

them, is not to reject their theory, but to attempt to increase our ability to foresee consequences (p. 181).

RULE CONSEQUENTIALISM

In contrast to act consequentialists, this group of utilitarians argues that it is possible to link the consequentialist view of what makes acts right or wrong with moral rules (Holmes 1998: 137). In other words, they believe that keeping to certain rules produces better consequences than trying to determine what consequences will follow from every individual action. For example, most people believe it to be their duty to speak the truth, even when doing so would cause more pain than pleasure. They do not advocate obedience to rules just because they are rules, but because they see following rules as the best way to achieve the general good or the best outcome for all affected. In other words, an act is right only if it is in agreement with a rule that would maximize overall net happiness for all people affected, as any alternative rule (Darwall 1998: 135). Rule consequentialists are subject to criticism for the argument that if they take rules to be absolute and without exception, then they will have abandoned consequentialism (Hinman 1998: 183). If they acknowledge exceptions to rules, then they could only be described as act consequentialists.

PUBLIC POLICY AND UTILITARIANISM

Since it is consequentialist in nature, a utilitarian strategy and approach to public policy making would require that government officials base their actions and programs on the most accurate and detailed information of particular circumstances and of the likely results of the alternatives and options available to them. Mill maintained that ethical questions could be settled only by empirical investigation. As William Shaw (1999) puts it, "Realism and empiricism are the hallmarks of a utilitarian orientation, not customary practice, unverified abstractions, or wishful thinking" (p. 171). For example, in considering public policy about punishment, a utilitarian would argue that punishment is justified if:

- those benefits cannot be achieved with less suffering or at a lower cost to those who are being punished (p. 174).

The utilitarian perspective on punishment is more fully considered in Chapter 6.

ARGUMENTS CRITICIZING UTILITARIANISM

We have seen that utilitarian theory urges us to accept the notion that only consequences matter. Significant arguments against the utilitarian approach propose that there are other considerations, in addition to utility, that are important in determining whether actions are right. Critics argue that utilitarianism is incompatible with the ideal of justice, according to which we should treat people fairly, taking account of their individual needs and merits. Critics say this is not a priority of the utilitarian perspective. The following example is offered by H. J. McCloskey:

Imagine a utilitarian visiting an area where there is racial strife. During his visit, an African American man rapes a white woman, and this causes race riots with white mobs and the police attacking and killing African Americans. Imagine the utilitarian is in the area when the rape is committed, and his evidence could convict a particular African American man who was innocent.

As a utilitarian, if he knows that an early arrest will stop the race riots, he must surely conclude that he has a duty to give false evidence in order to bring about the punishment of an innocent person. This might have some bad consequences—for example, the innocent African American man might be executed—but a utilitarian would consider that this would be outweighed by the good consequences that the riots would be stopped. Accordingly, applying utilitarianism, the best consequences would be achieved by lying, and lying would be the most ethical act. However, it could be argued that it would be wrong to be the cause of the execution of an innocent man; therefore, in implying that it would be right to bring about that execution, utilitarianism must be an incorrect theory. (in Rachels 1999a: 110–111)

- the pain and suffering to those who are punished is outweighed by the benefits of punishment; and

Critics of utilitarianism state that the theory is inconsistent with the notion that people have rights that may not be infringed simply because good results are anticipated:

In a 1963 case in the U.S. Court of Appeals Ninth Circuit, an appellant, Ms. York, approached the police department in Chino, California, to file charges for an assault committed on her. Officer Story of the police department told her that photographs would have to be taken of her, took her to a room in the police station, and told her to undress. She was also told to adopt various indecent positions, and he photographed her in those positions. Ms. York objected to the undressing, pointing out there was no need to take photographs because the bruises would not show up. Later Officer Story told her that the photographs had not come out and that he had destroyed them, but contrary to what he told her, the officer in fact circulated her photographs amongst police officers at Chino. Later, two other officers made further prints of the original photographs and circulated these amongst police. Ms. York brought proceedings against all three officers for violating her legal rights and won. (in Rachels 1999a: 112-113)

Considering the morality of the conduct of the officers, act utilitarianism would argue that their actions can be defended if they produce a greater balance of happiness over unhappiness. In other words, we should consider the unhappiness caused to Ms. York and compare it with the amount of pleasure created for the officers by viewing the photographs. It is certainly arguable that more happiness than unhappiness was caused, in which case a utilitarian would have to conclude that the police officers' actions were morally correct. In this case, Ms. York's right to privacy has been violated, and most people do not think that our rights should be set aside so easily. The idea of rights includes the notion that there are limits on how others may treat us, regardless of the good purposes that might be accomplished and the happiness that breaching those limits might bring.

Another criticism offered is that utilitarianism is mistaken in claiming that only consequences matter, and this can be illustrated by reference to "backward-looking reasons" (Darwall 1998: 131; Rachels 1999a: 113-114). Imagine you have promised to

famine relief. (pp. 269-270)

(1979) argues that

because giving money is regarded as an act, it is not thought that there is anything wrong with giving and . . . people do not feel ashamed or guilty about spending money on new clothes or a new car instead of giving