

Utilitarianism and business ethics

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This chapter states and clarifies act and rule utilitarian principles, enumerates several advantages of employing utilitarianism as an ethical theory in business contexts, and discusses the main difficulties with utilitarianism in such contexts.

Utilitarianism is a consequentialist ethical theory. It is an ethical theory because it is concerned with whether human actions are right or wrong; it is consequentialist because it tells us that an act's rightness or wrongness is determined solely by the act's consequences and not by any feature of the act itself. For example, if I make a promise to you and then act in such a way as to break it, my act has the feature of breaking a promise, and many people would claim my act was wrong because it has that feature. However, according to utilitarianism, that feature does not make the act wrong for that feature is irrelevant to whether the act is right or wrong. For the utilitarian, whether breaking a promise is right or wrong depends entirely on the act's consequences. The intuitive idea behind utilitarianism is that we should act to bring about the best consequences and, hence, whether an act is morally right or wrong depends on whether the act does or does not bring about the best consequences. Of course, we will have to say more about what we mean by "best consequences," but for now let us just use our ordinary concepts of benefit and harm to make sense of the notion. Of two acts, one of which causes you pleasure and the other pain, we would ordinarily say the former benefits you and the latter harms you, and that the former is better for you than the latter. Again, of two acts, one of which increases dividends and the other of which bankrupts a firm, we would commonly say the former benefits and the latter harms shareholders, and that the former is better than the latter for shareholders.

According to one version of utilitarianism, act utilitarianism, an act is morally right if and only if it maximizes utility, i.e., if and only if the balance of benefit to harm calculated by taking everyone affected by the act into consideration is greater than the balance of benefit to harm resulting from any alternative act. Although we will have to modify it slightly, this statement of act utilitarianism best enables us to see how the act utilitarian goes about determining which act is right in typical situations. In deciding to act, the act utilitarian will:

- 1 set out all the relevant alternative acts that are open to him or her;
- 2 list all the individuals who will be affected by the alternative courses of action, including oneself if affected;

- 3 assess how the individuals will be affected by the alternative acts, computing the balance of benefit to harm for each individual affected by each act; and
- 4 choose that act which maximizes utility, i.e., which results in the greatest total balance of benefit to harm.

Suppose, for example, that a person P_1 faces a situation in which there are four possible courses of action (A_1, A_2, A_3, A_4) and assume there are four people who will be affected by at least some of these acts (P_1, P_2, P_3, P_4). Assume, furthermore, that the balance of benefit to harm for each person affected by each act can be expressed quantitatively, with a positive value indicating an overall benefit and a negative value indicating an overall harmful effect. Finally, assume a calculation yields the following result:

		Persons				
		P_1	P_2	P_3	P_4	Totals
Acts	A_1	+6	+2	-7	+4	+5
	A_2	+5	-4	0	+6	+7
	A_3	-12	-1	-6	+15	-4
	A_4	-3	-1	-2	+7	+1

Here it may be that P_2 is both benefitted and harmed by A_1 (for example, P_2 benefits +7 but is harmed -5), but on balance he or she benefits to the extent of +2; similarly, P_3 may receive some benefits from A_3 (say, +1), but also some harm (say, -7), so that on balance he or she is harmed to the extent of -6. In the situation represented by the above chart, the act utilitarian will choose act A_2 because it provides the greatest total balance of benefit to harm (+7) when everyone affected by the acts is considered.

Using the chart, we can further clarify act utilitarianism and distinguish it from other consequentialist theories. First, act utilitarianism differs from ethical egoism in that, for the latter, an act is morally right if and only if, of all available acts, it provides the greatest balance of benefit to harm for the person performing the act. Accordingly, P_1 , acting as an ethical egoist, will do A_1 because A_1 produces the greatest benefit to harm ratio for P_1 (+6), whereas P_1 acting as an act utilitarian would do A_2 , since A_2 maximizes utility. Furthermore, act utilitarianism is not altruism. The altruists do not consider themselves in the benefit to harm calculation; they act to produce the greatest benefit to harm ratio when only others affected by the acts are considered. Accordingly, P_1 , acting as an altruist, will select A_3 as the right act, since it produces a balance of +8 when considering the effects on P_2, P_3 , and P_4 , and this balance is greater than those for A_1 (-1), A_2 (+2) and A_4 (+4), whereas P_1 acting as an act utilitarian will do A_2 . Of course, there will be many occasions on which the act required by ethical egoism will be the same as that required by act utilitarianism, and for that matter

altruism. For example, CEOs may maximally benefit themselves by a singular focus on profit maximization, but at the same time maximally benefit customers, employees, shareholders, and society as well. Yet act utilitarianism, as a general ethical theory, is distinct from egoism and altruism; in calculating benefits and harms, the act utilitarians consider themselves equally with others, no less but no more.

Second, act utilitarianism is not the principle that we should maximize total benefits, rather, one should maximize utility. If we calculate just benefits, A_3 provides +15 and A_2 provides +11, hence A_3 would be the right act. However, in calculating utility, it is important to consider harms as well as benefits, which act utilitarianism does in judging A_2 to be the right act.

Third, the act utilitarian is not concerned solely with short-term benefit-to-harm ratios; long-term consequences also have to be calculated. However, this requirement is consonant with good business practices; research and capital expenditures are aimed at long-term benefits.

Fourth, act utilitarianism is not the theory that an act is morally right if its overall benefits outweigh its harms. A_4 's benefits outweigh its harms (by +1), but A_2 is the right act according to act utilitarianism, and all the other alternative acts, including A_4 , are morally wrong.

Fifth, act utilitarianism is not the principle that an act is right if and only if it provides the best consequences for the greatest number, where this means that to be right an act must maximize utility and, at the same time, maximize the number of individuals who realize a positive benefit to harm ratio. In our charted example, A_2 maximizes utility but A_1 maximizes the number of individuals who realize a positive balance of benefit to harm, since three individuals benefit (P_1 , P_2 , P_4) from A_1 but every other act benefits at most two individuals. Since none of the acts in our example satisfies the best consequences for the greatest number principle, none of the acts listed is morally right according to that principle, an odd result, since if we are consequentialists we would expect that one of these acts is right and, of course, A_2 is right according to act utilitarianism. This criticism of the best consequences for the greatest number principle also enables us to see a defect in our formulation of act utilitarianism. Suppose a person has three acts available, two of which produce the same overall utility, say +9, and a third which yields -4. In this case, since no one act maximizes utility, none of the acts is right. Accordingly, we have to revise our statement of act utilitarianism to read: an act A is morally right if and only if no other alternative act has greater overall utility than A . Thus, the result in the above example would be that both +9 acts would be morally right.

Since act utilitarians focus on maximizing benefits and minimizing harms, we now need to consider what they regard as benefits and harms. We shall discuss three major utilitarian value theories: hedonistic, pluralistic, and preference.

Hedonistic act utilitarians claim that pleasure (or happiness, construed as long-term pleasure) is the only intrinsically good thing, i.e., the only thing that is good in and of itself. Other things, when they are good, are good instrumentally, i.e., they are good as a means to other things. Money for example, is not always instrumentally good, but when it is good it is good as a means to other things; it is instrumentally, not intrinsically, good. The English act utilitarian Jeremy Bentham (1748–1832) attempted to establish a method for determining quantities of pleasure by listing seven criteria for

pleasure and (what he took to be) its opposite, pain: other things being equal, of two pleasures P_1 and P_2 , P_1 is greater than P_2 if P_1 is

- 1 more intense than P_2 , or
- 2 of greater duration than P_2 , or
- 3 more certain of realization than P_2 , or
- 4 nearer in time than P_2 , or
- 5 such that it will lead to other pleasures that P_2 does not lead to, or
- 6 purer, i.e., less mixed with pain than P_2 , or
- 7 such that more people can realize it than P_2 .

The idea is that we can assign numbers to each dimension of pleasure. To simplify matters, consider pleasurable experiences having only the dimensions of duration and intensity. We might say that a pleasurable experience of one hour duration is assigned +1, two hours +2, and so on. A pleasure of a certain intensity is assigned +1 and a pleasure twice as intense is +2. Accordingly, a three-hour pleasurable experience of intensity +4 is assigned +12 ($+3 \times +4$). In this way, pleasures can be measured and compared. Bentham's follower John Stuart Mill (1806–73) further developed the former's "hedonistic calculus." Among other things, Mill was concerned that Bentham's approach would allow beer guzzling to be better than doing philosophy, so he argued that the type of pleasure should be included as well as Bentham's factors, with "higher" pleasures being accorded higher values than "lower" pleasures. So, doing philosophy might be assigned +60, beer drinking +5. Accordingly, one hour of doing philosophy of intensity +2 ($1 \times 2 \times 60 = +120$) would be better than four hours of more intensely pleasurable (+3) beer drinking ($4 \times 3 \times 5 = +60$).

Although we might agree that Bentham's criteria are factors that should be considered in weighing alternative courses of action, it is questionable whether they allow us to make the precise, mathematical calculations utilitarians envisage. Duration can be calculated rather precisely, say, in seconds, but it is often difficult to say just when a pleasurable experience begins and /or ends. We can and do say that one pleasurable experience is more intense than another, one pain more intense than another, but we do not say that one experience is nine times more intensely pleasurable than another and it is doubtful we can attain such quantitative precision. If duration and intensity are not quantifiable, then the other five of Bentham's criteria, which depend on these two, are not quantifiable. Mill's proposal faces these difficulties, plus two more. His proposal requires us to rank pleasures (e.g., doing philosophy is "higher" than drinking beer) and then assign them numerical values. However, some people will rank drinking beer higher than doing philosophy; in fact, if we were to take a vote, more people might well rank beer drinking higher than doing philosophy. So how can Mill justify his belief that intellectual pleasures always must be ranked higher than physical pleasures? Even if we can rank doing philosophy as higher than beer drinking, what argument can be employed for assigning +60 to doing philosophy and +5 to beer drinking? Neither question has been answered satisfactorily.

Given these measurement and comparison problems with the concept of pleasure, act utilitarians have four main options. First, they can continue the pleasure quantification quest; after all, at one time we used "hot" and "cold" but we now have precise

temperature concepts. Perhaps someone will devise a pleasuremeter. Second, they can retain hedonism but abandon quantification, claiming that, even if we cannot measure pleasure with mathematical precision, we all know that some experiences are quite pleasurable and that some pleasures are greater than others, as we know that boiling water is hot, and hotter than ice. If, in some cases, rough judgments and comparisons are all that can be obtained, they are, nonetheless, useful and often adequate. Third, since utilitarianism can be construed as the claim that we should maximize that which is intrinsically good – and the theory itself leaves open what is intrinsically good – act utilitarians can claim that other things in addition to pleasure should be added to the list of things intrinsically good: knowledge, freedom, beauty, fairness, friendship, generosity, etc. In fact, some act utilitarians, known as pluralistic act utilitarians, have developed this approach. However, this strategy does not alleviate our measurement and comparison problems. How do we measure friendship and compare it with pleasure? Furthermore, if we allow different persons to weight (in some manner) these intrinsic goods differently, then overall utility calculations will differ. Which should we accept?

In this century, a fourth strategy, preference act utilitarianism, has been developed. If pleasure seems subjective and unmeasurable, our preferences, linked to our desires, choices and behavior, are more objective and may offer a firmer basis for a theory of value. If you prefer celery over pork, you behave in certain ways; you typically choose celery when presented with the two alternatives. So, we can say that celery has more value for you than pork, if you exhibit more preference for celery than pork. Economists have devised methods for assigning numbers to a person's preferences; hence, if we can determine how many people prefer celery over pork, we have a way of totaling preferences, i.e., a general method for determining which acts maximize total preference satisfaction.

Preference act utilitarianism has three major advantages over its hedonistic relative:

- 1 As noted, it handles the measurement and comparison problems better than hedonism.
- 2 It admits a greater range of values than hedonism: what is valuable to you is anything you prefer.
- 3 It is more tolerant than hedonism: other things being equal, the hedonistic act utilitarian will claim it is right to restrict what you prefer, if doing so will maximize happiness in the long run, whereas preference act utilitarianism is based on whatever you actually prefer.

The third advantage raises the main difficulty for preference act utilitarianism understood as a general moral theory. Some people prefer heroin to celery, and we commonly think this preference is wrong even if the choice of heroin affects no one else. Of course, some preferences do affect others, and we say that a manager acts wrongly in preferring to sexually harass an employee rather than treating him or her fairly. So the concept of preference, important as it seems to be in the development of an economic theory adequate to explain and predict actual market behavior, is initially problematic as a basis for value in an adequate moral theory. We seem to need the concept of an “acceptable” preference, i.e., a morally acceptable preference, but it is

not clear whether such a concept is even consistent with the notion of preference construed as a fact, and it seems to undercut the fact-based advantages preference act utilitarians claim their theory offers over hedonistic act utilitarianism. Moreover, although some preference act utilitarians argue that “unacceptable” preferences should not count in utility calculations because they interfere with others’ “acceptable” preferences, it seems more plausible to say that such unacceptable preferences should count in the calculation; it is that they simply lead to unhappiness. The conclusion is that they should be factored into a hedonistic utility calculation. Some preference act utilitarians suggest the concept needed is that of “informed preference,” roughly, the preferences a person would have, if fully informed about the relevant facts related to preference alternatives. However, critics argue that such preferences would simply be those that maximize happiness – we try to satisfy our preferences and those of others because doing so maximizes happiness. If so, the theory again seems to reduce to hedonistic act utilitarianism. Preference act utilitarianism also has difficulties with simple distributional issues. If you prefer X which costs 40 cents per unit, and I prefer Y which also costs 40 cents, and we have only 55 cents to distribute, pure preference act utilitarianism has no answer as to how the 55 cents should be distributed. Hedonistic act utilitarianism does: we figure out who would be made happier by getting what he or she wants. Finally, preference utilitarianism is not as simple as it seems. Our preferences change over time; some are added, some dropped. Should I maximize those I have now but will not have later? It would seem not, but how can I know now which preferences I will drop? Should I seek to maximize only the unchanging preferences? What are they? And how will this enable me to add new preferences? Surely, in some cases, it is rational to change preferences, but accounting for this will require a much more complex theory than one based simply on the preferences people do in fact now exhibit.

Although the measurement problems for act utilitarianism are severe, if they could be overcome the theory would have distinct advantages as an ethical theory in business contexts. First of all, as a thoroughgoing consequentialist theory, it has a commonsense plausibility. If your manager tells you to treat customers with respect, he or she probably adds that doing so will benefit the two of you: your firm, and your customers. In other words, we standardly base and explain our moral judgments on acts’ overall consequences. In addition, unlike ethical egoism, act utilitarianism is impartial in that it takes into account each individual affected by the acts considered and requires that act which maximizes utility irrespective of who benefits. As an act utilitarian, businessmen will not seek to just maximize their utility or their firm’s utility; they consider equally everyone affected by their acts. This squares with our commonsense idea that the “best” business transaction is one in which the “best result” is achieved when both buyer and seller are considered and benefitted. Moreover, act utilitarianism provides a definite method for determining which act is right. It cautions us not to act on our mere intuitions as to what is right and wrong, and requires us to enumerate alternatives, consider all their consequences, calculate utilities, and then act to maximize utility. Now businesses certainly engage frequently in this type of calculation. In considering whether to relocate a plant, alternative sites are listed and the consequences for the firm, stockholders, employees, customers, and the communities affected are analyzed in terms of benefits and harms. Act utilitarianism simply requires the businessperson to act to maximize utility.

Act utilitarianism also accounts for why certain business practices are held to be immoral. Breaking a contract is generally wrong because doing so, typically, does not maximize utility. If you promise your employees a wage increase, other things being equal, you should keep your promise, because doing so will generally lead to better consequences than breaking it. However, moral rules, such as “keep your contracts,” are not inviolable. If you sign a contract to build a plant, but then discover that doing so will destroy an ecosystem and not maximize utility, you should break the contract. And if you have promised your employees a wage increase but your company suddenly loses money, maximizing utility may morally require you to break your promise. So, act utilitarianism can account for the moral rules we employ in business, while also permitting business the flexibility to break such rules when morality requires it.

Because it is universalistic, provides a definite method for determining which acts are right, and permits flexibility in adhering to moral rules we use in business, act utilitarianism has decided advantages in international business contexts. In some countries, bribery is prohibited; in others, it is permitted, while in yet others it may be required to do business. Which rules should a business follow? Well, all such rules are merely rules of thumb according to act utilitarianism. Following the rule “never bribe” may typically have utility in one society, while following the rule “always bribe” may typically have utility in another society. All such rules are breakable, and we are obligated to break them when utility maximization requires it.

Act utilitarianism also provides a basis for economics and social policy. Assuming that

- 1 value is based on preference and is measurable,
- 2 price is the exchange value of one good in terms of another, and
- 3 the “rational economic person” will act to maximize his or her own self-interest (i.e., his or her own utility),

economists are able to explain price behavior in a competitive market and show that the “free market” would enable consumers to maximize their own utility. A long line of economists, from Adam Smith to Milton Friedman, argue that the best way to organize the exchange of goods is to let people trade freely with whatever resources they possess, because doing so maximizes overall utility. These economists provide a utilitarian justification for the free market. In effect, Smith and Friedman make an efficiency claim for the free market: the market is said to be the most efficient means to maximize utility. However, the ordinary notion of business efficiency as applied to the individual firm also has a utilitarian basis. The efficient firm maximizes outputs in relation to inputs, which squares with the utilitarians’ argument that one should act to maximize benefits and minimize costs. Profit, which in one sense is just a measure of efficiency, thereby has a utilitarian justification. Act utilitarians also argue that their theory provides the best basis for governmental and social policy. Given a set of policy alternatives, which should be chosen? Act utilitarians say we should choose the one that provides the greatest overall benefits at the least cost, the one that maximizes utility.

Act utilitarianism is also attractive to businesspersons because it provides the foundation for cost–benefit analysis, which in its purest form calculates benefits and

costs in terms of money. Of course, the market itself places a monetary value on many goods, services, and activities; in addition, utilitarians have devised ingenious methods of placing a price on such seeming unmeasurables as aesthetic value, health, even human life. For instance, we can determine the value you place on your own life by examining the risks you do or would take and the insurance premiums you pay or would be willing to pay. We can also calculate the value of your life by discounting to the present your expected earnings in the future, or by calculating the losses others would experience from your death. Given that we can legitimately make such calculations, the basic strategy of cost–benefit analysis is straightforwardly utilitarian: enumerate alternative courses of action A_1, \dots, A_n , calculate the benefits and costs of each alternative in monetary units, and if A_2 's benefits outweigh its cost and A_2 's balance of benefits to costs is greater than any other alternative, then A_2 should be done.

Finally, although some act utilitarians claim their theory supports the shareholder conception of corporate responsibility and others claim utilitarianism supports the stakeholder conception, all agree that utilitarian considerations are the sole basis for resolving the dispute. Briefly, utilitarians favoring the shareholder theory argue that maximizing shareholder interests (typically profit maximization) will, via Adam Smith's "invisible hand," tend to maximize overall utility. "Maximize profits" is thus a general rule of thumb, to be violated only if doing so is required by the utilitarian principle. Advocates of the stakeholder theory argue that all stakeholders (shareholders, employees, customers, suppliers, society, etc.) should be taken into consideration directly in the utilitarian calculation. In any case, act utilitarians agree the dispute is to be resolved by determining which approach actually maximizes utility.

In spite of its advantages in business contexts, act utilitarianism faces severe criticisms in addition to those involving the measurement of utility. Many critics focus on the utilitarians' claim that the only morally relevant feature of an act is its consequences, namely, its utility; according to act utilitarians, no feature other than utility even contributes to an act's rightness. So, if my alternatives involve keeping or breaking a promise and keeping it is morally right, then that act is right solely because it produces more utility than breaking the promise. If breaking the promise has more utility than keeping it, no other feature is morally relevant and breaking it is morally right. Critics point out that one intrinsic feature of an act of keeping a promise is that one is keeping a promise and one intrinsic feature of an act of breaking a promise is that one is breaking a promise. So consider two acts, A_1 and A_2 , and features of these acts (where we assume the utility/disutility of keeping/breaking promises are factored into both utility calculations):

Features of acts		
Acts	F_1	F_2
	A_1	+85 utility keeping a promise
	A_2	+86 utility breaking a promise

Utilitarians claim A_2 is morally right; A_2 maximizes utility, which is the only morally relevant feature. Some critics claim A_1 is morally right, believing that a small increase in utility should not override one's obligation to keep a promise. At the very least, critics claim, promise-keeping and promise-breaking are morally relevant features in determining which act is right and, since act utilitarianism does not regard them as relevant, the theory is defective. Now, clearly, promise-keeping is very important in just about every sort of business transaction, and if act utilitarianism does not provide a plausible account of the role and importance of promise-keeping in business, it is inadequate as an ethical theory for business.

Critics also allege that act utilitarianism does not adequately take into consideration individuals' rights when determining whether an act is morally right. For example, suppose executive X in company Q has worked for months to secure a contract between Q and another company D . Whether the contract is signed depends heavily on what X does, for negotiations are at a crucial stage. If the contract is signed, Q and D will increase profits and new jobs will be created. During final negotiations, Q 's president by chance discovers that X has embezzled \$50,000 from Q . The president knows Q will be audited tomorrow and knows the auditors will discover X 's theft. Q 's president confronts X , who explains that the money was needed to pay for an emergency operation for a close relative, but notes that this relative has died and never again will X be pressed to steal money from Q . Also, X says that if the theft is made known to the negotiating team in D , they will no longer trust X and the deal will fall through. Since X 's theft will be detected by the impending audit, the president says there is little that can be done. As luck would have it, however, there is a middle-manager, Y , in Q , who has had bad relations with his or her supervisors and is about to be fired. X suggests that Q 's president make it appear as though Y embezzled the \$50,000. When Y is fired, the company will not press charges, and X will quietly repay the money stolen. The question then is this: should Q 's president frame Y for the embezzlement actually committed by X ? If, as it appears, doing so would maximize utility, then the act utilitarian would answer yes. However, framing Y seems morally wrong: it violates Y 's right to be treated fairly and Y 's right not to be falsely accused. Similar cases can be developed to show that managers, acting as utilitarians, would be required to trample on individuals' rights to privacy, due process, safe working conditions, and perhaps even the right to life. Such rights' violations pose powerful counterexamples to act utilitarianism.

In addition to difficulties with promising and rights, critics claim that act utilitarianism permits social injustice. For example, the following sort of utility calculation could be employed to "justify" what we would regard as an unjust act of enslavement:

		Persons				
		P_1	P_2	P_3	P_4	Totals
Acts	A_1	+33	+27	+30	-49	+41
	A_2	+10	+10	+10	+10	+40

It is conceivable that the enslavement of P_4 via act A_1 would produce slightly greater total utility than act A_2 , which does not involve enslavement and also results in a more equitable distribution of happiness. Since the act utilitarian is committed to holding that A_1 is morally right, but A_1 seems morally wrong because it is unjust, act utilitarianism seems to be an inadequate moral theory.

In response to these three sorts of criticism, act utilitarians claim the counterexamples are contrived and not indicative of real-world situations. They claim that slavery would not maximize utility, so the value assignments in the enslavement counterexample do not reflect reality. Framing the innocent manager is contrived because, in the real world, there surely would be other alternative acts that could be selected. Finally, the promise-breaking case is either contrived because the full negative consequences of breaking a promise are not reflected in the utility calculation, or it is not contrived and the utility values are adequately represented, in which case the only morally relevant feature is utility and A_2 is morally right.

Other utilitarians, convinced these sorts of criticisms are decisive against act utilitarianism, have changed the theory to try to answer them. Although it has been formulated in a variety of ways, this type of theory, called rule utilitarianism, is based on two convictions:

- 1 Utility maximization plays a central role in an adequate moral theory.
- 2 Rules play an important role also, a more important role than is accorded them by act utilitarianism.

These two convictions are combined in the idea that we should employ the principle of utility maximization to determine which rules everyone should follow, and then, when faced with a decision as to which act is right in a particular circumstance, we simply determine which act is required by the rule everyone should follow. So, overlooking some terminological technicalities, according to one version of rule utilitarianism an act A in circumstance C is morally right, if and only if the utility of everyone acting according to the rule "If you are in C , then do A " is at least as great as the utility of everyone acting according to any alternative rule applicable to C .

To see how this principle works, suppose you are in a circumstance C in which you have made a promise and you have only two alternative acts available: A_1 (keep your promise) and A_2 (break your promise). Assume A_2 produces more utility than A_1 . The act utilitarian will claim A_2 is morally right. The rule utilitarian will consider the rules applicable to this circumstance. Consider two rules: R_1 (If you made a promise, then keep it.), i.e., (If C , then A_1), and R_2 (If you made a promise, then break it.), i.e., (If C , then A_2). The rule utilitarian asks which rule, if followed by everyone, would maximize utility. Of these two rules, it seems clear that R_1 would maximize utility if it were followed by everyone, since if everyone broke his promises chaos would result. Accordingly, the rule utilitarian would claim A_1 is morally right. So, it seems that act and rule utilitarianism sometimes yield different results as to what is morally right, and that rule utilitarianism is sometimes more in accord with our ordinary notion of what is right. Consider another example, our earlier case in which corporation Q 's president is to decide whether to frame the innocent Y for X 's theft. Assume the president has a choice of two acts: A_1 (frame Y) and A_2 (do not frame Y), and assume that of these two

acts A_1 produces more utility than A_2 . According to act utilitarianism, A_1 is morally right, but this, as we noted, seems to violate Y 's rights and seems intuitively wrong. According to rule utilitarianism, we should examine the rules applicable to this circumstance. Consider two such rules: R_1 (If you are in C , then frame the person.), and R_2 (If you are in C , then do not frame the person.). If, as seems plausible, everyone's following R_2 would maximize utility and everyone's following R_1 would not, then the act in accord with R_2 , namely A_2 , is morally right. In this manner, rule utilitarians claim their account establishes a central place for both the principle of utility maximization and for moral rules, and combines them into a theory that is able to meet the criticisms of act utilitarianism.

Critics of this version of rule utilitarianism claim that, in the case of the president framing the innocent employee, there is another rule which must be considered: R_3 (If you are in C , then do not frame the person unless doing so maximizes utility.). The critics point out that more utility would be produced by everyone's following R_3 than by everyone's following R_2 ; indeed, everyone's following R_3 will maximize utility whereas everyone's following a rule such as R_2 will not, since R_2 requires that one never frame a person in C , even when framing that person would maximize utility. So, by his or her own moral principle, the rule utilitarian is committed to R_3 . However, applying R_3 to the president's circumstance will produce exactly the same result as applying the act utilitarian principle directly to the circumstance; on both, the morally right act is to frame the innocent employee. This argument is easily generalized. In any circumstance C , the rule that will maximize utility, if followed by everyone, essentially will be: "In C , act to maximize utility." However, when this rule is applied to a particular C , the act recommended as morally right will be exactly the same act recommended by the act utilitarian principle. Since there seem to be very good counterexamples to the act utilitarian principle that make it unacceptable to many people as a moral theory, and the same counterexamples apply to this version of rule utilitarianism, it also seems unacceptable.

Recently, several rule utilitarians have offered revised theories to meet the above criticism, one being Richard Brandt's optimal code utilitarianism. Instead of focusing on the utilities of individual rules, Brandt focuses on the utilities of entire moral codes. Roughly, a moral code (MC) for a society S is a set of shared desires and aversions, along with a complete set of moral rules governing what should be done in all circumstances that may arise in S . Brandt's basic idea is that although any one of a number of moral codes (MC_1 or MC_2 or . . .) could be employed in S , one such code would have more utility than the others if it were widely accepted in S . This is S 's optimal moral code (MC_0). According to optimal code utilitarianism, then, an act A in society S is morally right if, and only if, A is not prohibited by the MC_0 for S . So, right acts in S are those permitted by the moral code optimal in S , and the optimal code in S is the code that, if it were widely accepted, would maximize utility. Since the optimal code for S will presumably prohibit framing an innocent employee, this theory seems to meet the counterexamples that undercut other versions of utilitarianism.

To the criticism that the optimal moral code for S would consist of one rule (MU) "Maximize utility," and hence the optimal code utilitarian principle yields the same results as the act utilitarian principle, Brandt replies that the critics would have to show that no code could have higher utility if widely accepted than the code which

consists solely of MU, and he claims this is highly implausible. Some codes, if widely adopted, would undoubtedly produce high utility but, if MU were widely accepted, it probably would not. If your employees faced a moral problem and inquired about the rule governing such cases, you could only say "Maximize utility," and if they requested more specific advice you could only repeat "Maximize utility." MU is so abstract that if it were the only rule widely accepted in *S*, uncertainty and confusion would probably result; hence broad adoption of MU probably would not maximize utility. On the other hand, among all the codes consisting of relatively specific rules, there will be one which, if widely accepted, would maximize utility and allow you to provide specific advice to your employees. Hence, Brandt claims that optimal rule utilitarianism will not yield the same counterintuitive results as does act utilitarianism.

Still, optimal code utilitarianism is not defect free in business contexts. The theory rests on the notion of a "society," but any society will consist of subgroups, e.g., physicians, businesspersons. Do businesspersons constitute a society? Well, it is commonly said that they operate by their own set of rules, a set somewhat distinct from ordinary morality. If businesspersons do constitute a society, then the optimal code for the society of businesspersons may permit an act that is prohibited by the moral code optimal for the general society. When such a conflict occurs, what principle can be employed to resolve it? In addition, since the code optimal for *S* (the code that would maximize utility if it were widely accepted) is probably very different from the code that is actually widely accepted in *S*, a person following the optimal code may be at a serious disadvantage in a society in which only a few follow it. If the optimal code permits only strict truth in advertising, those who follow it will probably not prosper in a society in which puffery is widely accepted and practiced.

With a history of over two hundred years, utilitarianism has proven to be a durable and resilient ethical theory which is also an important foundation for economics and social policy. Although severe criticisms have been directed at the theory in recent years, the newer versions of rule utilitarianism may provide the basis for an adequate moral theory, and even those who believe that no version of utilitarianism will be able to handle the rights and justice criticisms will have to acknowledge that utilitarian considerations must be included as a part of any adequate moral theory.

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