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British Utilitarianism and State Intervention

By

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DISSERTATION

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***Abstract:***

This project examines the perspectives of Jeremy Bentham, John Stuart Mill, and Henry Sidgwick (together, the “British Utilitarians”) on the government’s role in promoting societal happiness, focusing specifically on their views regarding the appropriate scope of state intervention in society. It primarily explores the British Utilitarian’s attitudes toward both: (i) paternalistic intervention—government interference with the liberty of individuals for the benefit of those interfered with; and (ii) socialistic intervention—government interference with the liberty of individuals for the broader advantage of the community. By engaging the British Utilitarians in conversation with one another, this study examines the extent to which they agree and disagree about the role of state intervention for achieving the utilitarian end—i.e., the greatest happiness of society. Furthermore, it investigates how their disagreements about utilitarianism as an underlying moral framework lead to disagreements among the British Utilitarians on the desirability of certain government interventions.

## ***Chapter 1 — Introduction***

People *don't* strive for happiness, only the English do.

- Nietzsche 2005, 157

Happiness is a very pretty thing to feel, but very dry to talk about.

- Bentham 2011, 89

Utilitarianism, as conceived by the popular imagination, is a doctrine synonymous with progressive reform. Today this is partly attributable to thinkers like Peter Singer, and his writings on animal liberation and effective altruism. Historically, the perception largely stems from the theory's association with Jeremy Bentham and John Stuart Mill, two of the foremost members of the "philosophic radicals." Both Bentham and Mill championed utilitarianism not merely as a system of profound academic or speculative interest but as a pragmatic instrument for fostering societal transformation and improvement. They viewed it as a powerful means for overcoming sinister interests and dismantling the established norms that they judged antithetical to the public good. Accordingly, their application of utilitarian principles was marked by a rather vocal opposition to received morality and a fervent rejection of the stifling conservative ethos that marked much of the era in which they lived.

This common understanding of utilitarianism as a force for progressive reform, however, underestimates the doctrine's inherent versatility. Perhaps surprising to many, the later utilitarian philosophy of Henry Sidgwick reveals that utilitarianism does not have strictly progressive implications. Rather, articulated by Sidgwick, the doctrine is shown to be less destructive in nature and considerably more aligned with the demands of common sense (or established) morality. Consequently, far from a tool promising the sweeping types of reform associated with liberal visionaries like Bentham and Mill, utilitarianism is instead found by Sidgwick to be a powerful conservative instrument for justifying status quo norms.

As I argue, the marked flexibility of utilitarian doctrine—to be either a catalyst for progressive change or a bulwark of conservative resistance—has significant implications for the political philosophies of Bentham, Mill, and Sidgwick (the “British Utilitarians”), shaping how they each conceive of the state’s proper role in society. Though not themselves in complete agreement, Bentham and Mill generally leverage their unique understandings of utilitarianism to argue for a more limited government role in individuals’ lives. By no means hostile to all government intervention, they nevertheless recommend that the government intervene less often than it is accustomed to doing. By contrast, Sidgwick is more receptive to interventions affecting individual liberty. Though himself exhibiting some liberal qualities, he suggests that many of the state regulations commonly imposed on individual liberty possess compelling utilitarian justifications seemingly overlooked by his utilitarian predecessors.

### ***Jeremy Bentham***

Arguably the most familiar (and frequently caricatured) form of utilitarianism originates with the work of Jeremy Bentham—the father of secular utilitarianism—in the latter half of the 18th century.<sup>1</sup> As a young law student at Oxford, Bentham is disgruntled with what he perceives as the unreflective conservatism of the time, which is expressed in the legal theory of prominent figures like William Blackstone. Bentham views the popular teachings as dogmatic and confused, often serving to reinforce opinions and conventions antithetical to the public good. Accordingly, he abandons his goal of becoming a practicing lawyer, opting instead to dedicate

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<sup>1</sup> In “The Harm that Good Men Do,” Bertrand Russell humorously recalls being a young boy dissuaded from the teachings of Bentham by a silly caricature. He writes: “A hundred years ago there lived a philosopher named Jeremy Bentham, who was universally recognised to be a very wicked man. I remember to this day the first time that I came across his name when I was a boy. It was in a statement by the Rev. Sydney Smith to the effect that Bentham thought people ought to make soup of their dead grandmothers. This practice appeared to me as undesirable from a culinary as from a moral point of view, and I therefore conceived a bad opinion of Bentham. Long afterwards, I discovered that the statement was one of those reckless lies in which respectable people are wont to indulge in the interests of virtue” (Russell 2004, 90).

his time to the social and political reforms that he believes will contribute most to social utility. In fact, once firmly established as a public intellectual, he is considered the *de facto* leader of the philosophic radicals, an influential group of like-minded thinkers who apply the utilitarian standard to advocate widespread institutional reform for the good of society.

Much as Socrates served as a gadfly, prodding the complacent Athenians to interrogate the value of their customs and conventions, Bentham might be characterized as the gadfly of England.<sup>2</sup> In his writings, he urges his countrymen to challenge tradition and investigate the accepted opinions and institutions of his day. For Bentham, the fact that a custom or convention has existed for a long time is insufficient evidence that it is beneficial for society. He decries the conservative impulse to defer to the wisdom of the past, suggesting that it amounts to a grave fallacy. For instance, in *The Book of Political Fallacies*, he remarks:

As between individual and individual living at the same time and situation, he who, with relation to the other, is old, is he who possesses, as such, more experience than that other. As between generation and generation, the reverse of this is true: the generation which, with reference to the other, is called *old*, is that which, as such, could not have had so much experience as that other. In giving the name of old or elder to the earlier generation of the two, the misrepresentation is not less gross, nor the falsity of it less incontestable, than if the name of *old man* or *old woman* were given to the infant in its cradle. What, then, is the wisdom of the times called old? is it the wisdom of grey hairs?—No:—it is the wisdom of the cradle. (Bentham 2015, 173)

Bentham does not exactly eschew the ways of the past. Rather, he simply argues that prior generations had less information when constructing their societies and were thus at a comparative disadvantage relative to the present. Consequently, Bentham identifies the customs and conventions of old as apt targets for utilitarian investigation, critique, and ultimately

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<sup>2</sup> In *The Apology of Socrates*, Plato recounts Socrates defending himself at his trial: “I was attached to this city by the god—though it seems a ridiculous thing to say—as upon a great and noble horse which was somewhat sluggish because of its size and needed to be stirred up by a kind of gadfly. It is to fulfill some such function that I believe the god has placed me in the city. I never cease to rouse each and every one of you, to persuade and reproach you all day long and everywhere I find myself in your company” (Plato 2000, 30e-31a).

progressive reform.<sup>3</sup> He reminds his readers in *Fragment on Government* that all things now settled or accepted were once novelties themselves, writing “whatever *now* is established *once* was innovation” (Bentham 1988, 10). Accordingly, he recommends that under a government of laws the motto of a good citizen should be: “*To obey punctually; to censure freely*” (Bentham 1988, 10).

The extent to which Bentham applies his reason for the achievement of progressive reform is impressive. There is hardly an issue that he does not address throughout his life. His writings touch upon prison design, poor relief, education, sex relations, democracy, political economy, and much more. With respect to state intervention more specifically, Bentham is not entirely hostile, admitting both some paternalistic and socialistic interventions for the end of maximizing utility, but he rejects many established institutions, like usury laws, as generally opposed to the happiness of society. Usury laws, he argues, substitute the judgment of the state for the judgment of individuals who are more intimately familiar with their own peculiar financial circumstances and needs. As such, they serve as one prime example of a common state intervention that Benthamite utilitarianism summarily dismisses as antithetical to utility.

### ***John Stuart Mill***

J.S. Mill is perhaps the most prominent successor to Bentham in the utilitarian tradition. Raised by his father James Mill, a devotee and lifelong friend of Bentham, the young J.S. Mill was fashioned as another progressive utilitarian reformer who could serve the end of societal happiness. The circumstances and outcomes of Mill’s childhood education are both impressive

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<sup>3</sup> Reflecting on his mentor’s broad impact, Mill writes: “Bentham has been in this age and country the great questioner of things established. It is by the influence of the modes of thought with which his writings inoculated a considerable number of thinking men, that the yoke of authority has been broken, and innumerable opinions, formerly received on tradition as incontestable, are put upon their defence, and required to give an account of themselves. Who before Bentham, (whatever controversies might exist on points of detail) dared to speak disrespectfully, of the British Constitution, or the English Law? He did so; and his arguments and his example together encouraged others” (Mill 1969, 78).

and disconcerting; Isaiah Berlin perhaps said it best when he identified Mill's upbringing as an "appalling success" (Berlin 2002, 220). Mill received one of history's most demanding examples of homeschooling, the details of which are thoroughly recounted in his *Autobiography*. Such rigorous education later culminated in a mental crisis when Mill was just 20 years old—a crisis that he, in part, overcame by engaging with the Romantic movement that flourished in England during his lifetime. Recounting the importance of this time in his life, Mill writes:

I, for the first time, gave its proper place, among the prime necessities of human well-being, to the internal culture of the individual. I ceased to attach almost exclusive importance to the ordering of outward circumstances, and the training of the human being for speculation and action. I had now learnt by experience that the passive susceptibilities needed to be cultivated as well as the active capacities, and required to be nourished and enriched as well as guided. I did not, for an instant, lose sight of, or undervalue, that part of the truth which I had seen before; I never turned recreant to intellectual culture, or ceased to consider the power and practice of analysis as an essential condition both of individual and of social improvement. But I thought that it had consequences which required to be corrected, by joining other kinds of cultivation with it. The maintenance of a due balance among the faculties, now seemed to me of primary importance. The cultivation of the feelings became one of the cardinal points in my ethical and philosophical creed. And my thoughts and inclinations turned in an increasing degree towards whatever seemed capable of being instrumental to that object. (Mill 1981, 147)

Mid-crisis, Mill's engagement with writers such as William Wordsworth and Samuel Coleridge inspires him to take an enriched view of human nature, and he begins to emphasize the importance of individuality more than his initial education in Benthamite utilitarianism had encouraged. Though he never abandons the progressive ambitions of his father and Bentham, or the fundamental insights of their utilitarian doctrine, Mill comes to believe that thinkers like Bentham had perhaps only captured (and provided him with) part of the truth about human happiness.

It is arguably the influence of the Romantic movement that leads Mill to his most controversial innovation upon Benthamite orthodoxy—the qualitative distinction between higher



and lower pleasures. Mill eventually realizes that human nature is capable of enjoying pleasures qualitatively greater than the pleasures of lower animals. However, this enjoyment, he notes, is only possible insofar as individuals are committed to cultivating their unique human faculties—for instance, their intellect, feelings, imagination, and moral sentiments. This task, he famously argues in *On Liberty*, requires that people be free from oppressive authority to exert their individuality and to develop their elevated characters.

Consequently, Mill's utilitarian case for circumscribing the role of the state is ostensibly even stronger than Bentham's in some places. For instance, while Bentham opposes most paternalistic measures because they are perceived as likely to be unsuccessful, Mill suggests that even many apparently successful paternalistic interventions ought to be forsaken to allow for human (individual) development. Mill remarks that people who have everything done for them by paternalists, even if those things are done remarkably well, have their progressive nature stunted, potentially cutting them off from the kinds of pleasure that make human life most worthwhile. Further, though Mill is arguably more permissive than Bentham in permitting certain socialistic interventions, his tolerance is not due to a greater enthusiasm for state interference. Rather, to the extent that Mill is more permissive of state interventions in free enterprise, his willingness seemingly stems from a stronger grasp of the science of political economy and the existence of market failures—for instance, the notion that individuals will not produce some social utilities even if the state leaves them free to do so.

### ***Henry Sidgwick***

Though not without interest, Sidgwick's life is arguably the least captivating of the British Utilitarians. For the majority of his life he lived in Cambridge and taught at the

university. Thus, by all accounts, he is the most academic of the British Utilitarians. While he clearly faced important personal struggles in life—especially with regards to religion—one gets the sense that his understanding (and articulation) of the utilitarian doctrine is largely a product of his even-handed engagement with the theory and its major proponents, rather than transformational moments in his life.

Following his utilitarian predecessors, Sidgwick denies that common sense moral intuitions are self-evident. Yet, more than his predecessors, Sidgwick emphasizes a close relationship between common sense morality and utilitarianism. Acknowledging reasons they might diverge, he insists that common sense is unconsciously utilitarian, with utilitarianism serving to systematize common sense and explain its exceptions. Accordingly, Sidgwick maintains that adhering to common practices and popular moral precepts is generally productive of utility. This close relationship between common sense and utilitarianism endows Sidgwick's utilitarianism with a more of conservative character than his progressive predecessors. While Bentham and Mill wield utilitarianism as a tool to enact significant reforms, Sidgwick stresses that any desire to rebel against established morality is misguided. While small reforms to moral practices are possible, he infers that the utilitarian will not deviate too much from the popular code of morality.

The conservatism of Sidgwick's ethics reflects rather clearly in his politics, partly explaining why he ultimately accepts more state intervention than the other British Utilitarians. While Bentham and Mill aim to aggressively wield the insights of utilitarianism to take down institutions and open the door for liberty, Sidgwick repeatedly finds ways to employ utilitarian reasoning to rationalize those institutions' existence or that of something very similar. To take just one example, while Mill's Harm Principle is boldly proffered to rule out most paternal

interference, Sidgwick seemingly concedes as legitimate many admitted paternalistic practices commonly upheld in Victorian England.

***My Aim:***

This project offers an exploration into how the British Utilitarians strike a balance between individual liberty and state intervention. By engaging these philosophers in conversation with one another and investigating their stances on paternalistic and socialistic interventions, it uncovers complexities within the utilitarian tradition and shows how those complexities directly shape their policy positions. Accordingly, this examination further enriches our understanding of historical utilitarianism, a tradition that, though commonly simplified or caricatured, is indeed significantly more nuanced and fruitful than many contemporary discussions of the doctrine tend to recognize.

The dissertation proceeds as follows: Chapter 2 offers an overview of British Utilitarianism, focusing on the distinct interpretations of utilitarianism among its preeminent proponents. Chapter 3 investigates the British Utilitarians' views on state paternalism, analyzing to what extent their different utilitarian doctrines influence their stances on paternal interference. Finally, Chapter 4 explores the British Utilitarians' views towards socialistic intervention, examining how their views on utilitarianism shape their opinions about interference with free enterprise for societal happiness. Short summaries of each of these three chapters are provided below.

**Chapter 2:**

Chapter 2 focuses on how each of the British Utilitarians understand utilitarian doctrine, emphasizing some of the main ways their understandings differ from one another. While

acknowledging Bentham as the initial architect of the utilitarian system, it notes that both Mill and Sidgwick make efforts to refine the Benthamite doctrine. Mill, for instance, emphasizes that humans are “progressive beings” and he further stresses the importance of the free cultivation of character as a means for attaining the higher pleasures. The acknowledgement of these pleasures culminates in a rejection of Bentham’s quantitative hedonism, suggesting that certain kinds of pleasure are qualitatively superior to others and ought to be afforded privileged consideration in happiness assessments. Sidgwick, meanwhile, rejects Mill’s qualitative hedonism and his attempt to leverage it as a means for expanding the legitimate scope of individuality in society. Sidgwick, more than the other British Utilitarians, stresses the relationship between common sense morality and utilitarianism. He notes that common sense precepts are generally conducive to happiness and that utilitarian hopes for reforming established morality can only be modest.

### **Chapter 3:**

Chapter 3 investigates each of the British Utilitarians’ positions on state paternalism. Though each of the British Utilitarians expresses skepticism about state paternalism, I argue that none prescribe an absolute ban against the practice. Firstly, Bentham’s opposition is seen to result from the belief that individuals are more intimately familiar with their own circumstances and interests than the government is and, thus, are better guardians of their own advantage (i.e., the “Benthamite Principle”). Consequently, though not infallible, Bentham contends that happiness is generally better secured by leaving individuals free to seek their own good.

Secondly, Mill is shown to also embrace the Benthamite Principle. However, by emphasizing the progressive nature of humans and the importance of character development, Mill further strengthens the utilitarian case against paternalism, arguing that paternal authority ought to even be rejected in many cases where it is ostensibly successful. Lastly, Sidgwick, while

generally subscribing to the Benthamite Principle, stresses that it should be taken as a “rough rule of practical statesmanship,” needing balance against substantial empirical evidence indicating that individuals are not managing their affairs successfully. Accordingly, Sidgwick is portrayed as the least skeptical of state paternalism, inclined to endorse some mild forms of paternal interference backed by common sense, such as professional certifications for physicians.

#### **Chapter 4:**

Chapter 4 investigates each of the British Utilitarians’ stances towards socialistic interventions. I argue that while all are generally in favor of free enterprise, none of the British Utilitarians are uncompromising apologists for *laissez-faire*. Firstly, Bentham is shown to admit the least amount of state intervention with free enterprise among the British Utilitarians. Skeptical of the state’s ability to interfere for reasons of economic production, he nevertheless concedes that the state can occasionally depart from *laissez-faire* to promote the other subordinate ends of civil legislation—namely, security, subsistence, and equality.

Secondly, I show that Mill endorses many of the departures from *laissez-faire* proposed by Bentham and apparently recommends more socialistic interference than Bentham due to his greater familiarity with the science of political economy and the recognition of market failures. For instance, Mill provides one of the early articulations of the role of the state in providing public goods. Lastly, it is suggested that Sidgwick permits the greatest amount of state intervention with *laissez-faire*. Building upon Mill, he articulates more grounds for market failures, in addition to expressing greater optimism about the state’s capacity to correct for them.

## ***Chapter 2—The British Utilitarian Tradition***

### ***2.1 Introduction***

Utilitarianism, at its core, is a consequentialist moral theory, evaluating actions or institutions in accordance with their consequences. More precisely, it is a consequentialist theory that establishes the aggregate happiness of society as the appropriate standard for assessing whether something is right or wrong. Something is right, utilitarians contend, insofar as it is conducive to the happiness of society; by contrast, something is wrong insofar as it is productive of pain.

Bentham, Mill, and Sidgwick are generally considered the preeminent figures of the utilitarian tradition—or, at least the utilitarian tradition that emerged and thrived in Britain during the 18th and 19th centuries. Together, they developed, systematized, and refined the moral theory and applied its insights to the most pressing social, political, and economic problems of the day. Bentham, as has been noted, is widely acknowledged as the father of secular utilitarianism. Though many of the doctrine's constituent elements arguably did not originate with him, he is commonly recognized as the first person to systematize utilitarianism as a rigorous and coherent normative theory. Furthermore, it is appropriate to suggest that Bentham, more than either Mill or Sidgwick, is responsible for the theory's most essential insights, even if some people ultimately find the amended versions of utilitarianism proffered by Mill and Sidgwick as more polished or compelling.

This chapter is not, and cannot be, a comprehensive overview of utilitarianism, as defended by each of the British Utilitarians. Such a monumental task would require a book—in all likelihood, many books. Rather, this chapter provides an overview of the fundamentals associated with their utilitarian theories, in addition to highlighting some of the notable

disagreements that help distinguish the British Utilitarians from one another. Though not always emphasized herein, Bentham, Mill, and Sidgwick agree about much. Yet it is equally true that they are not one and the same person. On more than one occasion they take issue with one another's understandings of utilitarianism or feel it in need of supplementation. As argued throughout, by the time Sidgwick finishes articulating the utilitarian theory, utilitarianism has evolved to be considerably more conservative in its implications. Originally conceptualized by thinkers like Bentham and Mill as a tool for progressive reform, under the guidance of Sidgwick's careful hand, utilitarianism takes on a more Burkean character, not exactly prohibiting change to the status quo, but tempering the enthusiasm for reform that characterized the system earlier on.

## **2.2 Bentham**

In *An Introduction to the Principles of Morals and Legislation* (hereafter, *IPML*), Bentham rejects competing systems of morality, effectively dismissing them as nonsense.<sup>4</sup> Excluding the principle of utility, he contends that all first principles are reducible to the principle of sympathy and antipathy, or what he sometimes calls the *ipse-dixit* principle.<sup>5</sup> Bentham asserts:

The various systems that have been formed concerning the standard of right and wrong, may all be reduced to the principle of sympathy and antipathy. One account may serve for all of them. They consist all of them in so many contrivances for avoiding the obligation of appealing to any external standard, and for prevailing upon the reader to accept of the author's sentiment or opinion as a reason and that a sufficient one for itself. (Bentham 1996, 25-26)

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<sup>4</sup> Here I do not consider the principle of asceticism, which Bentham also summarily dismisses in *IPML*.

<sup>5</sup> In fact, Bentham doubts that the principle of sympathy and antipathy deserves to be identified as a "principle" at all. He says that it is "rather a principle in name than in reality: it is not a positive principle of itself, so much as a term employed to signify the negation of all principle" (Bentham 1996, 25).

Put differently, despite being dressed up in a variety of terminologies, Bentham maintains that concepts such as “moral sense,” “natural law,” “right reason,” and other familiar phrases appealed to by prominent intellectuals do not constitute distinct moral systems. Instead, he suggests that they are all subtle attempts by moralists to cloak their personal biases as universal rules of conduct. For example, Bentham famously rejects metaphysical notions like “natural rights” as fictitious entities—i.e., entities without referents in the empirically accessible world—invoked by those who hope to give a more authoritative expression to their subjective viewpoints (Bentham 2002).<sup>6</sup>

According to Bentham, the principle of utility, or the Greatest Happiness Principle, is the only rational standard for evaluating actions and institutions across society. In the opening paragraph of *IPML*, he boldly proclaims:

Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it. In words a man may pretend to abjure their empire: but in reality he will remain subject to it all the while. The *principle of utility* recognises this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and of law. Systems which attempt to question it, deal in sounds instead of sense, in caprice instead of reason, in darkness instead of light. (Bentham 1996, 11)

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<sup>6</sup> Schofield suggests that Bentham’s naturalism accounts for why he endorses the principle of utility over all other contending principles. He writes: “According to Bentham’s ontology, there was nothing in human experience which was not ultimately referable to some physical fact—and this was true of propositions making reference to a moral standard, as it was true of propositions making reference to any other fictitious entity. Propositions concerning the principle of utility made sense because, when properly expounded, they would be seen to be propositions about the existence, or probable existence, of pleasures and pains, themselves real entities. Indeed, propositions which purported to express moral value were meaningful only if they could be expounded in this way, and propositions which made reference to the principle of utility were the only ones which could be so expounded” (Schofield 2006, 28). Perhaps unsurprisingly, Bentham’s ontology and theory of language preceded the development of analytic philosophy and partly influenced the logical positivism of philosophers like A.J. Ayer (1952).



In addition to illuminating aspects of his ontology and philosophy of language, this excerpt is important for understanding Bentham's views for two reasons: (i) it highlights his commitment to ethical hedonism, or the notion that pleasure and pain are the appropriate standards for evaluating actions as right or wrong; and (ii) it reveals his adherence to psychological hedonism, or the notion that all action is motivated by pleasure and pain.<sup>7</sup> Each of these aspects is further elaborated on in turn.

Firstly, it is essential to recognize that Bentham endorses universal hedonism, more widely known as utilitarianism, as the standard of morality. Bentham explains:

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 to oppose that happiness. I say of every action whatsoever; and therefore not only of every action of a private individual, but of every measure of government. (Bentham 1996, 11-12)

Whether something is right or wrong, virtuous or wicked, moral or immoral is ultimately determined by its tendency to promote happiness or misery for the community, with happiness framed in the hedonistic terms of pleasure net pain.<sup>8</sup> Consequently, Bentham maintains that entrenched customs and conventions inhibiting the general happiness of society ought to be either reformed or eliminated for the betterment of society. For example, further bolstering his progressive credentials, Bentham contends that laws restricting same-sex relations ought to be lifted because they are antithetical to consensual activities productive of great pleasure for all parties (Bentham 2014).

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<sup>7</sup> Though the passage is not clear on this point, Bentham later expresses his commitment to universal (rather than egoistic) hedonism. He believes that actions should be judged right insofar as they maximize the happiness of the community, rather than just the happiness of the individual.

<sup>8</sup> According to hedonists like Bentham, pleasure is the only thing intrinsically good and pain is the only thing intrinsically evil. All other things, insofar as they contain value, possess instrumental value; they are valuable simply as means for attaining pleasure or preventing pain.

Secondly, it should be observed that Bentham accepts psychological hedonism, which posits that all human actions are motivated by the pursuit of pleasure or the avoidance of pain.<sup>9</sup> This basic framework casts humans as inherently sensitive beings, acutely responsive to pleasure and pain, which leads them to naturally pursue the mode of conduct they expect will maximize their own happiness. Accordingly, Bentham depicts human nature as self-interested. He repeatedly stresses throughout his writings that disinterested action is impossible. As a matter of natural fact, Bentham argues that humans cannot be made to do something which they have not developed an interest in doing. Yet, taken by itself, this statement might suggest that Bentham perceives humans as narrowly selfish—a misunderstanding that warrants further clarification.

Though Bentham insists that human action is necessarily self-interested, he does not maintain that all action is selfish or inspired by narrow self-love. He acknowledges—especially in later writings like *Deontology* and *A Table of the Springs of Action*—the existence and operation of a sympathetic sanction in humans. As such, he concedes that individuals can take an interest in the happiness of others, and he further observes that many individuals are made happier when they consult the wellbeing of others.<sup>10</sup> At any rate, Bentham does not recommend that society depend too much upon the strength of conventional virtues to maximize happiness,

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<sup>9</sup> Bentham argues that motives are neither inherently good nor bad. He writes: “If they are good or bad, it is only on account of their effects: good, on account of their tendency to produce pleasure, or avert pain; bad, on account of their tendency to produce pain, or avert pleasure. Now the case is, that from one and the same motive, and from every kind of motive, may proceed actions that are good, others that are bad, and others that are indifferent.” Yet, Bentham recognizes that it is rare to find a motive “of which the name expresses that and nothing more. Commonly along with the very name of the motive, is tacitly involved a proposition imputing to it a certain quality; a quality which, in many cases, will appear to include that very goodness or badness, concerning which we are here inquiring whether, properly speaking, it be or be not imputable to motives” (Bentham 1996, 100-101)

<sup>10</sup> Given this large and inclusive understanding of the term “interest,” Bentham’s contention that all action is self-interested is arguably trivial. In fact, Bentham appears to acknowledge this in some of his works. Mill certainly recognizes it, noting that “Mr. Bentham did no more than dress up the very trivial proposition that all persons do what they feel themselves most disposed to do” (Mill 1969, 14).

and I think it is fair to suggest that social motives do not play as significant a role as the self-preference principle does in his most influential writings.<sup>11</sup>

Mill argues that, even if not intending to “impute universal selfishness to mankind,” Bentham tends to employ the presumption of self-interest in its more vulgar sense. That is, Bentham commonly characterizes people as beings who act on self-regarding interests that prevail over social (or extra-regarding) interests (Mill 1969, 14). For instance, he suggests that “in the general tenor of life, in every human breast, self-regarding interest is predominant over all other interests put together” (Bentham 1954, 421). Moreover, at times he ventures so far as to suggest that sacrifices of private interest to the public interest are less common than instances of insanity (Bentham 1954, 432). Therefore, though one can concede that Bentham does not overtly mistake mankind as selfish, he does regularly employ the premise of self-interest in a crude sense to advance his prescriptions.<sup>12</sup>

The tension between Bentham’s psychological theory and his utilitarianism is a point often emphasized by scholars. According to the Greatest Happiness Principle, individuals should behave in ways conducive to the general advantage; however, Bentham contends that humans inherently seek out their individual happiness. Given that the pursuit of individual happiness does not always yield the greatest advantage to the community, a conflict emerges between Bentham’s two fundamental commitments to private interest and public duty. To overcome this obstacle, Bentham outlines two primary mechanisms throughout his works.

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<sup>11</sup> Werner Stark compiles a significant amount of evidence in the “Psychology of Economic Man” demonstrating the strength of self-regarding interests in Bentham’s philosophical thought.

<sup>12</sup> Ross Harrison observes that Bentham employs the term “axiom” often when developing his views on human psychology. Yet, he is an empiricist and does not understand himself to be making *a priori* assumptions about human psychology in the way that James Mill does in his *Essay on Government*. Harrison writes that “Bentham intended his psychology to be an observational science, based upon the facts of human nature as learned by experience rather than as assumed *a priori*” (Harrison 1983, 141-142).

First, Bentham highlights the important role of deontologists, which includes but is not necessarily limited to, figures such as parents, teachers, and public moralists.<sup>13</sup> Although he asserts that individuals are the best judges of their own interests (see Chapter 3), Bentham also acknowledges that without correct and complete reflection people sometimes misjudge what contributes most to their happiness. Hence, he suggests that deontologists may serve to enlighten others, persuading them to adopt a more enlarged perspective on happiness—i.e., one that recognizes that their own happiness is more successfully realized by considering the welfare of others. In this way, Bentham maintains that the provision of moral education, broadly defined, helps individuals better realize that the narrow (myopic) pursuit of happiness is unlikely to result in a happy life. After all, those individuals who embody the traits of Charles Dickens' Ebenezer Scrooge are seldom understood as paragons of happiness.

Nevertheless, Bentham does not see a perfect coincidence between enlightened self-interest and utilitarian duty as likely.<sup>14</sup> Instead, he also emphasizes the importance of external sanctions—especially legislative measures—to mitigate discrepancies between the private interest and the public good.<sup>15</sup> As Harrison suggests, Bentham envisions private deontology as complementing the political framework. In other words, he sees it as filling “in the gaps in the legislative programme” (Harrison 1983, 270).

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<sup>13</sup> Bentham's use of the term “deontology” is not equivalent to the contemporary usage, which has been influenced by 20th century writers such as C.D. Broad.

<sup>14</sup> Some scholars suggest that Bentham believes in a natural harmony of interests (cf. Lyons 1973). Moreover, elements of his writings lend credibility to these interpretations. However, Crisp writes that “it is perhaps more charitable to think that he sought to play down the gap between self-interest and morality in order to encourage his readers” (Crisp 2019, 204). Harrison adds that Bentham probably overemphasized the amount of natural harmony in order to combat the rhetoric of ascetic moralists regarding the virtues of self-sacrifice, which was often preached as valuable for its own sake (Harrison 1983, 274).

<sup>15</sup> Granting a weak sympathetic sanction, the power of social sanctions (e.g., public opinion) alone can sometimes compel individuals to act in the public interest, occasionally obviating the necessity for legal sanctions.

Legislation plays a particularly prominent role in Bentham's writings.<sup>16</sup> In fact, in Chapter 1 of *IMPL*, he acknowledges that his primary aim "is to rear the fabric of felicity by the hands of reason and of law" (Bentham 1996, 11). Conceding that individuals will occasionally promote public utility without legal inducement, he nevertheless maintains that legislation is a social necessity. At times he depicts life without laws much like Thomas Hobbes does in *Leviathan*. In *Principles of the Civil Code*, for instance, Bentham emphasizes: "Without law there is no security; consequently no abundance, nor even certain subsistence. And the only equality which can exist in such a condition, is the equality of misery" (Bentham 1843, 1: 307).<sup>17</sup>

In short, Bentham argues that legislation is crucial for maximizing social utility. In *IPML*, for instance, he says that the business of government is to strategically influence citizens' cost-benefit analyses via a combination of rewards and punishments, ensuring actions more closely align with the good of the community (Bentham 1996, 74, 201).<sup>18</sup> For example, Bentham maintains that actions injurious to the happiness of society, such as theft or murder, should have substantial pains attached to them—the proper business of penal legislation—so that individuals do not judge it to be in their self-interest to pursue those paths for personal advantage.<sup>19</sup> Accordingly, the entire collection of political sanctions functions together as motives which can

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<sup>16</sup> I primarily focus on the role of direct legislation in Bentham's thought, though some scholars contend that Bentham's contributions to indirect legislation have been improperly neglected. Indeed, at times, they arguably prefigure modern developments in behavioral economics (Quinn 2022).

<sup>17</sup> Regarding the state of nature, Hobbes argues: "In such condition, there is no place for industry; because the fruit thereof is uncertain: and consequently no culture on earth; no navigation, nor use of commodities that may be imported by sea; no commodious building; no instruments of moving, and removing such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short" (Hobbes 2008, 84).

<sup>18</sup> Bentham writes: "For combating the various kinds of offences above enumerated, that is, for combating all the offences... which it is in man's nature to commit, the state has two great engines, *punishment* and *reward*: punishment, to be applied to all, and upon all ordinary occasions: reward, to be applied to a few, for particular purposes, and upon extraordinary occasions" (Bentham 1996, 201).

<sup>19</sup> Utilitarians regard all pain as intrinsically evil. Therefore, they reject retributivist theories of punishment. From the utilitarian perspective, punishment is only to be inflicted on individuals to deter future undesirable behavior. Moreover, they stress that the severity of punishments should never exceed what is absolutely necessary to deter conduct judged detrimental.

redirect people's energies in ways that more closely conform with the dictates of the Greatest Happiness Principle, thus further helping reconcile private interest with public duty.

For facilitating the scientific measurement of happiness, Bentham introduces what is commonly referred to as the "felicific calculus," though he himself never uses this phrase. In essence, the felicific calculus is a conceptual tool for quantifying happiness by determining the value of pleasures and pains along seven dimensions. Briefly stated, these dimensions (with respect to pleasure) are as follows:

- (1) Intensity—The potency of the pleasure.
- (2) Duration—The length of time that the pleasure lasts.
- (3) Certainty—The likelihood that the pleasure will be experienced.
- (4) Propinquity—The nearness or remoteness of the pleasure.<sup>20</sup>
- (5) Fecundity—The likelihood that the pleasure will lead to subsequent pleasures.
- (6) Purity—The likelihood that the pleasure will not lead to subsequent pains.
- (7) Extent—The number of people that are affected by the pleasure.

Taken together, Bentham asserts that these seven criteria capture the considerations necessary for exhaustive happiness calculations.<sup>21</sup> To assess whether an action is right or wrong, Bentham suggests that people sum up the total value of the pleasures and pains associated with an action and determine the balance. When the balance is positive, the tendency of the action is good on the whole; conversely, the tendency of the action is bad on the whole when the balance is negative. Additionally, Bentham is careful to stress that the felicific calculation must be completed for every individual whose interests are involved (Bentham 1996, 39-40).<sup>22</sup>

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<sup>20</sup> Bentham's inclusion of propinquity is arguably a mistake. Units of pleasure retain their value regardless of when they are experienced. It is rational for a utilitarian to prefer the instruments of pleasure (e.g., money) sooner rather than later due to the uncertainty that those same instruments will cause equivalent pleasure at a later date (e.g., due to inflation). However, the value of pleasure units themselves does not vary with time. In other words, a pure time preference is irrational from the utilitarian perspective. This critique was clearly articulated by Henry Sidgwick (1981).

<sup>21</sup> Strictly speaking, some of the criteria are not necessary elements of the felicific calculus. For instance, if all pleasures and pains can be measured independently, then there is no need to account for the purity of any particular pleasure. Instead, the pleasure from, say, drinking and the pain from the hangover that follows can be measured independently. Though typically associated with one another, the pain from a hangover does not intrinsically belong to the pleasure from a night of drinking.

<sup>22</sup> Although sometimes implied by popular caricatures, Bentham does not merely account for the immediate and local consequences of actions. Rather, he considers primary and secondary effects of actions, too. Ross Harrison

A cursory overview of the felicific calculus suggests that Benthamite utilitarianism is impractical and that Bentham is too optimistic about our ability to execute precise happiness calculations for society. However, this assessment is not the most charitable.<sup>23</sup> From Bentham's perspective, the felicific calculus serves as an ideal—a standard to be strived towards in ethical reasoning. Yet, it is not an operation that he demands people complete before each action. He concedes in *IPML*:

It is not to be expected that this process should be strictly pursued previously to every moral judgment, or to every legislative or judicial operation. It may, however, be always kept in view: and as near as the process actually pursued on these occasions approaches to it, so near will such process approach to the character of an exact one. (Bentham 1996, 40)

Throughout his work, Bentham insists that rational morality necessitates calculation. The fact that happiness calculations are imprecise or imperfect does not detract from this general point. Quinn reminds us that, for Bentham, to “abjure calculation was to abjure rationality” and that “[i]n the absence of such calculation, moral reasoning could be grounded on nothing more than prejudice” (Quinn 2014, 61-63).<sup>24</sup>

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notes that this “means that those counter-examples to utilitarianism which depend upon inventing some unlikely conjunction of circumstances in which following the normal rules of behaviour would have less good consequences than departing from them need to be handled with care. It is not that Bentham would not say that in such a situation that departure was required; it is just that all the consequences have to be considered to see if the invented case really is of this kind. When these consequences include danger and alarm, these features are liable to iron out the eccentricities of the particular invented example and make it no longer an example of achieving better consequences by departing from the normal rules” (Harrison 1983, 231).

<sup>23</sup> Bentham is cognizant of some challenges facing his utilitarianism. For example, in *IPML* Bentham enumerates more than 30 “circumstances influencing sensibility.” These circumstances explain why individuals are not uniformly sensitive to different causes of pleasure and pain. Bentham writes: “Now the quantity of pleasure, or of pain, which a man is liable to experience upon the application of an exciting cause, since they will not depend altogether upon that cause, will depend in some measure upon some other circumstance or circumstances: these circumstances, whatsoever they be, may be termed *circumstances influencing sensibility*” (Bentham 1996, 52). Additionally, at times, Bentham even expresses concern that some pains and pleasures might not be commensurable. For instance, Bentham queried whether any amount of money could stop a hateful man from committing assault from the motive of ill-will (Harrison 1983, 150).

<sup>24</sup> Bentham expresses some optimism about the prospect of using money as a metric for rendering pleasures and pains commensurable. For example, if a person is willing to pay \$50 to attend either a concert or a musical, then presumably the quantities of pleasure expected from either event are similar (or identical). Further, if a person is hesitant to deface property with graffiti due to the looming threat of a \$2,000 fine, then presumably the expected pleasure from tagging the property with graffiti coupled with the expected pain from a \$2,000 fine is roughly equivalent to zero net pleasure. However, Bentham also recognizes a number of serious shortcomings of this

A final aspect of Bentham’s work that merits acknowledgment here is the subordinate ends of civil legislation, which further refine simplistic caricatures of his utilitarian theory. These four ends, listed in order of importance, are: (i) security, (ii) subsistence, (iii) abundance, and (iv) equality.<sup>25</sup> In *Principles of the Civil Code*, Bentham observes: “The more perfect the enjoyment of all these particulars, the greater the sum of social happiness, and especially of that happiness which depends on the laws” (Bentham 1843, 1: 302).<sup>26</sup>

The subordinate ends tend to be emphasized by liberal interpreters of Bentham’s thought—for instance, Paul Kelly (1990)—and they feature prominently in his work on civil law and political economy. While Benthamite utilitarianism may conjure images of legislators undertaking exceptionally complex calculations to maximize aggregate happiness, Bentham’s civil law writings reveal a more nuanced approach. They suggest that, in the allocation of rights and obligations, legislators can target general properties to more effectively approximate the end recommended by utilitarianism.

In brief, the subordinate objects serve as concrete guidelines for lawmakers trying to promote the social advantage. Generally speaking, Bentham believes that citizens are happier when these secondary ends are achieved. Affording individuals security in their person, property, reputation, and contracts, for example, transforms the otherwise uncertain day-to-day existence into a state of stable and predictable expectations about the future. This stability enables

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monetary approach, including the problem that some pleasures and pains do not appear to be easily quantifiable in monetary terms (Harrison 1983; Lieberman 2000; Quinn 2014, 2022).

<sup>25</sup> Of the hierarchy, Bentham writes: “At the first glance it is perceived, that subsistence and security rise together to the same height: abundance and equality are manifestly of an inferior order. Indeed, without security, equality itself could not endure a single day. Without subsistence, abundance cannot exist. The two first ends are like life itself: the two last are the ornaments of life” (Bentham 1843, 1: 303).

<sup>26</sup> In some cases, the subordinate ends overlap with one another, and in other cases, they jeopardize the achievement of the other subordinate ends. A couple brief examples include: (i) abundance serves as security for subsistence in times of economic downturn and (ii) large redistribution efforts to promote equality sometimes threaten the security of property.



individuals to plan their lives reliably in ways that improve their happiness.<sup>27</sup> Reflecting on his remarks about the value of property rights, Bentham emphasizes:

The idea of property consists in an established expectation—in the persuasion of power to derive certain advantages from the object, according to the nature of the case. But this expectation, this persuasion, can only be the work of law. I can reckon upon the enjoyment of that which I regard as my own, only according to the promise of the law, which guarantees it to me. It is the law alone which allows me to forget my natural weakness: it is from the law alone that I can enclose a field and give myself to its cultivation, in the distant hope of the harvest. (Bentham 1843, 1: 308)

By safeguarding property rights in agricultural products, lawmakers enable farmers to apply foresight, work confidently towards the future, and achieve both the subsistence they need to survive and the abundance they need to thrive. Likewise, by removing economic barriers to enter certain occupations, lawmakers assist many in improving their circumstances, mitigating the impacts of wealth inequality on societal happiness (cf. diminishing marginal utility).

Before concluding, it should be briefly added that Bentham does not claim that government officials should concentrate equally on all four subordinate ends of legislation. By and large, he advises lawmakers to prioritize security and subsistence, with abundance and equality considered of comparatively lesser importance. Bentham urges utilitarian legislators to especially concentrate on establishing a system of stable expectations (via security measures) so that citizens can rationally plan their lives and promote their own happiness. He repeatedly stresses the role of expectations for living a happy life. Frustrated or disappointed expectations, he contends, are a major source of pain in society, and he insists that they must be avoided to the greatest extent possible.<sup>28</sup> Accordingly, while all four subordinate objects of legislation contribute to societal happiness, he repeatedly emphasizes the primacy of securing legitimate

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<sup>27</sup> Bentham writes: “A feeble and momentary expectation only results from time to time, from purely physical circumstances; a strong and permanent expectation results from law alone” (Bentham 1843, 1: 309).

<sup>28</sup> Bentham writes: “Every injury which happens to this sentiment produces a distinct, a peculiar evil, which may be called pain of disappointed expectation” (Bentham 1843, 1: 308).

expectations. Moreover, as discussed later in this dissertation, Bentham exercises considerable caution in endorsing legislative actions (e.g., inflation and redistribution) that might promote other goals like equality, but necessitate compromising that essential security that allows individuals to transcend the precariousness of primitive existence.

### **2.3 J.S. Mill**

Bentham's influence on Mill's intellectual development can hardly be overstated. In his *Autobiography*, Mill identifies his first encounter with *Traité de Législation Civile et Pénale*—a recension of Bentham's ideas by his editor Étienne Dumont—as “an epoch” in his life and “one of the turning points” in his mental history (Mill 1981, 67). Reflecting on the experience, Mill writes:

[A]t every page he seemed to open a clearer and broader conception of what human opinions and institutions ought to be, how they might be made what they ought to be, and how far removed from it they are now. When I laid down the last volume of the *Traité* I had become a different being. The “principle of utility,” understood as Bentham understood it, and applied in the manner in which he applied it through these three volumes, fell exactly into its place as the keystone which held together the detached and fragmentary component parts of my knowledge and beliefs. It gave unity to my conception of things. I now had opinions; a creed, a doctrine, a philosophy; in one among the best senses of the word, a religion; the inculcation and diffusion of which could be made the principal outward purpose of a life. (Mill 1981, 69)

Consequently, though this section primarily highlights differences between the two utilitarians, it should not obscure Mill's intellectual debt to Bentham. Indeed, the areas of agreement between the two philosophers are substantial, outnumbering their disagreements by a wide margin.

First, it might be observed that, in comparison with Bentham, Mill's utilitarianism places greater emphasis on the importance of social sentiments. In his earliest reflections on Bentham's philosophy, Mill critiques Bentham for his pronounced focus on self-regarding interests and his

relative neglect of the social feelings (Mill 1969, 14-15). As noted earlier in this chapter, Bentham does not declare that humans are inherently selfish; he explicitly recognizes that individuals can act out of concern for others. However, Mill points out that Bentham often seems to overlook this recognition. He suggests that Bentham's writings tend to portray humans as driven by vulgar self-interest, which therefore leads Bentham to concentrate his attention on external sanctions as the principal means for safeguarding the public advantage.<sup>29</sup>

By contrast, Mill's utilitarianism emphasizes the importance of cultivating people's social sentiments to promote happiness. Though acknowledging the existence (and influence) of selfish interests, Mill argues that happiness is unlikely to be maximized as long as these selfish tendencies predominate in society. He remarks that, throughout history, benevolence has driven some remarkable humans and that there "is nothing in the constitution of human nature to forbid its being so in all mankind" (Mill 1969, 15). Mill further adds:

Until it is so, the race will never enjoy one-tenth part of the happiness which our nature is susceptible of. I regard any considerable increase of human happiness, through mere changes in outward circumstances, unaccompanied by changes in the state of the desires, as hopeless... (Mill 1969, 15)

Mill posits that selfishness is one of the principal causes that makes human life unsatisfactory (Mill 1969, 215). Rather than something to be accommodated or worked around, he sees selfishness as an obstacle that must be constantly combatted and overcome. As such, Mill's writings emphasize that the moral sentiments are one of the sources of higher pleasure that individuals, properly cultivated, are capable of enjoying.

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<sup>29</sup> Mill writes of Bentham's impact: "By the promulgation of such views of human nature, and by a general tone of thought and expression perfectly in harmony with them, I conceive Mr. Bentham's writings to have done and to be doing very serious evil. It is by such things that the more enthusiastic and generous minds are prejudiced against all his other speculations, and against the very attempt to make ethics and politics a subject of precise and philosophical thinking; which attempt, indeed, if it were necessarily connected with such views, would be still more pernicious than the vague and flashy declamation for which it is proposed as a substitute" (Mill 1969, 15).

This distinction between higher and lower pleasures arguably represents Mill's most controversial innovation upon orthodox Benthamite utilitarianism. Although both are ostensibly hedonists, Bentham subscribes to what is often described as quantitative hedonism.<sup>30</sup> This perspective, in short, posits that all pleasures are commensurable, suggesting that while certain pleasures might be preferred for their greater intensity or longer duration, all are essentially equivalent in kind.

Bentham's support for quantitative hedonism is clearly manifested throughout his works. For instance, in *Not Paul, But Jesus*, he writes:

But by this word more *noble* what is meant? either it means *greater*, viz. in respect either of intensity or duration, or it means nothing and is so much nonsense. Take any pleasure of the body and compare it with a pleasure of the mind: if it is not greater but less, here then in case of competition is a reason—a genuine reason for taking up the pleasure of the mind and letting go the pleasure of the body: if not less but greater, here then is no sufficient reason for letting go the pleasure of the body. (Bentham 2013, 20)

Furthermore, in *The Rationale of Reward*, Bentham asserts: "Prejudice apart, the game of push-pin is of equal value with the arts and sciences of music and poetry. If the game of push-pin furnish more pleasure, it is more valuable than either" (Bentham 1843, 2: 253). Hence, Bentham's theorizing makes it evident that no type of pleasure should be afforded privileged status in felicific calculations.

Mill, by contrast, rejects the quantitative hedonism espoused by utilitarians like Bentham, embracing qualitative hedonism instead. In *Utilitarianism*, he argues that the pleasures resulting from the exercise of the higher-order faculties—such as those of "the intellect, of the feelings and imagination, and of the moral sentiments"—are of superior quality compared to the

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<sup>30</sup> Going back to at least Sidgwick, some scholars interpret the acknowledgment of qualitatively superior pleasures as a departure from hedonism. Consequently, some stress the perfectionist aspects of Mill's philosophy, suggesting that Mill considers the development of higher faculties as inherently valuable. It must be admitted that Mill's stance is not wholly unambiguous. Some remarks suggest that Mill adheres to hedonism while others hint at a non-hedonic conception of happiness.

pleasures associated with the animal faculties (Mill 1969, 211).<sup>31</sup> Mill maintains that competent judges—i.e., individuals who are thoroughly acquainted with various forms of pleasure—unequivocally recognize that certain pleasures are superior in kind. He even asserts that these qualified judges would never willingly forsake a higher pleasure for any amount of a lesser one. Thus, Mill proposes that lives enriched by higher pleasures—even if ostensibly accompanied by greater discontent—are more desirable than lower grades of existence filled with simpler, more easily fulfilled desires (e.g., those of cats).<sup>32</sup> It is this principle which underpins one of his most frequently cited passages: it is “better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied” (Mill 1969, 212).<sup>33</sup>

It is in part Mill’s defense of qualitative hedonism that informs his impassioned advocacy for freedom in *On Liberty*. There, Mill suggests that his defense of liberalism relies on a conception of humans as “progressive beings” (Mill 1977a, 224). Although not initially equipped to enjoy many of the higher pleasures that human nature is capable of, he suggests that individuals have the potential to develop into such beings through the regular use and improvement of their elevated faculties. The primary catalyst for character development, Mill maintains, is liberty—the freedom to think, speak, and act according to one’s own lights,

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<sup>31</sup> To address elitist interpretations of Mill’s hedonism, Miller (2010) and Saunders (2016a) emphasize that many sources of pleasure (including, perhaps, push-pin) may involve some degree of activity associated with the higher faculties. Miller writes that “[i]t is important not to have a mistaken impression about the doctrine’s practical implications...A wide variety of activities could offer people rich opportunities to exercise their higher faculties. Indeed, if it is undertaken in the right way, then almost any activity might make it possible for a person to enjoy a significant quantity of the pleasures of the intellect, the imagination or the moral sentiments” (Miller 2010, 63).

<sup>32</sup> Mill argues: “Now it is an unquestionable fact that those who are equally acquainted with, and equally capable of appreciating and enjoying, both, do give a most marked preference to the manner of existence which employs their higher faculties. Few human creatures would consent to be changed into any of the lower animals, for a promise of the fullest allowance of a beast’s pleasures; no intelligent human being would consent to be a fool, no instructed person would be an ignoramus, no person of feeling and conscience would be selfish and base, even though they should be persuaded that the fool, the dunce, or the rascal is better satisfied with his lot than they are with theirs” (Mill 1969, 211).

<sup>33</sup> To illustrate the superiority of some kinds of pleasure, Roger Crisp articulates the following thought experiment: An angel in Heaven is allocating lives on Earth. The angel offers you the option to either (i) live as a sensitive oyster for an infinite amount of years or (ii) live as Joseph Haydn for 77 years. The thought is that presumably many hedonists will select option (ii), even knowing that option (i) includes an infinite amount of lower pleasures (Crisp 1997, 23-25).

provided one does not use their liberty to injure others. He emphasizes that freedom represents the only “unfailing and permanent source of improvement,” further asserting that, “[t]he mental and moral, like the muscular powers, are improved only by being used” (Mill 1977a, 262, 272).

A pressing concern for Mill is that the customs and institutions of society—through the twin pressures of public opinion and legal coercion—hinder the enhancement of human happiness.<sup>34</sup> By narrowly restricting the realm of individuality, he complains that increasingly less is left up to personal choice. These limits are partly problematic, Mill suggests, because no single plan of life suits everyone, and individuals tend to be better acquainted with their own feelings and circumstances than others—a point on which he and Bentham agree.<sup>35</sup> Yet, it is crucial to recognize that this observation alone does not encapsulate the full breadth of Mill’s argument.

Perhaps paradoxically, Mill says that restricting individual liberty is problematic even if society theoretically knows the best way for others to live. Analogous to his argument that people should not be protected from false speech even if society can guarantee the truth of certain opinions, Mill argues that individuals should not be relieved from making their own choices even if society knows the best path for them to pursue. In an early essay entitled *On Genius*, Mill writes:

[I]f the multifarious labours of the *durum genus hominum* were performed for us by supernatural agency, and there were no demand for either wisdom or virtue, but barely for stretching out our hands and enjoying, small would be our enjoyment, for there would be nothing which man could any longer prize in man. Even men of pleasure know that the means are often more than the end: the delight of fox-hunting does not consist in catching a fox. Whether, according to the ethical theory we adopt, wisdom and virtue be precious in themselves, or there

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<sup>34</sup> By contrast, Bentham seems considerably less concerned than Mill about the “despotism of Public Opinion” (Mill 1969, 107).

<sup>35</sup> Mill writes: “A man cannot get a coat or a pair of boots to fit him, unless they are either made to his measure, or he has a whole warehouseful to choose from: and is it easier to fit him with a life than with a coat, or are human beings more like one another in their whole physical and spiritual conformation than in the shape of their feet?” (Mill 1977a, 270).

be nothing precious save happiness, it matters little; while we know that where these higher endowments are not, happiness can never be, even although the purposes for which they might seem to have been given, could, through any mechanical contrivance, be accomplished without them. (Mill 1981, 330).

More than Bentham, Mill realizes that means and ends are not easily disentangled. For example, although the intellect might at times seem merely an instrument for deciphering the lessons of poetry or philosophy, Mill insists that no significant pleasure can be derived by the student if such lessons are simply provided to them for passive reception. Instead, the active cultivation of the intellect and the feelings is essential for appreciating these elevated pleasures. Accordingly, there is an unmistakable emphasis on the cultivation of character in Mill's utilitarian writings.<sup>36</sup>

In connection with his emphasis on self-development, a final difference between Mill and Bentham worth highlighting in this section is the following: Mill's writings indicate a more subtle and indirect approach to maximizing happiness. Rather than telling individuals to focus on being happy, Mill recommends that people should primarily concentrate on pursuits other than happiness. This line of thought is particularly evident, I believe, in the conclusion of his *System of Logic*. He writes:

I do not mean to assert that the promotion of happiness should be itself the end of all actions, or even of all rules of action. It is the justification, and ought to be the controller, of all ends, but is not itself the sole end. There are many virtuous actions, and even virtuous modes of action (though the cases are, I think, less frequent than is often supposed) by which happiness in the particular instance is sacrificed, more pain being produced than pleasure. But conduct of which this can be truly asserted, admits of justification only because it can be shown that on the whole more happiness will exist in the world, if feelings are cultivated which will make people, in certain cases, regardless of happiness. I fully admit that this is true: that the cultivation of an ideal nobleness of will and conduct, should be to individual human beings an end, to which the specific pursuit either of their own happiness or of that of others (except so far as included in that idea) should, in

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<sup>36</sup> To the skeptic who denies that cultivating one's character makes one's life happier, Mill writes: "[A]nd if it may possibly be doubted whether a noble character is always the happier for its nobleness, there can be no doubt that it makes other people happier, and that the world in general is immensely a gainer by it. Utilitarianism, therefore, could only attain its end by the general cultivation of nobleness of character, even if each individual were only benefited by the nobleness of others, and his own, so far as happiness is concerned, were a sheer deduction from the benefit" (Mill 1969, 213-214).

any case of conflict, give way. But I hold that the very question, what constitutes this elevation of character, is itself to be decided by a reference to happiness as the standard. The character itself should be, to the individual, a paramount end, simply because the existence of this ideal nobleness of character, or of a near approach to it, in any abundance, would go further than all things else towards making human life happy; both in the comparatively humble sense, of pleasure and freedom from pain, and in the higher meaning, of rendering life, not what it now is almost universally, puerile and insignificant—but such as human beings with highly developed faculties can care to have. (Mill 1974, 952)

In short, Mill argues that individuals should not aim to be happy. One rarely gets the sense that he conceives of individuals consulting Bentham's felicific calculus. In fact, at times Mill actually suggests that the intentional pursuit of happiness can be self-defeating.<sup>37</sup> Mill instead seems to propose that individuals should concentrate on the cultivation of their character. He writes that the "character itself should be, to the individual, a paramount end," a general recommendation that comports well with the conclusions he draws in *On Liberty*.

## 2.4 Henry Sidgwick

Sidgwick's place within the utilitarian tradition is not as obvious as either Bentham or Mill's. This is for at least two reasons. First, although his masterpiece—*The Methods of Ethics* (hereafter, *The Methods*)—is widely appreciated for its comparative approach to evaluating competing ethical theories (i.e., universal hedonism, egoistic hedonism, and intuitionism), it is

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<sup>37</sup> In his *Autobiography*, Mill notes that he came to embrace a more indirect approach to happiness following his own mental crisis. He reports: "I never, indeed, wavered in the conviction that happiness is the test of all rules of conduct, and the end of life. But I now thought that this end was only to be attained by not making it the direct end. Those only are happy (I thought) who have their minds fixed on some object other than their own happiness; on the happiness of others, on the improvement of mankind, even on some art or pursuit, followed not as a means, but as itself an ideal end. Aiming thus at something else, they find happiness by the way. The enjoyments of life (such was now my theory) are sufficient to make it a pleasant thing, when they are taken *en passant*, without being made a principal object. Once make them so, and they are immediately felt to be insufficient. They will not bear a scrutinizing examination. Ask yourself whether you are happy, and you cease to be so. The only chance is to treat, not happiness, but some end external to it, as the purpose of life" (Mill 1981, 145-147).



not ostensibly a defense of universal hedonism (i.e., utilitarianism).<sup>38</sup> Regarding the aims of his project, Sidgwick writes:

My object, then, in the present work, is to expound as clearly and as fully as my limits will allow the different methods of Ethics that I find implicit in our common moral reasoning; to point out their mutual relations; and where they seem to conflict, to define the issue as much as possible. In the course of this endeavour I am led to discuss the considerations which should, in my opinion, be decisive in determining the adoption of ethical first principles: but it is not my primary aim to establish such principles; nor, again, is it my primary aim to supply a set of practical directions for conduct. I have wished to keep the reader's attention throughout directed to the processes rather than the results of ethical thought: and have therefore never stated as my own any positive practical conclusions unless by way of illustration: and have never ventured to decide dogmatically any controverted points, except where the controversy seemed to arise from want of precision or clearness in the definition of principles, or want of consistency in reasoning. (Sidgwick 1981, 14)

Consequently, while some critics may suggest that Sidgwick's analysis is biased towards utilitarianism, he does not claim to share the same ambitions (or objectives) in *The Methods* as, say, Bentham in *IPML* or Mill in *Utilitarianism*. Instead, rather than arguing in favor of utilitarianism, Sidgwick views himself as engaging in an impartial and disinterested analysis of the most compelling methods of ethics to determine which is most cogent.<sup>39</sup>

Second, even though his major writings on politics and economics reveal sympathy with the utilitarian doctrine, Sidgwick never concludes that utilitarianism is the superior standard of morals. In fact, *The Methods* is arguably most famous for the unsettling conclusion that mankind's practical reason—that reason which directs humans regarding what they ought to

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<sup>38</sup> Sidgwick counts no less than C.D. Broad, Derek Parfit, and John Rawls among his admirers. Parfit, for instance, writes in the preface to *Volume 1 of On What Matters*: “Kant is the greatest moral philosopher since the ancient Greeks. Sidgwick's *Methods* is, I believe, the best book on ethics ever written. There are some books that are greater achievements, such as Plato's *Republic* and Aristotle's *Ethics*. But Sidgwick's book contains the largest number of true and important claims” (Parfit 2011, xxxiii).

<sup>39</sup> In his forward to the seventh edition of *The Methods*, John Rawls calls Sidgwick's book the “first truly academic work in moral philosophy which undertakes to provide a systematic comparative study of moral conceptions, starting with those which historically and by present assessment are the most significant.” Rawls further adds: “Sidgwick's originality consists in his conception of moral philosophy and of the way in which a reasoned and satisfactory justification of any particular moral conception must proceed from a full knowledge and systematic comparison of the more significant moral conceptions in the philosophical tradition” (Sidgwick 1981, v-vi).

do—is fundamentally divided against itself. This conclusion has generated much scholarly literature and is commonly referred to as Sidgwick’s “Dualism of Practical Reason.” Sidgwick argues in *The Methods*:

For the negation of the connexion [of virtue and self-interest] must force us to admit an ultimate and fundamental contradiction in our apparent intuitions of what is Reasonable in conduct; and from this admission it would seem to follow that the apparently intuitive operation of the Practical Reason, manifested in these contradictory judgments, is after all illusory. (Sidgwick 1981, 508)

While Sidgwick thinks that utilitarianism can be shown superior to intuitionism (i.e., deontology), he does not purport to show that utilitarianism is superior to egoistic hedonism (i.e., egoism). Indeed, Sidgwick suggests that, without importing religious entities (or a “moral government of the world”), the contradiction in practical reason cannot be resolved. Consequently, he maintains that he is unable to show egoists that individuals have more compelling reasons to promote the good of the community rather than their own private advantage.<sup>40</sup>

At any rate, despite the general inconclusiveness of *The Methods*, Sidgwick is included in the British Utilitarian tradition for the purposes of this project. I propose that this inclusion is largely warranted by a handful of considerations: (i) going beyond Bentham and Mill, Sidgwick makes significant contributions towards clarifying and drawing out implications of the utilitarian system; (ii) the historical literature on Sidgwick has regularly treated him as an advocate of utilitarianism and, as a consequence, he has been routinely associated with other prominent champions of the doctrine; (iii) in the prefaces to *The Methods* (particularly the preface to the 6th edition), Sidgwick openly acknowledges that he began (and ended) his intellectual career predisposed to adopt the utilitarian system as the proper one; and, perhaps most importantly, (iv)

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<sup>40</sup> Observe that another form of this conflict might arise when, say, utilitarians consider whether their goal is to maximize the happiness of a particular community or the entire world.

Sidgwick explicitly assumes the truth of the utilitarian doctrine in his other important writings, employing the utilitarian standard for his investigations into the arts of politics and political economy. In *The Elements of Politics*, for example, Sidgwick writes that “throughout this treatise I shall take the happiness of the persons affected as the ultimate end and standard of right and wrong in determining the functions and constitution of government” (Sidgwick 2012, 34-35).

The differences between Sidgwick and his utilitarian predecessors are not comprehensively enumerated and discussed herein. Instead, while acknowledging their significance for a thorough understanding of Sidgwick’s thought, I choose to omit some rather notable disagreements between Sidgwick and his fellow British Utilitarians. For instance, I refrain from elaborating on Sidgwick’s rejection of Bentham and Mill’s thoroughgoing empiricism and his contention that utilitarianism should be defended on an intuitional basis (with certain self-evident moral intuitions).<sup>41</sup> Moreover, I exclude a detailed discussion of his reasons for rejecting psychological hedonism, another position commonly ascribed to his British Utilitarian predecessors.<sup>42</sup> Instead, I opt to concentrate on some differences that are most relevant to the ends of this project.<sup>43</sup>

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<sup>41</sup> Sidgwick is very critical of Mill’s attempt to empirically “prove” utilitarianism. In the preface to the 6th edition of *The Methods*, he writes that: “I had myself become, as I had to admit to myself, an Intuitionist to a certain extent. For the supreme rule of aiming at the general happiness, as I had come to see, must rest on a fundamental moral intuition, if I was to recognise it as binding at all” (Sidgwick 1981, xxi).

<sup>42</sup> Although initially attracted to the view, Sidgwick—under the influence of Joseph Butler—came to reject psychological hedonism. Sidgwick writes: “I entered into Butler’s system and came under the influence of his powerful and cautious intellect. But the effect of his influence carried me a further step away from Mill: for I was led by it to abandon the doctrine of Psychological Hedonism, and to recognise the existence of ‘disinterested’ or ‘extra-regarding’ impulses to action, [impulses] not directed toward the agent’s pleasure” (Sidgwick 1981, xxi).

<sup>43</sup> Sidgwick’s *The Methods* also foreshadows Derek Parfit’s (1984) “Repugnant Conclusion.” In short, the basic insight is that, by emphasizing the total aggregate happiness, utilitarians might be obligated to increase the population size, even if the average amount of happiness experienced by each person diminishes.

First, it should be noted that Sidgwick subscribes to quantitative hedonism, firmly rejecting the notion that some types of pleasures can be extended privileged status within a utilitarian framework.<sup>44</sup> In *The Methods*, Sidgwick asserts:

The first and most fundamental assumption, involved not only in the empirical method of Egoistic Hedonism, but in the very conception of “Greatest Happiness” as an end of action, is the commensurability of Pleasures and Pains. By this I mean that we must assume the pleasures sought and the pains shunned to have determinate quantitative relations to each other; for otherwise they cannot be conceived as possible elements of a total which we are to seek to make as great as possible. (Sidgwick 1981, 123)

The qualitative hedonism of utilitarians like Mill is fundamentally unworkable, according to Sidgwick. He argues that the happiness of society cannot be aggregated and maximized if some pleasures and pains are taken to be intrinsically different from others. For example, the value of an apple cannot be compared to the value of an orange unless a correspondence rule is first designated to establish how many apples an orange is worth—a move that ultimately reduces any supposed qualitative differences to mere quantitative ones (cf. Rawls 2007). Thus, while Sidgwick says that differences in degree can be accommodated by utilitarians, he suggests that Mill’s attempt to elevate some pleasures as categorically superior in kind cannot be admitted. As a result, some of Mill’s bolder proposals—for example, the suggestion that “merely contingent, or, as it may be called, constructive injury” should be disregarded in utility considerations to allow for the free cultivation of individuality—are vehemently denied by Sidgwick (Mill 1977a, 282).<sup>45</sup>

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<sup>44</sup> In a footnote, Sidgwick adds: “We find it sometimes asserted by persons of enthusiastic and passionate temperament, that there are feelings so exquisitely delightful, that one moment of their rapture is preferable to an eternity of agreeable consciousness of an inferior kind. These assertions, however, are perhaps consciously hyperbolic, and not intended to be taken as scientific statements” (Sidgwick 1981, 123 n).

<sup>45</sup> Sidgwick writes: “[O]wing to the complex enforcements of interest and sympathy that connect the members of a civilised community, almost any material loss of happiness by any one individual is likely to affect some others without their consent to some not inconsiderable extent. And I do not see how it is from a utilitarian point of view justifiable to say broadly with J.S. Mill that such secondary injury to others, if merely ‘constructive or presumptive,’ is to be disregarded in view of the advantages of allowing free development to individuality; for if the injury feared is great, and the presumption that it will occur is shown by experience to be strong, the definite risk of evil from the

Additionally, it is crucial to emphasize that, breaking with his British Utilitarian predecessors, Sidgwick makes extensive efforts to reconcile utilitarianism with the morality of common sense, which he suggests is implicitly or unconsciously utilitarian.<sup>46</sup> He highlights that the widely established rules of morality, when carefully considered, typically possess compelling utilitarian rationales. Therefore, time and again, Sidgwick shows that traditional customs and conventions supported by society—for instance, promise-keeping, truth-telling, and purity or chastity—significantly contribute to societal happiness. Accordingly, he asserts that, upon thorough investigation, many discrepancies between utilitarian prescriptions and traditional moral guidelines turn out to be illusory.

However, I might add that Sidgwick does not assume an exact coincidence (or overlap) between common sense morality and utilitarianism. He refutes the idea that the mere existence of a rule implies its perfect alignment with the demands of utility. Instead, Sidgwick concedes that popular morality, while largely in agreement with what utilitarians would endorse, sometimes diverges from what is most beneficial for society. As such, Sidgwick recognizes a role for utilitarians to recommend certain revisions to commonly accepted practices, acknowledging that those rules might not maximize happiness as they are currently constructed. Nevertheless, he insists that if the utilitarian “keeps within the limits that separate scientific prevision from fanciful Utopian conjecture, the form of society to which his practical conclusions relate will be one varying but little from the actual, with its actually established code of moral rules and customary judgments concerning virtue and vice” (Sidgwick 1981, 474).

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withdrawal of the moral sanction must, I conceive, outweigh the indefinite possibility of loss through the repression of individuality in one particular direction” (Sidgwick 1981, 478). Moreover, in an attached footnote, Sidgwick adds: “It may be observed that Mill’s doctrine is certainly opposed to common sense: since (*e.g.*) it would exclude from censure almost all forms of sexual immorality committed by unmarried and independent adults.”

<sup>46</sup> Sidgwick’s discussion goes far beyond Mill’s brief articulation of secondary principles in *Utilitarianism*.

A particularly interesting consequence of this perceived relationship between common-sense morality and utilitarianism is that Sidgwick's ethics takes on a more conservative character compared to the progressivism associated with philosophical radicals like Bentham and Mill.<sup>47</sup> In Sidgwick's vision, modest revisions are sometimes possible and desirable, but they are constrained by the existing opinions and practices that have largely evolved to approximate societal happiness. Sidgwick asserts:

The Utilitarian must repudiate altogether that temper of rebellion against the established morality, as something purely external and conventional, into which the reflective mind is always apt to fall when it is first convinced that the established rules are not intrinsically reasonable. He must, of course, also repudiate as superstitious that awe of it as an absolute or Divine Code which Intuitional moralists inculcate. Still, he will naturally contemplate it with reverence and wonder, as a marvellous product of nature, the result of long centuries of growth, showing in many parts the same fine adaptation of means to complex exigencies as the most elaborate structures of physical organisms exhibit: he will handle it with respectful delicacy as a mechanism, constructed of the fluid element of opinions and dispositions, by the indispensable aid of which the actual *quantum* of human happiness is continually being produced; a mechanism which no 'politicians or philosophers' could create, yet without which the harder and coarser machinery of Positive Law could not be permanently maintained, and the life of man would become—as Hobbes forcibly expresses it—'solitary, poor, nasty, brutish, and short.' (Sidgwick 1981, 475-476).

Perhaps unsurprisingly, this Burkean or Humean aspect of Sidgwick's work also manifests in parts of his political theory, as scholars like Collini (1992) and Miller (2020) have aptly observed. Whereas Bentham and Mill seem more comfortable aggressively wielding utilitarianism to advocate substantial reform, Sidgwick's methodological approach encourages utilitarians to moderate their ambitions for effecting radical change.

A final point to acknowledge, in brief, is that Sidgwick concedes that esoteric government might, in principle, be consistent with utilitarian doctrine. He proposes that the public good might be better promoted in some communities if the utilitarian system of morals

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<sup>47</sup> Sidgwick writes: "Since Bentham we have been chiefly familiar with the negative or aggressive aspect of the Utilitarian doctrine" (Sidgwick 1981, 423).

regulating society is withheld from the vast majority of people. In arguably the most well-known selection from *The Methods*, he submits:

[T]he Utilitarian should consider carefully the extent to which his advice or example are likely to influence persons to whom they would be dangerous: and it is evident that the result of this consideration may depend largely on the degree of publicity which he gives to either advice or example. Thus, on Utilitarian principles, it may be right to do and privately recommend, under certain circumstances, what it would not be right to advocate openly; it may be right to teach openly to one set of persons what it would be wrong to teach to others; it may be conceivably right to do, if it can be done with comparative secrecy, what it would be wrong to do in the face of the world; and even, if perfect secrecy can be reasonably expected, what it would be wrong to recommend by private advice or example. These conclusions are all of a paradoxical character: there is no doubt that the moral consciousness of a plain man broadly repudiates the general notion of an esoteric morality, differing from that popularly taught; and it would be commonly agreed that an action which would be bad if done openly is not rendered good by secrecy. We may observe, however, that there are strong utilitarian reasons for maintaining generally this latter common opinion; for it is obviously advantageous, generally speaking, that acts which it is expedient to repress by social disapprobation should become known, as otherwise the disapprobation cannot operate; so that it seems inexpedient to support by any moral encouragement the natural disposition of men in general to conceal their wrong doings; besides that the concealment would in most cases have importantly injurious effects on the agent's habits of veracity. Thus the Utilitarian conclusion, carefully stated, would seem to be this; that the opinion that secrecy may render an action right which would not otherwise be so should itself be kept comparatively secret; and similarly it seems expedient that the doctrine that esoteric morality is expedient should itself be kept esoteric. Or if this concealment be difficult to maintain, it may be desirable that Common Sense should repudiate the doctrines which it is expedient to confine to an enlightened few. And thus a Utilitarian may reasonably desire, on Utilitarian principles, that some of his conclusions should be rejected by mankind generally; or even that the vulgar should keep aloof from his system as a whole, in so far as the inevitable indefiniteness and complexity of its calculations render it likely to lead to bad results in their hands. (Sidgwick 1981, 489-490)

Sidgwick's remarks on esoteric government are convoluted and the most controversial feature of his philosophy, effectively involving a rejection of the notion of publicity sometimes attributed to the other British Utilitarians. He suggests that it is not only sometimes best that certain actions be performed in secret and that utilitarian doctrines be kept secret from the unenlightened public,

but it is also sometimes prudent for enlightened utilitarians to hide their admission of such secretive practices from the general public's knowledge. This general feature of Sidgwick's argument led Bernard Williams to label Sidgwick's account as "Government House Utilitarianism," noting that such an outlook "accords well enough with the important colonial origins of Utilitarianism" (Williams 2008, 291). While utilitarianism's checkered relationship with British colonialism is not afforded much attention in this dissertation, it is worth mentioning that Sidgwick's controversial views can be arguably seen as a natural, if regrettable, extension of the indirect utilitarian logic developed by Mill, and explored by Sidgwick throughout *The Methods*.

## **2.5 Conclusion**

As addressed herein, Bentham—the father of secular utilitarianism—boldly dismisses all principles adverse to the principle of utility as mere nonsense. He confidently asserts that nearly all of them can be reduced to the principle of sympathy and antipathy, which subtly asks the "reader to accept of the author's sentiment or opinion as a reason and that a sufficient one for itself" (Bentham 1996, 25-26). Instead, Bentham advocates for the Greatest Happiness Principle as the sole rational standard for assessing actions as moral or immoral. In brief, he maintains that actions and institutions ought to be judged right and wrong based on their tendency to promote or diminish the total happiness of society, a criterion that both Mill and Sidgwick eagerly embrace.<sup>48</sup>

Yet, I also observed that, even if not necessarily mistaking mankind as selfish, Bentham often operates with the assumption that humans are creatures driven by narrow self-interest. As a

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<sup>48</sup> As noted, Sidgwick's endorsement of the Greatest Happiness Principle is most apparent in his political and economic writings, rather than in *The Methods*.



result, he emphasizes the importance of external sanctions for reconciling self-interested behavior with the greatest happiness of society—an emphasis that Mill later critiques. The felicific calculus, perhaps Bentham’s most renowned idea, is presented as one instrument that can assist lawmakers in their public responsibility of promoting happiness. However, mindful of challenges in applying such calculus to the complexities of social life, he also contends that certain subordinate ends—namely, security, subsistence, abundance, and equality—serve as concrete goals for legislators to more effectively approximate the public good. With a specific emphasis on the provision of security (including the preservation of established expectations), these subordinate ends of legislation (particularly highlighted in his civil law writings) impart Bentham with a more liberal quality than popular caricatures usually convey.

It was further added that Mill is greatly indebted to Bentham, a debt that he himself acknowledges in various places. Yet, it is equally true that he attempts to refine the orthodox Benthamite doctrine that he inherited in his youth. As noted in Section 2.3, Mill’s defense of qualitative hedonism is particularly controversial, though it ostensibly strengthens his progressive argument in favor of individuality. In *On Liberty*, he argues that, to augment happiness, society must loosen its grip on individuals and extend them more liberty, enabling people to experiment with unconventional modes of living and express their true character. Similar to Bentham, Mill values freedom because he believes people know more about their own circumstances and feelings than others. However, by underscoring the progressive nature of human beings, Mill emphasizes that freedom also empowers individuals to develop their character, improving the faculties that ultimately enable them to experience the higher kinds of pleasure that make human life most worth living.

Lastly, though in some ways inspired by Mill's texts, Sidgwick is depicted as rejecting Mill's most controversial modification of Bentham's doctrine, arguing that qualitative hedonism is at odds with common sense and compromises the aggregative nature of utilitarianism. Accordingly, while exhibiting some sympathy with liberalism, Sidgwick voices significant reservations about the methods by which Mill attempts to leverage varied utilitarian logic to widen the legitimate scope for individuality. Instead, Sidgwick's ethics are unequivocally the most conservative of the British Utilitarians. Though acknowledging common sense moral precepts as imperfect, he considers them to be decent guides for utilitarians. This perceived relationship between common sense morality and utilitarianism endows his ethics with a more Burkean flavor compared to what is found in the writing of his fellow British Utilitarians—a feature that, as one might expect, is also mirrored in elements of his political conclusions.

## ***Chapter 3 - British Utilitarianism and State Paternalism***

### ***3.1 Introduction***

For the purposes of this chapter, state paternalism or legislative paternalism—terms used interchangeably herein, as the government commonly exercises paternal authority by means of its laws—is understood as government interference with the liberty of individuals to protect those interfered with from harm or promote their welfare.<sup>49</sup> In brief, three features typically characterize a state measure as paternal: (i) the intervention must interfere with the liberty of individuals, (ii) the intervention must be opposed to the will of those interfered with, and (iii) the interference must be intended to make those interfered with better off than they would be if left to their own devices.<sup>50</sup> For instance, compulsory savings programs and gambling restrictions, when authorized to protect citizens from injury caused by fiscal imprudence, are properly understood as paternalistic measures.<sup>51</sup> By contrast, vaccine mandates, when enforced by government authorities to safeguard public health, are not paternalistic policies.<sup>52</sup>

Utilitarianism, being a consequentialist doctrine, and unlike Kantian deontology, bears no intrinsic relationship to paternalism. For Kantians, all rational individuals possess intrinsic worth

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<sup>49</sup> This chapter does not directly address libertarian paternalism. Libertarian paternalists advocate the shaping of “choice architecture” to nudge individuals in directions that promote their welfare without forcing them down a particular path. Moreover, this chapter does not explore moral paternalism (e.g., interventions aimed at securing the moral welfare of individuals).

<sup>50</sup> Although sometimes referred to as “soft paternalism,” temporary interventions with individual liberty carried out to ensure agents are adequately informed and acting voluntarily (e.g., Mill’s bridge example) do not qualify as paternalism given this 3-prong understanding of the term. This is because such interventions do not truly oppose the judgment or will of the person interfered with.

<sup>51</sup> One might suggest that policies like Social Security are not necessarily paternalistic because some citizens welcome assistance from the government in financially planning for their future. Note, however, that this type of rebuttal renders state paternalism nearly impossible; rarely do all citizens oppose or favor government policies. For instance, seatbelt laws are often used as a prototypical example of state paternalism. Yet, surely some citizens do not oppose seatbelt laws.

<sup>52</sup> Note that vaccine mandates are not ostensibly paternalistic policies because the justification typically proffered for them is that they are legislative measures necessary to protect the broader interests of the public rather than those of the particular individuals interfered with. Put differently, vaccine mandates seemingly fail to satisfy criterion (iii) of the characterization explicated above.

and must be respected as ends in themselves. The Categorical Imperative, for instance, proclaims that it is never acceptable to treat people as mere instruments to an end, not even a universally desired end.<sup>53</sup> In *The Metaphysics of Morals*, Kant emphasizes:

[A] human being regarded as a *person*, that is, as the subject of a morally practical reason, is exalted above any price; for as a person (*homo noumenon*) he is not to be valued merely as a means to the ends of others or even to his own ends, but as an end in itself, that is, he possesses a *dignity* (and absolute inner worth) by which he exacts *respect* for himself from all other rational beings in the world. He can measure himself with every other being of this kind and value himself on a footing of equality with them. (Kant 1999, 557)

Thus, Kantian deontology is an ethical system inherently opposed to the leading strings of paternalists, entailing an absolute ban against all state efforts to protect individuals from themselves.<sup>54</sup>

In contrast with Kantian deontology, utilitarianism is not strictly opposed to paternal authority. Instead, utilitarianism requires that all actions and institutions be evaluated according to their impact on societal happiness. Thus, paternalistic measures enacted by the government that demonstrate a tendency to produce net happiness ought to be judged right by utilitarians, and those which show a tendency to produce net misery ought to be judged wrong. No government effort, in sum, ought to be rejected *a priori* (i.e., independent of its probable outcomes).<sup>55</sup>

Nevertheless, in this chapter I contend that each of the British Utilitarians is sympathetic to the liberal philosophical tradition and shares a broad skepticism about the prospective utility

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<sup>53</sup> This is the Formula of Humanity version of Kant's Categorical Imperative.

<sup>54</sup> In *On the common saying: That may be correct in theory, but it is of no use in practice*, Kant writes: "A government established on the principle of benevolence toward the people like that of a *father* toward his children—that is, a *paternalistic government* (*imperium paternale*), in which the subjects, like minor children who cannot distinguish between what is truly useful or harmful to them, are constrained to behave only passively, so as to wait only upon the judgment of the head of state as to how they *should be* happy and, as for his also willing their happiness, only upon his kindness—is the greatest *despotism* thinkable (a constitution that abrogates all the freedom of the subjects, who in that case have no rights at all). Not a *paternalistic* but a *patriotic* government (*imperium non paternale, sed patrioticum*) is the only one that can be thought for human beings, who are capable of rights, and also with reference to the benevolence of the ruler" (Kant 1999, 291).

<sup>55</sup> Properly understood, utilitarians accept the suggestion that the ends can justify the means.

of legislative paternalism. In fact, one might note that their skepticism of paternal authority is also a factor informing their economic defense of free markets—a point elaborated on further in Chapter 4.<sup>56</sup> The extent and reasons for the British Utilitarians’ opposition to state paternalism are the primary subject of this chapter. In short, although their unique interpretations of utilitarianism lead to varying opinions about the legitimate scope of legislative paternalism, each of the British Utilitarians believes that the government is, generally speaking, ill-suited for overriding citizens’ judgments in their private (or self-regarding) affairs. Instead, they argue that individuals are better equipped than the government to secure their own personal advantage.

Yet this chapter also demonstrates that, despite regarding paternal legislation as counterproductive, none of the British Utilitarians go so far as Kant to prescribe an absolute ban against it. Even Mill, who arguably advances the most passionate critique of paternalism, ostensibly recommending a blanket-ban on its social application, appears to concede that utilitarianism necessitates some rare exceptions to his anti-paternalist Harm Principle. Thus, the views of the British Utilitarians, while chiefly critical of state paternalism, do not rigidly exclude its application. This nuanced stance underscores their fundamental commitment to balancing individual liberty and state intervention to achieve utilitarian ends.

### ***3.2 Jeremy Bentham***

It is admittedly more challenging to ascertain Bentham’s views on paternalism than those of Mill and Sidgwick. This difficulty stems, in part, from the sheer volume of his writings, many

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<sup>56</sup> Sidgwick observes that the utilitarian defense of free markets ultimately relies on two fundamental premises: (i) a psychological assumption—that individuals discover and aim at their own interests better than the government can, and (ii) a sociological assumption—that the common welfare is best attained by individuals seeking out their own interests in an intelligent manner (Sidgwick 2012). If assumption (i) were not true, then one would expect economic agents to regularly engage in transactions that leave themselves worse off in terms of welfare (i.e., resulting in Pareto deteriorations). Assumption (i) has been challenged in recent years by the cognitive biases identified within the behavioral sciences.

of which remain in manuscript form and are awaiting publication by the Bentham Project at University College London. However, perhaps a more significant factor contributing to this challenge is Bentham's less explicit treatment of paternalism, especially in comparison with his fellow utilitarians.

In their most notable works, Mill and Sidgwick both provide extensive discussions on paternalism. For example, Mill's *On Liberty*—the source of his celebrated Harm Principle—is a passionate defense of the right of individuals to exercise their individuality free from societal interference (provided that they do not injure others). Additionally, Sidgwick devotes specific chapters to examining the proper scope of paternal interference in both *Elements of Politics* and, to a lesser extent, *Principles of Political Economy*. Conversely, Bentham's commentary on paternalism is more fragmented, requiring a careful compilation of remarks and ideas scattered throughout various texts. Nevertheless, it remains possible to assemble an outline (or sketch) of his general attitude towards paternal authority. As argued herein, his perspective on the topic is one that resurfaces in the writings of his utilitarian successors, informing certain aspects of their liberal political philosophy.

Excluding particularly vulnerable populations—such as children and the cognitively impaired—Bentham claims that individuals should be permitted extensive freedom in their self-regarding affairs (i.e., where the “extent” of their actions equals one).<sup>57</sup> He argues that competent adults, skilled at judging their own interests and identifying means to maximize their happiness, are typically the most reliable guardians of their own well-being. This liberal tenet—which I will refer to hereafter as the “Benthamite Principle”—is a recurring theme found

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<sup>57</sup> For instance, regarding children and persons of unsound mind, Bentham writes: “If I am a minor or a maniac, it [the sword] may be taken from me, for fear that I should injure myself” (Bentham 1843, 1: 314 n.3).

throughout his writings, though it varies a bit in how it is articulated.<sup>58</sup> For example, consider the following (nonexhaustive) selection of remarks from some of Bentham's most influential works:

It is not often that one man is a better judge for another, than that other is for himself, even in cases where the adviser will take the trouble to make himself master of as many of the materials for judging, as are within the reach of the person to be advised. But the legislator is not, can not be, in the possession of any one of these materials. (Bentham 1952, 140)

[I]t may be delivered in the character of a general proposition [that] every man is a better judge of what is conducive to his own well-being than any other man can be. (Bentham 1983, 131)

[E]ach man, being of ripe years and an ordinarily sound constitution of mind, is at all times a better [judge than others] on the question what pleasures there are the enjoyment of which, and what pains there are the exemption from which will, at any rate at the moment in question, be most conducive to his well-being. (Bentham 1983, 192)

[B]eing the best judge for himself what line of conduct on each occasion will be the most conducive to his own well-being, every man, being of mature age and sound mind, ought on this subject to be left to judge and act for himself: and that every thing which by any other man can be said or done in the view of giving direction to the conduct of the first, is no better than folly or impertinence. (Bentham 1983, 251)

The interest which a man takes in the affairs of another, a member of the sovereignty for example in those of a subject, is not likely to be so great as the interest which either of them takes in his own: still less where that other is a perfect stranger to him. (Bentham 1952, 229)

Generally speaking, [there is] no one who knows what it is for your interest to do, as you yourself: no one who is disposed with so much ardour and constancy to pursue it. (Bentham 1954, 333)

In short, owing to individuals' natural concern for their own welfare and the epistemic advantage they possess for understanding their unique desires and life circumstances, the Benthamite

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<sup>58</sup> I refer to this principle as the "Benthamite Principle" for ease or convenience of repeated reference. This broad label is not intended to suggest that Bentham was the original source of the notion that individuals are the best guardians of their own interests.

Principle conveys that individuals are better-positioned than legislators to make choices conducive to their own welfare.

As touched upon in Chapter 2, Bentham dedicates Chapter VI of *IPML* to enumerating over 30 circumstances that influence individuals' sensibility (or susceptibility) to different sources of pleasure and pain. These circumstances include, but are not limited to, a person's age, health, strength, sex, pecuniary status, and educational attainment (Bentham 1996). Bentham suggests that, while individuals possess an intimate understanding of these factors regarding themselves, lawmakers exhibit a very imperfect understanding of citizens' situations and characters. In the *Principles of the Civil Code*, he writes that the "law cannot know individuals, nor accommodate itself to the diversity of their wants" (Bentham 1843, 1: 336). Therefore, Bentham maintains that, while individuals are capable of making decisions tailored to their own unique feelings and circumstances, the law, being rather broad and uniform, struggles to recognize the nuances of each individual's life.<sup>59</sup>

Contrary to the notion of *homo economicus* (i.e., perfectly informed and rational actors) often utilized in modern rational choice models, Bentham concedes that humans are fallible and notes that individuals make mistakes about what is best for themselves.<sup>60</sup> In his writings on penal legislation, for example, he explicitly identifies a class of self-regarding offenses (Quinn 2022,

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<sup>59</sup> Ross Harrison effectively captures the import of this point. He notes that, for Bentham, the "most efficient way of caring for someone's interests is to let him care for them himself" (Harrison 1983, 146).

<sup>60</sup>Quinn (2017, 2022) suggests that Bentham flirted with the notion of sin taxes, endorsing less restrictive means for discouraging the consumption of some goods (e.g., alcohol) and encouraging the consumption of other goods (e.g., books). Moreover, although space does not permit extended treatment of the topic here, he claims that Bentham anticipated many of the insights of the behavioral economics school and might have entertained some of the nudges advocated by contemporary scholars like Thaler and Sunstein (2008).



52).<sup>61</sup> Acknowledging its imperfections, however, Bentham maintains that free choice routinely outperforms state intervention for the purpose of promoting individuals' happiness. He asserts:

It can only be through some defect on the part of the understanding, if a man be ever deficient in point of duty to himself. If he does wrong, there is nothing else that it can be owing to but either some *inadvertence* or some *missupposal*, with regard to the circumstances on which his happiness depends. It is a standing topic of complaint, that a man knows too little of himself. Be it so: but is it so certain that the legislator must know more? It is plain, that of individuals the legislator can know nothing: concerning those points of conduct which depend upon the particular circumstances of each individual, it is plain, therefore, that he can determine nothing to advantage. It is only with respect to those broad lines of conduct in which all persons, or very large and permanent descriptions of persons, may be in a way to engage, that he can have any pretence for interfering; and even here the propriety of his interference will, in most instances, lie very open to dispute.<sup>62</sup> (Bentham 1996, 289-290)

In other words, while Bentham recognizes that individuals occasionally err about what maximizes their advantage, he denies that this fact alone justifies much state intervention in their personal affairs. Like individual citizens, Bentham notes that lawmakers are not infallible; they often broadly apply rules of conduct that secure less valuable outcomes for the individuals forced to conform to their sweeping mandates. Consequently, he suggests that paternal interference with self-regarding liberty possesses a tendency to reduce, rather than increase, the overall amount of happiness experienced by members of society.<sup>63</sup>

Bentham's *Defence of Usury* helpfully illustrates his main concerns with legislative paternalism.<sup>64</sup> There, he objects to usury laws by employing the foundational ideas of the

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<sup>61</sup> Bentham defines self-regarding offenses as those "which in the first instance are detrimental to the offender himself, and to no one else, unless it be by their being detrimental to himself" (Bentham 1996, 189). Despite recognizing the existence of said offenses, he suggests that legislators should exercise great caution in determining whether to punish a person for committing such self-regarding offenses. He argues that there "are few cases in which it *would* be expedient to punish a man for hurting *himself*" (Bentham 1996, 292).

<sup>62</sup> This passage also appears in Bentham's *Of the Limits of the Penal Branch of Jurisprudence*.

<sup>63</sup> For example, Bentham contends that government invasions with the sexual liberty of citizens (especially same-sex couples) are antithetical to the principle of utility (Bentham 2014).

<sup>64</sup> Bentham's *Defence of Usury* was penned in response to Adam Smith. Bentham perceives Smith's support of usury laws as inconsistent with the principle of economic freedom that Smith defends in *An Inquiry into the Nature and Causes of the Wealth of Nations*.

Benthamite Principle—that individuals are better equipped than others to secure their own advantage—to refute paternalistic justifications for capping interest rates. For instance, Bentham argues that usury laws enacted to protect both poor and unsophisticated citizens are counterproductive measures, or policies which ultimately injure those they are intended to help (Bentham 1952).<sup>65</sup>

First, in considering the protection of the poor from exploitation, Bentham emphasizes that poor individuals understand their own interests as well as the rich do but that their financial circumstances simply dictate different borrowing rates in market economies. The affluent, understood as safer investments, typically attract low-interest loans from lenders. Conversely, borrowers of more modest means are regarded as riskier investments and thus must accept higher rates to access the capital required for their projects. However, Bentham observes that, when the state sets a price ceiling on interest rates, the poor are effectively barred from securing the liquidity they require, even if the high rates otherwise available to them are beneficial borrowing terms from their perspective. This outcome, he concludes, leaves the poor worse off than if the government had allowed them to negotiate at rates above the artificially imposed limit. Bentham critiques protecting the poor with such policies, questioning: “There may be worse cruelty: but can there be greater folly?” (Bentham 1952, 139).

Second, Bentham further dismisses paternalistic grounds for protecting unsophisticated borrowers from predatory lenders. Though he concedes that some individuals exhibit less prudence than others, Bentham maintains that less sophisticated individuals still tend to know more about themselves than the government does. Hence, unless severely impaired, he claims

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<sup>65</sup> Bentham also doubts that usury laws are properly used to prevent prodigality. He writes “that the tacking of leading-strings upon the backs of grown persons, in order to prevent their doing themselves a mischief, is not necessary either to the being or tranquility of society, however conducive to its well-being, I think cannot be disputed. Such paternal, or, if you please, maternal, care, may be a good work, but it certainly is but a work of supererogation” (Bentham 1952, 133-134).

that it is more probable that their voluntary acceptance of high-interest loans will promote their happiness more than legal impositions made by politicians who are uninformed about the borrowers' unique situations, needs, and wants. Bentham writes that "no simplicity, short of absolute idiotism, can cause the individual to make a more groundless judgment, than the legislator, who, in the circumstances above stated, should pretend to confine him to any given rate of interest, would have made for him" (Bentham 1952, 140).

For Bentham, a primary goal of the state with respect to the self-regarding conduct of individuals should be to enlighten citizens with information pertinent to their lives. He suggests that, instead of overriding citizens' judgments and making decisions for them, the government ought to concentrate its efforts on disseminating information that will enable them to make good decisions.<sup>66</sup> This general approach allows individuals to gain a clearer view of their interests, thereby reducing the number of mistakes in their pursuit of happiness (Harrison 1983). For example, while some might find it beneficial to run daily for good cardiovascular health, they may do so unaware of the surging crime rates in their neighborhood; this ignorance leads to discrepancies between what people perceive to be to their advantage and what is actually conducive to their well-being. By publicizing information about crime in the neighborhood, Bentham argues that the state can help individuals align what they perceive to be conducive to their welfare with what is actually so. In short, Bentham maintains that the provision of information by the state enables more complete and accurate reflections, thereby improving citizens' calculations and increasing the likelihood that they will successfully discharge their duty to themselves.

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<sup>66</sup> Bentham notes in his *Manual of Political Economy* that, even when the state possesses information that individuals do not, compulsion is usually unnecessary. With respect to trade, for instance, he argues that force would not be necessary, "unless the statesman had also a stronger regard for the interest of the trader than the trader himself, in other words, loved every man better than any man loves himself: for in that case simple information would be sufficient to produce the effect without any exercise of power" (Bentham 1952, 231).

Of course, it must be added that Bentham believes the utilitarian case for deferring to free choice is strongest when individuals are weighing the pleasures and pains they expect to experience in the near future. He suggests that deferring to individual judgment becomes less rational (though not irrational) when individuals must contemplate decisions affecting their distant future. In *Deontology*, Bentham argues:

Of the value of the matter of present good in both its shapes, viz. pleasure and exemption from pain, every man is in his own instance the best at least, not to say the only, tolerably competent judge... But when, in either of those its shapes, the portion in question of that pretious matter becomes more or less remote, the more remote it is, the less, *caeteris paribus*, is the advantage which in this respect a man himself has in comparison of another man who, with the same natural talent and appropriate mental acquirements, has taken the connection between causes and effects in that portion of the field of action for the subject of a more attentive scrutiny. (Bentham 1983, 196)

In essence, Bentham suggests that individuals are much less adept at safeguarding their long-term interests than their short-term interests. In fact, his annuity notes scheme, as Harrison (1983) points out, is partially articulated to address this concern. Bentham proposes that many individuals do not save as much money as they ought to. Accordingly, he recommends his annuities program to promote greater prudence and encourage greater savings among the citizenry.

Although these remarks potentially indicate a broader role for the state paternalist, it is important to acknowledge that in *Deontology*, where these shortcomings of individual judgment are identified, Bentham's primary concern is with how deontologists can plausibly assist individuals in realizing their best interests. Schofield (2006) emphasizes that, for Bentham, the deontologist serves as a scout of sorts; they investigate the consequences that have tended to result from past courses of action, and they present their findings to the individuals who wish to consult their expertise. Thus, the deontologist operates as a practical moralist in society to guide (e.g., via advice or persuasion rather than compulsion) individuals about how to realize their

conception of happiness. Accordingly, even if paternal legislation (e.g., compulsory savings programs) can be theoretically justified by the fact that private judgment becomes increasingly unreliable as individuals consider their future advantages, Bentham primarily reserves coercive legislation for preventing injury to others rather than protecting people from themselves.<sup>67</sup> He writes that “[t]here are few cases in which it *would* be expedient to punish a man for hurting *himself*: but there are few cases, if any, in which it would *not* be expedient to punish a man for injuring his neighbour” (Bentham 1996, 292).

### **3.3 John Stuart Mill**

Mill’s disapproval of the paternal state is clearly provided in *On Liberty*. In his seminal text, Mill expounds the famous Harm Principle, a precept crafted to protect individuals from the oppressive social and legal pressures that discourage individuality and encourage homogeneity. Early in the work, he proclaims:

[T]he sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That 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. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him, must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign. (Mill 1977a, 223-224)

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<sup>67</sup> Bentham claims: “Of the rules of moral duty, those which seem to stand least in need of the assistance of legislation, are the rule of *prudence*” (Bentham 1996, 289).

Much like Bentham, Mill agrees that the right to self-regarding liberty should not be extended to all persons without exception. He clarifies that the Harm Principle does not apply to those incapable “of being improved by free and equal discussion” and, thus, acknowledges that protection is warranted in the cases of children and people of unsound mind (Mill 1977a, 224). However, ultimately favoring the power of instruction and persuasion, Mill contends that paternalistic interventions are largely unacceptable when considering persons of full capacity. Indeed, at times he goes so far as to liken paternal government to tyranny (Mill 1969, 198).<sup>68</sup> In brief, Mill maintains that competent adults living in civilized communities should be free to experiment with their own mode of living, and he argues that they should not be compelled to act or refrain for their own good.<sup>69</sup>

Mill’s writings abound with examples conveying his hostility to paternalistic measures. Consider, for the sake of illustration, just a small sample of cases: First, Mill writes favorably of sanitary laws in *Whewell on Moral Philosophy*, but he suggests that their proper objective should be “not to compel people to take care of their own health, but to prevent them from endangering that of others” (Mill 1969, 198).<sup>70</sup> Additionally, in *Principles of Political Economy*, Mill praises Bentham’s analysis of usury laws, arguing that it is due to the “mistaken kindness” of these laws that a person often “must either go without the money which is perhaps necessary to save him from much greater losses, or be driven to expedients of a far more ruinous description” (Mill 1965, 924). Lastly, in *On Liberty*, Mill broadens his critique to condemn subtler measures of

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<sup>68</sup> In *Deontology*, Bentham expresses a similar sentiment. He writes: “If the notion of serving a man not in the way in which he wishes to be served but in the way in which he ought to be served or the way in which it is best for him to be served be carried to a certain length, this is tyranny not beneficence” (Bentham 1983, 279).

<sup>69</sup> In his *Autobiography*, Mill credits Josiah Warren and the Warrenites for the phrase “the Sovereignty of the Individual” (Mill 1981, 260-261).

<sup>70</sup> Mill writes: “Government is entitled to assume that it will take better care than individuals of the public interest, but not better care of their own interest. It is one thing for the legislator to dictate to individuals what they shall do for their own advantage, and another thing to protect the interest of other persons who may be injuriously affected by their acts” (Mill 1969, 197).

legislative paternalism as well. For instance, he assails sin taxes, noting that they are merely indirect measures by which states penalize people for satisfying their own unique tastes. He establishes that taxing stimulants “for the sole purpose of making them more difficult to be obtained, is a measure differing only in degree from their entire prohibition; and would be justifiable only if that were justifiable” (Mill 1977a, 298).<sup>71</sup>

The utilitarian grounds that Mill provides for opposing policies of the aforementioned stripe are, in essence, twofold. First, echoing the Benthamite Principle, Mill maintains that individuals are uniquely qualified to advance their own welfare, owing to their intimate understanding of their personal circumstances and interests. He remarks that “with respect to his own feelings and circumstances, the most ordinary man or woman has means of knowledge immeasurably surpassing those that can be possessed by any one else” (Mill 1977a, 277). This epistemic advantage, inherent to each rational adult regarding their particular life, leads Mill to infer that paternalistic policies are usually counterproductive from the perspective of augmenting happiness. Following Bentham, he observes that, even if fallible, people are more likely to satisfy their interests when they are free to make their own choices than when they are subject to broad government mandates that fail to consider individuals’ unique peculiarities. Hence, Mill asserts that “the strongest of all arguments against the interference of the public with purely personal conduct, is that when it does interfere, the odds are that it interferes wrongly, and in the wrong place” (Mill 1977a, 283).

Yet, it is Mill’s second argument that buttresses his argument against paternal government and most distinguishes his utilitarian opposition to paternalism from Bentham’s opposition. While the first argument—that individuals are the most reliable custodians of their own

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<sup>71</sup> Mill also rejects paternal efforts to discourage alcohol consumption by imposing stringent regulations on the number of licensed establishments allowed to serve alcohol and by further limiting the accessibility of bars (Mill 1977a, 298-299).

welfare—speaks against paternalism, it mainly addresses the inefficacy of such interventions. It implies that substituting the judgment of the state paternalist for the judgment of individuals, who tend to be more intimately informed about what is likely to satisfy their interests, is counterproductive for satisfying individuals’ interests. However, Mill’s emphasis on self-development supplements this argument, noting that paternalism should be deemed undesirable even if it can occasionally ensure good (or ostensibly desirable) outcomes. That is, Mill proposes that society should be skeptical of both unsuccessful and—for lack of a better term—“successful paternalism.”<sup>72</sup> Mill insists that it matters “not only what men do, but also what manner of men they are that do it” (Mill 1977a, 263).<sup>73</sup>

As emphasized in Chapter 2, Mill conceives of humans as “progressive beings” capable of enjoying higher pleasures than those pleasures accessible to less sophisticated animals. Yet, he posits that individuals miss out on these qualitatively superior pleasures when they are not afforded the liberty to use their judgment and to exercise their faculties in exploration of a life plan befitting their unique character. Freedom is not just an avenue for reliably securing *prima facie* good outcomes according to Mill. Rather, freedom is also a way for noble characters to perfect their nature and realize the higher-order interests of mankind.

Mill contends that individuals who have everything done for them by state paternalists, even if those things are done exceptionally well, become stunted or “dwarfed” beings.<sup>74</sup> Like children never allowed to mature, the ward is left in a condition whereby they are incapable of

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<sup>72</sup> My use of the term “successful paternalism” differs from Brink’s (2013).

<sup>73</sup> A remark from Bentham’s *Panopticon Letters* makes for a rather interesting point of comparison with Mill’s emphasis on character cultivation: “Call them soldiers, call them monks, call them machines: so they were but happy ones, I should not care” (Bentham 2011, 89).

<sup>74</sup> For example, one might consider Mill’s take on the value of a philosopher-king or tri-omni (i.e., omnibenevolent, omniscient, and omnipotent) ruler as expressed in *Considerations on Representative Government*. He writes: “What should we then have? One man of superhuman mental activity managing the entire affairs of a mentally passive people... All is decided for them by a will not their own... What sort of human beings can be formed under such a regimen? What development can either their thinking or their active faculties attain under it?” (Mill 1977b, 400).



enjoying the higher pleasures that make human life most fulfilling. Accordingly, Mill affirms that legislative paternalism is not only undesirable because individuals possess an epistemic advantage enabling them to secure their interests more successfully than the state (cf. the Benthamite Principle). Rather, even when the epistemic advantage does not exist and intervention can plausibly further individuals' more immediate or apparent interests, people should still be suspicious of paternal authority.<sup>75</sup> Mill notes, for instance, that in “many cases, though individuals may not do the particular thing so well, on the average, as the officers of government, it is nevertheless desirable that it should be done by them, rather than by government” (Mill 1977a, 305). Thus, he concludes that even those paternal interventions that are seemingly useful for securing the desired ends of individuals are, however few, usually misguided.<sup>76</sup> Revisiting Chapter 2, Mill remarks that “[e]ven men of pleasure know that the means are often more than the end” (Mill 1981, 330).

Yet, despite his reputation as the fiercest critic of paternalism in the Western philosophical canon, Mill does not categorically dismiss all state paternalism. This added nuance is essential to understanding Mill's philosophy. Moreover, it is an understanding that sits in contrast with some popular readings of his Harm Principle (cf. Hodson 1981; Riley 2018; Turner 2013a; 2013b).

Though Mill uses absolutist language in articulating his Harm Principle—for instance, “In the part [of conduct] which merely concerns himself, his independence is, of right, absolute”—such language should not be interpreted literally (Mill 1977a, 224). Instead, the absolutist language affixed to the Harm Principle is better viewed as a rhetorical strategy,

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<sup>75</sup> This argument mirrors, or is analogous to, Mill's argument that individuals should not be protected from false speech even if it is possible to guarantee that one knows the truth.

<sup>76</sup> For example, it might be argued that many people tend to ruin themselves through imprudent alcohol consumption. Yet, while legislating against drinking might be apparently successful in terms of safeguarding health (a widely affirmed value), it could also have the adverse effect of postponing the development of citizens' creative (or imaginative) faculties.

intended to stress the importance of individuality to his general audience. As Saunders (2016b, 1019) notes, Mill is critical of Bentham’s “intricate and involved” writing style which aims to achieve “impractical precision.” Mill argues:

[A]ll writing which undertakes to make men feel truths as well as seem them, does take up one point at a time, does seek to impress that, to drive that home, to make it sink into and colour the whole mind of the reader or hearer. It is justified in doing so, if the portion of truth which it thus enforces be that which is called for by the occasion. All writing addressed to the feelings has a natural tendency to exaggeration; but Bentham should have remembered that in this, as in many things, we must aim at too much, to be assured of doing enough. (Mill 1969, 114)

In short, Mill’s impassioned delivery aims to “erect a strong barrier of moral conviction” against the growing amount of control society exercises over individuals, rather than to proffer an absolute ban against paternal interference.<sup>77</sup>

It might be thought that Mill’s employment at the British East India Company and his sympathies with colonialism reveal his support for some state paternalism. This suggestion, however, is largely misleading. Mill maintains that certain stages of civilization warrant benevolent despotism because they are not yet sophisticated enough to benefit from the privileges of freedom.<sup>78</sup> For example, in *Considerations on Representative Government*, he claims that “[t]he state of different communities, in point of culture and development, ranges downwards to a condition very little above the highest of the beasts” (Mill 1977b, 394). Thus, though very controversial and insensitive to cultural diversity, Mill’s endorsement of benevolent despotism for “backwards states of society” is effectively akin (or analogous) to his claim that

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<sup>77</sup> I have argued elsewhere that, by employing absolutist rhetoric, Mill performs or embodies the attitude that he instructs society to adopt regarding paternalism. Though the Harm Principle is not inviolable, Mill (as an indirect utilitarian) believes that it is essential that the liberal Harm Principle be protected by intense sentiments “not only different in degree, but also in kind” in order to resist myopic or shortsighted considerations of social expediency, considerations which may recommend too many paternal interventions at the expense of character development (Mill 1969, 259).

<sup>78</sup> However, as Chiu and Taylor (2011) argue, the benevolent despot must be “self-extinguishing.” Similar to the way a parent gradually steps back as a child matures, Mill demands that an enlightened despot withdraw once a colony has reached the stage where it can prosper under the conditions of free representative government.

paternal authority is rightfully exercised over children—a point that no one, not even Kant, disputes.<sup>79</sup>

Conversely, Mill's limited endorsement of state paternalism is most clearly illustrated by his perplexing discussion of voluntary slavery.<sup>80</sup> In *On Liberty*, he asserts:

In this and most other civilized countries, for example, an engagement by which a person should sell himself, or allow himself to be sold, as a slave, would be null and void; neither enforced by law nor by opinion. The ground for thus limiting his power of voluntarily disposing of his own lot in life, is apparent, and is very clearly seen in this extreme case. The reason for not interfering, unless for the sake of others, with a person's voluntary acts, is consideration for his liberty. His voluntary choice is evidence that what he so chooses is desirable, or at the least endurable, to him, and his good is on the whole best provided for by allowing him to take his own means of pursuing it. But by selling himself for a slave, he abdicates his liberty; he forgoes any future use of it beyond that single act. He therefore defeats, in his own case, the very purpose which is the justification of allowing him to dispose of himself. He is no longer free; but is thenceforth in a position which has no longer the presumption in its favour, that would be afforded by his voluntarily remaining in it. The principle of freedom cannot require that he should be free not to be free. It is not freedom, to be allowed to alienate his freedom. These reasons, the force of which is so conspicuous in this peculiar case, are evidently of far wider application. (Mill 1977a, 299-300)

For Mill, the government is justified in limiting the freedom of individuals to participate in voluntary slavery agreements, even in cases where no third parties are injured (e.g., dependents).<sup>81</sup> That is, though the anti-paternalist Harm Principle naturally carries with it a

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<sup>79</sup> Habibi correctly observes that people “who accuse Mill of hypocrisy for practicing paternalism while preaching anti-paternalism simply demonstrate their unfamiliarity with his extensive treatment of this topic. Even those who only read *On Liberty*, must note that he correlated the appropriateness of paternalism to maturity and civilizational status” (Habibi 2016, 528).

<sup>80</sup> Schwan (2013) observes that, in his correspondence with the American economist Henry George, Mill also objects to “coolie” labor contracts. Mill writes: “One kind of restrictive measure seems to me not only desirable, but absolutely called for; the most stringent laws against introducing Chinese immigrants as Coolies, i.e. under contracts binding them to the service of particular persons. All such obligations are a form of compulsory labour, that is, of slavery: and though I know that the legal invalidity of such contracts does not prevent them from being made, I cannot but think that if pains were taken to make it known to the immigrants that such engagements are not legally binding, and especially if it were made a penal offence to enter into them, that mode at least of immigration would receive a considerable check” (Mill 1972, 1654-1655).

<sup>81</sup> Some scholars contend that Mill's voluntary slavery passage is not an endorsement of legislative paternalism (Hodson 1981; Riley 2018). Following Hodson, Riley argues that “Mill never advocates coercive interference with private agreements such as an agreement to become a de facto slave. He recommends that society should refuse to recognize or enforce the agreements as *moral promises* or *legal contracts*” (Riley 2018, 166). However, Riley's contention ultimately hinges on a morally relevant distinction between acts and omissions (e.g., enforcement v.

“corresponding liberty in any number of individuals to regulate by mutual agreement such things as regard them jointly, and regard no persons but themselves,” Mill concedes that this liberty is not absolute; he argues that it can be selectively restricted, adding that the rationale for restricting such liberty is “evidently of far wider application” (Mill 1977a, 300).

Hence, while dismissing most legislative paternalism, including conventional measures that are purportedly useful, Mill ultimately entertains what Brink (2013, 191) describes as “deliberation-enhancing” or “autonomy-enhancing” interventions. Mill focuses specifically on the risk that individuals may negligently compromise their freedom to exercise their higher faculties (e.g., by entering irrevocable slavery agreements), thereby relinquishing access to the elevated pleasures crucial for living a happy life. Although Mill’s logic would not likely support paternal prohibitions on certain addictive behaviors like smoking and drinking alcohol (given that they cause less impairment and are more readily overcome by free exertion), it could plausibly legitimize, in the interest of cultivating noble characters with fully developed faculties, paternal interventions in cases like voluntary slavery agreements, the permanent marriage contracts he condemns in *The Subjection of Women*, and potentially self-destructive drugs that severely hinder individual autonomy and the voluntary development of character.<sup>82</sup>

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non-enforcement). Yet, the meaningful difference between acts and omissions (or positive and negative actions) is clearly rejected by each of the British Utilitarians. Therefore, the state refusing to recognize certain voluntary contracts is properly understood as interference with their self-regarding liberty insofar as it has the intended consequence of discouraging the behavior. See, for example, Sidgwick’s remarks on “negative interference.” In *Principles of Political Economy*, Sidgwick observes that “there is certainly something paradoxical in calling the refusal of Government to enforce certain contracts, an ‘interference’ with the freedom of the individuals left alone: and it is probably for this reason that the very important restrictions, by which the enforcement of contract has actually been limited, have not commonly been treated as violations of *laissez faire*” (Sidgwick 2011, 429-430).

<sup>82</sup> That Mill might consider paternalistic restrictions on heroin is supported by this underappreciated passage from his *System of Logic*. Regarding freedom, he writes: “[I]f we examine closely, we shall find that this feeling, of our being able to modify our own character *if we wish*, is itself the feeling of moral freedom which we are conscious of. A person feels morally free who feels that his habits or his temptations are not his masters, but he theirs: who even in yielding to them knows that he could resist; that were he desirous of altogether throwing them off, there would not be required for that purpose a stronger desire than he knows himself to be capable of feelings” (Mill 1974, 841). Recall that, in his discussion on voluntary slavery, Mill contends that individuals ought not to be permitted to alienate their liberty.

### 3.4 Henry Sidgwick

As observed in Chapter 2 of this dissertation, Sidgwick rejects Mill's most controversial departure from Benthamite utilitarianism—namely, the qualitative distinction between higher and lower pleasures. In *The Methods of Ethics*, Sidgwick defends quantitative hedonism, arguing that a utilitarian must assume that pains and pleasures “have determinate quantitative relations to each other” if they are to be understood as possible components of a whole (Sidgwick 1981, 123). Accordingly, Sidgwick's political speculations place less emphasis on the role liberty plays in the cultivation of characters' higher faculties, and he does not oppose state paternalism—especially what I have called “successful paternalism”—with the fervor of utilitarians like Mill. Instead, though still broadly suspicious of paternal interference—noting that it warrants a “very subordinate place” within the political setting—Sidgwick is more receptive to the paternalistic measures recommended by conventional wisdom than either of his utilitarian predecessors (Sidgwick 2012, 37).

Together with Bentham and Mill, Sidgwick agrees that “the coercion of law is and ought to be applied to adult individuals in the interest primarily of other persons” rather than in the interest of the individuals themselves (Sidgwick 2012, 37-38). Excluding children and the psychologically impaired, he admits that individuals are more likely than the government to manage their own affairs successfully. In *Elements of Politics*, for example, Sidgwick asserts that paternal interventions are generally undesirable because “men, on the average, are more likely to know what is for their own interest than government is, and to have a keener concern for promoting it” (Sidgwick 2012, 37).<sup>83</sup> However, Sidgwick stresses that while this Benthamite

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<sup>83</sup> Some additional reasons Sidgwick offers for opposing paternalistic intervention include: (i) coercion itself is typically understood by citizens as an annoyance (i.e., pain); (ii) paternal legislation could weaken the self-reliance of individuals and rob them of valuable learning experiences; (iii) individuals who oppose the laws may be

Principle holds significant practical utility for political theorizing, it should not be so strictly adhered to as to disregard consideration for paternalistic interference by the government.

Sidgwick contends that, though it is usually helpful to assume individuals are the most reliable guardians of their own happiness, the aforementioned principle is more of a convenient rule of thumb, rather than an incontrovertible truth. He states:

In what I have said above I do not at all mean to imply that all governmental interference which is palpably and undeniably “paternal” ought therefore to be rejected without further inquiry. I consider that so uncompromising an adherence to the principle “that men are the best guardians of their own welfare” is not rationally justified by the evidence on which the principle rests. I regard this principle as a rough induction from our ordinary experience of human life; as supported on an empirical basis sufficiently strong and wide to throw the *onus probandi* heavily on those who advocate any deviation from it, but in no way proved to be an even approximately universal truth. (Sidgwick 2012, 131)

In essence, Sidgwick maintains that there exists a presumption in favor of liberty strong enough to shift the burden of proof upon enthusiastic paternalists but not so weighty as to rule out all paternalistic measures. He asserts that, if sufficient evidence indicates men tend to ruin their lives by gambling or consuming opium, the government would be wrong to stand idly by and let them do so. Sidgwick writes that “when strong empirical grounds are brought forward for admitting a particular practical exception to this principle... it would, I think, be unreasonable to allow these practices to go on without interference, merely on account of the established general presumption in favour of *laissez faire*” (Sidgwick 2012, 131).

Part of what makes Sidgwick more amenable to paternal interventions than his fellow British Utilitarians is his keen recognition of the growing complexity of society. Sidgwick casts doubt on the idea that social progress (e.g., education) has made people better guardians of their

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particularly inclined to evade them; (iv) enforcement of the legislation may be too costly if the benefits are small; and (v) there is always considerable danger in increasing the power and influence of government (Sidgwick 2012, 37).

own interests. In his view, some societal advancements actually hinder individuals' decision-making abilities.<sup>84</sup> In *Principles of Political Economy*, he writes:

What has been said above would be true, however fully it is granted that social progress is carrying us towards a condition in which the assumption, that the consumer is a better judge than government of the commodities that he requires and of the source from which they may be best obtained, will be sufficiently true for all practical purposes. But it seems to me very doubtful whether this can be granted; since in some important respects the tendencies of social development seem to be rather in the opposite direction. As the appliances of life become more elaborate and complicated through the progress of invention, it is only according to the general law of division of labour to suppose that an average man's ability to judge of the adaptation of means to ends, even as regards the satisfaction of his everyday needs, is likely to become continually less. No doubt an ideally intelligent person would under these circumstances be always duly aware of his own ignorance, and would take the advice of experts. But it seems not unlikely that the need of such advice, and the difficulty of finding the right advisers, may increase more markedly than the average consciousness of such need and difficulty, at any rate where the benefits to be obtained or the evils to be warded off are somewhat remote and uncertain; especially when we consider that the self-interest of producers will in many cases lead them to offer commodities that *seem* rather than *are* useful, if the difference between seeming and reality is likely to escape notice. (Sidgwick 2011, 416-417)

In certain respects, the economic development of society—and the specialization contributing to it—tends to ensure individuals are less equipped to maximize their personal utility, according to Sidgwick. Rather than improving their ability to identify the most suitable means for achieving their interests, the extensive division of labor renders people more reliant upon the expertise of others. Even discerning individuals willing to consult experts will find it more challenging to

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<sup>84</sup> By contrast, consider some related remarks from Mill in his *Principles of Political Economy*. With a few exceptions (e.g., assessing the value of education), Mill is more optimistic than Sidgwick regarding consumers' capacity to identify the articles (or instruments) conducive to their happiness. He writes, "Now, the proposition that the consumer is a competent judge of the commodity, can be admitted only with numerous abatements and exceptions. He is generally the best judge (though even this is not true universally) of the material objects produced for his use. These are destined to supply some physical want, or gratify some taste or inclination, respecting which wants or inclinations there is no appeal from the person who feels them; or they are the means and appliances of some occupation, for the use of the persons engaged in it, who may be presumed to be judges of the things required in their own habitual employment" (Mill 1965, 947).

utilize outside assistance given the increasing incentive for producers (of both goods and services) to capitalize on the growing ignorance of individuals for their own benefit.<sup>85</sup>

Though clearly less confident than his predecessors that individuals can be left alone to care for their own interests, determining the precise extent of Sidgwick's support for paternalistic intervention remains a challenge. This difficulty arises primarily because he is a cautious intellectual, one who, like many modern academics, articulates his views in carefully measured terms (generally eschewing outright declarations).<sup>86</sup> In his works, Sidgwick frequently demonstrates that something is possibly justifiable from a utilitarian perspective, without asserting that it is conclusively warranted.<sup>87</sup>

Regardless, it is safe to say that Sidgwick regards many paternalistic actions which Bentham and Mill summarily dismissed (e.g., those common in Victorian England) as viable utilitarian measures that the British state ought to consider. For instance, though Bentham and Mill condemn paternalistic justifications for usury laws, Sidgwick suggests that Britain's historical practice of restricting "oppressive usurious contracts" may actually be a sensible paternalistic measure (Sidgwick 2012, 133). Moreover, as previously mentioned, Sidgwick seems favorably disposed to paternalistic regulations on both gambling and opium if the evidence available indicates that people are at risk of harming their life prospects by engaging in these activities (Sidgwick 2012, 131).<sup>88</sup>

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<sup>85</sup> That older individuals in society are frequently targeted by businesses (e.g., charged exorbitant rates) is perhaps some evidence supporting Sidgwick's claim.

<sup>86</sup> For instance, Sidgwick suggests: "How far Government can usefully attempt to remedy these shortcomings of self-help is a question that does not admit of a confident general answer" (Sidgwick 2011, 417).

<sup>87</sup> To some extent this simply is an issue inherent to utilitarianism. Whether something is justified or not ultimately depends on its probable consequences. This conclusion, however, can only be determined by empirical evidence.

<sup>88</sup> The utilitarianism of Bentham and Mill might also welcome paternal intervention regulating opium insofar as the drug is addictive or shows a tendency to meaningfully undermine citizen's ability to modify their character as they so wish.



Sidgwick's conclusions are largely conservative when viewed in relation to the philosophical radicalism of Bentham and Mill (Ritchie 1892; Collini 1992; Miller 2020). Time and again, his utilitarianism displays a tendency to rationalize, rather than critique, the prevailing institutions and practices of his time. Reviewing Sidgwick's *Elements of Politics*, Ritchie asserts that Sidgwick "nowhere arrives at any conclusion which would differ very widely from that of the average man of the professional and commercial middle-class at the present day" (Ritchie 1892, 255). This observation neatly aligns with the fact that Sidgwick, more than his British Utilitarian compatriots, strives to reconcile utilitarian morality with common sense intuitions (Sidgwick 1981).<sup>89</sup> Consider, for instance, some additional remarks from Sidgwick doubting the validity of the Benthamite Principle and revealing his implicit approval of the paternal measures traditionally entertained by the British State:

I have... already indicated that I do not accept this principle as universally valid: I only accept it as furnishing... a handy though rough rule of practical statesmanship, in accordance with ordinary experience of human nature, from which we ought only to deviate in special cases when there are strong empirical grounds for concluding that our general assumption is not borne out by facts. And this view is in harmony with the practice of all civilized governments. Thus (e.g.) our own government does not trust its subjects to find out for themselves and avoid unhealthy food or improperly qualified physicians, surgeons, and apothecaries: or to refrain from buying diseased meat: or to refuse to take part in industrial processes which are exposed to special dangers—as (e.g.) mining and navigation—unless due precautions are taken against these dangers. It finds that even the self-helpful Englishman cannot be trusted to take adequate care of himself in these matters: hence it endeavours in various ways to obviate the mischief liable to result from this want of care. (Sidgwick 2011, 425)

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<sup>89</sup> Sidgwick's qualified support for esoteric morality, which led Bernard Williams (2008) to accuse him of Government House Utilitarianism, is arguably the most radical utilitarian proposal he suggests in any of his works. He concedes, for instance, that common sense tends to reject the legitimacy of esoteric morality. Acknowledging the paradoxical nature of esoteric morality, Sidgwick suggests that it might be expedient "that the doctrine that esoteric morality is expedient should itself be kept esoteric. Or if this concealment be difficult to maintain, it may be desirable that Common Sense should repudiate the doctrines which it is expedient to confine to an enlightened few" (Sidgwick 1981, 490). Though paternalistic in flavor, I have chosen not to address it at length in this chapter since it is not evident that government deception for the good of the citizenry qualifies under the characterization of state paternalism outlined at the beginning of this chapter. Relatedly, I have not addressed paternalistic lying, though Sidgwick indicates his support for the practice in his essay "The Ethics of Religious Conformity" (Sidgwick 1998, 73-74).

In short, though Sidgwick acknowledges that utilitarianism can be a tool to critique and reform accepted customs and conventions (within certain limits) in *The Methods of Ethics*, his theorizing on state paternalism reflects a rather modest character, often more akin to Burkean conservatism than Benthamite progressivism.<sup>90</sup>

Despite the qualifications he attaches to the Benthamite Principle and his cautious endorsement of paternal legislation, Sidgwick nevertheless insists that paternalistic measures—to the extent they are justified—should be as minimally intrusive as possible. He adds that coercive interference with individuals' liberty is problematic because it tends to generate discontent among citizens and “because such annoyance is *pro tanto* a diminution of happiness” (Sidgwick 2012, 132-133). Accordingly, he recommends employing subtler modes of paternal intervention whenever feasible. Sidgwick writes that “it is generally better that paternal interference should take any other form than that of directly commanding a man, under penalties, to do what he does not like for his own good, or not to do what he likes” (Sidgwick 2012, 131-132).

Hence, rather than advocating overtly coercive state measures, Sidgwick usually discusses milder approaches for influencing self-regarding behavior.<sup>91</sup> He maintains, for instance, that though employing quack physicians is dangerous, it is likely too intense of an encroachment on individual liberty to stop people from consulting them outright. Still, though cautioning against strong state coercion, Sidgwick insists that the state might reduce the mischief associated with quackery by: (i) issuing authoritative certificates to adequately qualified professionals, (ii) imposing harsh punishments (or penalties) for grossly unskillful treatment by uncertificated

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<sup>90</sup> Stefan Collini adds that, Sidgwick, in “working from the received opinion of the day had a necessary tendency to exclude radically challenging considerations” (Collini 1992, 349).

<sup>91</sup> Though not prohibiting strongly coercive means when necessary, Sidgwick's preferred forms of paternal interference relate to what Bentham identifies as “indirect legislation.” Moreover, Sidgwick adds that these less direct means of exercising influence avoid some of the common objections urged against paternal intervention identified in footnote 83.

practitioners, or (iii) refusing uncertificated practitioners the legal right to receive fees for services rendered (Sidgwick 2012, 132).<sup>92</sup> Moreover, related to the means associated with point (iii), Sidgwick contends that, rather than banning usurious contracts, the state might negatively interfere with the freedom of individuals to contract with one another by withdrawing the “ordinary protection of the law” and refusing to recognize the legal right of lenders to charge exorbitant interest payments—what we might be conveniently label as “negative paternalism” (Sidgwick 2011, 429-430; Sidgwick 2012, 133).<sup>93</sup> Consequently, though compulsion could be legitimate and called for on rare occasions, Sidgwick suggests that the state ought to make a concerted effort to discharge its paternal responsibilities—the ones recommended by sufficient empirical evidence—via the least intense and intrusive means available (a point that Bentham and Mill would surely have sympathized with).

### **3.5 Conclusion**

Though never dogmatic in their opposition, each of the British Utilitarians maintains a healthy suspicion of state paternalism.<sup>94</sup> In large part, their skepticism is informed by what I have referred to—for the sake of convenience (rather than historical origin)—as the “Benthamite

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<sup>92</sup> Sidgwick expresses similar points about the state’s practices in his *Principles of Political Economy*. He writes of the government: “Rarely, indeed, does it attempt by direct prohibition to prevent an individual from doing what is likely to injure himself alone; but it prescribes conditions under which certain dangerous industries are to be carried on, and does not permit them to be violated, even with the full consent of the persons who would be endangered; it directly prohibits persons not qualified in a manner which it prescribes from exercising certain trades—such as that of apothecary, and that of pilot; in other cases it indirectly hinders the employment of practitioners not properly qualified by refusing to enforce payment of fees for their services” (Sidgwick 2011, 425-426).

<sup>93</sup> The attentive reader may notice that “withdrawal of the ordinary protection of the law” (or what Sidgwick identifies as “negative interference”) is the paternalistic approach that Mill favors with respect to discouraging voluntary slavery contracts.

<sup>94</sup> When comparing philosophers, there is often a tendency to highlight and exaggerate their differences. However, it is important to remember that the British Utilitarians largely agree on the legitimacy of state paternalism. It might even be argued that some of their apparent disagreements are more about emphasis than doctrinal differences. For instance, while Sidgwick acknowledges the potential risk for paternal interventions to jeopardize individual energy and erode self-reliance, he does not belabor the point as much as Mill.

Principle.” According to the Benthamite Principle, adults of sound mind tend to be better judges of their own interests, and the means for attaining them, than the government. Though Bentham himself concedes that individuals fail to secure their best interests on occasion (especially their future interests), he argues that legislators are usually ill-equipped to improve upon such outcomes because they do not possess much information about particular individuals or the circumstances influencing their sensibility to causes of pain and pleasure. Accordingly, Bentham concludes that state paternalism is misguided because it is generally counterproductive, exhibiting a tendency to be unsuccessful. He opines that, for the most part, individuals ought to be left alone by the state, free to care for their own happiness insofar as they are not committing offenses against others.

Deeply influenced by Bentham’s utilitarian vision—especially his writings on civil and penal law—it has been argued that Mill also expresses hostility towards state paternalism. His distaste for the practice is vividly conveyed via his famous Harm Principle, which asserts that the individual’s “own good, either physical or moral, is not a sufficient warrant” for interfering with their liberty (Mill 1977a, 223). Echoing his mentor, Mill’s opposition to paternal authority is partly informed by the logic underlying the Benthamite Principle. For Mill, competent adults are far more knowledgeable about their own feelings and circumstances than the government, and they are better than the state at selecting the means for augmenting their happiness. Consequently, he declares that paternal interventions tend to be ineffective means for promoting individuals’ welfare. However, it was also observed herein that Mill’s commitment to qualitative hedonism distinguishes him from Bentham, enabling him to further strengthen his utilitarian case against state paternalism.

As noted, the Benthamite Principle implies that legislative paternalism is generally irrational because it possesses a tendency to be unsuccessful. Yet, laying aside some exceptional cases, Mill argues that even what I have termed “successful paternalism” should be viewed as undesirable, or something to be avoided for the sake of cultivating noble characters and making life happy “both in the comparatively humble sense, of pleasure and freedom from pain, and in the higher meaning, of rendering life, not what it now is almost universally, puerile and insignificant—but such as human beings with highly developed faculties can care to have” (Mill 1974, 952). In brief, then, Mill’s unrelenting emphasis on self-development and his elevation of certain pleasures within the utilitarian calculus positions him to be a particularly vocal critic of both unsuccessful and successful interventions.

Lastly, it was emphasized that Sidgwick rejects Mill’s departure from quantitative hedonism, positing that the move renders the aggregative character of utilitarianism incoherent. Thus, although acknowledging a range of plausible objections to paternal practices (see footnote 83), his chief complaint with state paternalism—or at least the one he returns to most often—seems to be, as with Bentham, that individuals are more reliable custodians of their own interests. Nevertheless, eschewing the radical conclusions of Bentham and Mill, Sidgwick is much more conservative in his application of the Benthamite Principle. He proposes that instead of a rigid philosophical axiom to be applied deductively, it is better understood as a “rough rule of practical statesmanship” grounded in ordinary experience, which is threatened by the growing specialization fueling modern economies and must be carefully considered alongside any evidence suggesting individuals are not managing their affairs successfully—for example, gambling away the entirety of their savings (Sidgwick 2011, 425; Sidgwick 2012, 131).<sup>95</sup>

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<sup>95</sup> Sidgwick writes: “To meet the special arguments for these and similar measures by a simple reference to the general considerations in favour of leaving sane adults to manage their own affairs appears to me clearly irrational and unscientific” (Sidgwick 2011, 426).

Consequently, though never quite as explicit (or decisive) as one might like, Sidgwick ostensibly carves out more room than Bentham and Mill for the status quo measures recommended by common sense, even though, like a proper utilitarian, he emphasizes that paternal interventions ought to be as mild or inoffensive as possible so as to minimize the risks and pains that accompany state infringements with citizens' liberty.

## ***Chapter 4—British Utilitarianism and Socialistic Intervention***

### ***4.1 Introduction***

Drawing from Sidgwick, the utilitarian case for circumscribing the government’s role within society is chiefly grounded on two fundamental assumptions—(i) a psychological assumption and (ii) a sociological assumption. The psychological assumption suggests that individuals discover and target their own interests better than the government can and, consequently, tend to be more reliable guardians of their own advantage. The sociological assumption suggests that the aggregate welfare of society is best attained by allowing individuals to intelligently pursue their own advantage. Taken together, the psychological and sociological assumptions imply that the social good is more likely to be maximized when the government narrows its realm of operation, chiefly limiting itself to guaranteeing certain basic conditions in society (e.g., security of person, property, and contract), and authorizes citizens to manage their own affairs free from undue interference.<sup>96</sup>

In the previous chapter it was argued that, to varying extents, each of the British Utilitarians acknowledges the basic validity of the psychological axiom articulated above, expressing broad skepticism of state paternalism. Since individuals tend to know more about themselves and their circumstances than the government (in addition to possessing a more sustained concern for their own welfare), the British Utilitarians maintain that the end of utilitarianism is more effectively promoted when the government leaves individuals alone to care for themselves in their private concerns. That said, it was also stressed therein that the British Utilitarians’ objections to state paternalism exhibit more nuance than might be commonly

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<sup>96</sup> Sidgwick identifies the basic conditions as “the individualistic minimum.” He notes: “The general maintenance of (1) the Right of personal security, including security to health and reputation, (2) the Right of private property, and (3) the Right to fulfilment of contracts freely entered into, constitutes what may be called the “individualistic minimum” of primary governmental interference so far as sane adults alone are concerned” (Sidgwick 2012, 50-51).

recognized, sometimes extending beyond the basic concern that individuals' immediate or apparent interests be satisfied. For instance, fixated on what people are ultimately capable of becoming, Mill highlights the "permanent interests of man as a progressive being," and he provides a compelling utilitarian justification for why even many ostensibly successful paternalistic interventions ought to be treated as misguided paternal intrusions.

Complementing the focus of Chapter 3, this chapter addresses the validity of the sociological assumption, investigating the British Utilitarians' attitudes towards "socialistic interventions." Socialistic interventions, in the words of Sidgwick, involve government meddling "of which the primary aim is not the welfare of the particular individual restrained, but of the whole society of which he is a member" (Sidgwick 2012, 137). Put differently, in this chapter socialistic interventions are broadly understood as state interventions carried out for the interests of others, or society generally.<sup>97</sup> Socialistic interventions should not, however, be equated with socialism. For example, a government that monitors and regulates sheep grazing on the commons for the good of the community is hardly classifiable as a socialist state.

A popular misconception, more prevalent among the general *intelligentsia* than among historians of political and economic thought, is that the Classical Economists—among whom the British Utilitarians are traditionally included—are staunch apologists for *laissez-faire* policies (Robbins 1965; O'Brien 2004).<sup>98</sup> Such a characterization, to the extent that it fairly captures the

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<sup>97</sup> Throughout this chapter, I may (at times) adopt a slightly broader understanding of socialistic interventions than Sidgwick. For example, limitations on the freedom of bequest (to benefit society) are ostensibly socialistic interventions, and this chapter treats them as such. Yet, even though he claims that there are utilitarian grounds for permitting free bequest, Sidgwick voices some skepticism that the system of natural liberty includes a right to bequeath property upon death. For instance, he writes: "[I]n fact it is difficult to maintain that we interfere with a man's natural liberty by not letting his wishes determine the relations of other men to a material world in which he is no longer living" (Sidgwick 2011, 434).

<sup>98</sup> Bentham and Mill are generally acknowledged as economic theorists belonging to the Classical Tradition that started with Adam Smith and *An Inquiry into the Nature and Causes of the Wealth of Nations*. Sidgwick, by contrast, is not always situated in this tradition. Instead, Sidgwick is usually understood as a figure straddling the Classical School and the Neoclassical School, a tradition that emerged in response to the subjective theory of value and other theoretical developments introduced by writers like William Stanley Jevons and Alfred Marshall. Sidgwick, for his part, did not recognize a radical break between these two schools. Instead, in his *Principles of Political Economy*,



convictions of any school of thinkers, is better suited for the French Physiocrats of the 18th Century and the English Manchester School of the 19th Century (though, even this last attribution has been forcefully challenged by scholars) (Grampp 1993).<sup>99</sup> In truth, the British Utilitarians share with the Classical Economists a more nuanced understanding of the state's role in society, and they advocate a more substantial government agenda than Thomas Carlyle's derisive "anarchy plus the constable" characterization (Robbins 1965, 34). In addition to rationalizing some paternal interventions, each of the British Utilitarians concedes that select socialistic interventions are warranted by the demands of utilitarianism.

Socialistic interventions vary in their form. This chapter focuses on those of a decidedly economic character, primarily investigating how the British Utilitarians perceive interference with free enterprise to promote social utility. I show that, while all of the British Utilitarians favor free markets, none of them are uncompromising apologists for *laissez-faire* economics.<sup>100</sup> Instead, they each acknowledge that a pure *laissez-faire* policy does not maximize utility and sometimes necessitates supplemental government interference. In fact, as this chapter argues, there is a shift among the British Utilitarians towards embracing even more state intervention with the economy. While Bentham acknowledges some need to depart from *laissez-faire*, Mill, and especially Sidgwick, articulate a broader scope of legitimate government action to promote the social advantage.

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Sidgwick writes: "Several valuable contributions to abstract economic theory have been made by Cairnes, Jevons, and others who have written since Mill; but in my opinion they generally admit of being stated in a form less hostile to the older doctrines than their authors suppose" (Sidgwick 2011, 7). As such, I group Sidgwick with the other Classical Economists, for he viewed himself as continuing, and improving on, the work of Mill.

<sup>99</sup> Grampp observes that the Manchester School was actually a very diverse group of individuals who did not share any particular doctrine (see also Note 1 associated with his introduction). He writes that the "Manchester School was not a school in the sense in which classical economics or other intellectual groupings were, because unlike them it did not have a relatively complete or consistent doctrine nor is there an authoritative statement of its ideas about particular issues" (Grampp 1993, 2).

<sup>100</sup> Paternalistic interventions also represent departures from *laissez-faire* principles. However, in this particular chapter, departures from *laissez-faire* are identified with socialistic interventions.

## 4.2 Bentham

Bentham's political thought has been subject to various interpretations. Crimmins (1996) suggests that this diversity is partly due to the extensive amount of material constituting Bentham's philosophical corpus, coupled with the fact that commentators often concentrate on writings which highlight different aspects of his theory. Some scholars, for instance, emphasize the illiberal tendencies of Bentham's thought, focusing on texts like his panopticon letters. In contrast, other scholars stress the individualist elements of Bentham's thinking, focusing on his work relating to civil law and economics.

While tensions exist and there may be no consensus, interpretations of Bentham as a liberal thinker have seemingly won more favor in recent years. In Chapter 3, I continued this trend, presenting Bentham as an individualist who is generally skeptical of state paternalism. Here, I argue that Bentham's utilitarian liberalism also reveals a healthy skepticism of socialistic interventions. Though Bentham does not relegate the government's task to the mere nightwatchman state of libertarians like Robert Nozick (1974), I maintain that he envisions lawmakers assuming a predominantly negative role—especially in the economic realm, which is the primary focus of this chapter. Nevertheless, to avoid caricaturing the complexity of his thought, I also show that Bentham favors positive state interference when required to further the subordinate ends of legislation (see Chapter 2).

Before launching into a discussion about the interventions Bentham permits, it should first be noted that, by and large, Bentham embraces the science of political economy expounded by Adam Smith in *An Inquiry into the Nature and Causes of the Wealth of Nations*, expressing support for the system of free enterprise.<sup>101</sup> Acknowledging that individuals tend to know what is

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<sup>101</sup> Regarding the causes and modes of wealth production, Bentham writes that Adam Smith “has not left much to do, except in the way of method and precision” (Bentham 1954, 322). Still, at times Bentham is clear that he is more concerned with the art of political economy than Smith, who he sees as primarily interested in the science of it. In

most advantageous for themselves (as discussed in Chapter 3), Bentham proposes that the best outcome for society is typically achieved by letting each individual pursue their own maximum advantage (Bentham 1954, 337). He maintains that, rather than improving outcomes (e.g., augmenting a nation's wealth), government deviations from *laissez-faire* usually have the adverse effect of redirecting resources towards inefficient uses and causing unnecessary pain that naturally accompanies state coercion with free agency. In the *Institute of Political Economy*, he writes:

General rule: nothing ought to be done or attempted by government for the purpose of causing an augmentation to take place in the national mass of wealth, with a view to encrease of the means of either subsistence or enjoyment, without some special reason. *Be quiet* ought on those occasions to be the motto, or watch word, of government. (Bentham 1954, 333)

Put differently, Bentham suggests that aggregate welfare is most effectively advanced when government interference in the market's spontaneous and dynamic organization is minimized. Though clearly recognizing exceptions to the principle of *laissez-faire*, some of which are addressed in this section, Bentham is arguably less cognizant than both Mill and Sidgwick of the ways markets left alone fail to produce optimal outcomes, especially with respect to producing economic abundance.

In the *Principles of the Civil Code*, Bentham maintains that the government's primary function is to provide for the subordinate end of security, not to focus on the "ornaments of life" (Bentham 1843, 1: 303). He suggests that, in establishing rights and corresponding obligations, lawmakers ought to concentrate their efforts on affording citizens protection in their person, property, and reputation.<sup>102</sup> Security, he insists, is the most fundamental precondition for a happy

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the *Manual of Political Economy*, he writes: "by me the science is considered only as a means to an end: and as no otherwise worth occupying one's self about than in proportion to its subserviency to that end" (Bentham 1952, 224).

<sup>102</sup> Bentham suggests that the government should also guarantee citizens their subsistence. Yet, he observes that guaranteeing them security is usually (though not always) enough since individuals are typically driven to survive and seek abundance. He writes: "but secure to the cultivator the fruits of his labour, and you most probably have done enough" (Bentham 1843, 1: 303).

society. In fact, as mentioned in Chapter 2, Bentham sometimes echoes Hobbes' *Leviathan*, inferring that there can be no subsistence nor abundance without security, instead only an equality of misery (cf. Rousseau). When the law—preferably codified—successfully confers security, he contends that citizens can form reliable expectations based on predictable rules and rationally plan their future accordingly, thereby pursuing the most efficient means for acquiring both subsistence and abundance (Bentham 1843, 1: 308).<sup>103</sup> Bentham proclaims: “Security is the seed of opulence. For the work of opulence, what men want principally of government is—not incitements to produce it, but the means: the means are security, which is the work of the protection afforded by government” (Bentham 1954, 310).

Yet, as acknowledged above, it is inappropriate to classify Bentham as a dogmatic apologist for *laissez-faire* policy. Though he broadly favors the government limiting its function to the provision of security, Bentham also concedes that select interventions aimed at furthering the subordinate ends of legislation can be justified. In an oft-quoted passage from his *Defence of a Maximum*, Bentham asserts:

I have not, I never had, nor ever shall have, any horror, sentimental or anarchical, of the hand of government. I leave it to Adam Smith, and the champions of the rights of man (for confusion of ideas will jumble together the best subjects and the worst citizens upon the same ground) to talk of invasions of natural liberty, and to give as a special argument against this or that law, an argument the effect of which would be to put a negative upon all laws. The interference of government, as often as in my humble view of the matter any the smallest ballance on the side of advantage is the result, is an event I witness with altogether as much satisfaction as I should its forbearance, and with much more than I should its negligence.<sup>104</sup> (Bentham 1954, 257-258)

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<sup>103</sup> Bentham adds: “The Law does not say to a man, “*Work and I will reward you;*” but it says to him, “*Work, and by stopping the hand that would take them from you, I will ensure to you the fruits of your labour, its natural and sufficient reward, which, without me, you could not preserve.*” If industry creates, it is the law which preserves: if, at the first moment, we owe every thing to labour, at the second, and every succeeding moment, we owe every thing to the law” (Bentham 1843, 1: 308).

<sup>104</sup> As suggested by his critique of the rights of man, Bentham claims that appeals to natural rights carry anarchical tendencies. He suggests that such rights are nonsense which ultimately “put a negative upon all laws.”

In other words, although Bentham frequently laments state meddling with *laissez-faire* (e.g., regulating interest rates via usury laws, establishing trade bounties to encourage exports), he firmly rejects the natural rights notion that industry should be left alone even when proposed interventions carry a good chance of producing tangible benefits for the community.<sup>105</sup> In fact, it is evident in his writings that he entertains some socialistic interventions to furnish not just security—for example, sacrificing growth to promote national defense (e.g., the English Navigation Act)—but, subsistence, equality, and, to a more limited extent, arguably abundance as well (Bentham 1954, 340-341).

A commonly cited instance of Bentham’s willingness to deviate from the general dogma of *laissez-faire* is found in his essay *Defence of a Maximum*. Written in the context of a war-time dearth of provisions and rapidly escalating food prices (partly attributable to market speculation), Bentham argues in said work that a maximum corn price should be set that is both high enough (e.g., slightly higher than the current asking price) to (i) not frustrate farmers’ legitimate expectations of profit and (ii) ensure subsistence for all individuals in times of scarcity, preventing the tortuous pain of mass starvation. Accordingly, Bentham indicates that the self-interest of a few farmers and traders can, under some circumstances, be interfered with to stave off famine. Moreover, it might be noted that he furnishes related remarks about taking positive action to guarantee food subsistence in his other writing too. For instance, in the *Institute of Political Economy*, Bentham contends that if a state establishes “magazines of the matter of subsistence... not to be drawn upon but in times of extraordinary scarcity” such action can be justified as a necessary sacrifice of enjoyment to the more fundamental utility of food security (Bentham 1954, 339).

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<sup>105</sup> In his *Manual of Political Economy*, Bentham writes: “Every statesman who thinks by regulation to encrease the sum of trade, is the child whose eye is bigger than his belly” (Bentham 1952, 252).

As already emphasized, Bentham is rather skeptical that the government can do much in the way of providing for the luxury (abundance) of society, other than perhaps by furnishing industry with useful information to make it more productive.<sup>106</sup> Yet, Bentham does seem to defend some legislative interventions that ostensibly aid economic productivity. For example, while aware of the adverse impact monopolies tend to have on society's productivity, he suggests that the granting of patents is nevertheless a proper state measure. Regarding the importance of intellectual property for economic growth, Bentham contends in his *Manual of Political Economy* that a "man will not be at the expence and trouble of bringing to maturity [an] invention unless he has a prospect of an adequate satisfaction, that is to say, at least of such a satisfaction as to his eyes appear an adequate one, for such trouble and expence" (Bentham 1952, 262). Hence, although Bentham claims that the state should mostly refrain from interfering with markets to encourage productivity, there are even some small aspects of his work that can arguably be framed as interventions that serve economic abundance.<sup>107</sup>

A last category of state interventions to be considered here are those of the redistributive stripe; that is, interferences targeting more egalitarian patterns than markets left alone tend to produce. Bentham's ruminations on England's Poor Laws are perhaps some evidence that he defends socialistic interventions of this nature. For example, he maintains that it is a public responsibility to provide relief for the indigent when they are unable to support themselves since

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<sup>106</sup> Tucked away in a footnote of the *Institute of Political Economy*, Bentham identifies some establishments for the advancement of knowledge, "viz. on the subject of those *arts* on which the augmentation or preservation of the matter of wealth in any of its shapes depends." A couple of examples in England that he lists are: The Board of Agriculture and The Royal Institution. Bentham continues, writing: "In each of these several instances, the amount of profit reasonably to be expected is beyond calculation: while the individuals, among whom it may come to be shared, are equally out of the reach of conjecture. On the other hand, in the character of a source of profit, there is no limited assemblage or class of individuals, to whom the establishment of any one of these institutions would at the same time have been practicable, and have afforded a reasonable expectation of payment for the expence" (Bentham 1954, 338). I add this note here because the reasoning is partly reflective of the issues associated with public goods, which are later discussed in the sections on Mill and Sidgwick.

<sup>107</sup> To my understanding, Bentham also indicates that national wealth might be augmented in monetary economies (e.g., economies using paper money) if, by adding to the money supply, more hands are consequently led to be employed in the production process (Bentham 1952, 270-271).

private charity tends to be insufficient for the purpose (Quinn 1994).<sup>108</sup> However, Bentham's defense of these measures can also perhaps be framed as support for interventions to guarantee basic life necessities (and secure society from predictable crime), rather than him advocating noble redistribution efforts.<sup>109</sup>

Alternatively, I propose that Bentham's discussion of the law of diminishing marginal utility (and its relation to the subordinate end of security) is what offers readers the most insight into his views on the proper role of state redistribution. In the *Principles of the Civil Code*, Bentham argues that, all else equal, egalitarian distributions of wealth are more conducive to happiness than inegalitarian distributions. The rationale underpinning such a notion is relatively intuitive; simply put, \$20 is of greater practical utility to the poor person than to the rich person who barely registers the existence of such paltry sums. Accordingly, there is a *prima facie* reason for utilitarians like Bentham to favor radical redistributions of wealth from the rich to the poor, given that the utility of money (or any resource for that matter) tends to diminish as a person accumulates more of it.

But, given the priority that he assigns to the subordinate object of security (see Chapter 2), Bentham does *not* actually suggest that lawmakers should aim to disrupt current wealth distributions to promote equality. He notes that security and equality typically exist in opposition to one another and that, when incompatible, equality should always give way to the more important object of security. Regarding leveling systems, for instance, Bentham contends:

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<sup>108</sup> Though Bentham supports public relief for the indigent, he argues that such relief should be granted conditionally to those in need. For instance, individuals who are capable of working and receiving relief should be required to labor for their assistance. Furthermore, recipients of relief should reside in industry houses rather than private homes and abstain from consuming spirits, among other stipulations. For Bentham, indigence relief is not intended to be a reward for idleness. Rather, it serves as a means to reform citizens and encourage them to develop the necessary habits to become self-sufficient.

<sup>109</sup> Bentham suggests that preventing starvation contributes enough to social utility to offset the pain of the privileged members of society who have to finance such relief. However, in his *Principles of the Civil Code*, he adds: "With regard to the amount of a legal contribution, it ought not to exceed simple necessities: to exceed this would be to punish industry for the benefit of idleness" (Bentham 1843, 1: 316).

If violent causes, such as a revolution in government, a schism, a conquest, produce the overthrow of property, it is a great calamity; but it is only transitory—it may be softened and even repaired by time. Industry is a vigorous plant, which resists numerous loppings, and in which the fruitful sap rises immediately upon the return of spring. But if property were overthrown with the direct intention of establishing equality of fortune, the evil would be irreparable: no more security—no more industry—no more abundance; society would relapse into the savage state from which it has arisen. (Bentham 1843, 1: 311-312)

In brief, Bentham holds that the goal of establishing perfect equality—ostensibly recommended by isolated consideration of the law of diminishing marginal utility—is misguided. To establish strict equality, he argues that the government must repeatedly attack the security of property (plus the related expectations it gives rise to) and deaden the motives of industry, both of which contribute greatly to the subsistence and abundance experienced in society.<sup>110</sup> Thus, the equality to be enjoyed by citizens, he suggests, would be nothing short of an equality of poverty and suffering.

Of the existing distributions of wealth in different societies, Bentham claims that “the supreme principle of security directs the preservation of all these distributions, how different soever their natures, and though they do not produce the same amount of happiness” (Bentham 1843, 1: 311). In other words, rather than overthrowing present institutions in favor of more equality (or even perfect equality), Bentham maintains that the government should aim to preserve the wealth arrangements as they exist. As suggested in Chapter 2, Bentham contends that disappointing citizens’ established expectations is a significant source of pain in society. On the other hand, he argues that citizens do not tend to be made miserable by the fact that they do not possess many things which they never developed expectations of possessing in the first

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<sup>110</sup> Appearing to prefigure Robert Nozick’s argument that liberty disrupts patterns, Bentham writes: “When your new distribution shall be disarranged, which it will be the day after its establishment, how will you be able to avoid making a second? Why should you not correct this also? and, in the meantime, what becomes of security? of happiness? of industry?” (Bentham 1843, 1: 311).



place.<sup>111</sup> Hence, I think it is evident that Bentham’s political thought is considerably less egalitarian than it might appear at first glance.<sup>112</sup>

To achieve more equality, Bentham identifies two potential approaches for the state to take: First, he suggests that legislators can make revisions to laws that will take effect in the remote future. Bentham writes: “If it is possible, let it begin to have effect at a distant period: the present generation will perceive no change, and the rising generation will be all prepared for it” (Bentham 1843, 1: 323).<sup>113</sup> Consequently, it is possible that Bentham would entertain changes to legal institutions that impact equality insofar as they do not significantly stifle the springs of industry and take effect in the distant future, allowing citizens ample time to adjust their expectations.<sup>114</sup>

Second, in the interest of promoting equality without jeopardizing security, Bentham more explicitly recommends that the state should “wait for the natural period which puts an end to hopes and fears—the period of death” (Bentham 1843, 1: 312). Bentham adds:

When property is vacated by the death of the proprietors, the law may intervene in the distribution to be made, either by limiting in certain respects the power of disposing of it by will, with the design of preventing too great an accumulation of property in the hands of a single person, or by making the right of succession

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<sup>111</sup> Bentham suggests that if people experienced pain with regards to all of the things they never expected to possess, then life would be utterly miserable. And, though he acknowledges that people experience joy upon receiving objects they did not anticipate possessing, he claims that the pain of disappointed expectations is considerably greater. For instance, all else equal, the man who loses his wallet experiences more pain than the joy the thief feels upon acquiring that same wallet.

<sup>112</sup> Bentham suggests that free market systems, as opposed to mercantilist systems, tend to yield greater economic equality. He writes that “in a nation which prospers by agriculture, manufactures, and commerce, there is a continual progress towards equality. If the laws do not oppose it—if they do not restrain trade and its exchanges—if they do not permit entails—large properties will be seen, without effort, without revolutions, without shock, to subdivide themselves by little and little, and a much greater number of individuals will participate in the advantage of moderate fortunes” (Bentham 1843, 1: 313).

<sup>113</sup> Bentham differentiates between defalcations and attacks on security. He notes that defalcations are predictable and, to some degree, necessary. For instance, some taxation is presumably required to fund public defense and government administration, but said taxes can be planned around by those willing to consult the tax law. Attacks on security, by contrast, are unforeseeable and cannot be rationally planned for. The government subversively devaluing money through inflation to benefit debtors at the expense of creditors is, for instance, an attack on the security of property.

<sup>114</sup> This conjecture is, admittedly, quite speculative in nature. Bentham primarily focuses his attention on regulating the bequeathal of property as the means for reconciling security and equality.

subservient to the purposes of equality, in case the deceased should not leave a husband, or wife, or relations, in the direct line, and should not have made use of his power of disposing of it by will. It passes then to new possessors, whose expectations are not formed, and equality may produce good to all, without deceiving the expectations of any. (Bentham 1843, 1: 312)

Of course, Bentham is not oblivious to the fact that individuals often possess near relations who have formed expectations with respect to the possessions of their loved ones (especially if wills have been drafted). Thus, even though he posits death as a promising time to reallocate wealth within society, he suggests that present expectations (e.g., held by family) will partly circumscribe this means of promoting equality in society as well. Bentham indicates that the state might justifiably restrict the power of bequest to merely half of the testator's property in cases lacking near relations, with the other half escheating to the state (Bentham 1843, 1: 338).

In sum, while the liberalism of Bentham suggests that the government should perform a largely negative function, concentrating its efforts mostly on the provision of security, he—like his fellow British Utilitarians—welcomes the visible hand of government when he finds that intervention promises greater societal happiness than strict *laissez-faire* policy. As demonstrated herein, he appears to endorse interventions that promote each of the subordinate objects of legislation articulated in Chapter 2. Thus, though perhaps less accommodating of state intervention than Mill and Sidgwick—each of whom is arguably more familiar than Bentham with the science of political economy—it cannot be maintained that Bentham is a dogmatic proponent of unfettered markets, blind to the ways government intervention might occasionally be deployed to promote more happiness in society.<sup>115</sup>

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<sup>115</sup> David Lieberman notes that Bentham's legislative programme can hardly be characterized as *laissez-faire*, even if his writings on political economy tend to indicate that he favors minimal economic interference. For Bentham, the art of political economy is primarily concerned with promoting abundance, but he regards abundance as one of the lesser subordinate ends of legislation. Therefore, though the legislator cannot do much to enhance national abundance in Bentham's opinion, that does not suggest that the legislator cannot interfere with the freedom of individuals for other, more significant, reasons. Lieberman writes: "The art of political economy was so limited because its parent science (for Bentham) was so focused on wealth. The limitations on what the legislator positively

### 4.3 J.S. Mill

Unlike Bentham, who only offers some tangential remarks on the topic, Mill thoroughly explores the case for economic socialism, examining the concept at length in works like his *Principles of Political Economy* and his posthumously published *Chapters on Socialism*.<sup>116</sup> Indeed, this element of Mill's philosophy has recently attracted renewed interest, as evidenced by book-length treatments from scholars like Persky (2016) and McCabe (2021). However, even though this chapter is primarily concerned with the British Utilitarians' attitudes towards *laissez-faire*, a brief clarification warrants mentioning here: Mill, despite his socialist sympathies, expresses no support for revolutionary socialism or socialists who espouse centralized state control of the economy.<sup>117</sup> For instance, in the *Chapters on Socialism*, he asserts that the "very idea of conducting the whole industry of a country by direction from a single centre is so obviously chimerical, that nobody ventures to propose any mode in which it should be done" (Mill 1967, 748). As such, although not further touched upon in this chapter, it is important to observe that even Mill's qualified defense of socialism (i.e., associational market socialism) should not be mistaken as support for extensive state involvement in the lives of citizens (Miller 2003).<sup>118</sup> Instead, Mill expresses a relatively consistent preference to minimize government involvement in the lives of individuals.

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could do to promote abundance were quite distinct from the very substantial tasks the legislator faced in promoting security and subsistence" (Lieberman 2000, 115).

<sup>116</sup> Mill's views regarding the plasticity of human nature, and the emphasis he lays on the sympathetic capacities of mankind, partly inform his attraction to socialism. Some aspects of Sidgwick's writings suggest that he, like Mill, is also intrigued by elements of socialism.

<sup>117</sup> Though attracted by socialist ideals, Mill maintains that many of the evils traditionally ascribed to the system of private property are not inherent to this economic system. In his *Principles of Political Economy*, for instance, Mill contends that the "principle of private property has never yet had a fair trial in any country," and he argues that, to understand which type of economic organization is best, one must consider the system of individual property "not as it is, but as it might be made" (Mill 1965, 207).

<sup>118</sup> Miller writes: "Insofar as Mill can be accurately described as a socialist, his is a socialism that a classical liberal ought to be able to live with, if not to love" (Miller 2003, 214).

With respect to the system of individual property, Mill is routinely understood as belonging (with Bentham) to the Classical Economics Tradition, which cautiously warns against excessive interference with free enterprise. Generally impressed by the powers of private industry, he asserts that social utility tends to be best promoted when the government leaves individuals alone and free from onerous interventions. In fact, Book V, Chapter X of Mill's *Principles of Political Economy*—entitled “Of Interferences of Government Grounded on Erroneous Theories”—is entirely devoted to commonly accepted, but ill-advised, interventions with the market. Therein, he critiques, among others, protectionism, artificial monopolies, commodity price regulations, and laws against workers combinations (Mill 1965, 913-935).

Mill's principal reasons for opposing state interference with the business of the community are summarized in Book V, Chapter XI of *Principles of Political Economy*. Though too numerous to recount in full here, two reasons merit some acknowledgment: First, Mill indicates that government efforts are often more clumsy and ineffective than private ones, owing to their general tendency to be less informed of (and concerned with) the relevant business details. Some evidence of this, he proposes, is that government agency “is hardly ever able to maintain itself in equal competition with individual agency” (Mill 1965, 942). Consequently, Mill contends that state intervention often results in the substitution of “a less qualified instrumentality for one better qualified” (Mill 1965, 942). Medema suggests that it is partly Mill's “pessimism about the ability of government intervention to make matters better rather than worse” rather than “a faith in the system of natural liberty” that leads him to circumscribe the role of the government (Medema 2011, 42).

Second, Mill maintains that governments who do too much for their people, even if they demonstrate an ability to do those things well, impede the progressive development of citizens'

most essential and worthwhile capacities. He adds that it is desirable that “a large portion of the affairs of the society should be left in the hands of the persons immediately interested in them” and that the state should “suffer them, or rather encourage them, to manage as many as possible of their joint concerns by voluntary co-operation” (Mill 1965, 942-944).<sup>119</sup> In fact, this deeply held conviction resurfaces in one of Mill’s most stirring passages at the end of *On Liberty*. Concluding the essay, he writes:

A government cannot have too much of the kind of activity which does not impede, but aids and stimulates, individual exertion and development. The mischief begins when, instead of calling forth the activity and powers of individuals and bodies, it substitutes its own activity for theirs; when, instead of informing, advising, and, upon occasion, denouncing, it makes them work in fetters, or bids them stand aside and does their work instead of them. The worth of a State, in the long run, is the worth of the individuals composing it; and a State which postpones the interests of *their* mental expansion and elevation, to a little more of administrative skill, or of that semblance of it which practice gives, in the details of business; a State which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes—will find that with small men no great thing can really be accomplished; and that the perfection of the machinery to which it has sacrificed everything, will in the end avail it nothing, for want of the vital power which, in order that the machine might work more smoothly, it has preferred to banish. (Mill 1977a, 310)

Accordingly, Mill asserts that it is shortsighted for society to rely too much on the government to accomplish things, even in instances where government action might lead to apparently beneficial results. In *Principles of Political Economy*, he proclaims: “*Laissez-faire*, in short, should be the general practice: every departure from it, unless required by some great good, is a certain evil” (Mill 1965, 945).<sup>120</sup>

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<sup>119</sup> In the *Principles of Political Economy*, Mill writes: “Even if the government could comprehend within itself, in each department, all the most eminent intellectual capacity and active talent of the nation, it would not be the less desirable that the conduct of a large portion of the affairs of the society should be left in the hands of the persons immediately interested in them. The business of life is an essential part of the practical education of a people; without which, book and school instruction, though most necessary and salutary, does not suffice to qualify them for conduct, and for the adaptation of means to ends. Instruction is only one of the desiderata of mental improvement; another, almost as indispensable, is a vigorous exercise of the active energies; labour, contrivance, judgment, self-control: and the natural stimulus to these is the difficulties of life” (Mill 1965, 942-943).

<sup>120</sup> Mill distinguishes between authoritative and nonauthoritative interventions, suggesting that authoritative interventions are more troubling and require greater justification. Authoritative interventions are when the

Yet, while largely in favor of *laissez-faire*, Mill, like Bentham, does not go so far as to ascribe a merely negative role to the state. Rather, he is quite dismissive of those who delimit the province of government to “the protection of person and property against force and fraud.” Acknowledging the obvious—that security of person and property is a great requisite for liberal society—he is careful to point out that such a narrow understanding of the state’s responsibilities excludes “some of the most indispensable and unanimously recognised of the duties of government” (Mill 1965, 881, 936).<sup>121</sup> In fact, as demonstrated throughout this section, Mill concedes the legitimacy of many state interventions, articulating numerous reasons for permitting interference for the common advantage.

It might first be acknowledged that, throughout his corpus, Mill endorses some of the state interventions admitted by earlier utilitarians like Bentham. That said, to avoid excess repetition, only a handful of illustrative examples will be mentioned here. Firstly, while largely opposed to the doctrine of protection, Mill concedes that limiting free trade to secure national subsistence and defense is theoretically justifiable.<sup>122</sup> For example, he writes: “a country exposed to invasion by sea, if it cannot otherwise have sufficient ships and sailors of its own to secure the

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government forbids “persons from doing certain things; or from doing them without its authorization; or may prescribe to them certain things to be done, or a certain manner of doing things which it is left optional with them to do or to abstain from” (Mill 1965, 937). Nonauthoritative interventions, by contrast, are “when a government, instead of issuing a command and enforcing it by penalties, adopts the course so seldom resorted to by governments, and of which such important use might be made, that of giving advice, and promulgating information; or when, leaving individuals free to use their own means of pursuing any object of general interest, the government, not meddling with them, but not trusting the object solely to their care, establishes, side by side with their arrangements, an agency of its own for a like purpose” (Mill 1965, 937).

<sup>121</sup> Mill maintains that most people, even those who claim to be strong proponents of *laissez-faire*, tend to admit a larger role for the government than simply defending individuals against force and fraud. For instance, he identifies regulation of all natural riches held in common (e.g., lakes, forests), managing property (upon death) in the absence of a will, ensuring dependents are not abused by their caretakers, raising dykes to keep the sea out, and much more. Mill writes: “Examples might be indefinitely multiplied without intruding on any disputed ground,” and he concludes by suggesting that, “the admitted functions of government embrace a much wider field than can easily be included within the ring-fence of any restrictive definition, and that it is hardly possible to find any ground of justification common to them all, except the comprehensive one of general expediency; nor to limit the interference of government by any universal rule, save the simple and vague one, that it should never be admitted but when the case of expediency is strong” (Mill 1965, 803-804).

<sup>122</sup> Mill is careful to add that, while under certain circumstances justifiable, some of the current trade restrictions are no longer necessary to meet these ends.

means of manning on an emergency an adequate fleet, is quite right in obtaining those means, even at an economical sacrifice in point of cheapness of transport” (Mill 1965, 916-917). Secondly, Mill maintains that monopolies tend to be detrimental to economic efficiency, but he agrees with Bentham that concerns about the negative effects of monopolies ought not extend to the concept of patents. A patent granted to an individual for their invention, he contends, “is not making the commodity dear for his benefit, but merely postponing a part of the increased cheapness which the public owe to the inventor, in order to compensate and reward him for the service” (Mill 1965, 928). Thirdly, Mill expresses support for the Poor Laws, though Hollander suggests Mill sees it as a second-best option (Hollander 1985, 747).<sup>123</sup> Insisting that helping individuals help themselves “is the only charity which proves to be charity in the end,” Mill nevertheless believes that public provision for life’s basic necessities should be made available to the destitute upon reasonably disagreeable conditions (Mill 1984, 331).<sup>124</sup> Finally, though opposed to graduated income tax schemes as a means for redistributing wealth, Mill favors substantial revisions to inheritance legislation—arguably more drastic than those revisions proposed by Bentham—to mitigate unearned wealth inequalities and equalize opportunities (Mill 1965, 887-894).<sup>125</sup> He suggests as an ideal that, rather than restricting free bequest, the state

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<sup>123</sup> Hollander suggests that Mill considers state-guaranteed full employment as a more favorable policy to the Poor Laws (Hollander 1985, 741-747).

<sup>124</sup> Mill adds: “Energy and self-dependence are, however, liable to be impaired by the absence of help, as well as by its excess. It is even more fatal to exertion to have no hope of succeeding by it, than to be assured of succeeding without it. When the condition of any one is so disastrous that his energies are paralyzed by discouragement, assistance is a tonic, not a sedative: it braces instead of deadening the active faculties: always provided that the assistance is not such as to dispense with self-help, by substituting itself for the person’s own labour, skill, and prudence, but is limited to affording him a better hope of attaining success by those legitimate means” (Mill 1965, 961).

<sup>125</sup> Mill writes that graduated taxation schemes have “been advocated, on the avowed ground that the state should use the instrument of taxation as a means of mitigating the inequalities of wealth. I am as desirous as any one, that means should be taken to diminish those inequalities, but not so as to relieve the prodigal at the expense of the prudent. To tax the larger incomes at a higher percentage than the smaller, is to lay a tax on industry and economy; to impose a penalty on people for having worked harder and saved more than their neighbours. It is not the fortunes which are earned, but those which are unearned, that it is for the public good to place under limitation. A just and wise legislation would abstain from holding out motives for dissipating rather than saving the earnings of honest exertion. Its impartiality between competitors would consist in endeavouring that they should all start fair, and not in hanging a weight upon the swift to diminish the distance between them and the slow” (Mill 1965, 810-811).

ought to limit the right of any individual—including near relations—to acquire property “beyond the means of comfortable independence” via inheritance. Mill asserts: “I see nothing objectionable in fixing a limit to what any one may acquire by the mere favour of others, without any exercise of his faculties, and in requiring that if he desires any further accession of fortune, he shall work for it” (Mill 1965, 225).<sup>126</sup>

Though hardly an exhaustive analysis of their similarities, the preceding paragraph suffices to demonstrate that Mill is no more of an apologist for *laissez-faire* doctrine than Bentham. He broadly appreciates free markets for their expediency, but he expresses willingness to depart from the extremes of *laissez-faire* when there is a strong case suggesting deviation is more conducive to social utility. In fact, Mill ostensibly highlights more grounds for socialistic interference than Bentham, owing perhaps to his more explicit recognition of structural market failures.

Generally speaking, Bentham focuses on circumstances where the state should interfere with individual freedom in the interest of more pressing social concerns, asserting that the government—at least in advanced political communities—is largely unable to improve economic production.<sup>127</sup> Yet, Mill’s work suggests that unfettered markets are not necessarily maximally productive of economic enjoyment either. Rather, by emphasizing some problems of collective action and market failures, Mill pinpoints circumstances in which intervention augments

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<sup>126</sup> Mill’s emphasis on character development partly informs his preferred restrictions on inheritance. He writes: “Like all other proprietary rights, and even in a greater degree than most, the power of bequest may be so exercised as to conflict with the permanent interests of the human race” (Mill 1965, 223).

<sup>127</sup> Bentham writes in *Institute of Political Economy*: “Among these several classes, *agenda*, *sponte acta*, and *non-agenda*, the distribution of the imaginable stock of institutions will differ in a very considerable degree according to the different circumstances of the several political communities... The greater the degree of opulence, the greater the list of *sponte acta*—the less, therefore, that of *agenda*. In England, abundance of useful things are done by individuals which in other countries are done either by government or not at all... In Russia, under Peter the Great, the list of *sponte acta* being a blank, that of *agenda* was proportionally abundant” (Bentham 1954, 322 n.).



economic activity rather than simply sacrificing one good (e.g., abundance) for a more pressing utility (e.g., subsistence).<sup>128</sup>

A number of the interventions supported by Mill might be framed as carrying beneficial implications for economic productivity. For instance, this could possibly be claimed of his remarks regarding the public provision for education, which we do not have time to address in this chapter. Moreover, it might be claimed of his (in)famous infant industry argument, which briefly suggests that the government can, “on mere principles of political economy,” impose protective duties temporarily to naturalize “a foreign industry, in itself perfectly suitable to the circumstances of the country” (Mill 1965, 918).<sup>129</sup> However, since a full analysis cannot be offered herein, I wish to merely highlight Mill’s emphasis on the problem of public goods and his relatively famous suggestion that government is required to supplement the market to adequately provide for these valuable social utilities.<sup>130</sup>

In *The Principles of Political Economy*, Mill insists that some goods are unlikely to be voluntarily provided by the private sector because “there is no individual specially interested in

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<sup>128</sup> Mancur Olson’s comments in the *Logic of Collective Action* are perhaps not entirely fair to the contributions of Mill or Sidgwick on this front. He writes: “The most notable tradition in nineteenth-century economics—the British *laissez-faire* tradition—largely ignored the theory of public goods. Admittedly, many of the best-known British economists enumerated the functions they thought the state should perform. The lists were generally very brief, though they included at least provision for national defense, for police forces, and for law and order generally. But these economists did not point out what the various activities appropriate to the state had in common. They had a comprehensive theory which explained why most economic needs should be met by private enterprise; so it is natural to ask for a systematic explanation of the exceptional class of functions they thought should be fulfilled by the state. Except for a few imprecise comments by John Stuart Mill and Henry Sidgwick, it appears that the leading British economists largely ignored the problem of collective goods. Even in this century, Pigou, in his classic treatise on public finance, gave collective goods for the most part only implicit treatment” (Olson 2002, 102).

<sup>129</sup> Douglas Irwin (1996) provides a solid overview of Mill’s infant industry argument.

<sup>130</sup> A basic recognition of public goods and the role government plays in providing them can be found in Book 5, Chapter 1 of Adam Smith’s *Wealth of Nations*. However, Smith’s discussion of these goods is not particularly elaborate. R.A. Musgrave writes: “Much can be read into it, including the key concepts of joint consumption, externalities, and free-rider behavior which enter the modern view of social goods. But none of these are made explicit, so that it would be unduly generous to attribute them to Adam Smith. Nevertheless, his passage is not hostile and indeed amenable to these later developments” (Musgrave 1985, 5).

performing them, nor would any adequate remuneration naturally or spontaneously attend their performance” (Mill 1965, 968).<sup>131</sup> For example, he asserts:

[I]t is a proper office of government to build and maintain lighthouses, establish buoys, &c. for the security of navigation: for since it is impossible that ships at sea which are benefited by a lighthouse, should be made to pay a toll on the occasion of its use, no one would build lighthouses from motives of personal interest, unless indemnified and rewarded from a compulsory levy made by the state. (Mill 1965, 968)

According to Mill, individuals will not provide (enough of) some goods beneficial to society because it is too challenging to collect payment from all who benefit from said utilities. In modern economic parlance, this is often referred to as the problem of positive externalities.<sup>132</sup> Regarding lighthouses, for instance, Mill claims that the government is intrinsically better suited to provide these goods because it is very difficult for private industry to obtain payment from all of the ships at sea that ultimately benefit from the lighthouse’s existence.<sup>133</sup>

Likewise, Mill adds that geographical exploration and scientific research are goods that encounter comparable obstacles to lighthouses.<sup>134</sup> He argues that these areas, both costly and labor-intensive, are unlikely to be sufficiently supported by the private sector, despite their public utility, because of the challenges of intercepting remuneration from those that tend to benefit from their outcomes. Consequently, Mill suggests that the government might assist industry by aiding, or otherwise providing, services that are beneficial to society but which are unlikely to be

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<sup>131</sup> Similar to Bentham, Mill acknowledges that there are certain goods which, despite the private sector’s ability to supply them, have historically required government intervention for their provision (e.g., due to a lack of cooperation). For example, he cites infrastructure projects, such as docks and harbors (Mill 1965, 970).

<sup>132</sup> Public goods are characterized as being non-rivalrous and non-excludable, thereby generating positive externalities.

<sup>133</sup> Mill’s use of lighthouses as an example of a public good which is unlikely to be provided by private enterprise is famously critiqued by Ronald Coase (1974). Yet, Coase’s analysis itself has been criticized by scholars such as David Van Zandt (1993), who claims that Coase overlooks the amount of public support lighthouses historically received in Great Britain.

<sup>134</sup>As noted in Footnote 106, certain comments by Bentham could be interpreted as indicating his recognition of the government’s role in generating and disseminating knowledge beneficial to industry.

freely undertaken by private initiative due to issues surrounding collective action and misaligned incentives.<sup>135</sup>

In summary, although this discussion is not a comprehensive exposition of Mill's views on government intervention with *laissez-faire*—omitting, for example, some of his interesting observations on the state's legitimate role in terms of providing for education and colonization efforts—it nevertheless affirms that Mill, like Bentham, is not a strict proponent of *laissez-faire*.<sup>136</sup> While by no means an enthusiastic proponent of legislative interference, he clearly acknowledges instances where departing from the dictates of *laissez-faire* is justified by the larger interests of society. Indeed, while accepting some of the state interventions suggested by his predecessor, Mill also expands upon the work of Bentham, emphasizing a broader scope for justified socialistic intervention. Hence, in addition to recognizing situations where economic considerations might be sacrificed to more important social utilities, Mill also identifies instances where the intelligent pursuit of self-interest fails to yield maximum economic productivity in society. Thus, the larger scope for state intervention that Mill permits (and which Sidgwick expands upon) seems largely attributable to his more nuanced understanding of the shortcomings associated with *laissez-faire*.

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<sup>135</sup> For those interested, Mill enumerates some other collective actions problems which he claims could warrant government interference in Book V, Chapter XI, Section 12 of his *Principles of Political Economy*. He writes: “There are matters in which the interference of law is required, not to overrule the judgment of individuals respecting their own interest, but to give effect to that judgment: they being unable to give effect to it except by concert, which concert again cannot be effectual unless it receives validity and sanction from the law” (Mill 1965, 956). One example he offers concerns workers trying to cooperate to reduce the working day from 10 hours to 9 hours (maintaining the same wages as before). He claims that it would be difficult for the agreement to become effective, since some workers would find it in their interest to defect, working 10 hours and earning even higher wages than before.

<sup>136</sup> Hollander (1985) offers comprehensive analyses of Mill's perspectives on the government's responsibilities to provide education and support colonization efforts.

#### 4.4 Henry Sidgwick

In *The Elements of Politics*, Sidgwick asserts that the sociological assumption supporting the utilitarian defense of *laissez-faire*, along with the psychological premise explored in Chapter 3, is substantially sound. He writes:

According to my view, both the psychological generalisation that individuals are likely to provide for their own welfare better than Government can provide for them, and the sociological generalisation that the common welfare is likely to be best promoted by individuals promoting their private interest intelligently, are to a great extent true. (Sidgwick 2012, 139)

Moreover, Sidgwick acknowledges—without endorsing or praising—the significant role self-interest plays in human affairs, highlighting that this motive must be considered by political and economic theorists for the foreseeable future. He argues that the “difficulty of finding any substitute for it, either as an impulsive or as a regulating force, appears to me a valid ground for rejecting all large schemes for reconstructing social order on some other than its present individualistic basis” (Sidgwick 2012, 139).<sup>137</sup> As such, like the other British Utilitarians, Sidgwick frames himself as a supporter of the *laissez-faire* system, or what he occasionally refers to as “orthodox political economy.”

However, Sidgwick points out that protecting citizens in their intelligent pursuit of self-interest is not always directly aligned with the social interest. Though he observes that “absolute and unqualified statements of principle” prevail in popular discourse because “the ease and simplicity with which they can be enunciated and apprehended makes them more effective instruments of popular agitation,” Sidgwick suggests that strict adherence to *laissez-faire* dogma is improper (Sidgwick 1885, 8). Indeed, while each of the British Utilitarians qualifies their

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<sup>137</sup> As is largely true of the other British Utilitarians, Sidgwick views the prevailing power of narrow self-interest as a major obstacle for those reformers hoping to rearrange society in accordance with strict socialist principles in the near future. He writes: “I do not doubt that what I have before distinguished as the ‘individualistic minimum’ of governmental interference ought to constitute the main part of such interference, until the nature of an average civilised human being becomes very different from what it is at present” (Sidgwick 2012, 139).

support for *laissez-faire*, Sidgwick is particularly vocal about distancing himself from crude free market apologists. He states:

There is indeed a kind of political economy which flourishes in proud independence of facts; and undertakes to settle all practical problems of Governmental interference or private philanthropy by simple deduction from one or two general assumptions—of which the chief is the assumption of the universally beneficent and harmonious operation of self-interest well let alone. This kind of political economy is sometimes called ‘orthodox,’ though it has the characteristic unusual in orthodox doctrines of being repudiated by the majority of accredited teachers of the subject. But whether orthodox or not, I must be allowed to disclaim all connection with it; the more completely this survival of the *a priori* politics of the eighteenth century can be banished to the remotest available planet, the better it will be, in my opinion, for the progress of economic science. (Sidgwick 1885, 2-3)

In essence, Sidgwick advocates for a “balanced, qualified, and empirical” approach to policy issues. Like considerations of paternal interference, he insists that the advantages and disadvantages of socialistic interference must be carefully weighed by statesmen, not categorically rejected by doctrinaires (e.g, Bastiat).

Among the British Utilitarians, Sidgwick contemplates the widest variety of departures from *laissez-faire*—too extensive to fully examine in this brief discussion. Some of these departures involve statesmen subordinating economic considerations to more significant social interests, while others pertain to how government intervention can supplement the market to promote the production of wealth.<sup>138</sup> As is typical of Sidgwick’s analyses, it is challenging to discern his own opinion about many of the socialistic interventions he investigates. While he frequently shows that intervention can be theoretically justified, whether he actually advocates

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<sup>138</sup> Sidgwick’s conservative tendencies lead him to ostensibly accept legal restraints on conventional moral grounds. For instance, Sidgwick writes of restrictions on contracts, noting “the restrictions on the freedom of connubial contracts, imposed by the marriage laws of modern communities generally; and along with these I may class any legal restraints on the sexual intercourse of unmarried persons, and prohibitions on the sale of pictures, books, etc., provocative of sexual desire; since all such interferences with freedom are, I conceive, ultimately justified by the paramount interest that the community has in providing for the proper rearing of children” (Sidgwick 2012, 150-151). Bentham and Mill might have approached some of these restrictions with more skepticism.

for such interferences often remains ambiguous. At any rate, Sidgwick appears more open to socialistic interference than Bentham and, arguably, Mill as well.

In addition to numerous others, Sidgwick ostensibly supports the types of interventions discussed in the preceding sections.<sup>139</sup> For example, although he often avoids committing to specific policy prescriptions, he defends certain forms of interference in commerce to ensure military preparedness, protect intellectual property, and extend public assistance to the indigent.<sup>140</sup> Similarly, like his utilitarian predecessors—who believed that post-mortem redistribution could enhance societal equality—Sidgwick considers regulations on bequest or inheritance appropriate; yet, as briefly outlined below, his own suggestion is characteristically more conservative than those of his predecessors.

Regarding free bequest and inheritance, Sidgwick claims that Bentham and Mill’s sweeping reforms “would dangerously diminish the motives to industry, and—what is yet more important—thrift, in the latter part of the lives of the persons who came under the restrictions” (Sidgwick 2012, 101). He further cautions that such restrictions, if enacted, would likely be

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<sup>139</sup> In a footnote of the *Constitution of Liberty*, F.A. Hayek argues of Sidgwick’s *Elements of Politics*: “[I]t scarcely represents what must be regarded as the British liberal tradition and is strongly tainted with that rationalist utilitarianism which led to socialism” (Hayek 2011, 48 n.2).

<sup>140</sup> For example, with regards to defense, Sidgwick writes: “[T]he needs of war may furnish decisive considerations in favour of measures which would otherwise be inexpedient—although they are not unlikely to be advocated on other than military grounds. Thus a government may reasonably undertake for military reasons the construction of railways commercially unremunerative; or may control the arrangement of a system of railways which it would otherwise leave to unrestricted free enterprise. Again, similar reasons have often been urged for the protection of native industry in certain departments; and certainly, where there is a reasonable probability that a government would find serious difficulty in obtaining, should it be involved in war, any part of the supply of men or things required for the efficient conduct of the war, it is obvious that some kind of provision should be made in time of peace for meeting this difficulty: and we cannot say *a priori* how far it will in any particular case be better to meet it directly, by a more extensive and costly organization of the army or navy, or indirectly by the encouragement of certain branches of private industry. Thus, for instance, it may be questioned whether Adam Smith was right in commending the English Navigation Laws of his time which ‘endeavoured to give the sailors and shipping of Great Britain the monopoly of the trade of their own country;’ but the question cannot be answered without a careful investigation of details. The restrictions thus imposed on trade must of course have increased the cost of foreign commodities to the English consumers; but they may nevertheless have been the least burdensome mode of securing a due supply of sailors and shipping for our maritime wars. On similar grounds we cannot say positively that it can never be expedient for a country situated as England is to secure itself by protection to native agriculture against the danger of having its necessary supply of food cut off by a maritime blockade” (Sidgwick 2011, 422-423).

widely circumvented before death. Consequently, challenging the practical utility of his utilitarian compatriots' positions, Sidgwick concludes that "[p]robably all that can be safely attempted in the way of limiting bequests in the interest of the community... is a tax on inheritance, considerably increased when bequests are received by others than near relations" (Sidgwick 2012, 101-102). Regardless, Sidgwick still accepts some level of regulation as justified by the broader interests of society, despite quibbling over the appropriate extent of it.<sup>141</sup>

That Sidgwick is increasingly inclined to deviate from the doctrine of *laissez-faire* is perhaps best evidenced by his acute understanding of market failures and his persistent assertion that *laissez-faire* is not maximally productive of wealth, broadly defined.<sup>142</sup> While many of the departures explored by Bentham focus on sacrificing wealth for more important considerations, Sidgwick builds on Mill's work, demonstrating how legislative intervention can theoretically bolster economic production.<sup>143</sup> He asserts in *The Principles of Political Economy* that the system of natural liberty has "no tendency to realise the beneficent results claimed for it," even under the hypothetical condition of a society composed of "economic men" (Sidgwick 2011, 403). In other words, even granting the idealized premise of individuals as well-informed and rationally self-interested actors, Sidgwick maintains that free markets still inherently fail to produce optimal outcomes.

Expanding on Mill's contributions to political economy, Sidgwick stresses the difficulties posed by market failures to the "classical success story." Indeed, Medema argues that Sidgwick's contributions ultimately "fed into Pigovian welfare theory, the market failure aspect of which, at

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<sup>141</sup> Likewise, Mill is aware of the practical difficulty of making his desired limitations effective in the near future. He writes: "The laws of inheritance, however, have probably several phases of improvement to go through, before ideas so far removed from present modes of thinking will be taken into serious consideration" (Mill 1965, 887).

<sup>142</sup> Sidgwick is careful to note that he understands wealth to include material and immaterial utilities.

<sup>143</sup> Sidgwick also follows Mill in accepting a version of the infant industry argument for temporary protectionism. However, Irwin (1996, 131-132) suggests that Sidgwick's argument fails for reasons that Mill himself stresses in his *Principles of Political Economy*.

least, came to dominate professional discourse” (Medema 2011, 28). This is partly evidenced by Sidgwick’s analysis of public goods, natural monopolies, and common-pool resource goods, all of which exhibit clear discrepancies between private and social interests.<sup>144</sup> For example, Sidgwick observes that the system of natural liberty assumes that individuals can easily secure remuneration for the benefits they provide to society. He continues:

But there is no general reason for supposing that this will always be possible; and in fact there is a large and varied class of cases which the supposition would be manifestly erroneous. In the first place there are some utilities which, from their nature are practically incapable of being appropriated by those who produce them or who would otherwise be willing to purchase them. For instance, it may easily happen that the benefits of a well-placed lighthouse must be largely enjoyed by ships on which no toll could be conveniently imposed. So again if it is economically advantageous to a nation to keep up forests, on account of their beneficial effects in moderating and equalizing rainfall, the advantage is one which private enterprise has no tendency to provide. (Sidgwick 2011, 406-407)

While a private dock owner can directly charge each vessel that chooses to use the dock, Sidgwick notes how challenging it is for private industry to levy fees on ships benefitting from the services of a lighthouse, or on individuals who enjoy the climate benefits of well-maintained forests.<sup>145</sup> Moreover, while scientific discoveries greatly benefit industry, Sidgwick highlights the difficulty for scientists to receive adequate compensation from those who ultimately profit from their scientific research.<sup>146</sup> Thus, Sidgwick identifies the underprovision of public goods as one shortcoming of the system of *laissez-faire*.

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<sup>144</sup> Similar articulations of these market failures emerge in many of Sidgwick’s works, including, for instance, *The Elements of Politics*, *The Principles of Political Economy*, and his essay “Economic Socialism.” I selectively pull from each of these sources.

<sup>145</sup> Sidgwick further recognizes certain circumstances where, despite the possibility of private entities reliably collecting fees, public provision of goods is arguably more efficient than their private provision. For example, he writes: “Even where the inconvenience of selling a commodity would not be deterrent, the waste of time and labour that the process would involve may be so great as to render it on the whole a more profitable arrangement for the community to provide the commodity out of public funds. For instance, no one doubts that it would be inexpedient to leave bridges in towns generally to be provided by private enterprise and paid by tolls” (Sidgwick 2012, 142).

<sup>146</sup> Sidgwick notes that this general line of reasoning also justifies some public expenditure on education given that education tends to have positive externalities in making recipients more productive.



Moreover, Sidgwick illustrates another failure of the system of *laissez-faire* with scenarios involving common-pool resource goods.<sup>147</sup> For instance, utilizing the example of overfishing, he writes:

Take, for instance, the case of certain fisheries, where it is clearly for the general interest that the fish should not be caught at certain times, or in certain places, or with certain instruments; because the increase of actual supply obtained by such captures is much overbalanced by the detriment it causes to prospective supply. Here,—however clear the common interest might be—it would be palpably rash to trust to voluntary association for the observance of the required rules of abstinence; since the larger the number that thus voluntarily abstain, the stronger becomes the inducement offered to those who remain outside the association to pursue their fishing in the objectionable times, places, and ways, so long as they are not prevented by legal coercion. (Sidgwick 2011, 410)

This excerpt underscores Sidgwick's view that it is frequently in the general interest to limit fishing to maintain a healthy fish population. However, without the government restricting access to the commons, he contends that individuals are materially incentivized to continue fishing, benefiting from the voluntary restraint of others. Consequently, some of the bounties of nature may be depleted or exhausted, thus harming the community and future generations whose own remote interests, Sidgwick emphasizes, cannot be disregarded.<sup>148</sup> In the 20th century, Garrett Hardin (1968) famously popularized this phenomenon as the “tragedy of the commons.”

A final critical market failure I will briefly discuss here is the problem of monopoly, which Sidgwick occasionally identifies as “perhaps, the most important of all the theoretical exceptions of the general rule of *laissez faire*” (Sidgwick 1886, 626).<sup>149</sup> Despite the common

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<sup>147</sup> Common-pool resource goods are characterized as being rivalrous and non-excludable.

<sup>148</sup> At times, even Bentham suggests a basic familiarity with these kinds of market failures. For instance, regarding fishing in vast unowned bodies of water (e.g., oceans), he perhaps underestimates the issue, showing little concern for humanity's ability to deplete natural resources. Bentham claims: “There is no reason for limiting the right of fishing in the ocean. The multiplication of most kinds of fishes appears inexhaustible.” However, he also notes: “whilst as to the fishes of rivers, lakes, and little gulfs, the laws take efficacious and necessary precautions for their preservation” (Bentham 1843, 1: 329). At any rate, Bentham's relevant comments on this issue seem too brief to fully acknowledge him for understanding the scope of the issue.

<sup>149</sup> Mill also discusses natural monopolies in his *Principles of Political Economy*. For instance, he writes: “There are many cases in which the agency, of whatever nature, by which a service is performed, is certain, from the nature of the case, to be virtually single; in which a practical monopoly, with all the power it confers of taxing the community,

assumption that unfettered markets beget open competition, Sidgwick argues that under certain circumstances producers may voluntarily combine to secure a monopoly over a given commodity.<sup>150</sup> As was commonly recognized at the time, monopoly conditions allow the provider to supply less of their commodity, charge higher prices, and innovate less, all of which are antithetical to the larger interests of society. As such, Sidgwick argues that the system of natural liberty will not necessarily ensure maximum production, and he expresses that this collection of market failures largely accounts for the “extent to which in modern States the provision of utilities—other than security from wrong—is undertaken by Government in the name of the community, or subjected to special governmental regulations, instead of being left to private enterprise” (Sidgwick 2012, 144).

Before concluding, I should be careful to point out that despite Sidgwick’s nuanced understanding of market failures, he does not advocate socialistic interference in every instance they occur. He is clear about this point. Sidgwick writes: “It does not of course follow that wherever *laissez faire* falls short governmental interference is expedient; since the inevitable drawbacks and disadvantages of the latter may, in any particular case, be worse than the shortcomings of private industry” (Sidgwick 2011, 414). Additionally, like Bentham and Mill before him, Sidgwick clearly recognizes a host of disadvantages that tend to attach to government action (Sidgwick 2012, 160).

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cannot be prevented from existing. I have already more than once adverted to the case of gas and water companies, among which, though perfect freedom is allowed to competition, none really takes place, and practically they are found to be even more irresponsible, and unapproachable by individual complaints, than the government” (Mill 1965, 955-956).

<sup>150</sup> For instance, Sidgwick suggests that the provision of lighting and water in towns has historically tended towards conditions of monopoly. Moreover, he argues that the “importance of this case... tends to increase as the opportunities for monopoly grow with the growth of civilisation: partly from the increasing advantages of industry on a large scale, partly from the increasing ease with which combination among the members of any class of producers is brought about and maintained” (Sidgwick 2012, 143).

However, Sidgwick's measured tone is perceptibly less hostile to government interference than that of his Classical predecessors. Indeed, some of his remarks hint at optimism that state intervention will become a more significant, rather than smaller, aspect of citizens' lives—a point that, for better or worse, is rather prescient from today's perspective (Medema 2011).<sup>151</sup> For example, in *Elements of Politics* he writes: “[T]hese disadvantages are largely such as moral and political progress may be expected to diminish; so that even where we do not regard the intervention of government as at present desirable, we may yet look forward to it, and perhaps prepare the way for it” (Sidgwick 2011, 416).<sup>152</sup>

#### **4.5 Conclusion**

Though not an exhaustive treatment of their views towards socialistic intervention, this chapter demonstrates that none of the British Utilitarians is properly characterized as an uncompromising apologist for free markets. Though they all give a qualified adherence to *laissez-faire* doctrine, they each recognize that its prescriptions are ultimately subordinate to matters of utility. Accordingly, in addition to welcoming certain paternal interventions by the state (see Chapter 3), all of the British Utilitarians accept certain socialistic interventions as legitimate; that is, they each allow government interferences for the good of others (or the community more generally) when such interferences are perceived as likely to promote greater good for society. For instance, Bentham, while not particularly confident that the government can do much to boost industry (other than, perhaps, furnishing valuable information), recommends that the statesmen ought to nonetheless intervene with the workings of free enterprise when

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<sup>151</sup> Schultz notes that the famous economist Alfred Marshall, Sidgwick's colleague at Cambridge, criticized Sidgwick for his mania for “over-regulation” (Schultz 2004, 362).

<sup>152</sup> Furthermore, Sidgwick writes: “And it is to be noted that, in certain important respects, the need of systematic governmental intervention to modify man's physical environment tends to grow as the cultivated area of land extends with growing civilisation” (Sidgwick 2012, 145).

required to promote even more essential social utilities. Consequently, one observes in his writings an unmistakable willingness to depart from *laissez-faire* to promote other subordinate ends of legislation such as defense, subsistence, and distributional equality. In fact, it might be suggested that certain state interventions considered by Bentham actually contribute to the end of economic abundance.

I have also maintained in this chapter that Mill, while broadly skeptical of legislative intervention and concerned that too much government activity obstructs the progressive development of individuals, assigns a positive agenda to the state, even if largely in favor of leaving private industry free to operate without government intervention. In other words, rather than envisioning a mere negative role for the government, Mill, too, admits the desirability of socialistic interventions, including many of those proposed by his utilitarian predecessor. Moreover, it is further suggested herein that Mill's familiarity with the predictable shortcomings of *laissez-faire* enables him to identify additional areas intrinsically suited for state intervention. For example, he identifies market failures associated with the system of natural liberty, and these insights later aided Sidgwick in his efforts.

Expanding upon the work of his predecessors—particularly Mill—Sidgwick provides additional reasons for state interference in the free operations of private industry, in part through his admirably clear discussions of various market failures. In fact, though ascribing to himself liberal tendencies, Sidgwick is arguably the most sympathetic of the British Utilitarians to state intervention with *laissez-faire*, effectively paving the way for the welfare economics of thinkers like Pigou at Cambridge in the 20th Century and, as some have noted, anticipating a form of liberalism more friendly to government assistance. Perhaps no coincidence, this observation is

consistent with the conclusions of Chapter 3, which positions Sidgwick as the most sympathetic of the British Utilitarians towards legislative paternalism as well.

## ***Chapter 5 — Conclusion***

The chief aim of this project was to investigate and clarify how each of the British Utilitarians conceptualizes the proper role of the state in promoting societal happiness. More specifically, this project aimed to put the British Utilitarians in conversation with one another and to understand the extent of their agreements and disagreements about the proper scope of state paternalism and socialistic interference for promoting societal happiness. Further, in instances of disagreement between the British Utilitarians on matters relating to state intervention, this investigation examined whether the particular disagreement might be productively understood by consulting differences in their unique understandings of utilitarianism as a moral doctrine. For instance, does J.S. Mill's subscription to qualitative hedonism carry any implications for how he understands the proper scope of state paternalism? Or, alternatively, does Henry Sidgwick's insistence on the close relationship between common sense morality and utilitarianism have implications for how he understands state paternalism? I do not argue herein that the policy positions of the British Utilitarians are always traceable to their unique understandings of utilitarianism. For instance, it is quite possible that Bentham would have permitted a greater amount of socialistic interference to promote abundance if he had been more familiar with common market failures. Nevertheless, it seems clear that at least some of the British Utilitarians' disagreements (or at least emphases) on policy can be attributed to the fact that they are not in complete agreement about what utilitarianism as a moral theory involves.

Brief recapitulations of the British Utilitarians' attitude towards both paternalistic and socialistic intervention are provided below.

## ***Jeremy Bentham***

Despite some popular caricatures, Bentham is shown throughout this dissertation to be sympathetic to the liberal philosophical tradition and a strong proponent for individual liberties. Utilizing the Greatest Happiness Principle, he argues that the state should concentrate its efforts on securing individuals' legitimate expectations and affording them the opportunity to rationally plan their lives in accordance with their own judgment. As discussed in Chapter 3, for instance, Bentham expresses a good bit of skepticism toward state paternalism. Though he does not dismiss the practice *a priori*, he maintains that, in addition to being the most concerned about their own welfare, individuals are unique and tend to be the most knowledgeable about their personal circumstances and interests—a knowledge that legislators cannot match. Therefore, government measures that override the judgment of individuals for their own good, Bentham argues, tend to be unsuccessful. This line of attack is perhaps best represented by parts of his influential argument against usury laws, which he suggests are misguided policy measures, however well-intentioned.

Moreover, Bentham is shown throughout this dissertation to be a strong advocate for *laissez-faire*. Greatly influenced by Adam Smith's pioneering treatise, Bentham takes free enterprise to be productive of social utility, and he criticizes many common state interventions with the market (e.g., trade bounties) as unwarranted. Nevertheless, as Chapter 4 clearly shows, Bentham should not be thought of as a dogmatic apologist for free markets. Though skeptical that the government can do much to aid economic production or promote abundance, he still outlines a number of circumstances in which the hand of the state should interfere for the sake of other, more pressing, ends—for instance, the subordinate objects of security, subsistence, and (rarely) equality. For instance, he is seen as supporting state measures such as indigence relief,

regulations on bequest, and price maximums for foodstuffs during times of famine. Consequently, Bentham envisions socialistic intervention with free enterprise playing a small, but nonetheless meaningful, role in the production of societal happiness.

### ***John Stuart Mill***

As argued in Chapter 2, Mill is greatly indebted to the utilitarianism of Bentham, who was partly responsible for the young Mill's upbringing and education. Raised in the Benthamite tradition, Mill was also exposed to the flourishing Romantic movement and in a time of crisis came to recognize certain deficiencies with Bentham's doctrine. For instance, Mill accuses Bentham of having an underdeveloped conception of human nature, criticizing his lack of emphasis on the cultivation of character and his failure to distinguish between higher and lower quality pleasures.

Mill's disagreements with the Benthamite orthodoxy help explain his passionate commitment to individuality and his insistence that the state's intrusions with individual liberty ought to be minimized. As demonstrated in Chapter 3, Mill's famous Harm Principle from *On Liberty* is strongly opposed to the practice of paternalism. In part, this opposition is informed by Bentham's suggestion that individuals tend to be better acquainted with their own feelings and circumstances than others, thus making paternalistic interventions counterproductive. Yet, as previously emphasized, Mill's conception of humans as "progressive beings" buttresses this utilitarian argument against state paternalism. According to Mill, the significance of cultivating the higher-order faculties renders even many successful instances of paternal interference undesirable. He observes that individuals who have everything done for them fail to develop into the type of beings who can enjoy the higher quality pleasures that make life most worth living.



In Chapter 4, Mill—an acknowledged giant of the Classical Economics Tradition—is further revealed as a strong proponent of free enterprise, rejecting a host of commonly accepted interventions with the free market. He stresses that *laissez-faire* ought to be the general practice, with departures admitted only when an argument for their expediency is especially compelling. Some of Mill’s complaints with market interventions are about efficiency; however, others relate to his concerns about citizens’ character development. At any rate, it is true that he, too, concedes some exceptions to the principle of *laissez-faire*.

As with Bentham, some of the exceptions Mill admits entail subordinating economic considerations to more pressing social concerns. Others, however, affirm that government interventions might aid economic production, a point that Bentham was markedly more skeptical of. Of particular note is Mill’s recognition of collective action problems and the existence of market failures (e.g., the underprovision of public goods), a line of investigation that received further development at the hands of Sidgwick.

### ***Henry Sidgwick***

Sidgwick’s relationship with utilitarianism is less apparent than either Bentham or Mill’s, both of whom unmistakably champion the doctrine. Nonetheless, his political and economic writings demonstrate that he is sympathetic with utilitarianism, and he is widely acknowledged for his important contributions to understanding the theory and its limits. For example, as I maintain in Chapter 2, Sidgwick rejects Mill’s controversial qualitative hedonism, a suspect innovation upon Benthamite orthodoxy that Sidgwick says is inconsistent with the aggregative nature of utilitarianism. Additionally, diverging from his utilitarian predecessors, Sidgwick stresses that common sense moral rules are largely, if imperfectly, conducive to social happiness. While both Bentham and Mill are generally perceived as critics of established morality,

Sidgwick's formulation of the utilitarian doctrine is considerably more conservative in its implications.

The conservatism of Sidgwick's ethics manifests in aspects of his political theory and partly explains his greater acceptance of state intervention compared to the other British Utilitarians. For example, as shown in Chapter 3, Sidgwick is ostensibly the most open to paternalistic interventions. Agreeing with Bentham and Mill that individuals tend to be the best guardians of their own advantage, he is careful to add that said principle is best thought of as a handy (if rough) rule of thumb to be balanced against empirical evidence suggesting the contrary. Accordingly, Sidgwick seems to accept a healthy number of paternalistic practices as carried out in Victorian England, even if they are generally mild measures.

Further, as Chapter 4 demonstrates, Sidgwick is also the most willing of the British Utilitarians to permit socialistic interventions. Acknowledging that departures from *laissez-faire* can be justified by objects more important than economic considerations, he builds upon the theorizing of thinkers like Mill, stressing that free enterprise can systematically fail to be optimally productive. He highlights the existence of numerous market failures, including, but not limited to, issues with public goods, common-pool resources, and natural monopolies. Therefore, like his attitudes towards state paternalism, Sidgwick reveals himself to be the most friendly of the British Utilitarians towards state interventions with free enterprise.

### ***The British Utilitarians***

Debates surrounding the appropriate extent of paternalistic and socialistic interference remain as relevant today as they were during the industrial revolution of the 18th and 19th centuries. Indeed, in certain respects, we find ourselves wrestling today with issues remarkably similar to those confronted by the British Utilitarians. Examples of such issues include: sin taxes,

usury laws, poor relief, trade tariffs, and initiatives aimed at wealth redistribution. In addressing these various concerns, the British Utilitarians often provided analyses of remarkable nuance, worthy of our continued interest due to their meticulous attention to detail and their comprehensive consideration of the factors that should be weighed in making a thorough assessment of what laws are good and for which ends.

It is equally true that some of today's challenges are issues that the British Utilitarians could not address directly. For instance, they were not afforded the chance to engage in debates over seatbelt laws, vaccine mandates, or the regulation of cryptocurrencies. Yet, even when it relates to these ostensibly modern issues, many insights from the British Utilitarian tradition remain exceptionally pertinent. Most specifically, their commitment to rational debate and empirical evidence offers society a critical reminder of the importance of grounding policy discussions in data and cost-benefit analyses, rather than nebulous concepts such as natural rights. Furthermore, their commitment to prioritizing the aggregate happiness underscores the imperative for policy evaluations to transcend sectional interests and instead focus on their societal ramifications.

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