



individual or society?

what is the unit of analysis?

what's "efficient" for me
may be "inefficient" for society

suppose unit of analysis
for law and policy is
"society"

see Jules Coleman, Yale



John Stuart Mill

utility?

measure of preference-satisfaction

problem: hard to make
interpersonal utility
comparisons



pareto efficiency?

Pareto superior: no one
hurt, one person helped.

solution: avoids interpersonal util problem

problem: ivory tower



Kaldor-Hicks efficiency?

gain to winners exceed
loss to losers

effectively cost-benefit analysis

solution: more realistic

problem: must know
whether winners won
more than losers lost

requires interpersonal comps

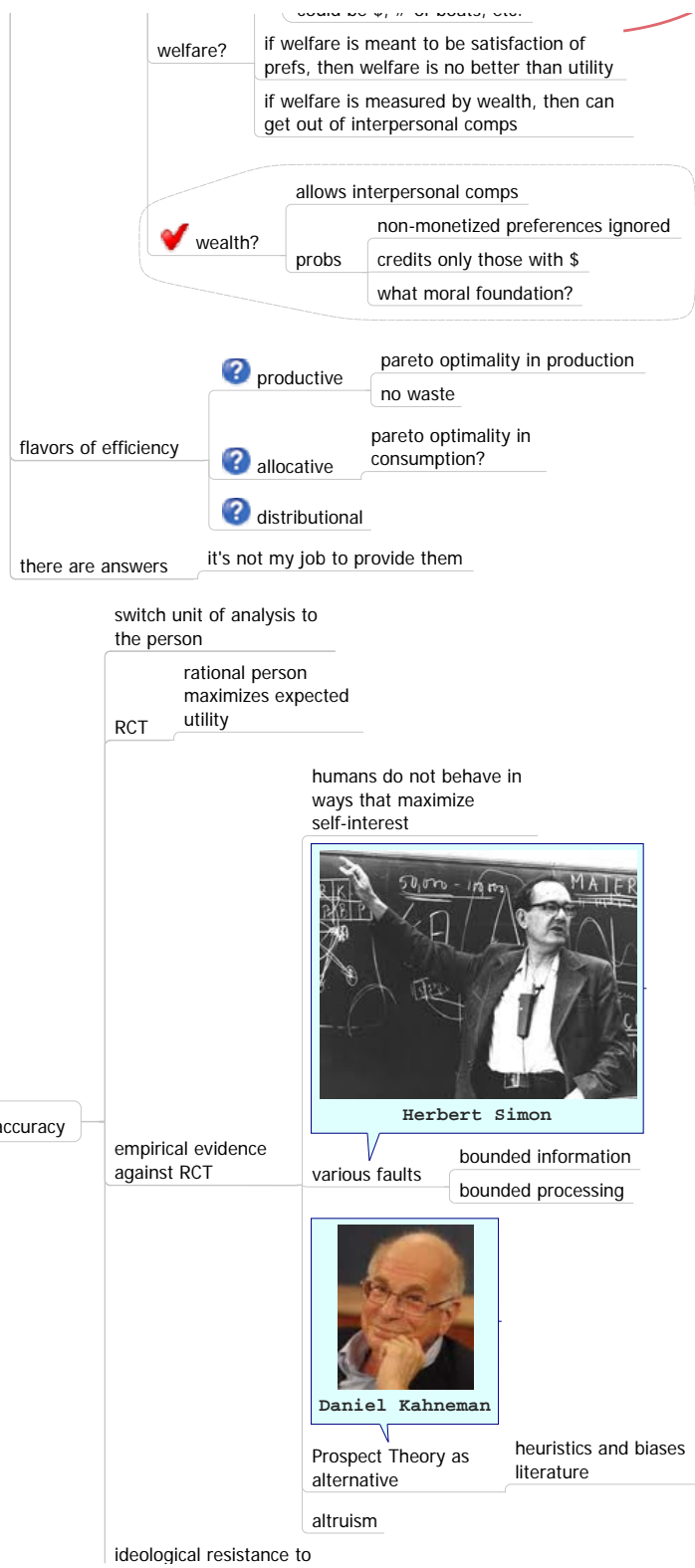
some concrete, objective formula for
measuring "good"

could be \$. # of boats. etc.

1 threshold problems

what is the
maximand?

what's wrong



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3 normative unattractiveness

the "facts"

what is the moral basis for society to maximize dollars?

can costs and benefits be reduced to dollars?

ignores fairness of distribution

distribution of X amongst people

income
wealth
opportunity
respect

ideological leanings

we are rational
the system is efficient
there's nothing wrong
system justification



kimchi

4 misc problems

endogeneity of preferences



leg warmers

endowment effect

what lives in market land

what lives in politics land

boundary problems



bunch of angry colored people who see racism everywhere

they whine a lot
they accuse a lot
but can't think themselves out of a paper bag

the bum rap

examples

descriptive claim

law and society are racist

normative claim

law and policy should be anti-racist



