Case Study #1: Mill & Big Pharma

Read the section on J.S. Mill in our text, the section from Utilitarianism for which there is a link provided on the syllabus, and the attached Case #3 from the Association for Practical and Professional Ethics National Championship Cases for 2018, and then answer the following five questions. The completed assignment should be two pages long, (approximately 1400 words) using 12 pt. fonts and single spacing with one inch margins. Please follow the assigned format as exemplified at the end of this document. Each answer should be separated, numbered and proportionate to the number of points possible. This study is worth a total of 60 points.

Your completed assignment is due on the 21st (MW) 22nd (TTH) of March.

Keep scrolling down after the background for further instructions, general suggestions, grading rubrics, and a sample completed assignment!

1. **Identify the key relevant moral issues associated with this case** (2-3 questions). The core moral issue for this case is, “To what degree should Big Pharma be held financially liable for the economic burden of the prescription opioid epidemic?” However, there are several sub-issues that must be identified in order to respond to this larger issue. Remember that a moral issue is normative – these are to be expressed as questions using normative terms (e.g. using terms such as “should” and “ought,” and concerning issues of right and wrong regarding moral rights & obligations, etc.). (5 points)

2. **Asking the right questions**: What facts would you need to know about this case to make a reasonably informed judgment? In this section, note that you should be raising questions such as current numbers of people who have become addicted, the profits associated with the production and distribution of prescription opioids, specific actions taken by Big Pharma that could be instrumental in promoting the spread of opioid addiction, etc., but not questions about Mill. **Provide as a bulleted list and pose in question form.** For this assignment, you do not have to do all the research but you need to raise the kind of questions that would drive such a project. These should be research questions and as such should be concrete and answerable with reference to assessable data and reliable sources. No bias or prejudice should be evident and the questions should be non-normative (no “ought” or “should” questions). Think about facts that, if known might help determine how one should or could respond to the case. (15 points)

3. **Mill’s Position**: How do you think Mill would respond to this proposal; “To what degree should Big Pharma be held financially liable for the economic burden of the prescription opioid epidemic?” Be sure to provide properly cited quotations from Mill (primary source = Mill’s writings and does not include secondary commentary from Rosenstand or from me) to support your answer. Note that this question carries the highest weight in points. (25 points)
4. **Critical Objection:** Identify one key problem with Mill’s version of Utilitarianism as it applies to this particular case. Hint: begin with one of the objections to Utilitarianism as a moral theory and then determine if that problem is illustrated by the case. (10 points)

5. **Conclusion:** Where do you personally stand on this question of the extent of Big Pharma's responsibility for the prescription opioid epidemic? Defend your answer without resorting to a repetition of points made in previous sections. (5 points)

**Background1: Case Study #1**

**Association for Practical and Professional Ethics**

**Case 3: Big Problems for Big Pharma**

The United States is facing an opioid epidemic. In 2015 alone, 33,000 people within the United States died from an opioid related death. Opioids are narcotics that produce a morphine-like effect. They work by binding to opioid receptors within the body and reducing the body’s ability to send pain messages to the brain. Common opioids include hydrocodone, morphine, fentanyl, and oxycodone. Over half of the opioid-related deaths are linked to prescription opioid use, while the remaining are credited to street drugs. According to a study published in Medical Care, the prescription opioid epidemic has introduced a “total economic burden of $78.5 billion.”

In early June of 2017, nine counties in Tennessee sued Big Pharma (specifically Purdue Pharma, Mallinckrodt and Endo Pharmaceuticals) for costs of fighting the epidemic. The suit declares that Big Pharma should be labeled as drug dealers, and accuses pharmaceutical companies of misleading consumers as to the addictive properties of the drugs and marketing the drugs as the miracle cure for all types of pain. Two weeks later, the Missouri Attorney General filed a similar suit against three large pharmaceutical companies, Janssen, Purdue, and Endo Pharmaceuticals, claiming they are pushing a “campaign of fraud and deception.” The Attorney General is asking for “hundreds of millions of dollars” in both damages and civil penalties. The pharmaceutical companies replied to the suits stating they share concerns regarding the opioid crisis and they have “acted appropriately, responsibly, and in the best interest of patients regarding our opioid pain medications.”

These lawsuits are unique as up to this point legal initiatives have primarily put responsibility for the epidemic on physicians, prescribers, and pharmacies, not pharmaceutical companies. Some claim physicians are the first line of defense and are over-prescribing opioids for pain which may be effectively

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1 Please note that you are not limited to the background offered. It is expected that you will do more in-depth reading to develop your thesis. You may feel free to use any credible/reliable source as evidence for your arguments. Additionally you may use additional material from Mill to defend your answers. Please provide full citation for all research.
managed with other non-addictive medications such as Ibuprofen. On the flip side, opioids may be the best choices for some patients, especially those having surgical procedures. According to data collected in 2009 at Stanford University, 48 million people underwent inpatient surgery in the United States alone. It is likely that all of those persons were not only prescribed, but truly needed opioids to manage postoperative pain.

*Keep scrolling down for rubrics and a sample completed assignment!*
General Suggestions for Writing Case Studies

How not to write your paper:

I. Focus & Relevance
Be sure that you understand the assignment and have understood each question. Your responses should be focused on the questions I’ve asked & not the questions you wish I had asked! It is important to weed out all irrelevant considerations or concerns that an economist or historian or political scientist might have but are not strictly speaking, ethical concerns. Look at the completed sample case study for some ideas.

II. Format
You should copy & paste or re-type only the first part of the question (the portion in bold type). Please number each response corresponding to the assigned questions. Papers should be 2 pages (approximately 1400 words) using 12 pt. fonts and single spacing with one inch margins. There should be an extra space separating your responses to each question. Again, please reference the completed sample case study and follow the format exemplified.

III. Tone/Voice
Ever since George Carlin pointed out that “using your own words” would result in a private and hence meaningless expression, I’ve had to give up on the phrase. However a certain degree of originality is still important. Your task is to explain a concept as if you were the Teaching Assistant for this class. If you simply repeat the text or my lecture, you haven’t helped your imaginary student. You need to clarify the argument/concept in a way that demonstrates that you really understand it and can express the same ideas in a way that is different than has already been explained by the text or by me.

IV. Adequate and Balanced Defense of Your Argument
In question three, you are asked to make an argument using the philosopher we’re studying. You should be clear in your thesis in the first sentence of the first paragraph of section #3 (and section #5). It is important to ensure that your application is consistent with the philosopher’s theory and that you support that application with a well-thought-out defense. Your analysis should reflect a degree of familiarity with not only the philosophical theory but also the key facts of the issue gleaned from a number of reputable sources. You should include counter-

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2 Please note that these guidelines are for my class assignments. Individual instructors may have other format preferences and you should consult with your teacher for the details before completing your assignment.
considerations that are relevant to that theory and could impact the philosopher’s conclusions.

V. Quotes & Citations
Quoting is a way of supporting your interpretation of an argument or theory and is critical to a scholarly endeavor. Relevance to your response and to the question asked is critical. Quotes can be edited but be careful not to take the quote out of context, thus altering the intent of the author. The length and number of quotes must be appropriate to the length of the assignment; short papers require shorter and perhaps fewer quotes. All quotes must be from primary sources – i.e. must come from the original author’s works, neither from the secondary commentary of the author of our text nor from my lectures nor my power points. If the quote was found in our text, they need only be cited with the page number of our text where it was found (see sample completed assignment). However, quotes from all other sources must be fully and completely cited. You may not use quotes that I’ve already used in my lectures or power-point slides! No quotes should come from sources such wiki-quotes, intelli-quotes, brainy-quotes, Mill-quotes, etc. as these are insufficiently scholarly and often include misquotes. All close paraphrases and every piece of data/factual reference should also be cited though not necessarily encapsulated in quotation marks. All citations should be presented as endnotes – not as footnotes nor as works cited. (See example provided.) The endnote citations do not count as part of your page limit.

VI. Length
Part of the criteria for success is effective use of the space allowed. If you write a single page for a two page assignment, you have not satisfied this criterion. However, this is not an invitation to use the additional space for stream-of-consciousness or irrelevant information not pertinent to the assigned issue. If you are having difficulties with the length, it is usually because you have not recognized or developed sufficiently the various issues involved. Conversely, if your draft is too long, you need to whittle it down to just the relevant essentials, perhaps editing out the anecdotes or redundancies; more is not always better! I am very willing to help if you submit drafts sufficiently before the due date.

VII. Rough Drafts
I have invited all of you to bring rough drafts of your completed assignment in for a preview reading. I do not offer re-writes after I have graded your papers. Rough drafts are brought in during my office hours or by appointment and I only read them in person - with the student present. Please do not submit rough drafts electronically nor should you drop them off in my box. I support pro-active measures that encourage preparation and thought and with rough draft readings, both the student and I should benefit with the end result being a better final draft. If your work satisfies my criteria (see rubrics following) for “A” level work, and if the draft is formatted and printed in final draft format, I will sign off on the draft, guaranteeing those students somewhere between 100% and 90% of the points possible for this assignment. Your cut-off for rough draft submissions is 24 hours prior to the due date; I will read no rough drafts the day of or the day prior to the due date.

Keep scrolling down for rubrics and a sample completed assignment!
Standards (Rubrics) for Grading Case Studies

The excellent paper (100-90% of points) will exhibit the following qualities:

**Question 1:**
- Issues identified are of a *normative*/moral nature. (i.e. they contain normative terms such as “Should” or “ought” and are concerned with issues of right and wrong regarding moral value, rights & obligations, etc.)
- Each issue is distinct and not repetitive of other issues raised.
- Issues are presented as grammatically correct questions and are presented in a bulleted list.
- Issues cited include the most central, relevant issues associated with the topic.

**Question 2:**
- All items are listed as factual, *non-normative* questions. No immediate bias is evidenced and no questions center on what “ought” or “should” be the case.
- All critical questions have been raised given the space allowed.
- Questions are relevant to the case and would be likely to be relevant to the philosopher/theory being applied to the case.
- Questions are likely to drive effective and informative research. The questions should be factual and answerable (at least in terms of probabilities or projections backed up with historical data).
- Questions are *not* phrased in terms of what will or could happen nor should they be conditional speculations (If x happens....) but should instead focus on what *has* happened or *is* happening; remember one cannot gather data from events that have yet to occur.
- Questions are grammatically correct and are presented in a bulleted list.

**Question 3:**
- A clear thesis statement is made in the first sentence.
- Argument is focused on the key issues.
- Argument is clear and well organized.
- Argument is consistent with the assigned philosopher’s theory.
- Argument is effectively supported with relevant reasoned discussion.
- Sufficient detail from the philosopher’s theory is provided.
- Argument is *effectively* supported with *relevant* quotes from the philosopher’s primary work & all quotes are cited properly. (Note that endnotes are to be used; endnotes do not count as part of the 2 page limit.); Quotes are not too numerous or disproportionate to student’s original discussion, are of appropriate length, are pulled from sufficiently scholarly sources, are properly cited and quotes are not those which have been used in lectures or on power point slides.
- Responses reflect thoughtful and detailed consideration of not only background material provided but also a further familiarity with the events and history surrounding the issue.
- No immediate personal bias is evidenced.

**Question 4:**
- Core objection/counter-consideration is clearly identified.
- Issue raised is reflective of the details in the assigned case study.
- Objection/counter-consideration is reflective of issues or problems with the assigned philosopher’s theory in application to the case.
- Objection is directly relevant to the case made in response to question three.

**Question 5:**
- Thesis is clearly stated in 1st sentence
- Reasons offered in support of thesis reflect a thoughtful and fair approach to the details of the case and the details of the assigned philosopher’s theory.
- Discussion is not repetitive of any previous section.

**Overall Impressions:**
- Study presents evidence of a thoughtful and deliberative approach.
- Language is clear and explanations/arguments are original
- Effective use has been made of space allowed
- Study reflects careful consideration of background material provided.
- Study reflects that the author has “dived in” and explored the issue beyond the background material provided
- The study is scholarly, with effective use of the essays and relevant philosophical theory.
- There is good logic flow from one response to another – issues raised in earlier questions must link logically with responses to later questions.
- Assignment format has been followed.

**Good (89-80% points)**
The good paper will demonstrate all the above qualities but perhaps to a lesser degree or, will demonstrate some of the above qualities excellently, but not all of the qualities will be presented at a consistently high level.

**Satisfactory (79-70% points)**
The satisfactory paper will present all of the above qualities but not as strongly as the good paper or, some qualities may be stronger with some not as strong. Insight is not usually present.

**Needs Work (69-60% points)**
This paper is weak on many of the desired qualities.

**Really Needs Work – Pretty Much Unacceptable (59-0% points)**
This paper presents few if any of the desired qualities.

*Keep scrolling down for a sample completed assignment!*
1. **The Key Moral Issues:**
   - Do public schools have a moral obligation to support and promote diversity in the educational curriculum, regardless of the racial and cultural demographics of the population of their students?
   - If it is a situation of strained economic resources, should the interests of the majority of students outweigh the interests of a minority population of traditionally underrepresented students?
   - Given that this is an issue regarding public high schools, it follows that AZ taxpayers are actually paying for the student’s education. Should this give the taxpayers and their representatives the right to dictate curriculum to be taught?

2. **Asking the right questions:**
   - What is the population distribution by race/ethnicity of AZ high school students?
   - How much does the ethnic studies program cost per student compared to the general courses taught and how many students as a percent of the total school district population does it serve?
   - What impact has the institution of ethnic studies programs had on the students who participate in terms of completion, transfer and continuing success post-graduation in AZ and nationwide?
   - Are there statistical correlations between drop-out rates and unemployment, homelessness and crime?
   - What portion of tax revenue is spent on crime prevention and mediation in Arizona?
   - Are there estimates of lost tax revenue due to unemployment and homelessness in Arizona?
   - How have the students in the ethnic studies program performed on standardized tests as compared to the general population of students in the district?
   - Was there an increase in school violence or public disturbances linked to racial tension during the period the program was taught?
   - To what degree is the contribution of non-white persons included or recognized in current curriculum?
   - What was the ethnic/racial background of the students who participated in the program?
   - What is the ethnic/racial background of those who serve in the AZ House?
   - What is the ethnic/racial background of voter turnout in AZ as a proportion to total population?
   - Is the public funding of AZ schools very limited or decreasing & how does AZ per student spending compare to other states in the US?
   - Have there been significant changes to the tax revenue or apportionment towards education in the state of Arizona & how does the percentage of proportionment compare to other states in the US?

3. **Mill’s Position:**
   There are three main reasons why Mill would have rejected Arizona’s House Bill 2281. First, Mill was a utilitarian and thus would weigh the moral worth of this bill in terms of outcomes and the number of people affected. From such a cost-benefit analysis, it appears that though the ethnic studies programs may have been more expensive and served a smaller population of students, the outcomes were significant in terms of greater retention and graduation rates, better scores on standardized exams, higher transfers to colleges, and a significantly more motivated student body who felt empowered to work towards issues of social justice and equal opportunities for Latinos. Under the old system, one must consider the cost of educating students who fail or drop-out. The waste of finite public resources, combined with the social cost
of high school drop-outs in terms of quality of life, higher incidences of crime, unrealized potential and lost productivity cannot be disregarded.

Secondly, Mill held there is a connection between education, a just society and the greatest good or ‘happiness’ as he called it. Mill argued that qualitative differences were important to recognize in ranking the goods to be maximized. For Mill, this highest good involved free will, empowered action, a sense of pride and most importantly, a kind of higher rational dignity. He argued, “The present wretched education and wretched social arrangements are the only real hindrance to its being attainable by almost all.” If it can be adequately shown that the ethnic studies do contribute to such qualities for a significant number of students – and anecdotal evidence supports this – then this is just the sort of program of which Mill would most approve. Many of the participants reported a significant change in their understanding of how their ancestors contributed to this country and that they had gained a real sense of empowerment and optimism about their own future.

Finally, as a classic libertarian, Mill was opposed to excessive government intervention. He wrote, “The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.” There appears to be little evidence to support that there was an active harm incurred through the teaching of ethnic studies. Contrarily, there is good evidence that an ethnically diverse curriculum is pedagogically defensible. The Arizona state legislators’ move has effectively curbed a cherished practice of academic freedom which is clearly consistent with Mill’s position on governmental overreach. Encyclopedia Britannica defines academic freedom as, “…the freedom of teachers and students to teach, study, and pursue knowledge and research without unreasonable interference or restriction from law, institutional regulations, or public pressure.” In order to justify this Bill, the legislators needed to demonstrate positive harms such as proving a clear link between an increase in racially motivated violence and the program. Mill argued strenuously against censorship in On Liberty, “If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.” It seems clear that, in this case, there are greater harms in censorship and the erosion of freedom than there are gains made in the name of consistency and standardization. When one includes the books that were also banned, this looks like a bad Bill likely to result in worse consequences.

4. **Critical Objection:** The utilitarian credo demands acting to promote the good for the greatest number of people and does not require that the needs of the minority be met unless it can be shown that doing so will serve the greater good. Here, a problem of sheer numbers is clear. Public school funds are always limited and special programs do tend to cost more per student and serve fewer students as a whole. Public schools across the nation are largely in a situation of economic triage – determining how to serve the majority of those who can succeed with moderate efforts expended, while allowing those who won’t succeed without significant intervention to languish while also sacrificing the programs geared towards the upper tier of most excellent students. It might seem that the cash-strapped state of Arizona might make the same argument other schools have been forced to make regarding music, art, and language courses.

5. **Conclusion:** I believe these programs need to be supported – as an addition and enhancement of students’ educational opportunities. The argument thus far, has been presented as a bit of a utilitarian false dilemma: either serve the majority at the sacrifice of the minority or serve the minority, thus diminishing the good to the majority. My answer is to serve all, and in doing so, increase the good for current and future generations. The means by which this can be accomplished is to increase school funding as AZ is one of the lowest states in per student spending in the nation. The small sacrifice of proportionately increased taxes for each would produce a far greater benefit for so many students and, ultimately the entire state.
http://www.pbs.org/independentlens/precious-knowledge/

Text, p. 266

Text, p. 267

http://www.pbs.org/independentlens/precious-knowledge/

Ibid.

Text, p. 256

Text, p. 255

http://www.britannica.com/EBchecked/topic/2591/academic-freedom

http://www.bartleby.com/130/

http://plato.stanford.edu/entries/utilitarianism-history/