Case Study #1: Ethics & The Gig Economy

Read the sections on Mill and Kant in the chapter on Ethics in our text and the attached pieces from *The International Business Times*, NPR and the *CBS Money Watch*. The completed assignment should be three pages long, (approximately 2000 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 100 points. Keep Scrolling Down – Detailed instructions, rubrics and a sample completed assignment are on the pages following the Background! Your completed assignment is due on the 7th of March (M/W)/8th of March (T/Th).

Questions:

1. **Paraphrase:** What reasons does Stangler offer in the first attached article from the *International Business Times* to support his conclusion that “The Uber, Lyft Driver Union Push Could Disrupt the Gig Economy”? (10 points)

2. **Asking the Right Questions:** The big question here is, should workers at Uber, Lift Driver and other such companies have the right of collective bargaining? But before you can answer this moral question you need to gather some evidence and critical information. 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 the number of workers affected, their income and employment status, the impact of their services on the general economy, etc. but not questions about Mill or Kant. Provide as a bulleted list and pose in question form. For this assignment, you do not have to do 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 data-driven, concrete and answerable. (20 points)

3. **Would Kant be likely to grant these workers the right of collective bargaining?**
   Defend your answer including specific details from Kant’s deontology & provide citations from Kant *(primary source = Kant’s writings and does not include secondary commentary from Solomon or from me)* to support your answer. (30 points)

4. **Would Mill be likely to grant these workers the right of collective bargaining?**
   Defend your answer using specific details from Mill’s utilitarian approach to ethics & provide citations from Mill *(primary source = Mill’s writings and does not include secondary commentary from Solomon or from me)* to support your answer. (30 points)

5. **Conclusion:** Where do you stand on this issue? Do you think workers at Uber, Lift Driver and other such companies have the right of collective bargaining? Briefly defend your answer without resorting to a repetition of points made in previous sections. (10 points)
A revolution is brewing in the so-called gig economy: As independent contractors, most workers for apps like Uber and Lyft lack the sorts of basic rights afforded to much of the American labor force. That's going to change if a growing pack of legislators gets their way.

Earlier this week, the Seattle City Council voted to extend collective bargaining rights to drivers for the popular ride-hailing companies. Now, a California lawmaker is preparing to introduce a similar bill covering an even larger group of independent

---

1 Please note that you are not limited to the background offered – you may feel free to use any credible/reliable source as evidence for your arguments. It is expected that you will do a bit 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 Kant & Mill to defend your answers. Please provide full citation for all research.

contractors -- not just those at Uber and Lyft, but workers for other popular on-demand platforms like TaskRabbit and Postmates.

“If you look at the foundations of minimum wage and the eight-hour day, if you look at the foundations of retirement security, a lot of it came later through legislation, but it started through collective action in the workplace,” said Democratic Assemblywoman Lorena Gonzalez, who plans to introduce her legislation in January. “I’m a believer.”

The twin efforts mark one of the most ambitious attempts yet to lift labor standards in the gig economy, an umbrella term for the largely app-based startups that rely heavily on the use of independent contractors. Many of these companies, including Uber, have faced lawsuits from workers alleging they should have been classified as employees — a designation that would give them access to the minimum wage and overtime pay in addition to workers’ compensation and unemployment insurance. But many of these businesses insist their workers are not traditional employees.

The debates over classification are still raging. In the meantime, labor advocates say gig economy workers still need a voice on the job.

Allowing app-based drivers to bargain with companies like Uber and Lyft “levels the playing field,” said Leonard Smith, organizing director at Teamsters Local 117, which helped hatch Seattle’s new law. By hammering out labor agreements with ride-hailing companies, drivers can, in theory, solidify more equitable wage rates and win a sense of job security they currently lack, according to Smith.

“This is really the only way they can receive protection,” said William Gould, a former chairman of the National Labor Relations Board and current chairman of the California Agricultural Labor Relations Board. “For those who are clearly not employees ... this is the best route available. Otherwise, they are completely
unprotected. They are dependent on the benevolence of companies like Uber in obtaining adequate compensation and job security.”

Gonzalez, the California legislator, plans to visit with Teamsters representatives and Seattle city officials this weekend. She says she is preparing her legislation independently of the effort in Seattle and notes her proposal will be broader in scope.

“It says, hey, how do we deal with this long term with everybody [in the gig economy], not just transportation drivers?” Gonzalez said. “How do we reach a broader population and set up a system by which we say, OK, independent contractors need to be able to have some kind of voice on their job and bargain for things we take for granted as employees?”

Gonzalez adds that her proposal is still in the works, but it would not require the creation of a new state agency.

Lyft did not respond to a request for comment. Uber declined to comment about the specifics of either piece of legislation. “Uber is creating new opportunities for many people to earn a better living on their own time and their own terms,” said spokeswoman Jessica Santillo.

**Can It Pass The Legal Test?**

Critics charge that Seattle’s plan — and any other plan to let independent contractors form unions — is illegal. Lawsuits are widely expected in Seattle, although none have been filed yet.

Some opponents say Seattle’s system violates the National Labor Relations Act, the cornerstone of American labor law. Crafted in the 1930s, the federal law applies only to employees and excludes independent contractors from the right to form unions and bargain collectively.

Gould, for one, is not convinced by the argument. Federal labor law also excludes agricultural workers, he points out, but that hasn’t stopped states from enacting their own regulations on the subject. And as the chairman of a state agency that enforces rights for a group of workers excluded from the federal law -- farmworkers in California -- the ex-NLRB head feels especially strong about this.
“The claim that this is a violation of the National Labor Relations Act is on its face frivolous,” Gould said of the Seattle law. “We’ve been operating under this [California farm labor] statute for 40 years now. No serious challenge to the lawfulness of our state statute has ever been raised on the grounds that the National Labor Relations Act excludes farm laborers.”

Critics also charge that measures like Seattle’s violate antitrust laws. In the past, courts have blocked attempts by contractors to band together and set common rates for their services on the grounds that they constitute a form of collusion. Observers generally agree the antitrust argument is stronger than the labor law one.

Still, Gould says the involvement of the city of Seattle — and more precisely, the fact that the law allows for arbitration — “makes this different.” Lawyers for the city “can distinguish this statutory scheme from other relationships that have run afoul of the antitrust law,” he said.

**What Would Unions Mean For Uber?**

According to a recent paper released by the Brookings Institution, about 600,000 Americans work in the gig economy, including 400,000 alone at Uber. In other words, despite all the recent growth and public attention, on-demand workers still make up a tiny share of the overall U.S. workforce, just 0.4 percent.

It remains unclear how new collective bargaining obligations would affect many of these companies.

In the case of Uber and Lyft in Seattle, which have more than 10,000 drivers in the city, “the real fear is that this may raise costs and make them not want to participate in the market,” says Eli Dourado, a research fellow at the libertarian Mercatus Center at George Mason University in Virginia.
That's less of a concern in California, a huge and lucrative market that companies likely wouldn’t want to abandon. Still, the presence of new labor agreements, says Dourado, “would raise costs and pass it along to customers in so far as collective bargaining raises costs.”

Aswath Damodaran is a professor at the Stern School of Business at New York University who focuses on corporate finance and valuation. He says unions will affect the cost structures of Uber and Lyft “by making the independent contractor model that they are wedded to even less defensible than it is.” He also says they are likely to shake up the current revenue-sharing balance: The companies take in roughly 20 percent commission on each fare.

“Both [factors] will show up in any profit margins that these companies hope to make eventually in these markets,” says Damodaran. “Not death blows, but blows nevertheless.”

**Unions, of course, aren’t the only force that threatens to lift labor costs.**

In June, Uber’s high-profile class-action misclassification case goes to trial. A federal judge will decide whether the company improperly classified roughly 160,000 drivers in California. Some have speculated that a ruling forcing Uber to label its drivers as employees would irrevocably damage the company’s business model.

Under the current independent contractor regime, Uber could be saving at least 20 percent in costs per driver, according to a recent Michigan State University study of worker misclassification in general. The savings come from the absence of payroll taxes and minimum wage and overtime requirements.

The company’s revenue for 2015 is expected to be around $2 billion, according to Reuters. Earlier this year, leaked documents showed that Uber has lost tens of millions of dollars since 2012. Nevertheless, it’s currently seeking a valuation of $62.5 billion -- about $7 billion more than the market value of General Motors.

Matthew Wong, an analyst at CB Insights, says the class-action lawsuit and the prospect of new labor agreements are unlikely to dissuade Uber’s investors — so long as the company’s long-term growth prospects remain strong. “I don’t think it’ll play a huge part in valuation,” he says.
Miriam Cherry is a professor at the St. Louis University School of Law who writes about workers in the gig economy. She says the prospect of new labor regulations raises an uncomfortable question about Uber’s business model -- whether its success comes from its innovative technology or its ability to effectively suppress labor costs and sidestep laws.

“If they’re really doing something other than just a regular old taxi service,” says Cherry, “if they’ve got really great service, if they’ve got a great app, a great network, et cetera, they should be able to do so while still treating their workers fairly.”

More on the 'Gig Economy':

Goodbye Jobs, Hello 'Gigs': How One Word Sums Up A New Economic Reality

Updated January 11, 2016 4:27 PM ET Published January 11, 2016 1:23 PM ET

GEOFF NUNBERG

---

Linguist Geoff Nunbers notes that while workers in today's "gig economy" may have more freedom than they had in years past, they also have less security.

"Gig" goes back more than a century as musicians' slang for a date or engagement. Nobody's sure where it originally came from, though there are lots of imaginative theories out there. But the word didn't have any particular glamour until the 1950s, when the hipsters and the Beats adapted it to mean any job you took to keep body and soul together while your real life was elsewhere.

That was the era when the "real job" — permanent, well-paid and with benefits — was enjoying its moment in the American sun, thanks to the New Deal programs, strong unions, and the postwar boom. So to turn away from that security and comfort in search of something more meaningful seemed a daring and romantic gesture. When you read Kerouac now, it still does.

"Gig" was a natural for the hippies who succeeded the hipsters, who made the avoidance of regular work a condition of tribal membership. But the word's more subversive overtones receded along with the counterculture. In recent decades, "gig" has become just a hip term for any temporary job or stint, with the implication you're not particularly invested in it. I think of the barista or bookstore clerk who responds to my questions with a look that says, "Hey man, it's a gig. I don't really DO this?"

That tone of insouciance has made "the gig economy" the predominant name for what's being touted as the industrial revolution of our times. The lifetime job is history, we're told, a victim of technology and the logic of the market. Instead, careers will be a patchwork of temporary projects and assignments, with the help of apps and platforms with perky names like FancyHands, Upwork and TaskRabbit.
As Labor Market Advances, Millions Are Stuck In Part-Time Jobs

It has been called the on-demand economy, the 1099 economy, the peer-to-peer economy, and freelance nation, among other things. But over the past year, investors, the business media and politicians seem to have settled on "the gig economy." It strikes just the right jaunty, carefree note. The Financial Times explains that in the future, work will be less secure, but lots more exciting. We can make our own schedule and hours, pick the projects that interest us, work from anywhere and try our hands at different trades.

The buzzwords fly thick and fast here — we'll be "solopreneurs" and "free range humans" with "portfolio careers." As the head of a freelancers' organization puts it, we're no longer just lawyers, or photographers, or writers. Instead, we're part-time lawyers-cum-amateur photographers who write on the side.

That's the image that phrases like "the gig economy" and "freelance nation" bring to mind, an economy populated by professionals and creatives, typically single millennials — people who may be willing to trade some security for the opportunity to take off a month or two off to visit Patagonia. But that language doesn't get at most of the people who are cut loose in the new economy and who aren't reveling in the independence it gives them — the ill-paid temps and contingent workers that some have called the "precariat."

Unless you're a bass player, calling a job a gig is a luxury reserved for people who can pretend they don't need one.

When you hear "freelancer" you don't think of the people cobbling together a livelihood cleaning apartments, delivering groceries and doing other people's laundry. And not many of those people think of themselves as having gigs. Unless you're a bass player, calling a job a gig is a luxury reserved for people who can pretend they don't need one.

There's kind of semantic shell game here, as the promoters of the new economy trade on the whisper of romance that still clings to "gig." For the hipsters and the Beats, the word evoked a fantasy of freedom and escape from the soul-deadening routine of a permanent job.

If you have a long cultural memory, it's a bit jarring to hear those paeans to gig life coming from the venture capitalists and consultants who are hyping the new economic order. It's as if the shade of Kerouac were still haunting the place that's now called Silicon Valley, where he had his gig as a brakeman 65 years ago.

But their logic sounds impeccable. If "gig" suggests the independence you get when you're not tied down to a steady lifetime job, then just think of the freedom we'll all enjoy when the traditional job is consigned to the scrap heap of history, and the economy is just gigs all the way
down. But the idea of a gig is only alluring if you know you can hit the road when it gets joyless. Otherwise it's just an old word for a job you need that you can't count on having tomorrow.

A growing number of Americans are participating in the so-called gig economy, working for companies such as Airbnb, TaskRabbit and Uber that harness the power of the Internet to offer ride-sharing, food delivery, lodging rental and many other services.

What's less clear is just how quickly that sector is growing. The question is critical because the rapid emergence of such work arrangements, most of which aren't covered by traditional wage and labor laws, point to important changes in the U.S. job market. And the answer is proving hard to come by, with estimates by experts, and even official government tallies, all over the map.

"It has become clear to me that the federal government's definitions, data collection and policies are still based on 20th century perceptions about work and income," Sen. Mark Warner, D-Virginia, said in a recent letter questioning the U.S. Labor Department's ability to measure the gig economy. "In a 21st century economy, we need new and better information so we can understand the potential policy ramifications when more people, whether by personal choice or economic necessity, are making a living with no connection to a single employer, or without access to the safety net benefits and worker protections typically provided through traditional full-time employment."

One survey out this week suggests that some 45 million people, or more than 1 in 5 adults, participate in the gig economy, also known as the sharing or on-demand economy. According to the poll by Time magazine, public relations firm Burson-Marsteller and the Aspen Institute think tank, 14.4 million people derive a majority of their income from the gig economy, defined as "contingent work that is transacted on a digital marketplace."

The attributes of these positions, which include flexible hours, low or no training costs, and typically an ability to start work quickly, appeal to many workers, The Brookings Institution said in an online posting. "These features have enabled gig-economy

---

workers, including those with other jobs, to generate new income or to supplement their primary incomes during difficult times in a strained job market."

But to suggest that 10 of millions of workers rely on such work seems far-fetched. In its own study, Brookings found that a much smaller number -- 600,000 workers, or 0.4 percent of the total labor force -- now work in the online gig economy. Two-thirds of them drive for Uber alone, the paper found.

Why the disparity? For one, debate over the size of the gig economy reflects a broader uncertainty over the exact number of temporary, freelance, part-time and others known in the trade as "contingent" workers. A 2015 U.S. Government Accountability Office found that the contingent workforce ranges from less than 5 percent to more than a third of the country's overall labor pool, depending on how jobs are defined and the data source.

**Freelancers, start-ups fuel co-working space trend**

Relatedly, the uncertainty over the breadth of the gig economy stems from an inability to definitively classify such workers as either as "employee" or "contractor."

In theory, people who work for Uber would be considered by the Bureau of Labor Statistics as "self-employed." But as Moody's Analytics economist Adam Ozimek has noted, the share of workers reporting that they are self-employed is at its lowest point in 70 years, even as the gig economy has grown. The share of people with several jobs is also declining, undermining the narrative of workers increasingly cobbling together a living by holding down multiple gigs.

The BLS used to conduct a survey of workers involved with so-called alternative arrangements, called the Contingent Work Supplement, but it hasn't done so since 2005 due to budget constraints. From 1995 to 2005 when it conducted the survey, the government found that about 30 percent of workers could be considered contingent.

The lack of a clear definition for gig economy workers has labor advocates calling for a new labor classification to ensure that they have adequate protections on the job. Since many are viewed as freelancers or self-employed, for instance, they aren't covered by laws mandating overtime pay, compensation for workplace injuries and other benefits afforded employees.

It's led to lots of legal wrangling among gig economy workers who feel they're being treated as employees because of demands placed upon them by companies. The numerous lawsuits filed in the nation's courts have the potential to disrupt the gig economy, and possibly even render it obsolete.

Only time will tell if regulation can catch up with industry in developing a new classification of worker, one that squares the legal rules governing work with the new products and services that the marketplace demands.

© 2016 CBS Interactive Inc.. All Rights Reserved.
Keep scrolling down for rubrics and a sample completed assignment!

General Suggestions for Writing Case Studies

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 3 pages, using 12pt. fonts and 1 inch margins all around. 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 expressions, 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

5 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.
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 questions three and four, you are asked to make an argument using the philosophers we’re studying. Your thesis should be stated clearly in the first sentence of each response. 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. You should include a counter-consideration that is relevant to that theory and could impact the philosopher’s conclusions.

V. Quotes
Quoting is a way of supporting your interpretation of an argument or theory. 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 of the quote must be appropriate to the length of the assignment; short papers require shorter quotes. Quotes illustrating the philosophers’ positions must come from the original author’s works, not from the secondary commentary of the author of our text. If the quotes are drawn from the assigned text for this course, they need only be cited with the page number where it was found (see sample completed assignment). Quotes drawn from other sources including those pertaining to the case require full citation. No quotes should come from sources such wiki-quotes, intelli-quotes, brainy-quotes, Mill-quotes, etc. You may not use quotes that I’ve already used in my lectures or power-point slides!

VI. Length
Part of the criteria for success is effective use of the space allowed. If you write a single page for a three 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.

**Standards (Rubrics) for Grading Case Studies**

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

**Question 1:**
- Conclusion is clearly identified in the first sentence.
- Major supporting premises are identified.
- Relevant and critical minor supporting premises are identified.
- Argument has been presented with good logical flow.
- Paraphrase has eliminated all irrelevant or unnecessary information.
- Paraphrase is original and not merely a verbatim repetition of original argument – no quotes are included.
- Argument is clearly understood and consistent with the author’s intent.
- No critique, analysis or irrelevant commentary is provided.

**Question 2:**
- All items are listed as normatively neutral 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 assessable/answerable (think in terms of hard data, authoritative studies, historical events or past trends).
- Questions are **not** phrased in terms of what will, might or could happen but what has happened; remember one cannot gather data from events that have yet to occur.
- Questions are grammatically correct and are presented in a bulleted list.

**Questions 3 & 4:**
- 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.
- At least one primary counter-consideration is discussed.
- 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 in the example to make the most effective use of space allowed, endnotes were used; endnotes do not count as part of the 3 page limit.)
• Quotes provided are not too numerous or disproportionate to student’s original discussion; they play a supporting role not a starring role. No quotes are used from lectures or power-point presentations.
• 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 5:
• Thesis is clearly stated in 1st sentence
• Discussion is not repetitive of any previous section.
• The argument satisfies the ARG criteria.

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 with the length of each section proportionate to the number of points possible for that section.
• Study reflects careful consideration of background material provided.
• Study reflects that the author has 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.
• Quotes have been provided which are relevant – supporting arguments made, are of appropriate length, are cited properly, are principally from primary source material and quotes are not those which have been used in lectures.
• 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!
Case Study #1: Kant, Mill & Arizona & House Bill 2281

1. **Paraphrase:** This film presents a condemnation of AZ House Bill 2281 which the makers of the film charge as targeting the teaching of ethnic studies in AZ high schools. The film argues that the funding of ethnic studies in the high schools is a critical and significant contributor to student success and fulfills the needs of underrepresented students that are not otherwise met in the conventional curriculum. Further it is argued that those supporting AZ HB2281 are motivated by a poor understanding of the ethnic studies program and at the very least a callous indifference to the needs of those underrepresented students. Lastly, it is argued that AZ HB2281 is tantamount to censorship.

2. **Asking the right questions:**
   - What is the population distribution by race/ethnicity of AZ high school students?
   - What was the drop-out rate for AZ Latino students before vs. during the program? How did the drop-out rate of students who participated in the program compare to the overall drop-out rates of the school district?
   - 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?
   - Have any scientific studies been performed to link diversity of curriculum to student success?
   - To what degree is the contribution of non-white persons included or recognized in current curriculum not focused specifically on ethnic-studies as evidenced by inclusion in texts and other course material?
   - What was the racial background of the students who participated in the program?
   - What is the ethnic/racial background of those who serve in the AZ House?
   - 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?
   - 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?
   - In other states/cities/districts 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?

3. **Mill’s Position on AZ House Bill 2281:**
   Mill would ultimately argue that Arizona is not morally justified in passing this bill. At first glance it might seem that as a utilitarian, Mill would be forced to support this bill. Public school funds are always limited and schools across the nation are largely in a situation of economic triage —allowing those who won’t succeed without intervention to languish and sacrificing the programs geared towards the most excellent in order to serve the middle majority of students. Mill, as a utilitarian, 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 the ethnic studies programs are more expensive and do serve a smaller population of students. Since the utilitarian credo demands acting to promote the good for the greatest number of people and does not demand an egalitarian distribution, 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. However, looking more carefully, there are three critical reasons why Mill would have rejected Arizona’s House Bill 2281.

First, the previous argument ignores the fact that 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. For Mill, happiness 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. Kant’s Position on AZ House Bill 2281:

I will argue that Kant would also reject the passage of AZ House Bill 2281. There are two critical reasons that would drive Kant’s rejection of this bill. First, the bill is inconsistent with the duty of an educator. Kant is a deontologist, not a utilitarian; this means we have to act based solely on the idea of duty and not on anticipated outcomes. Kantian duties are to be derived by looking at the meaning or intention behind the actions – we are to act from what Kant calls “pure practical reason.” (p. 698) "But if
pure reason of itself can be and really is practical, as the consciousness of the moral law proves it to be [cf. §2.2 on the “fact of reason”], it is still only one and the same reason which, whether from a theoretical or a practical perspective, judges according to a priori principles….\textsuperscript{vi} Kant’s idea of “a priori principles” is that we cannot rely on subjective preference or individual anecdotal experience – principles must be drawn from what things are. This means that to figure out the duty of an educational program, one must look at the purpose or definition of education. Kant wrote, “It is, however, not enough that children should be merely broken in; for it is of greater importance that they shall learn to think. By learning to think, man comes to act according to fixed principles and not at random.”\textsuperscript{vii} If the principle purpose of education is to create a climate for and growth of critical thinking and the ethnic studies programs serve that purpose well, then the ethnic studies are not only defensible but obligatory. There is very good evidence that critical thinking is a significant part of the design of this curriculum.

Secondly, passage of the AZ House Bill 2281 is in direct conflict with Kant’s conception of respect for persons. When discussing duties, Kant emphasizes the importance of developing and preserving that “ennobling” characteristic of human dignity and that this should be the practical content of a child’s educational experience.\textsuperscript{viii} Under much of the standardized curriculum, a child only reads about the contributions of one particular culture or ethnicity – often and in the case under consideration in AZ, one to which the child does not belong. Certainly embedded in Kant’s idea of human dignity is respect – a sense of inherent worthiness – for every person as “end in itself.” (p. 705) To be consistent in our commitment to respect for persons, we cannot talk about respect for only some persons. When some people, solely by virtue of their ethnicity, are excluded from the narrative in the curriculum, a clear message is sent that those groups of people are not only less worthy than others but that their contributions are culturally and historically insignificant. Given his dedication to the idea of telling the truth, I doubt Kant would approve of this message which is tantamount to a lie and thus entirely inconsistent with being respectful! (p.705)

However, I also don’t believe that Kant would be completely unequivocal in his rejection of AZ House Bill 2281. It might be reasonably argued that Kant would reject any curriculum focused on specific ethnicities or student populations. For Kant, one of the most important criteria for moral action is the principle of universalizability. This means that we can’t approve of an action or policy unless it can be applied to all persons as a “universal law.” (p.699) Certainly there are good reasons to be concerned about preserving a common core educational experience. This seems to imply that Arizona would have to either cover all ethnicities in every class for every student or ignore the issue of ethnicity entirely which could lead to the loss of important sociological, psychological and even philosophical insights. Kantian approaches do result in the possibility that sometimes conflicts of duties result in a scenario of no perfect options available. I believe that for Kant, the better – but not perfect choice – would ultimately be to support these ethnic studies until at some point in the future, the core curriculum becomes more inclusive or in some very distant future, ethnic identity becomes irrelevant.

5. Conclusion: I believe these programs need to be supported – not at the sacrifice of other programs or student populations but as an addition and enhancement of their educational opportunities. The argument in Arizona 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 to those utilitarians 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.\textsuperscript{x} Further, I believe that Kant has left out a big piece of the educational experience when he omits the subjective aspects; the passion and engagement that these programs are capable of generating must be preserved. If a student’s education is not relevant to that student, all efforts become futile. At some point in the future, with the development of more inclusive curriculum and texts, these programs may not be as essential, but until then, they are absolutely critical.


viii Ibid.