

Bentham's Philosophical Politics

By James E. Crimmins

JEREMY BENTHAM (1748-1832) IS MOST WELL-KNOWN as a utilitarian legal philosopher. However, he is often encountered in the history of ideas as a radical democrat, a political theorist and reformer of consequence. Although he wrote extensively in the area of political philosophy, he did not write one single work—like Hobbes' *Leviathan* or Rousseau's *Le Contrat Social*—that encompasses all the primary features of his political thought. Rather we find interesting material scattered in voluminous published and unpublished writings, produced at various times through a long, industrious, and extraordinarily productive career. My subject is the “political” Bentham—the political thinker, political actor, and agitator for reform, the theorist of politics, government and its attendant institutions and the insatiable public policy enthusiast. My purpose is to suggest a more appropriate conception of Bentham's politics than is generally held, and to indicate a problem at the heart of our understanding of his political thought.

One potential problem can be dealt with at the outset: what did Bentham understand by “politics”?¹ It is a moot point whether Bentham had a very distinct category of “politics” in the manner we usually associate with the canon of political theorists in the western philosophical tradition. Certainly, he commonly employed the adjective “political” when referring to particular contemporary institutions and practices. Yet, at the same time, when he shifted from theory to practice the categories he most frequently invoked were essentially jurisprudential. So, for instance, his theory of the state (*contra* Rosenblum)² is, in the main, really a theory of constitutional legislation, and when he spoke of policing, punishment and the maintenance of order he wrote of “indirect legislation,” the laws of evidence, judicial administration and penal law. There is a sense, therefore, in which politics as such is a residual category for Bentham and this has the effect of extensively broadening what is to count as “politics” and “political” when analysing his writings.

The conventional account of Bentham's political convictions usually begins by assuming that he was *apolitical* for much of his life. For instance, in an extremely important essay on Bentham's politics the late John Dinwiddy denied that Bentham was converted to democracy as a result of the French Revolution, as some have held.³ On the contrary, replied Dinwiddy, Bentham's “revulsion against popular government in the early 1790s was deeply felt”; “he could denounce Jacobinism with almost Burkean vehemence.” In Dinwiddy's account, it was only after the

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beginning of his friendship with James Mill in 1808 that Bentham was persuaded to advocate democratic institutions in earnest, that “the really fruitful turning-point in the development of his political thought came in 1809”.⁴

This interpretation can be challenged in two ways—the first commands us to scrutinize the evidence directly relevant to Dinwiddy’s interpretation; the second invites us to look beyond this evidence to the underlying philosophy that gave shape to Bentham’s politics. In the first approach the disputed evidence is: (1) the nature of Bentham’s (largely unpublished) political writing of the years 1788-90; (2) the apparent retreat from political reform sketched out in manuscripts dated 1793-95;⁵ and (3) the character and import of the Mill-Bentham association of 1808-9. Preliminary investigations suggest that Dinwiddy’s view cannot be sustained, that Bentham had indeed worked out the logic of democratic reform inspired by the upheaval in France, that in the furore of the post-revolutionary years he decided to put aside his recommendations until more propitious times, but that the essential components of his democratic theory had not changed when he joined with James Mill and others in the general agitation for reform in the 1810s.⁶ However, while this is useful for plotting the chronology of Bentham’s political development, it is limiting as a method for arriving at a comprehensive view of his politics. The second approach is more fruitful in this regard.

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MY STARTING POINT IS TO SUBMIT THAT Bentham’s politics cannot be adequately explained in terms of responses to historical events, but were rather the product of the general premises of his overall approach to social questions. Here I am not concerned with the chronology of Bentham’s political development, but with the nature of his philosophy. And, when we speak of his philosophy, I mean by this more than just the expression he gave to the principle of utility and its subordinate principles (security, subsistence, abundance, and equality). For, in and of itself, “utility” does not determine any one particular set of political prescriptions. As I have said before,⁷ in the century before Bentham’s influence began to be felt, and for some time after, utility was most often the ally of religious orthodoxy in England and (with few exceptions) employed in the defence of the status quo religious and political establishment.

What this suggests is the contingent nature of the relationship between the doctrine of utility and the commitment to particular political positions. In other words, Bentham’s adoption of the principle of utility (in 1769 after reading Helvetius’s *De l’esprit*) was not sufficient to convert him to “radical” politics, in whatever form this might be construed. This suggests a commonplace distinction made by philosophers of causality—between, on the one hand, those conditions *necessary* for something to occur (in this case the development of an attitude toward public institutions) and, on the other hand, those conditions *sufficient* (including that which is *necessary*) for something to occur. Utility, as the governing principle of Bentham’s philosophy, was a *necessary* component of his views on economics, the law, penology, education, religion, and so forth, but it was not of itself *sufficient* to cause him to mount his numerous attempts to introduce utilitarian reforms, nor can it explain all the specific characteristics of his social and political philosophy. For this we have to look elsewhere.

The argument here is that Bentham’s radicalism was profoundly rooted in

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a general philosophy in which utility functioned as a connecting link between, on the one hand, his materialist metaphysics with its attendant empiricist epistemology and nominalist science of meaning and, on the other hand, his various prescriptions for improvement over a vast range of social, juristic, political, economic, and religious questions.

What requires special attention, therefore, are the theoretical principles which together constitute Bentham's philosophy. Moreover, this was not a late development in Bentham's thinking, but was a central feature of his early career as a social and legal theorist, during the 1770s, when he embarked upon a far-reaching attempt to define the “fundamental terms of Universal Jurisprudence” in a collection of manuscripts (some 614 pages) variously titled “Crit[ritical] Jur[isprudence] Crim[inal]” and “Preparatory Principles”.⁸ These manuscripts still await publication; they contain a collection of definitions, distinctions, axioms, and aphorisms which define Bentham's empirical epistemology, materialist metaphysics, nominalist ontology and referential theory of language.

For Bentham these were the appropriate “tools” for clarifying or demystifying the “fictions” of current legal practice and conventional modes of legal theorizing. In sum, what we find in these manuscripts is an analytical methodology which is unequivocally “radical” (in the adjectival sense of that term), an approach that served to encourage Bentham's general inclination to adopt a critical perspective when dealing with established opinions and institutions of whatever kind. From this standpoint he consistently adhered to an all-encompassing attempt to structure a philosophy that integrated within itself all the required premises to analyze the complete range of social, religious, economic, legal and other public issues that came before him, and to suggest alternative policies based upon the principle utility. Whether and when such analyses and alternative policies were committed to print and publication depended at least in part on tactical considerations, but this should not distract us from the systematic nature of the relationship between Bentham's analytical “methodological radicalism” and his social, legal, economic, and political prescriptions—in short, what we might call his substantive radical proposals for reform.

THIS ESSENTIAL RELATIONSHIP BETWEEN PHILOSOPHY and politics in Bentham's thought is clearly displayed in his distaste for natural law discourse. He attacked the American revolutionaries (and subsequently their French counterparts) not because they were inherently evil, but because they had been led astray by the metaphysics of inalienable natural rights (“fictions” of the political imagination providing a tendentious foundation for a new state). Once exposed as hollow and dangerous rhetoric, utilitarian doctrine demanded that natural rights theory be rejected. The relationship between philosophy and politics is also seen in Bentham's early jottings on religious issues dating from 1773-74,⁹ and, as one might expect, it is most evidently conspicuous in his positivist jurisprudence, to which he devoted most of his energy in the first decade of his intellectual activity.¹⁰

From the mid-1770s forward Bentham began to critically analyze the legal structure as it then existed in England and to systematically set about the business of constructing a codified substitute to replace it. Ultimately, he conceived this task as ranging from civil and penal law and the judiciary, to financial matters, education, political economy, public administration, and

religious institutions. In each and every facet of this vast prescriptive social science the central, fundamental—one might say, “radical”—tenet was “to rear the fabric of felicity by the hands of reason and law”.¹¹

However, that a rift sometimes occurred between Bentham’s theoretical constructs and his practical proposals suggests the difficulty of the enterprise, and defines a focal problem for students of his work. Ever since Elie Halevy described Bentham in his later years as a convert to “democratic authoritarianism” commentators have sought to stitch together apparently disparate elements of his thought.¹² As more of Bentham’s writings have become accessible over the past twenty years this task has become perceptibly more difficult, with scholars increasingly divided in their understanding of his thought and its application to practice. There are those who, in one way or another, emphasize Bentham’s legal positivism and his tendency to advocate statist or managerial solutions to particular social, economic and political problems. They detect “authoritarian” tendencies in his thought, with his system variously described as “behaviouralist”, “constructivist”, “totalitarian”, “interventionist”, and “collectivist”.¹³

COMMENTATORS OF A VERY DIFFERENT PERSUASION, while allowing that legal positivism is characteristic of Bentham’s utilitarianism, tend to emphasize the individualist premises of his thought (especially the use of law to enhance the individual’s security of expectations), and prefer to found a general account of his utilitarianism on an exposition of the central legal works or the “mature” constitutional writings of his later years.¹⁴ On this basis—and not without good reason—they claim Bentham as one of the intellectual forebears of modern liberalism. But can both schools of interpretation be correct?

This is not an easily answered question, for I do not think it could be said of any of these commentators that they have simply misunderstood Bentham. In part, the problem is that Bentham had a long and prolific career that ranged far and wide over an extensive realm of theoretical and practical issues, making it difficult within the confines of a single study to account for all that he thought and wrote. It is also the case that commentators on Bentham’s thought are usually at pains to elucidate *one* particular feature of his work, and there is a tendency to take the particular for the whole. Reflecting, for example, on the accounts we have of Bentham on liberty, on administration, or on the Common Law,¹⁵ it is perhaps reasonable to conclude that both the “authoritarian” and “liberal” views I have outlined above have a place in a complete and comprehensive interpretation. But if this is so, then we should not be surprised if we discover that Bentham’s system is less systematic than he pretended and than has often been supposed since.

In short, there may well be a disjunction in Benthamic praxis, between the individualist principles which are generally held to characterize his utilitarianism and the interventionist practice to which he was occasionally prone when advocating specific public policies. If this is true, then it seems entirely possible that both schools of interpretation, by degrees, are guilty of what Quentin Skinner as dubbed “the mythology of coherence”,¹⁶ maintaining that a coherency between theory and practice in Bentham’s thought can be established where, despite the exhaustive pains that Bentham often took to clearly express his ideas, it is entirely conceivable that it does not exist. φ

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ENDNOTES

- ¹ On this point I am grateful for the observations of Dr David Lieberman of the School of Law, University of California, Berkeley.
- ² N. Rosenblum, *Bentham's Theory of the Modern State*, Cambridge, Mass.: Harvard University Press, 1978.
- ³ Dinwiddy has in mind Mary Mack, *Jeremy Bentham: An Odyssey of Ideas 1748-1799*, London: Heinemann, 1962.
- ⁴ J.R. Dinwiddy, "Bentham's Transition to Political Radicalism, 1809-10," *Journal of the History of Ideas*, 35 (1975), pp. 693, 683. A similar view is enunciated by Michael James, "Work in Progress: Bentham's Political Writings 1788-95," *The Bentham Newsletter*, 4 (1980), pp. 22-24, and "Bentham's Democratic Theory at the Time of the French Revolution," *The Bentham Newsletter*, 10 (1986), pp. 5-16.
- ⁵ The Bentham MSS of 1788-90 and 1993-95 are housed at University College, London: UC 126/1-18, 127/1-19, 170/1-121; and 44/1-5, 170/17-82.
- ⁶ The argument is made in J.E. Crimmins, "Bentham's 'Radicalism' Re-examined," *Journal of the History of Ideas*, forthcoming.
- ⁷ J.E. Crimmins, "John Brown and the Theological Tradition of Utilitarian Ethics," *History of Political Thought*, 4/3 (1983), pp. 523-50, and "Religion, Utility and Politics: Bentham versus Paley," in J.E. Crimmins (ed.), *Religion, Secularization and Political Thought: Thomas Hobbes to J.S. Mill* (London: Routledge, 1990), pp. 130-52.
- ⁸ See Bentham MSS, esp. UC Boxes 69 and 140.
- ⁹ See UC 5/1-32, 96/263-341, and for a detailed discussion J.E. Crimmins, *Secular Utilitarianism: Social Science and the Critique of Religion in the Thought of Jeremy Bentham* (Oxford: Clarendon Press, 1990), Ch.3, and for the relationship between science and religion in Bentham's thought generally see Ch.1.
- ¹⁰ J. Bentham, *A Comment on the Commentaries* (begun in 1774, but not published until 1928); *A Fragment on Government* (1776), *An Introduction to the Principles of Morals and Legislation* (printed 1780-81, published 1789); and *Of Laws in General* (substantially completed in 1782, but not published until 1945).
- ¹¹ Bentham, *An Introduction to the Principles of Morals and Legislation*, ed. J.H. Burns and H.L.A. Hart (London: Athlone Press, 1970), p.11.
- ¹² E. Halevy, *The Growth of Philosophic Radicalism* [*La Formation du radicalisme philosophique*, 1901-4], trans. M. Morris, 1928: Clifton, New Jersey: Augustus M. Kelley, 1972.
- ¹³ See D.G. Long, *Bentham on Liberty: Jeremy Bentham's Idea of Liberty in Relation to his Utilitarianism*, Toronto: University of Toronto Press, 1977; F.A. Hayek, "The errors of constructivism", *New Studies in Philosophy, Politics, Economics and the History of Ideas* (Chicago: Chicago University Press, 1978), pp. 3-22; C.F. Bahmuller, *The National Charity Company: Jeremy Bentham's Silent Revolution*, Berkeley: University of California Press, 1981; L.J. Hume, *Bentham and Bureaucracy*, Cambridge: Cambridge University Press, 1981; M.H. James, "Public Interest and Majority Rule in Bentham's Democratic Theory," *Political Theory*, 9/1 (1981), pp. 49-64; and W.H. Greenleaf, *The British Political Tradition*. 3 vols. (London: Methuen, 1983-87), I.
- ¹⁴ F. Rosen, *Jeremy Bentham and Representative Democracy: A Study of 'The Constitutional Code'*, Oxford: Clarendon Press, 1983; L. Campos Boralevi, *Bentham and the Oppressed*, Berlin and New York: Walter de Gruyter, 1984; G. Postema, *Bentham and the Common Law Tradition*, Oxford: Clarendon, rev. edn. 1989; P.J. Kelly, *Utilitarianism and Distributive Justice: Jeremy Bentham and the Civil Law*, Oxford: Clarendon Press, 1990; and A. Dube, *The Theme of Acquisitiveness in Bentham's Political Thought*, New York: Garland, 1991.
- ¹⁵ See Long, *Bentham on Liberty*, Hume, *Bentham and Bureaucracy*, and Postema, *Bentham and the Common Law Tradition* (notes 13 and 14 above).
- ¹⁶ Q. Skinner, "Meaning and Understanding in the History of Ideas", *History and Theory*, 8 (1969), pp. 3-53.