but they did not believe that animals and humans must always be treated in the same way. There are factual differences between them that will often justify differences in treatment. For example, because of their intellectual capacities, humans can take pleasure in things that nonhumans cannot enjoy—mathematics, literature, strategy games, and so on. And, similarly, humans' superior capacities make them capable of frustrations and disappointments that other animals cannot experience. Thus, our duty to promote happiness entails a duty to promote those special enjoyments for humans, as well as to prevent any special harms they might suffer. At the same time, however, we have a moral duty to take into account the suffering of animals, and their suffering counts equally with any similar suffering experienced by a human.

In 1970, the British psychologist Richard D. Ryder coined the term “speciesism” to refer to the idea that animal interests matter less than human interests. Utilitarians believe that speciesism is discrimination against other species, just as racism is discrimination against other races. Ryder wonders how we can possibly justify experiments such as these:

- In Maryland in 1996, scientists used beagle dogs to study septic shock. They cut holes in the dogs' throats and placed *E. coli*-infected clots into their stomachs. Within three weeks, most of the dogs had died.
- In Taiwan in 1997, scientists dropped weights onto rats' spines in order to study spinal injury. The researchers found that greater injuries were caused by dropping the weights from greater heights.
- Since the 1990s, chimpanzees, monkeys, dogs, cats, and rodents have been used to study alcoholism. After addicting the animals to alcohol, scientists have observed such symptoms as vomiting, tremor, anxiety, and seizures. When the animals are in alcoholic withdrawal, scientists have induced convulsions by lifting them by their tails, by giving them electric shocks, and by injecting chemicals into their brains.

The utilitarian argument is simple enough. We should judge actions right or wrong depending on whether they cause more happiness or unhappiness. The animals in these experiments were obviously caused terrible suffering. Was there any compensating gain in happiness that justified it? Was greater unhappiness being prevented, for other animals or for humans? If not, the experiments were morally unacceptable.

This style of argument does not imply that all animal experiments are immoral. Rather, it suggests judging each one on its own merits. The utilitarian principle does, however, imply that experiments which cause a lot of pain require significant justification. We cannot simply assume that, in dealing with nonhumans, anything goes.

But criticizing animal experiments is too easy for most of us. We may feel self-righteous or superior because we do not do such research ourselves. All of us, however, are involved in cruelty when we eat meat. The facts about meat production are more disturbing than any facts about animal experimentation.

Most people believe, in a vague way, that slaughterhouses are unpleasant, but that animals raised for food are otherwise treated humanely. In fact, farm animals live in abhorrent conditions before being taken off to slaughter. Veal calves, for example, spend twenty-four hours per day in pens so small that they cannot turn around, lie down comfortably, or even twist their heads around to get rid of parasites. The producers put them in tiny pens to save money and to keep their meat tender. The cows clearly miss their mothers, and like human infants, they want something to suck, so they try in vain to suck the sides of their wooden stalls. The calves are also fed a diet deficient in iron and roughage, in order to keep their meat pale and tasty. Their craving for iron becomes so strong that they will lick at their own urine, if they're allowed to turn around—which normally they would never do. Without roughage, the calves cannot form a cud to chew. For this reason, they cannot be given straw bedding, since they would eat it, in an attempt to consume roughage. So, for these animals, the slaughterhouse is not an unpleasant end to an otherwise contented existence.

Among farm animals, veal calves suffer the most. Chickens, turkeys, pigs, and adult cows, however, all live in horrible conditions before being slaughtered. The utilitarian argument on these matters is simple enough. The system of meat

production causes enormous suffering for the animals with no compensating benefits. Therefore, we should abandon that system. We should either become vegetarians or else treat our animals humanely before killing them.

What is most revolutionary in all this is simply the idea that the interests of nonhuman animals *count*. We normally assume, as the dominant tradition of our society teaches, that human beings alone are worthy of moral consideration. Utilitarianism challenges that basic assumption and insists that the moral community must be expanded to include all creatures whose interests are affected by what we do. Human beings are in many ways special, and an adequate morality must acknowledge that. But we are not the only animals on this planet, and an adequate morality must acknowledge that fact as well.

CHAPTER 8

The Debate over Utilitarianism

The utilitarian doctrine is that happiness is desirable, and the only thing desirable, as an end; all other things being desirable as means to that end.

JOHN STUART MILL, *UTILITARIANISM* (1861)

Man does not strive after happiness; only the Englishman does that.
FRIEDRICH NIETZSCHE, *TWILIGHT OF THE IDOLS* (1889)

8.1. The Classical Version of the Theory

Classical Utilitarianism, the theory of Bentham and Mill, can be summarized in three propositions: (a) Actions are to be judged right or wrong solely by virtue of their consequences; nothing else matters. (b) In assessing consequences, the only thing that matters is the amount of happiness or unhappiness that is created; everything else is irrelevant. (c) Each person's happiness counts the same. Thus, right actions are those that produce the greatest balance of happiness over unhappiness, with each person's happiness counted as equally important.

This theory has profoundly influenced both ethicists and social scientists. Most ethicists, however, reject Utilitarianism, due to a slew of objections. In what follows, we will examine some of these objections and consider whether they succeed. In doing so, we will grapple with some fundamental questions in moral philosophy.

8.2. Is Pleasure All That Matters?

The question *What things are good?* is different from the question *What actions are right?* and Utilitarianism answers the second question by reference to the first. Right actions are the ones

that produce the most good. But what is good? The utilitarian reply is: happiness. As Mill puts it, “The utilitarian doctrine is that happiness is desirable, and the only thing desirable, as an end; all other things being desirable as means to that end.”

But what is happiness? According to the classical utilitarians, happiness is pleasure. Utilitarians understand “pleasure” broadly, to include all mental states that feel good. A sense of accomplishment, a delicious taste, and the heightened awareness that comes at the climax of a suspenseful movie are all examples of pleasure. The idea that pleasure is the one ultimate good—and pain the one ultimate evil—has been known since antiquity as Hedonism. Hedonism has always been attractive because of its simplicity and because it expresses the plausible notion that things are good or bad because of how they make us *feel*. Yet a little reflection seems to reveal flaws in this theory.

Consider these two examples:

- *You think someone is your friend, but he ridicules you behind your back.* No one tells you, so you never know. Is this unfortunate for you? Hedonists would have to say it is not, because you are never caused any pain. Yet we feel there is something bad going on. You are “being made a fool of,” even though you are unaware of it and you suffer no unhappiness.
- *A promising young pianist’s hands are injured in a car accident so that she can no longer play.* Why is this bad for her? Hedonists would say it is bad because it causes her pain and eliminates a source of joy for her. But suppose she finds something else that she enjoys just as much—suppose, for example, that she gets as much pleasure from watching hockey on TV as she once got from playing the piano. Why is her accident now a tragedy? The hedonist can only say that she will feel frustrated and upset whenever she thinks of what might have been, and her misfortune is that she feels bad. But this explanation gets things backwards. It is not as though, by feeling upset, she has turned a neutral situation into a bad one. On the contrary, the bad situation is what made her unhappy. She could have had a career as a concert pianist, and now she cannot. That is the tragedy. We cannot eliminate the tragedy just by getting her to cheer up and watch hockey.

Both of these examples make the same basic point: We value all sorts of things, such as artistic creativity and friendship, for their own sakes. It makes us happy to have them, but that’s not the only reason we value them. It seems like a misfortune to lose them, even if there is no loss of happiness.

For this reason, there are not many hedonists among contemporary philosophers. Those sympathetic to Utilitarianism have therefore sought a way to formulate their view without assuming a hedonistic account of the good. Some, such as the English philosopher G. E. Moore (1873–1958), have tried to compile short lists of things to be regarded as valuable in themselves. Moore suggested that there are three obvious intrinsic goods—pleasure, friendship, and aesthetic enjoyment—and so right actions are those actions that increase the world’s supply of these things. Other utilitarians bypass the question of how many things are good in themselves, saying only that right actions are the ones that have the best results, however that is measured. Still others say that we should act so as to maximize the satisfaction of people’s *preferences*. I won’t discuss the merits and demerits of these varieties of Utilitarianism. I mention them only to note that, although Hedonism has largely been rejected, contemporary utilitarians have not found it difficult to carry on.

8.3. Are Consequences All That Matter?

To determine whether an action is right, utilitarians believe that we should look at *what will happen as a result of doing it*. This idea is essential to the theory. If things other than consequences are important in determining what is right, then Utilitarianism is incorrect. Here are three arguments that attack the theory at just this point.

Justice. In 1965, writing in the racially charged climate of the American Civil Rights movement, H. J. McCloskey asks us to consider the following case:

Suppose a utilitarian were visiting an area in which there was racial strife, and that, during his visit, a Negro rapes a white woman, and that race riots occur as a result of the crime. . . . Suppose too that our utilitarian is in the area of the crime when it is committed such that his

testimony would bring about the conviction of [whomever he accuses]. If he knows that a quick arrest will stop the riots and lynchings, surely, as a utilitarian, he must conclude that he has a duty to bear false witness in order to bring about the punishment of an innocent person.

Such an accusation would have bad consequences—the innocent man would be convicted—but there would be enough good consequences to outweigh them: The riots and lynchings would be stopped. The best outcome would be achieved by lying; therefore, according to Utilitarianism, lying is the thing to do. But, the argument continues, it would be wrong to bring about the conviction of an innocent person. Therefore, Utilitarianism, which implies otherwise, must be incorrect.

According to the critics of Utilitarianism, this argument illustrates one of the theory's most serious shortcomings, namely, that it is incompatible with the ideal of justice. Justice requires that we treat people fairly, according to the merits of their particular situations. In McCloskey's example, Utilitarianism requires that we treat someone unfairly. Thus, Utilitarianism cannot be right.

Rights. Here is an example from the U.S. Court of Appeals. In the case of *York v. Story* (1963), arising out of California:

In October, 1958, appellant [Ms. Angelynn York] went to the police department of Chino for the purpose of filing charges in connection with an assault upon her. Appellee Ron Story, an officer of that police department, then acting under color of his authority as such, advised appellant that it was necessary to take photographs of her. Story then took appellant to a room in the police station, locked the door, and directed her to undress, which she did. Story then directed appellant to assume various indecent positions, and photographed her in those positions. These photographs were not made for any lawful or legitimate purpose.

Appellant objected to undressing. She stated to Story that there was no need to take photographs of her in the nude, or in the positions she was directed to take, because the bruises would not show in any photograph....

Later that month, Story advised appellant that the pictures did not come out and that he had destroyed them.

Instead, Story circulated these photographs among the personnel of the Chino police department. In April, 1960, two other officers of that police department, appellee Louis Moreno and defendant Henry Grote, acting under color of their authority as such, and using police photographic equipment located at the police station, made additional prints of the photographs taken by Story. Moreno and Grote then circulated these prints among the personnel of the Chino police department.

Ms. York brought suit against these officers and won. Her legal rights had clearly been violated. But what of the *morality* of the officers' behavior? Utilitarianism says that actions are defensible if they produce a favorable balance of happiness over unhappiness. This suggests that we compare the amount of unhappiness caused to York with the amount of pleasure the photographs gave to Officer Story and the others. It is at least possible that more happiness than unhappiness was created. In that case, the utilitarian conclusion would be that their actions were morally acceptable. But this seems to be a perverse way of thinking. Why should the pleasure of Story and his friends matter at all? They had no right to treat York in this way, and the fact that they enjoyed doing so hardly seems a relevant defense.

Consider a related case. Suppose a Peeping Tom spied on a woman through her bedroom window and secretly took pictures of her undressed. Further suppose that he did this without being detected and that he used the photographs entirely for his own pleasure, without showing them to anyone. Now, under these circumstances, the only consequence of his action seems to be an increase in his own happiness. No one else, including the woman, is caused any unhappiness at all. How, then, could Utilitarianism deny that the Peeping Tom's actions are right? But it is evident to moral common sense that they are not right. Thus, Utilitarianism appears to be unacceptable.

The key point to be drawn from this argument is that Utilitarianism is at odds with the idea that people have *rights* that may not be trampled on merely because one anticipates good results. In these cases, the woman's right to privacy is violated. But it would not be difficult to think of similar cases in which other rights are at issue—the right to worship freely, the right

to speak your mind, or even the right to live. It may happen that good purposes are served, from time to time, by violating these rights. But we do not think that our rights should be set aside so easily. The notion of a personal right is not a utilitarian notion. Quite the opposite: It is a notion that places limits on how an individual may be treated, regardless of the good purposes that might be accomplished.

Backward-Looking Reasons. Suppose you have promised someone you will do something—say, you promised to meet her at the mall this afternoon. But when the time comes to go, you don't want to do it; you need to catch up on some work and you would rather stay home. You try to call her up to cancel, but she isn't answering her cell phone. What should you do? Suppose you judge that the utility of getting your work done slightly outweighs the irritation your friend will experience from being stood up. Appealing to the utilitarian standard, you might conclude that staying home is better than keeping your promise. However, this does not seem correct. The fact that you *promised* imposes an obligation on you that you cannot escape so easily. Of course, if a great deal were at stake—if, for example, you had to rush your mother to the hospital—you would be justified in breaking the promise. But a *small* gain in utility cannot overcome the obligation created by your promise; the obligation should mean something, morally. Thus, Utilitarianism once again seems mistaken.

This criticism is possible because Utilitarianism cares only about the *consequences* of our actions. However, we normally think that considerations about the past are important, too. You made a promise to your friend, and that's a fact about the past. Utilitarianism seems faulty because it excludes such backward-looking reasons.

Once we understand this point, we can think of other examples of backward-looking reasons. The fact that someone committed a crime is a reason to punish him. The fact that someone did you a favor last week may be a reason why you should do her a favor next week. The fact that you did something to hurt someone may be a reason to make it up to him now. These are all facts about the past that are relevant to determining our obligations. But Utilitarianism makes the past irrelevant, and so it seems flawed.

8.4. Should We Be Equally Concerned for Everyone?

The last part of Utilitarianism says that we must treat each person's happiness as equally important—or as Mill put it, we must be “as strictly impartial as a disinterested and benevolent spectator.” Stated abstractly, this sounds plausible, but it has troublesome implications. One problem is that the requirement of “equal concern” places too great a demand on us; another problem is that it disrupts our personal relationships.

The Charge That Utilitarianism Is Too Demanding. Suppose you are on your way to the movies when someone points out that the money you are about to spend could be used to provide food for starving people or inoculations for third-world children. Surely, those people need food and medicine more than you need to see Brad Pitt and Angelina Jolie. So you forgo your entertainment and donate the money to a charitable agency. But that is not the end of it. By the same reasoning, you cannot buy new clothes, a car, a digital camera, or a PlayStation. Probably you should move into a cheaper apartment. After all, what's more important—that you have these luxuries, or that children have food?

In fact, faithful adherence to the utilitarian standard would require you to give away your resources until you've lowered your standard of living to the level of the neediest people you could help. Or rather, you'd need to leave yourself just enough to maintain your job, so that you can keep on giving. Although we admire people who do this, we do not regard them as simply doing their duty. Instead, we regard them as saintly people whose generosity goes *beyond* the call of duty. Philosophers call such actions *supererogatory*. But Utilitarianism seems unable to recognize this moral category.

The problem is not merely that Utilitarianism would require us to give up most of our material resources. It would also prevent us from carrying on our individual lives. We all have goals and projects that make our lives meaningful. An ethic that requires the subordination of everything to the promotion of the general welfare would force us to abandon those endeavors. Suppose you are a web designer, not getting rich but making a decent living; you have two children whom you love; and on

weekends, you like to perform with an amateur theater group. In addition, you enjoy reading history. How could there be anything wrong with this? But judged by the utilitarian standard, you are leading a morally unacceptable life. After all, you could be doing a lot more good if you spent your time in other ways.

The Charge That Utilitarianism Disrupts Our Personal Relationships. In practice, none of us is willing to treat everyone equally, since that would require us to abandon our special relationships with friends and family. We are all deeply partial where our family and friends are concerned. We love them, and we go to great lengths to help them. To us, they are not just members of the great crowd of humanity—they are special. But all this is inconsistent with impartiality. When you are impartial, you miss out on intimacy, love, affection, and friendship.

At this point, Utilitarianism seems to have lost touch with reality. What would it be like to be no more concerned for one's husband or wife than for strangers whom one has never met? The very idea is absurd; not only is it profoundly contrary to normal human emotions, but loving relationships could not even exist apart from special responsibilities and obligations. Again, what would it be like to treat one's children with no greater love than one has for strangers? As John Cottingham puts it, "A parent who leaves his child to burn" because "the building contains someone else whose future contribution to the general welfare promises to be greater, is not a hero; he is (rightly) an object of moral contempt, a moral leper."

8.5. The Defense of Utilitarianism

These arguments add up to an overwhelming indictment of Utilitarianism. The theory, which at first seemed so plausible and progressive, now seems indefensible. It seems at odds with justice and individual rights, and it seems unable to account for the place of backward-looking reasons in justifying conduct. It would have us give away most of our possessions and spoil the personal relationships that mean everything to us.

Not surprisingly, the combined weight of these arguments has prompted most philosophers to abandon the theory altogether. Some philosophers, however, continue to believe in Utilitarianism. Three general defenses have been offered.

The First Defense: Denying That the Consequences Would Be Good. The first defense says that the anti-utilitarian arguments make unrealistic assumptions. Most of those arguments share a common strategy. The critic describes a case and then says that Utilitarianism requires a certain action—bearing false witness, violating someone's rights, and so on. But, the critic says, these actions are obviously immoral. Therefore, Utilitarianism is incorrect.

But this strategy succeeds only if we agree that the actions described really would have the best consequences. And why should we agree with that? In the real world, lying under oath does *not* have good consequences. Suppose, in the case described by McCloskey, the "utilitarian" tried to incriminate the innocent man in order to stop the riots. He probably would not succeed; his lie might be found out, and then the situation would be even worse than before. Even if the lie succeeded, the real culprit would remain at large and might commit more crimes. Also, if the guilty party were caught later on, which is always possible, the liar would be in deep trouble, and confidence in the criminal justice system would erode. The moral is that although one might *think* that one can bring about the best consequences by such behavior, one cannot be certain of it. In fact, experience teaches the opposite: Utility is not served by framing innocent people.

The same goes for the other cases cited in the anti-utilitarian arguments. Lying, violating people's rights, breaking one's promises, and severing one's personal relationships all have bad consequences. Only in philosophers' imaginations is it otherwise. In the real world, Peeping Toms are caught, just as Officer Story and his cohorts were caught, and their victims suffer. In the real world, when people lie, their reputations suffer and other people get hurt; and when people break their promises and fail to return favors, they lose their friends.

So that is the first defense. How effective is it? Unfortunately, it contains more bluster than substance. While it is true that *most* acts of false witness and the like have bad consequences, it cannot be said that *all* such acts have bad consequences. At least once in a while, one can bring about a good result by doing something repugnant to moral common sense. Therefore, in at least some real-life cases, Utilitarianism will conflict with common sense. Moreover, even if the anti-utilitarian

arguments had to rely exclusively on fictitious examples, those arguments would nevertheless retain their power, for showing that Utilitarianism has unacceptable consequences in hypothetical cases is a valid way of critiquing it. The first defense, then, is weak.

The Second Defense: The Principle of Utility Is a Guide for Choosing Rules, Not Acts. Revising a theory is a two-step process: first, you identify which feature of the theory needs work; second, you change only that feature, leaving the rest of the theory intact. What feature of Classical Utilitarianism is causing the trouble?

The troublesome assumption is that *each individual action* should be evaluated by reference to the Principle of Utility. If on a certain occasion you are tempted to lie, classical Utilitarianism says that whether it would be wrong depends on the consequences of *telling that particular lie*; whether you should keep a particular promise depends on the consequences of *keeping that particular promise*; and so on for each of the examples we have considered. If what we care about is the consequences of particular actions, then we can always dream up circumstances in which a horrific action will have the best consequences.

Therefore, the new version of Utilitarianism modifies the theory so that individual actions are no longer judged by the Principle of Utility. Instead, we first ask what *set of rules* is optimal, from a utilitarian viewpoint. In other words, what rules should we follow to maximize happiness? Individual acts are then judged right or wrong according to whether they are acceptable or unacceptable by these rules. This new version of the theory is called “Rule-Utilitarianism,” to distinguish it from the original theory, now commonly called “Act-Utilitarianism.”

Rule-Utilitarianism has an easy answer to the anti-utilitarian arguments. An act-utilitarian would incriminate the innocent man in McCloskey’s example because the consequences of *that particular act* would be good. But the rule-utilitarian would not reason in that way. She would first ask, What rules of conduct tend to promote the most happiness? One good rule is “Don’t bear false witness against the innocent.” That rule is simple, easy to remember, and following it will almost always increase happiness. By appealing to it, the rule-utilitarian can conclude that in McCloskey’s example we should not testify against the innocent man.

Analogous reasoning can be used to establish rules against violating people’s rights, breaking promises, lying, betraying one’s friends, and so on. We should accept such rules because following them, as a regular practice, promotes the general happiness. We no longer judge acts by their utility but by their conformity with these rules. Thus, Rule-Utilitarianism cannot be convicted of violating our moral common sense. In shifting emphasis from the justification of acts to the justification of rules, Utilitarianism has been brought into line with our intuitive judgments.

However, a serious problem with Rule-Utilitarianism arises when we ask whether the ideal rules have *exceptions*. Must the rules be followed no matter what? What if a “forbidden” act would greatly increase the overall good? The rule-utilitarian might give any one of three replies.

First, if she says that in such cases we may violate the rules, it looks like she wants to assess actions on a case-by-case basis. This is Act-Utilitarianism, not Rule-Utilitarianism.

Second, she might suggest that we formulate the rules so that violating them never will increase happiness. For example, instead of using the rule “Don’t bear false witness against the innocent,” we might use the rule “Don’t bear false witness against the innocent, unless doing so would achieve some great good.” If we change all of the rules in this way, then Rule-Utilitarianism will be exactly like Act-Utilitarianism in practice; the rules we follow will always tell us to choose the act that promotes the most happiness in our particular circumstances. But now Rule-Utilitarianism does not provide a response to the anti-utilitarian arguments; like Act-Utilitarianism, it tells us to incriminate the innocent, to break our promises, to spy on people in their homes, and so on.

Finally, the rule-utilitarian might stand her ground and say that we should never break the rules, even to promote happiness. J. J. C. Smart (1920–) says that such a person suffers from an irrational “rule worship.” Whatever one thinks of that, this version of Rule-Utilitarianism is not really a utilitarian theory. Utilitarians care solely about happiness and about consequences; but this theory, in addition, cares about following rules. The theory is thus a mix of Utilitarianism and something else entirely. To paraphrase one writer, this type of Rule-Utilitarianism is like a rubber duck: just as a rubber duck is not

a kind of duck, this type of Rule-Utilitarianism is not a kind of Utilitarianism. And so, we cannot defend Utilitarianism by appealing to it.

The Third Defense: “Common Sense” Is Wrong. Finally, some utilitarians have offered a very different response to the objections. Upon being told that Utilitarianism conflicts with common sense, they respond, “So what?” Looking back at his own defense of Utilitarianism, J. J. C. Smart writes:

Admittedly utilitarianism does have consequences which are incompatible with the common moral consciousness, but I tended to take the view “so much the worse for the common moral consciousness.” That is, I was inclined to reject the common methodology of testing general ethical principles by seeing how they square with our feelings in particular instances.

This breed of utilitarian—hard-nosed and unapologetic—can offer three responses to the anti-utilitarian arguments.

The First Response: All Values Have a Utilitarian Basis. Critics of Utilitarianism say that the theory can’t make sense of some of our most important values—such as the value we attach to truth telling, promise keeping, respecting others’ privacy, and loving our children. Consider, for example, lying. The main reason not to lie, the critics say, has nothing to do with bad consequences. The reason is that lying is dishonest; it betrays people’s trust. That fact has nothing to do with the utilitarian calculation of benefits. Honesty has a value over and above any value that the utilitarian can acknowledge. The same is true of promise keeping, respecting others’ privacy, and loving our children.

But according to philosophers such as Smart, we should think about these values one at a time and consider why they’re important. When people lie, the lies are often discovered, and those betrayed feel hurt and angry. When people break their promises, they irritate their neighbors and alienate their friends. Someone whose privacy is violated may feel humiliated and want to withdraw from others. When people don’t care more about their own children than they do about strangers, their children feel unloved, and one day they too may become

unloving parents. All these things reduce happiness. Far from being at odds with the idea that we should be honest, dependable, respectful, and loving to our children, Utilitarianism explains why those things are good.

Moreover, apart from the utilitarian explanation, these duties would seem inexplicable. What could be stranger than the idea that lying is wrong “in itself,” apart from any harm it causes? And how could people have a “right to privacy” unless respecting that right brought about some benefit? On this way of thinking, Utilitarianism is not incompatible with common sense; on the contrary, Utilitarianism justifies the common-sense values we have.

The Second Response: Our Gut Reactions Can’t Be Trusted When Cases Are Exceptional. Although some cases of injustice serve the common good, those cases are exceptions. Lying, promise breaking, and violations of privacy usually lead to unhappiness, not happiness. This observation forms the basis of another utilitarian response.

Consider again McCloskey’s example of the person tempted to bear false witness. Why do we immediately and instinctively believe it to be wrong to bear false witness against an innocent person? The reason, some say, is that throughout our lives we have seen lies lead to misery and misfortune. Thus, *we instinctively condemn all lies, even ones that do not lead to misery and misfortune*. But when we condemn lies that are beneficial, our intuitive faculties are misfiring. Experience has taught us to condemn lies because they reduce happiness. Now, however, we are condemning lies that increase happiness. When confronting unusual cases, such as McCloskey’s, perhaps we should trust the Principle of Utility more than our gut instincts.

The Third Response: We Should Focus on All the Consequences. When we’re asked to consider a “despicable” action that maximizes happiness, the action is often presented in a way that encourages us to focus on its bad effects, and not on its good effects. If instead we focus on *all* the effects of the act, Utilitarianism seems more plausible.

Consider yet again the McCloskey example. McCloskey says it would be wrong to convict an innocent man because that would be unjust. But what about the *other* innocent people who

will be hurt if the rioting and lynchings continue? What about the pain that will be endured by those who are beaten and tormented by the mob? What about the deaths that will occur if the man doesn't lie? Children will lose their parents, and parents will lose their children. Of course, we never want to face a situation like this. But if we must choose between securing the conviction of one innocent person and allowing the deaths of several innocent people, is it so unreasonable to think that the first option is preferable?

And consider again the objection that Utilitarianism is too demanding because it tells us to use our resources to feed starving children rather than using those resources to eat at restaurants. If we focus our thoughts on those who would starve, do the demands of Utilitarianism seem so unreasonable? Isn't it self-serving of us to say that Utilitarianism is "too demanding," rather than saying that we should feed starving children?

This strategy works better for some cases than for others. Consider the Peeping Tom. The unapologetic utilitarian will tell us to consider the pleasure *he* gets from spying on unsuspecting women. If he gets away with it, what harm has been done? Why should his action be condemned? Most people will condemn his behavior, despite the utilitarian arguments. Utilitarianism, as Smart suggests, cannot be fully reconciled with common sense.

Nevertheless, some philosophers think that Act-Utilitarianism is a perfectly defensible doctrine that does not need to be modified. Even so, it must be said that Utilitarianism is a radical doctrine that challenges many commonsense assumptions. In this respect, it does what good philosophy always does—it makes us think about things that we take for granted.

8.6. Concluding Thoughts

If we consult what Smart calls our "common moral consciousness," many considerations other than utility seem morally important. But Smart is right to warn us that "common sense" cannot be trusted. That may turn out to be Utilitarianism's greatest contribution. The deficiencies of moral common sense become obvious if we think for only a moment. Many white people once felt that there was an important difference between whites and blacks, so that the interests of whites were somehow

more important. Trusting the "common sense" of their day, they might have insisted that an adequate moral theory should accommodate this "fact." Today, no one worth listening to would say such a thing, but who knows how many other irrational prejudices are still part of our moral common sense? At the end of his classic study of race relations, *An American Dilemma*, Nobel Laureate Gunnar Myrdal (1898–1987) reminds us:

There must be still other countless errors of the same sort that no living man can yet detect, because of the fog within which our type of Western culture envelops us. Cultural influences have set up the assumptions about the mind, the body, and the universe with which we begin; pose the questions we ask; influence the facts we seek; determine the interpretation we give these facts; and direct our reaction to these interpretations and conclusions.

Could it be, for example, that future generations will look back in disgust at the way affluent people in the 21st century enjoyed their comfortable lives while third-world children died of easily preventable diseases? Or at the way we confined and slaughtered helpless animals? If so, they might note that utilitarian philosophers were ahead of their time in condemning such things.