

2.1 Utilitarianism: Weighing Social Costs and Benefits

We begin by looking at that approach to moral decision making that the Caltex managers took when they claimed that they should remain in South Africa because that course of action would have the most beneficial consequences. This approach is sometimes referred to as a *consequentialist* approach and sometimes as a *utilitarian* approach. To see more clearly what the approach involves, let us look at a situation where this approach was a basic consideration in a business decision that had a dramatic impact on the lives of many people.

During the last century, Ford lost market share to Japanese companies making compact, fuel-efficient cars. Lee Iaccoca, president of Ford at the time, determined to regain Ford's share by rapidly developing a new small car called the Pinto.⁴ The Pinto would weigh less than 2,000 pounds, cost less than \$2,000, and be brought to market in 2 years instead of the normal 4. Because the Pinto was a rush project, styling considerations dictated engineering design to a greater degree than usual. In particular, the Pinto's styling required that the gas tank be placed behind the rear axle, where it was more vulnerable to being punctured in case of a rear-end collision. When an early model of the Pinto was crash-tested, it was found that, when struck from the rear at 20 miles per hour or more, the gas tank would sometimes rupture and gas would spray out and into the passenger compartment. In a real accident, stray sparks might explosively ignite the spraying gasoline and possibly burn any trapped occupants.

Ford managers decided, nonetheless, to go ahead with production of the Pinto for several reasons. First, the design met all the applicable legal and government standards then in effect. At the time, government regulations required that a gas tank only remain intact in a rear-end collision of less than 20 miles per hour. Second, Ford managers felt that the car was comparable in safety to several other cars then being produced by other auto companies. Third, according to an internal cost-benefit study that Ford carried out, the costs of modifying the Pinto would not be balanced by the

benefits. The study showed that modifying the gas tank of the 12.5 million autos that would eventually be built would cost about \$11 a unit for \$137 million:

Costs:

$$\$11 \times 12.5 \text{ million autos} = \$137 \text{ million}$$

However, statistical data showed that the modification would prevent the loss of about 180 burn deaths, 180 serious burn injuries, and 2,100 burned vehicles. At the time (1970), the government officially valued a human life at \$200,000, insurance companies valued a serious burn injury at \$67,000, and the average residual value on sub-compacts was \$700. So in monetary terms, the modification would have the benefit of preventing losses with a total value of only \$49.15 million:

Benefits:

$$(180 \text{ deaths} \times \$200,000) + (180 \text{ injuries} \times \$67,000) + (2,100 \text{ vehicles} \times \$700) = \$49.15 \text{ million}$$

Thus, a modification that would ultimately cost customers \$137 million (because the costs of the modification would be added to the price of the car) would result in the prevention of customer losses valued at only \$49.15 million. It was not right, the study argued, to spend \$137 million of society's money to provide a benefit society valued at only \$49.15 million.

Ford subsequently went ahead with production of the unmodified Pinto. It is estimated that in the decade that followed at least 60 persons died in fiery accidents involving Pintos and that at least twice that many suffered severe burns over large areas of their bodies, many requiring years of painful skin grafts. Ford eventually phased out the Pinto model.

The kind of analysis that Ford managers used in their cost-benefit study is a version of what has been traditionally called *utilitarianism*. **Utilitarianism** is a general term for any view that holds that actions and policies should be evaluated on the basis of the benefits and costs they will impose on society. In any situation, the "right" action or policy is the one that will produce the greatest net benefits or the lowest net costs (when all alternatives have only net costs).

The Ford managers reduced costs and benefits primarily to economic costs and benefits (such as medical costs, loss of income, and damage to buildings) and these were measured in monetary terms. But the benefits of an action may include any desirable goods (pleasures, health, lives, satisfactions, knowledge, happiness) produced by the action, and costs may include any of its undesirable evils (pain, which the Ford study did take into account, sickness, death, dissatisfaction, ignorance, unhappiness). The inclusive term used to refer to the net benefits of any sort produced by an action is **utility**. Hence, the name *utilitarianism* is used for any theory that advocates selection of that action or policy that maximizes benefits (or minimizes costs).

Many business analysts hold that the best way to evaluate the ethical propriety of a business decision—or any other decision—is by relying on utilitarian cost-benefit analysis.⁵ The socially responsible course for a business to take is the one that will produce the greatest net benefits for society or impose the lowest net costs. Several government agencies, many legal theorists, numerous moralists, and a variety of business analysts advocate utilitarianism.⁶ We begin our discussion of ethical principles by examining this popular approach.

utilitarianism A general term for any view that holds that actions and policies should be evaluated on the basis of the benefits and costs they will impose on society.

utility The inclusive term used to refer to any net benefits produced by an action.

Traditional Utilitarianism

Jeremy Bentham (1748–1832) is generally considered the founder of traditional utilitarianism.⁷ Bentham sought an objective basis for making value judgments that would provide a common and publicly acceptable norm for determining social policy and social legislation. The most promising way to reach such an objective ground of agreement, he believed, is by looking at the various policies a legislature could enact and comparing the beneficial and harmful consequences of each. The right course of action from an ethical point of view would be to choose the policy that would produce the greatest amount of utility. Summarized, the utilitarian principle holds that

An action is right from an ethical point of view if and only if the sum total of utilities produced by that act is greater than the sum total of utilities produced by any other act the agent could have performed in its place.

The utilitarian principle assumes that we can somehow measure and add the quantities of benefits produced by an action and subtract from them the measured quantities of harm the action will have and thereby determine which action produces the greatest total benefits or the lowest total costs. That is, the principle assumes that all the benefits and costs of an action can be measured on a common numerical scale and then added or subtracted from each other.⁸ The satisfactions that an improved work environment imparts to workers, for example, might be equivalent to 500 positive units of utility, whereas the resulting bills that arrive the next month might be equivalent to 700 negative units of utility. Therefore, the total combined utility of this act (improving the work environment) would be 200 units of *negative* utility.

When the utilitarian principle says that the right action for a particular occasion is the one that produces more utility than any other possible action, it does not mean that the right action is the one that produces the most utility for the person performing the action. Rather, an action is right if it produces the most utility for *all* persons affected by the action (including the person performing the action).⁹ Nor does the utilitarian principle say that an action is right so long as its benefits outweigh its costs. Rather, utilitarianism holds that, in the final analysis, only one action is right: that one action whose net benefits are greatest by comparison to the net benefits of all other possible alternatives. A third misunderstanding is to think that the utilitarian principle requires us to consider only the direct and immediate consequences of our actions. Instead, both the immediate and all foreseeable future costs and benefits that each alternative will provide for each individual must be taken into account as well as any significant indirect effects.

Consequently, to determine how I should behave on a particular occasion, I must do three things. First, I must determine what alternative actions or policies are available to me on that occasion. The Ford managers, for example, were implicitly considering two alternatives: to redesign the Pinto by putting a rubber bladder around the gas tank or leave it as originally designed. Second, for each alternative action, I must estimate the direct and indirect benefits and costs that the action will probably produce for each and every person affected by the action in the foreseeable future. Ford's calculations of the costs and benefits that all affected parties would have to bear if the Pinto design were changed, and those that all parties would have to bear if it were not changed, are examples of such estimates. Third, the alternative that produces the greatest sum total of utility must be chosen as the ethically appropriate course of action. The Ford managers, for example, decided that the course of action that would impose the lowest costs and the greatest benefits would be to leave the Pinto design unchanged.

Utilitarianism is in many respects an attractive theory. For one thing, it matches fairly nicely the views that we tend to advocate when discussing the choice of government policies and public goods. Most people agree, for example, that when the government is trying to determine on which public projects it should spend tax monies, the proper course of action would be for it to adopt those projects that objective studies show will provide the greatest benefits for the members of society at the least cost. Of course, this is just another way of saying that the proper government policies are those that would have the greatest measurable utility for people—or, in the words of a famous slogan, those that will produce “the greatest good for the greatest number.”

Utilitarianism also seems to fit in rather neatly with the intuitive criteria that people employ when discussing moral conduct.¹⁰ For example, when people explain why they have a moral obligation to perform some action, they often proceed by pointing to the benefits or harms the action will impose on human beings. Moreover, morality requires that one impartially take everyone’s interest equally into account. Utilitarianism meets this requirement insofar as it takes into account the effects actions have on everyone and insofar as it requires one to impartially choose the action with the greatest net utility regardless of who gets the benefits.

Utilitarianism also has the advantage of being able to explain why we hold that certain types of activities are generally morally wrong (lying, adultery, killing) while others are generally morally right (telling the truth, fidelity, keeping one’s premises). The utilitarian can say that lying is generally wrong because of the costly effects lying has on our human welfare. When people lie to each other, they are less apt to trust each other and cooperate with each other. The less trust and cooperation, the more our welfare declines. Telling the truth is generally right because it strengthens cooperation and trust and thereby improves everyone’s well-being. In general, then, it is a good rule of thumb to tell the truth and to refrain from lying. Traditional utilitarians would deny, however, that any kinds of actions are always right or always wrong. They would deny, for example, that dishonesty or theft is necessarily always wrong. If in a certain situation more good consequences would flow from being dishonest than from any other act a person could perform in that situation, then, according to traditional utilitarian theory, dishonesty would be morally right in that particular situation.

Utilitarian views have also been highly influential in economics.¹¹ A long line of economists, beginning in the 19th century, argued that economic behavior could be explained by assuming that human beings always attempt to maximize their utility and that the utilities of commodities can be measured by the prices people are willing to pay for them. With these and a few other simplifying assumptions (such as the use of indifference curves), economists were able to derive the familiar supply and demand curves of sellers and buyers in markets and explain why prices in a perfectly competitive market gravitate toward an equilibrium. More important, economists were also able to demonstrate that a system of perfectly competitive markets would lead to a use of resources and price variations that would enable consumers to maximize their utility (defined in terms of Pareto optimality) through their purchases.¹² On utilitarian grounds, therefore, these economists concluded that such a system of markets is better than any other alternative.

Utilitarianism is also the basis of the techniques of economic **cost-benefit analysis**.¹³ This type of analysis is used to determine the desirability of investing in a project (such as a dam, factory, or public park) by figuring whether its present and future economic benefits outweigh its present and future economic costs. To calculate these costs and benefits, discounted monetary prices are estimated for all the effects the project will have on the present and future environment and on present and future populations. Carrying out these sorts of calculations is not always an easy matter, but various methods have been devised for determining the monetary prices of even such



Quick Review 2.1

Utilitarianism

- Advocates maximizing utility
- Matches well with moral evaluations of public policies
- Appears intuitive to many people
- Helps explain why some actions are generally wrong and others are generally right
- Influenced economics

cost-benefit analysis A type of analysis used to determine the desirability of investing in a project by figuring whether its present and future economic benefits outweigh its present and future economic costs.

efficiency Operating in such a way that one produces a desired output with the lowest resource input.

intangible benefits as the beauty of a forest (e.g., we might ask how much people pay to see the beauty of a similar privately owned park). If the monetary benefits of a certain public project exceed the monetary costs and if the excess is greater than the excess produced by any other feasible project, then the project should be undertaken. In this form of utilitarianism, the concept of utility is restricted to monetarily measurable economic costs and benefits.

Finally, we can note that utilitarianism fits nicely with a value that many people prize: efficiency. **Efficiency** can mean different things to different people, but for many it means operating in such a way that one produces the most one can with the resources at hand. That is, an efficient operation is one that produces a desired output with the lowest resource input. Such efficiency is precisely what utilitarianism advocates because it holds that one should always adopt the course of action that will produce the greatest benefits at the lowest cost. If we read "desired output" in the place of "benefits" and "resource input" in place of "cost," utilitarianism implies that the right course of action is always the most efficient one.

Measurement Problems

One major set of problems with utilitarianism is centered on the difficulties encountered when trying to measure utility.¹⁴ One problem is this: How can the utilities different actions have for different people be measured and compared as utilitarianism requires? Suppose you and I would both enjoy getting a certain job: How can we figure out whether the utility you would get out of having the job is more or less than the utility I would get out of having it? Each of us may be sure that he or she would benefit most from the job, but because we cannot get into each other's skin, this judgment has no objective basis. Comparative measures of the values things have for different people cannot be made, the critics argue, thus there is no way of knowing whether utility would be maximized by giving me the job or giving you the job. If we cannot know which actions will produce the greatest amounts of utility, then we cannot apply the utilitarian principle.

A second problem is that some benefits and costs seem intractable to measurement. How, for example, can one measure the value of health or life?¹⁵ Suppose that installing an expensive exhaust system in a workshop will eliminate a large portion of certain carcinogenic particles that workers might otherwise inhale. Suppose that as a result some of the workers probably will live 5 years longer. How is one to calculate the value of those years of added life, and how is this value to be quantitatively balanced against the costs of installing the exhaust system? The Ford managers, when considering the deaths that the Pinto design would cause, decided that a human life was worth \$250,000 (in 1970 dollars). But doesn't the price they assigned to a life seem arbitrary and doesn't the attempt to price life seem morally inappropriate?

A third problem is that, because many of the benefits and costs of an action cannot be reliably predicted, they also cannot be adequately measured.¹⁶ The beneficial or costly consequences of basic scientific knowledge, for example, are notoriously difficult to predict. Yet suppose that one has to decide how much to invest in a research program that will probably uncover some highly theoretical, but not immediately useful, information about the universe. How is the future value of that information to be measured, and how can it be weighed against either the present costs of funding the research or the more certain benefits that would result from putting the funds to an alternative use, such as adding a new wing to the local hospital or building housing for the poor?

Yet a fourth problem is that it is unclear exactly what is to count as a benefit and what is to count as a cost.¹⁷ This lack of clarity is especially problematic with respect

to social issues that are given significantly different evaluations by different cultural groups.

Finally, the utilitarian assumption that all goods are measurable implies that all goods can be traded for equivalents of each other: For a given quantity of any specific good, there is some quantity of each other good that is equal in value to it. For example, if you are willing to trade the enjoyment of eating two slices of pizza for the enjoyment of a half hour of listening to your favorite CD recording, and vice versa, then these two quantities of goods are equal in value to you. Utilitarianism must assume that all goods are tradable for some quantity of any other good because it holds that there is some scale on which all goods can be measured, and so by using this scale we can discover what quantity of any good is equivalent to a given quantity of any other good. However, critics have argued that there are some **noneconomic goods**—such as life, love, freedom, equality, health, beauty—whose value is such that no quantity of any economic good is equal in value to the value of the noneconomic good.¹⁸ No amount of money—or pizzas or CDs—can be equal in value to life, love, freedom, equality, health, or beauty.

The critics of utilitarianism contend that these measurement problems undercut whatever claims utilitarian theory makes to providing an objective basis for determining normative issues. These problems have become especially obvious in debates over the feasibility of corporate social audits.¹⁹ Although business firms have been increasingly pressured to produce an “audit” or report measuring the social costs and benefits resulting from their business activities, their efforts have been stymied by their inability to place quantitative measures on their various programs and by differences of opinion over what should be counted as a benefit.²⁰ The only way of resolving these problems is by arbitrarily accepting the valuations of one social group or another. But this in effect bases utilitarian cost-benefit analysis on the subjective biases and tastes of that group.

noneconomic goods

Goods, such as life, love, freedom, equality, health, beauty, whose value is such that no quantity of any economic good is equal in value to the value of the noneconomic good.

Utilitarian Replies to Measurement Objections

The defender of utilitarianism has an array of replies ready to counter the measurement objections enumerated.

First, the utilitarian may argue that, although utilitarianism ideally requires accurate quantifiable measurements of all costs and benefits, this requirement can be relaxed when such measurements are impossible.²¹ Utilitarianism merely insists that the consequences of any projected act be expressly stated with as much clarity and accuracy as is humanly possible and that all relevant information concerning these consequences be presented in a form that will allow them to be systematically compared and impartially weighed against each other. Expressing this information in quantitative terms facilitates such comparisons and weighings. However, where quantitative data are unavailable, one may legitimately rely on shared and commonsense judgments of the comparative values things have for most people. For example, we know that, by and large, cancer is a greater injury than a cold no matter who has the cancer and who has the cold. Similarly, a steak has a greater value as food than a peanut no matter whose hunger is involved.

The utilitarian can also point to several commonsense criteria that can be used to determine the relative values that should be given to various categories of goods. One criterion, for example, depends on the distinction between *intrinsic* and *instrumental*

instrumental goods

Things that are considered valuable because they lead to other good things.

intrinsic goods Things that are desirable independent of any other benefits they may produce.

goods.²² **Instrumental goods** are things that are considered valuable only because they lead to other good things. A painful visit to the dentist, for example, is only an instrumental good (unless I happen to be a masochist): It is desired only as a means to health. **Intrinsic goods**, however, are things that are desirable independent of any other benefits they may produce. Thus, health is an intrinsic good: It is desired for its own sake. (Many things, of course, have both intrinsic and instrumental value. I may use a skateboard, for example, not only because skateboarding is a means to health and rapid transportation but also because I enjoy skateboarding for itself.) Now it is clear that intrinsic goods take priority over instrumental goods. Under most circumstances, for example, money, which is an instrumental good, must not take priority over life and health, which have intrinsic values.

A second common-sense criterion that can be used to weigh goods turns on the distinction between needs and wants.²³ To say that someone needs something is to say that without it that person will be harmed in some way. People's "basic" needs consist of their needs for things without which they will suffer some fundamental harm such as injury, illness, or death. Among a person's basic needs are the food, clothing, and housing required to stay alive; the medical care and hygienic environment required to remain healthy; and the security and safety required to remain free from injury. However, to say that a person wants something is to say that the person desires it: The person believes it will advance his or her interests in some way. A need, of course, may also be a want: If I know I need something, then I may also want it. Many wants, however, are not needs but simply desires for things without which the individual would not suffer any fundamental harm. I may want something simply because I enjoy it, even though it is a luxury I could as well do without. Desires of this sort that are not also needs are called *mere* wants. In general, satisfying a person's basic needs is more valuable than satisfying his or her mere wants. If people do not get something for which they have a basic need, they may be injured in a way that makes it impossible for them to enjoy the satisfaction of any number of mere wants. Because the satisfaction of a person's basic needs makes possible not only the intrinsic values of life and health but also the enjoyment of most other intrinsic values, satisfaction of the basic needs has a value that is greater than that of satisfying mere wants.

However, these commonsense methods of weighing goods are only intended to aid us in situations where quantitative methods fail. In actual fact, the consequences of many decisions are relatively amenable to quantification, the convinced utilitarian will claim. This constitutes the utilitarian's second major reply to the measurement objections as previously outlined.

The most flexible method of providing a common quantitative measure for the benefits and costs associated with a decision, the utilitarian may hold, is in terms of their monetary equivalents.²⁴ Basically, this implies that the value a thing has for a person can be measured by the price the person is willing to pay for it. If a person will pay twice as much for one thing as for another, then that thing has exactly twice the value of the other for that person. To determine the average values items have for a group of people, then, one need merely look at the average prices given to those items when everyone is allowed to bid for them on open markets. In short, market prices can serve to provide a common quantitative measure of the various benefits and costs associated with a decision. In general, to determine the value of a thing, one need merely ask what it sells for on an open market. If the item does not sell on an open market, then one can ask what is the selling price for similar items.

The use of monetary values also has the advantage of allowing one to take into account the effects of the passage of time and the impact of uncertainty. If the known monetary costs or benefits lie in the future, then their present values can be determined by discounting them at the appropriate rate of interest. If the monetary costs or

benefits are only probable and not certain, then their expected values can be computed by multiplying the monetary costs or benefits by the appropriate probability factor.

A standard objection against using monetary values to measure all costs and benefits is that some goods, in particular health and life, cannot be priced. The utilitarian may argue, however, that not only is it possible to put a price on health and life but that we do so almost daily. Anytime people place a limit on the amount of money they are willing to pay to reduce the risk that some event poses to their lives, they have set an implicit price on their own lives. For example, suppose that people are willing to pay \$5 for a piece of safety equipment that will reduce the probability of their being killed in an auto accident from .00005 to .00004, but they are unwilling to pay any more than that. Then, in effect, they have implicitly decided that .00001 of a life is worth \$5—or, in other words, that a life is worth \$500,000. Such pricing is inevitable and necessary, the utilitarian may hold, so long as we live in an environment in which risks to health and life can be lowered only by giving up (trading off) other things that we may want and on which we set a clear price.

Finally, the utilitarian may say, where market prices are incapable of providing quantitative data for comparing the costs and benefits of various decisions, other sorts of quantitative measures are available.²⁵ Should people disagree, for example, as they often do, over the harmful or beneficial aspects of various sexual activities, then sociological surveys or political votes can be used to measure the intensity and extensiveness of people's attitudes. Economic experts can also provide informed judgments of the relative quantitative values of various costs and benefits. Thus, the utilitarian will grant that the problems of measurement encountered by utilitarianism are real enough. They are at least partially soluble by the various methods enumerated. There are, however, other criticisms of utilitarianism.

Problems with Rights and Justice

The major difficulty with utilitarianism, according to some critics, is that it is unable to deal with two kinds of moral issues: those relating to rights and those relating to justice.²⁶ That is, the utilitarian principle implies that certain actions are morally right when in fact they are unjust or violate people's rights. Some examples may serve to indicate the sort of difficult counterexamples critics pose for utilitarianism.

First, suppose that your uncle has an incurable and painful disease, so that he is quite unhappy but does not choose to die. Although he is hospitalized and will die within a year, he continues to run his chemical plant. Because of his own misery, he deliberately makes life miserable for his workers and has insisted on not installing safety devices in his chemical plant, although he knows that as a result one life will certainly be lost over the next year. You, his only living relative, know that on your uncle's death you will inherit his business and not only will you be wealthy and immensely happy but you also intend to prevent any future loss of life by installing the needed safety devices. You are cold-blooded and correctly judge that you could secretly murder your uncle without being caught and without your happiness being in any way affected by it afterward. If it is possible for you to murder your uncle without in any way diminishing anyone else's happiness, then according to utilitarianism you have a moral obligation to do so. By murdering your uncle, you are trading his life for the life of the worker, and you are gaining your happiness while doing away with his unhappiness and pain—the gain is obviously on the side of utility. However, the critics of utilitarianism claim, it seems quite clear that the murder of your uncle would be a gross violation of his right to life. Utilitarianism has led us to approve an act of murder that is an obvious violation of an individual's most important right.

Second, utilitarianism can also go wrong, according to the critics, when it is applied to situations that involve social justice. For example, suppose that subsistence wages force a small group of migrant workers to continue doing the most undesirable agricultural jobs in an economy but produce immense amounts of satisfaction for the vast majority of society's members, because they enjoy cheap vegetables and savings that allow them to indulge other wants. Suppose also that the amounts of satisfaction thereby produced, when balanced against the unhappiness and pain imposed on the small group of farm workers, results in a greater net utility than would exist if everyone had to share the burdens of farm work. Then, according to the utilitarian criterion, it would be morally right to continue this system of subsistence wages for farm workers. However, to the critics of utilitarianism, a social system that imposes such unequal sharing of burdens is clearly immoral and offends against justice. The great benefits the system may have for the majority does not justify the extreme burdens that it imposes on a small group. The shortcoming this counterexample reveals is that utilitarianism allows benefits and burdens to be distributed among the members of society in any way whatever, so long as the total amount of benefits is maximized. In fact, some ways of distributing benefits and burdens (like the extremely unequal distributions involved in the counterexample) are unjust regardless of how great the store of benefits such distributions produce. Utilitarianism looks only at how much utility is produced in a society and fails to take into account how that utility is distributed among the members of society.

To see more clearly how utilitarianism ignores considerations of justice and rights, consider how Ford's managers dealt with the Pinto's design. Had they decided to change the Pinto's design and add \$11 to the cost of each Pinto, they would, in effect, have forced all the buyers of the Pinto to share in paying the \$137 million that the design change would cost. Each buyer would pay an equal share of the total costs necessitated by this aspect of the Pinto design. However, by not changing the Pinto's design, the Ford managers were in effect forcing the 180 people who would die to absorb all the costs of this aspect of the Pinto design. So we should ask: Is it more just to have 180 buyers bear all the costs of the Pinto design by themselves, or is it more just to distribute the costs equally among all buyers? Which is the fairest way of distributing these costs?

Consider, next, that when Ford's managers decided to make no change to the Pinto's design, they were not only making the Pinto cheaper, they were also building a car with a certain amount of risk (to life): Those who drove the Pinto would be driving a car that posed a slightly greater risk to life than they might have reasonably assumed it posed. It is possible that drivers of the Pinto would have gladly accepted this slightly added risk to life in exchange for the lower price of the car. But they had no choice in the matter, because they did not know the car carried this added risk. So we should ask: Do people have the right to know what they are buying when they choose to purchase a product? Do people have a right to choose whether to have greater risk added to their lives? Did the makers of the Pinto violate this basic right of customers to freely choose for themselves whether to accept a riskier car in return for a lower price?

Thus, the Pinto case makes clear that utilitarianism seems to ignore certain important aspects of ethics. Considerations of **justice** (which look at how benefits and burdens are distributed among people) and **rights** (which look at individual entitlements to freedom of choice and well-being) seem to be ignored by an analysis that looks only at the costs and benefits of decisions.

justice Distributing benefits and burdens fairly among people.

rights Individual entitlements to freedom of choice and well-being.

rule-utilitarianism: The basic strategy of limiting utilitarian analysis to evaluations of moral rules.

Utilitarian Replies to Objections on Rights and Justice

To deal with the sorts of counterexamples that critics of traditional utilitarianism have offered, utilitarians have proposed an important and influential alternative version of utilitarianism called **rule-utilitarianism**.²⁷ The basic strategy of the rule-utilitarian is

to limit utilitarian analysis to the evaluations of moral rules. According to the rule-utilitarian, when trying to determine whether a particular action is ethical, one is never supposed to ask whether that particular action will produce the greatest amount of utility. Instead, one is supposed to ask whether the action is required by the correct moral rules that everyone should follow. If the action is required by such rules, then one should carry out the action. But what are the "correct" moral rules? It is only this second question, according to the rule-utilitarian, that is supposed to be answered by reference to maximizing utility. The correct moral rules are those that would produce the greatest amount of utility if everyone were to follow them. An example may make this clear.

Suppose I am trying to decide whether it is ethical for me to fix prices with a competitor. Then, according to the rule-utilitarian, I should not ask whether this particular instance of price-fixing will produce more utility than anything else I can do. Instead, I should first ask myself: What are the correct moral rules with respect to price-fixing? Perhaps I might conclude, after some thought, that the following list of rules includes all the candidates:

1. Managers are never to meet with competitors for the purpose of fixing prices.
2. Managers may always meet with competitors for the purpose of fixing prices.
3. Managers may meet with competitors for the purpose of fixing prices when they are losing money.

Which of these three is the correct moral rule? According to the rule-utilitarian, the correct moral rule is the one that would produce the greatest amount of utility for everyone affected. Let us suppose that after analyzing the economic effects of price-fixing, I conclude that within our economic and social circumstances people would benefit much more if everyone followed Rule 1 than if everyone followed Rule 2 or 3. If this is so, then Rule 1 is the correct moral rule concerning price-fixing. Now that I know what the correct moral rule on price-fixing is, I can go on to ask a second question: Should I engage in this particular act of fixing prices? To answer this second question, I only have to ask: What is required by the correct moral rules? As we have already noted, the correct rule is to never fix prices. Consequently, even if on this particular occasion, fixing prices actually would produce more utility than not doing so, I am, nonetheless, ethically obligated to refrain from fixing prices because this is required by the rules from which everyone in my society would most benefit.

The theory of the rule-utilitarian, then, has two parts, which we can summarize in the following two principles:

- I.** An action is right from an ethical point of view if and only if the action would be required by those moral rules that are correct.
- II.** A moral rule is correct if and only if the sum total of utilities produced if everyone were to follow that rule is greater than the sum total of utilities produced if everyone were to follow some alternative rule.

Thus, according to the rule-utilitarian, the fact that a certain action would maximize utility on one particular occasion does not show that it is right from an ethical point of view.

For the rule-utilitarian, the flaw in the counterexamples that the critics of traditional utilitarianism offer is that in each case the utilitarian criterion is applied to particular actions and not to rules. Instead, the rule-utilitarian would urge that we must

use the utilitarian criterion to find out what the correct moral rule is for each counterexample and then evaluate the particular actions involved in the counterexample only in terms of this rule. Doing this allows utilitarianism to escape the counterexamples undamaged.

The counterexample involving the rich uncle and the murderous heir, for example, is a situation that deals with killing a sick person. In such situations, the rule-utilitarian might argue, it is clear that a moral rule that forbids killing without the due process of law will, in the long run, have greater utility for society than other kinds of rules. Therefore, such a rule is the correct one to apply to the case. It would be wrong for the heir to kill his uncle because doing so would violate a correct moral rule, and the fact that murder would on this particular occasion maximize utility is irrelevant.

The case dealing with subsistence wages, the rule-utilitarian would argue, should be treated similarly. It is clear that a rule that forbade unnecessary subsistence wages in societies would in the long run result in more utility than a rule that allowed them. Such a rule would be the correct rule to invoke when asking whether practicing *wage slavery* is morally permissible, and the practice would then be rejected as ethically wrong even if it would maximize utility on a particular occasion.

The ploy of the rule-utilitarian, however, has not satisfied the critics of utilitarianism, who have pointed out an important difficulty in the rule-utilitarian position: According to its critics, rule-utilitarianism is traditional utilitarianism in disguise.²⁸ These critics argue that rules that allow (beneficial) exceptions will produce more utility than rules that do not allow any exceptions. However, once a rule allows these exceptions, the critics claim, it will allow the same injustices and violations of rights that traditional utilitarianism allows. Some examples may help us see more clearly what these critics mean. The critics claim that if a rule allows people to make an exception whenever an exception will maximize utility, then it will produce more utility than it would if it allowed no exceptions. For example, more utility would be produced by a rule that says, “People are not to be killed without due process *except when doing so will produce more utility than not doing so*,” than would be produced by a rule that simply says, “People are not to be killed without due process.” The first rule will always maximize utility, whereas the second rule will maximize utility only *most of the time* (because the second rule rigidly requires due process even when it would be more beneficial to dispense with due process). Because the rule-utilitarian holds that the correct moral rule is the one that produces more utility, he must hold that the correct moral rule is the one that allows exceptions when exceptions will maximize utility. Once the exception clause is made part of the rule, the critics point out, then applying the rule to an action will have exactly the same consequences as applying the traditional utilitarian criterion directly to the action because the utilitarian criterion is now part of the rule. In the case of the sick uncle and murderous heir, for example, the rule that “people are not to be killed without due process *except when doing so will produce more utility than not doing so*” will now allow the heir to murder his uncle exactly as traditional utilitarianism did before. Similarly, more utility would be produced by a rule that says, “Subsistence wages are prohibited *except in those situations where they will maximize utility*” than would be produced by a rule that simply says, “Subsistence wages are prohibited.” Therefore, the rule that allows exceptions will be the “correct” one. But this “correct” rule will now allow the society we described earlier to institute wage slavery exactly as traditional utilitarianism did. Rule-utilitarianism, then, is a disguised form of traditional utilitarianism, and the counterexamples that set difficulties for one seem to set similar difficulties for the other.

Many rule-utilitarians do not admit that rules produce more utility when they allow exceptions. Because human nature is weak and self-interested, they claim, humans would take advantage of any allowable exceptions, and this would leave everyone worse

off. Other utilitarians refuse to admit that the counterexamples of the critics are correct. They claim that if killing a person without due process really would produce more utility than all other feasible alternatives, then all other alternatives must have greater evils attached to them. If this is so, then killing the person without due process really would be morally right. Similarly, if in certain circumstances subsistence wages really are the least (socially) injurious means to employ in getting a job done, then in those circumstances subsistence wages are morally right exactly as utilitarianism implies.

There are two main limits to utilitarian methods of moral reasoning, therefore, although the precise extent of these limits is controversial. First, utilitarian methods are difficult to use when dealing with values that are difficult—perhaps impossible—to measure quantitatively. Second, utilitarianism by itself seems to deal inadequately with situations that involve rights and justice, although some have tried to remedy this deficiency by restricting utilitarianism to the evaluation of rules. To clarify our ideas on these issues, the next two sections examine methods of moral reasoning that explicitly deal with the two moral issues on which utilitarianism seems to fall short: rights and justice.

2.2 Rights and Duties

On March 3, 2004, executives of Walt Disney, the world's second-largest media conglomerate, were confronted by a group of stockholders concerned about the company's human rights record in China. In addition to owning several theme parks, television and radio networks (ABC, the Disney Channel, ESPN), and film studios, Walt Disney markets merchandise based on its characters and films, including toys, apparel, watches, consumer electronics, and accessories. Much of this merchandise is manufactured in China in factories that contract with Disney to produce the merchandise according to Disney's specifications. The Congressional-Executive Commission on China, a group established by the U.S. Congress in 2001, reported in 2003, however, that "China's poor record of protecting the internationally recognized rights of its workers has not changed significantly in the past year. Chinese workers cannot form or join independent trade unions, and workers who seek redress for wrongs committed by their employers often face harassment and criminal charges. Moreover, child labor continues to be a problem in some sectors of the economy, and forced labor by prisoners is common." In its March 2003 *Country Reports on Human Rights Practices*, the U.S. State Department said China's economy also made massive use of forced prison labor.²⁹ China's prisons contained large numbers of political dissidents who were forced to engage in unpaid, exhausting, and dangerous labor to "reform" or "reeducate" them. Materials made in these prisons were often purchased by factories that incorporated them into their own products.

In 2001, the Hong Kong Christian Industrial Committee made on-site undercover visits to a dozen of Walt Disney's Chinese factories and reported that it found "excessively long hours of work, poverty wages, unreasonable fines, workplace hazards, poor food and dangerously overcrowded dormitories." Another report issued in 2002 by the National Labor Committee, entitled, "Toys of Misery," noted horrific working conditions in the 19 Disney factories the committee investigated. According to the report, not only were workers paid substandard wages but they "face long hours of forced overtime that leave them with two or three hours of sleep a night," and "they are exposed constantly to chemicals that make them sick."

Alarmed by the reports on conditions in Chinese factories producing Disney merchandise and concerned that the factories might be using materials made by forced labor, a group of stockholders urged all Disney stockholders to vote in favor of having