

The Political Philosophies of Jeremy Bentham

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By the principle of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words, to promote or oppose that happiness.¹

In the history of Victorian thought, Jeremy Bentham holds an important place as an advocate of utilitarianism and as a proponent for the overhaul of the English judicial and legislative systems. Seeking to redefine the morality of intentions and actions as a scientific construct, he amassed a staggering volume of work in support of his basic tenet, that the function of government is to provide the greatest happiness for the greatest number. While not the original advocate of this principle of utility, Bentham nevertheless secured his historical role as the first significant theorist to strategise its practical application as a codifying element in the construction of both legal and constitutional frameworks for a universal approach to government. It is with this in mind that this paper examines his utilitarian philosophy, and its deconstruction of existing political theory in England. Focussing initially upon his earlier works, and expanding in scope to look at his broader theories of political authority and constitutional reform, it will address Bentham's pre-occupation with the need for a materialist approach in the development of his moral science, and in so doing, will address the concerns of authoritarian implications of the Benthamist definition of liberty.

As previously stated, it should be noted that Bentham's place as a political philosopher was not primarily in the development of the theory of utility, rather his intent can be viewed as originating from more methodological concerns. Born into a middle class family in 1748, and pushed by paternal ambition into the study of law and eventual admittance to the Bar in 1769, it was in fact Bentham's readings of Helvetius and Beccaria that provided his initial inspiration and his first encounter with the utilitarian expression that would form the basis for his complete rejection of the existing English legal system.² With the seeds of his impending political and judicial dissent planted, it was however his reading of Hume that would provide the crux point in Bentham's philosophical development.

I felt as if scales had fallen from my eyes. I then for the first time, learnt to call the cause of the people the cause of virtue... I learnt to see that utility was the test and measure of all virtue; of loyalty as much as any; and that the obligation to minister to general happiness, was an obligation paramount to and inclusive of every other.³

Bentham's ambition would therefore be to apply utilitarian philosophy, initially to the reconstruction of the judiciary and redistribution of legislative powers,

¹ Jeremy Bentham, "An Introduction to the Principles of Morals and Legislation", *The Works of Jeremy Bentham*, vol. 1, John Bowring, ed. (Edinburgh: Simpkin, Marshall, & Co., 1843), p. 1.

² John Dinwiddy, *Bentham* (Oxford: Oxford University Press, 1989), pp. 1-2.

³ Jeremy Bentham, *A Bentham Reader*, Mary Mack, ed. (New York: Pegasus, 1969), pp. 62-63.

and eventually to the formulation of a constitutional code that would be applicable to all governments. "Governed in this manner by a principle that is recognised by all men, the same arrangement that would serve for the jurisprudence of any one country, would serve with little variation for that of any other."⁴ Such was the role of Bentham's political "censor"; to theorise on how he thought the law should actually be.⁵ Indeed the need for such a function in political theory goes far to emphasise the positive progressive nature of his social forecast. That the censor is to define a law to guide all societies holds hopes for a future that borders upon the utopian, even though such a perfectionist state of nature is ultimately undermined by the utilitarian phrase, "for the greatest number." Nevertheless, Bentham would seem to hold himself as a vital corrective influence to the sciences of moral authority and judicial review.

To understand the utilitarian philosophy of Bentham is first to embrace its materialist nature. Heavily influenced by the rationalism of scientific endeavour, Bentham sought to assert his historical role as the "Newton" of the moral sciences.⁶ His theoretical principles would provide a workable map of human behaviour and, at a more fundamental level, of human psychology, effectively establishing the means to design and implement appropriate modes of legislative and judicial policy for the discouragement of inappropriate behaviour, whilst encouraging socially beneficial attitudes and activities. His philosophy was one with little consideration for the mystical or divine. Human behaviour, instead of being guided by the intangible moral precepts of an ambiguous religious order was in reality firmly embedded in the very earthly concepts of "pain" and "pleasure." These were in fact humankind's "two sovereign masters," and they would represent in Benthamist theory, the foundations for deciding "what we ought to do, as well as to determine what we shall do."⁷

Bentham then, rather than defining a philosophy with an idealistic faith in human individuality, firmly embedded in his ideology a tolerance for the egoistic tendencies of humankind in its current state.⁸ People would naturally be primarily concerned with what would bring themselves pleasure, but this and the striving for the good and welfare of others would not necessarily be mutually exclusive principles. Instead, the inherent selfishness of people would be qualified by the assertion that there existed also a willing capacity for benevolence. It was in fact the role of the legislators in every political society, to construct a legal system in which with the "least possible restraints of liberty and infliction of pain," people would from their selfish motives, act to enhance the happiness of others as well as of themselves⁹; thus the essentially laissez-faire nature of a utilitarian doctrine. Humanity's propensity for self-indulgence was not necessarily the evil of society that moralists had cast it to be. For Bentham, intervention into actions that caused personal pleasure could only be justified if those actions caused a greater measure of pain within the community. "The general tendency of an act is more or less pernicious, according to the sum total of its consequences: that is, according to the difference between the sum of such as are good, and the sum of such as are evil."¹⁰ The concept of evil was therefore removed

⁴ Jeremy Bentham, "A Fragment on Government", *The Works of Jeremy Bentham*, vol. 1, John Bowring, ed. (Edinburgh: Simpkin, Marshall, & Co, 1843), p. 237.

⁵ *Ibid.*, p. 229.

⁶ James Steintrager, *Bentham* (London: George Allen & Unwin Ltd, 1977), p. 12.

⁷ Bentham, "An Introduction to the Principles of Morals and Legislation," p. 1.

⁸ David Lyons, *In the Interest of the Governed: a Study in Bentham's Philosophy of Utility and Law* (Oxford: Clarendon Press, 1973), pp. 13-15.

⁹ John Plamenatz, *The English Utilitarians* (Oxford: Basil Blackwell, 1958), p. 73.

¹⁰ Bentham, "An Introduction to the Principles of Morals and Legislation," p. 35.

from the moralising of a Christian ethic; an evil act was one willingly perpetrated in full knowledge that the painful consequences would outweigh the pleasurable ones.

Such a rationalisation of good and evil based upon physical consequences would seem to go far in the identification of atheist themes throughout Bentham's philosophy. Christian ascetism was reduced to an existence based upon the utilitarian principles of pleasure and pain, but in a twisted reversal of the ideal, holding that pain would be desired as a measure of devotion, and that which brought pleasure, could be regarded only as sin.¹¹ Indeed, even ideas of heaven and hell could be reduced to a psychology of pleasure and pain based upon the fear of a future divine retribution.¹² Bentham's own philosophy however, with its materialist underpinnings, could not in any way deal with issues or ideologies that embraced elements of the mysterious. Accordingly, his Constitutional Code would provide no basis for religion within the legitimate machinations of government. "For the business of religion, there is no department: there is no Minister. Of no opinion on the subject of religion, does this Constitution take any cognizance."¹³

The application of utilitarianism to the theoretical discussion of government necessarily implied the complete rejection of the existing legal system, with its justification of the authority of sovereigns based upon the concept of an "original contract." Government, to Bentham, was built upon the illusory foundations of false principles in which subjects agreed to be governed and sovereigns agreed to rule under certain conditions of law. To Bentham, to believe in such a contract would be to suppose a time that preceded any form of political "society", and that "from the impulse of reason, and through a sense of their wants and weaknesses, individuals met together in a large plain and entered into an original contract, and chose the tallest man present to be their governor."¹⁴ The very idea of such a construction of political authority was a notion to be ridiculed. Political authority was nothing more than the power to influence the will and behaviour of others. Furthermore, it was as necessary as it was unavoidable, that governments in society be formed to preserve the social order.¹⁵ Political authority then, and its exercise of material influence through the formation of governments, was thereby constructed as a necessary evil for the security of the community. In his work, *Leading Principles of a Constitutional Code, For Any State* (1823), Bentham can be seen to explain the social expense of government. "Government cannot be exercised without coercion; nor coercion without producing unhappiness."¹⁶ Here lies the basic proposition of utilitarianism for Bentham; that government must unavoidably impose sanctions upon society, and that these sanctions will unavoidably cause some degree of social pain. The strategy of political authority then embodied in his judicial, and later in his constitutional code is therefore designed to minimise that unhappiness.

Thus Bentham's theory of government and sovereignty was directly related to utility, and the concept of political authority was redefined into what was essentially a far more negative language. Subjects should obey "so long as the probable mischiefs of obedience are less than the probable mischiefs of resistance."¹⁷ Obedience was

¹¹ *Ibid.*, p. 4.

¹² *Ibid.*, p. 14.

¹³ Jeremy Bentham, quoted in James E. Crimmins, "Bentham on Religion: Atheism and the Secular Society", *Journal of the History of Ideas*, 47,1 (1986) p. 105.

¹⁴ Bentham, "A Fragment on Government," p. 261.

¹⁵ *Ibid.*, p. 262.

¹⁶ Jeremy Bentham, "Leading Principles of a Constitutional Code, For Any State", *The Works of Jeremy Bentham*, vol. 2, John Bowring, ed. (Edinburgh: Simpkin, Marshall, & Co., 1843), p. 269.

¹⁷ Bentham, "A Fragment on Government", p. 270.

dependent upon it remaining in the best interests of the people to comply, but their best interests were not intrinsically linked to the betterment of their wellbeing, or even the existence of pleasure. What was at issue, was a question of "mischief", and whether or not it was greater served by support or dissidence. The existence of a political society therefore was not dependent upon the rationalisation of the duties of leadership since there was no real means or requirement to legitimise government for the individual. All that was really necessary was the recognition of a "habit of obedience," and accordingly the political landscape could be viewed only from the perspective of the governor.¹⁸ This rejection of the "original contract" however, whilst denying a theoretical basis for a breach of contract, did nonetheless place the impetus for social dissent more tangibly into the hands of the 'ruled', and indeed they would seem to maintain a social voice for resistance against tyrannical actions. After all, there would be no rational explanation for the following of orders that led to the community's downfall. Paradoxically however, it would also greatly inhibit the possibility of an acceptable justification for rebellion or revolution, since these would almost always represent the greatest "probable mischief."

Nevertheless, such a position did not rule out the possibility of social reform for Bentham, who instead sought to reorientate the state and its actions with reference to the principle of "utility," incorporating into this new definition his vision of a socially progressive England. The foundations of sovereignty resting upon fictitious creations of law could no longer be accepted without question, particularly in light of the improved state of education.

[T]he universal spread of learning has raised mankind in a manner to a level with each other, in comparison of what they have been in any former time: nor is any man so far elevated above his fellows, as that he should be indulged in the dangerous licence of cheating them for their good.¹⁹

This is not to say that he accepted the current legal system as being for the people's "own good." The very practice of law itself was built upon the fallacies of English common law, a position maintained by Bentham from his earliest works through to his latter ones.²⁰ In his *Houses of Peers and Senates* (1830), Bentham described the matter-of-fact liberality with which the legal profession held the description of judicial facts. "What the hatchet is to the Russian peasant, fiction is to the English lawyer."²¹ The blatantly false description of events was willingly accepted in court, and this in addition to the necessary professionalism required for any comprehensive understanding of precedent, effectively rendered the law as unintelligible to all outside the judicial system. Furthermore, Bentham would argue that judges, as part of this legislative monopoly, were allowed by the interpretation of precedent far too much scope in the reaching of decisions in matters of law. Such flexibility should be taken out of the law; a judge's actions should be a matter of following a straight-forward legal code, based upon a balancing of the principles of pain and pleasure in a mechanistic and scientific fashion. Indeed the efficacy of law would depend "in considerable degree on the existence... of some customs to which it

¹⁸ Mark Francis and John Morrow, *A History of English Political Thought* (New York: St. Martin's Press, 1994), p. 51.

¹⁹ Bentham, "A Fragment on Government," p. 269.

²⁰ In his *Fragment*, Bentham describes how "the pestilential breath of fiction poisons every instrument it comes near," quoted in Ross Harrison, *Bentham* (London: Routledge & Kegan Paul, 1983), p. 24.

²¹ Harrison, *Bentham*, p. 24.

is or pretends to be conformable."²² Interpretation was therefore an unnecessary and potentially disharmonious element that should be eliminated from judicial proceedings.

The underlying basis of Bentham's ideas of government therefore, was to remove questions of individuality from the legal equation. His idealisation was of a structural nature; of utilitarian principles pervading the processes of government at a fundamental level. It is interesting therefore, to examine the transitory emphasis he placed upon constitutional type and reform, shifting from his idealising of the 'benevolent despot', to the embracing of a radical democratic stance. While his initial embrace of an authoritarian monarchy may well have been based to a certain degree on elements of pragmatism, and later as a reactionary response to the "Great Terror" of the French Revolution, Bentham's theory advocating the absolute power of governors can be recognised as one that crossed constitutional models. It is certainly true that Bentham in his pre-revolutionary development had envisaged himself swaying the influence of "enlightened despots" such as Catherine the Great; figures who held the political force to adopt and enforce his legislative policies with a minimum of opposition.²³ And aside from a brief emergence of democratic intent with the outbreak of the revolution in France and his perception of a possible window of influence, it was not until his meeting with James Mill in 1808 that Bentham truly adopted the persona of a political radical.²⁴

However, Bentham from his Fragment had given clear indication that true political authority was without limit. With regards to both free and despotic governments, "it is not that the power of one, any more than the power of the other, has any certain bounds to it."²⁵ The most significant differences was with how that power was distributed, the ease with which the relationship between governors and governed could be changed, the liberty of the press, and the freedom of association.²⁶ In short, it was that "free government," or government based on democratic principles maintained certain checks that an authoritarian model did not. The so-called free government of France, as it quickly de-evolved into the apparent means of wholesale blood-shed and seizure of private property, only went to highlight to Bentham that in a practical sense, democratic authority could be just as destructive and harmful to the general happiness of the people as the most tyrannical of despotic regimes. Indeed in the midst of his backlash against democratic idealism, Bentham himself made use of the "tyranny of the majority" accusation that later would be thrust upon his own political theory, when in 1795, he made claim that democracy "subjugates the well-informed to the ill-informed classes of mankind."²⁷

This being said, towards the end of the first decade of the nineteenth century, Bentham made a decidedly leftward shift towards democratic radicalism, influenced by the repressive administration of Pitt during the 1790s, and embitterment over the constant thwarting of his Panopticon scheme of penal reform during the latter part of that decade and the earlier part of the next.²⁸ His meeting with the philosophic radical James Mill would further provide the hinge point in his conversion to democrat, and

²² Bentham, quoted in Nancy L. Rosenblum, *Bentham's Theory of the Modern State* (Cambridge, Massachusetts: Harvard University Press, 1978), p. 92.

²³ Dinwiddy, *Bentham*, p. 11.

²⁴ Elie Halevy, *The Growth of Philosophic Radicalism* (London: Faber and Faber, 1972), p. 255.

²⁵ Bentham, "A Fragment on Government," p. 288.

²⁶ *Ibid.*

²⁷ Dinwiddy, *Bentham*, p. 83.

²⁸ Halevy, *The Growth of Philosophic Radicalism*, pp. 251-254

the impetus for the expression of his frustration with the powers that be. Bentham would propose four main points for consideration in his agenda for radical reform: "annual parliaments, virtually universal suffrage, equal suffrage, and secrecy of suffrage."²⁹ Behind all such calls for reform, however was his belief that "the will of the majority of the people ... exhibits the nearest approach that can be made to the will of the whole."³⁰ Ultimately, power should be in the hands of the people since only the people as a collective whole were free of hidden motives.

On the other hand, in the unreformed state, the powers that be would have a vested interest in the consolidation of power in their minority rule, and the protection of the political status quo. This was Bentham's own response to the 'tyranny of the majority' question. Democracy could be the only government immune to the dilemma of rulers looking after their own interests above that of the people, since that of the people would be its own interests.³¹ Government would therefore be free to pursue its own development towards the ideal utilitarian state since the interests of the governors and the governed would be reconciled, although parliamentary behaviour would still have to be judged upon the "greatest mischief" principle. For so long as parliamentarians "content themselves with doing no other sort of mischief than what has been commonly done already,- they stand assured of support."³² Essentially then, as Parliament would strive to legislate in a manner that would afford the greatest happiness to the greatest number, the people would in theory, choose not to redress the balance of power for as long as it served their purposes.

Regardless of his place on the political spectrum however, Bentham's upholding of the ultimate authority of the rulers to rule could act only to deny the existence of any kind of inalienable human rights. The only rights that people could possibly have were those afforded to them by law and "no law can be made that does not take something from liberty."³³ Guaranteed liberty of the individual therefore would provide a direct countermand to the ability of government to legislate for the greatest possible happiness of the people. Such is the line that Bentham held in his *Anarchical Fallacies*, asserting that natural rights must necessarily be looked upon as "simple nonsense: natural and imprescriptible rights, rhetorical nonsense, - nonsense upon stilts"³⁴. After all, Bentham argued, if all men were equal in rights, then the "madman" would have "as good a right to confine anyone else, as anyone else has to confine him," and the "idiot" would have "as much right to govern as anybody."³⁵ Rights instead could only be defined by a tangible recognition of behaviour that would be permitted without punishment, and similarly, the punishment that would be received for any legal infringement.

As logical as this may sound in the context of a utilitarian ideology, this denial of the possibility of natural rights does however represent the most corruptible element of Bentham's philosophy and reveals its ultimately flawed nature from a humanitarian perspective. For if the greatest good of the greatest number is the sole

²⁹ Michael James, "Public Interest and Majority Rule in Bentham's Democratic Theory," *Political Theory*, 9,1 (1981), p. 55.

³⁰ Bentham, quoted in James, "Public Interest and Majority Rule," p. 57.

³¹ Steintrager, *Bentham*, p. 97.

³² Jeremy Bentham, "Catechism of Parliamentary Reform; or Outline of a Plan of Parliamentary Reform," *The Works of Jeremy Bentham*, vol. , John Bowring, ed (Edinburgh: Simpkin, Marshall, & Co., 1843), p. 542.

³³ Jeremy Bentham, "Anarchical Fallacies," *The Works of Jeremy Bentham*, vol. 2, John Bowring, ed. (Edinburgh: Simpkin, Marshall, & Co., 1843), p. 493.

³⁴ *Ibid.*, p. 501.

³⁵ *Ibid.*, p. 498.

objective, then the needs of the individual or even minority groupings become expendable in the context of the search for the greater good. Accordingly, it is the reasoning accentuated by Anarchical Fallacies that reveals the authoritarian Bentham lurking under the surface of a seemingly liberal facade. Apparently content to promote the wellbeing of the people, and genuine in his assertion of their legal rights to the greatest possible pleasures relative to the lowest possible pains, Bentham's treatment of utility nevertheless provides a vast potential for the degradation of personal interests on the grounds of community rationalisation. Mark Francis and John Morrow go further to suggest that this denial of human rights essentially placed Bentham at odds with his historical age; that the revolutions of France and also the United States had "archaically entrenched the rights of men in the popular mind."³⁶ Bentham's theory by this reasoning could therefore be seen to take on an ahistorical hue that tended to undermine the acceptance of his work within his own time.

Fundamental to any evaluation of Jeremy Bentham's political theory is the acknowledgment of his position as a theoretician of reform. Firmly ingrained in his notions for legislative and constitutional revision was his "eye to the future;" to the progressive advance towards a secular perfection that may or may not be achievable, but nonetheless, should constantly remain as a goal in view. Utility was his means to that end, and furthermore, it represented to him the only means of measuring the morality of people's actions. This inherently atheistic perspective would effectively deny the place or authority of any spiritual moralising, and as such, could only be based upon a recognition and accountability of materialist consequences. This dismissal of individual belief, to be replaced by an assertion of a scientific and rational assessment of the psychology of pleasure and pain as the critical factors in the analysis of human and societal activities, is however indicative of what is an essentially reductionist philosophy. Such a consideration is made evident in an analysis of political power that recognises the unlimited authority of rulers to make and enforce law regardless of constitutional models, but denies the people any form of undeniable human rights. As a result, despite the ideology's idealistic intent, the happiness of certain individuals or minorities can be sacrificed for the sake of the wider community. Perhaps this underlies the negative language used to define Bentham's expression of government policy and practice. Achievement of the greatest happiness for the greatest number may represent utilitarianism's realist construction, yet the infliction of any pain by the governors upon the governed emphasises an implicit authoritarianism that Bentham may well have preferred to avoid.

³⁶ Francis and Morrow, *A History of English Political Thought*, p. 50.

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