

# SECURITY, EQUALITY, IMPARTIALITY, AND BENTHAM'S DICTUM

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The following is a brief discussion of the way in which Bentham's system supports the individual within the socio-political realm without resorting to equality as a foundational principle (security trumps equality, when the two are in opposition), and of the manner in which Bentham's so-called dictum has been misinterpreted, weighing on the sense in which we understand the role of impartiality in Bentham's system. For Mill, it would seem, Bentham's dictum served as an explanation of the principle of utility in respect of impartiality and equality; but for Bentham, what others called the 'dictum' may have simply been a statement of the limitations of the principle of utility.

## **1. Security and equality – their opposition, or “when security and equality are in opposition, there should be no hesitation: equality should give way.”**

Bentham writes in *Principles of the Civil Code* (part 1 - *Objects of the Civil Law*, Chapter 11 - *Security and Equality - Their Opposition*):

"In consulting the grand principle of security, what ought the legislator to direct with regard to the mass of property which exists? He ought to maintain the distribution which is actually established. This, under the name of justice, is with reason regarded as his first duty: it is a general and simple rule applicable to all states, adapted to all plans, even those which are most opposed to each other... 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. For how shall a different distribution be made, without taking from some one what he possesses? how shall one party be stripped, without attacking the security of all?"<sup>1</sup>

And Bentham's answer:

"When security and equality are in opposition, there should be no hesitation: equality should give way. The first is the foundation of life---of subsistence---of abundance---of happiness; every thing depends on it. Equality only produces a certain portion of happiness: besides, though it may be created, it will always be imperfect; if it could exist for a day, the revolutions of the next day would disturb it. The establishment of equality is a chimera: the only thing which can be done is to diminish inequality."

And an even more stern warning: "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."<sup>2</sup>

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<sup>1</sup> Bentham, Jeremy, *Principles of the Civil Code*, digitized from volume 1 of the 1843 Bowring edition of Bentham's works.

<sup>2</sup> Ibid.

"Such is the history of fanaticism" - Bentham associates the overthrow of existing regimes for the purpose of a redistribution of properties, with political and legislative fanaticism. Equality at all cost, as "this pretended remedy, so gentle in appearance, would thus be found to be a deadly poison. It is a burning cautery, which would consume every thing till it reached the last principles of life. The sword of the enemy, in its wildest fury, is a thousand times less to be dreaded. It only causes partial evils, which time effaces and which industry repairs." So much for equality as a foundational principle.

And Bentham concludes:

"What an apparatus of penal laws would be required, to replace the gentle liberty of choice, and the natural reward of the cares which each one takes for himself? The one half of society would not suffice to govern the other."<sup>3</sup>

In *Principles of the Civil Code* (part 1 - *Objects of the Civil Law*, chapter 12 - *Security and Equality - Means of Reconciliation*):

"We may observe, that in a nation which prospers by agriculture, manufactures, and commerce, there is a continual progress towards equality... The ages of feudality are not long since passed by, in which the world was divided into two classes---a few great proprietors who were every thing, and a multitude of slaves who were nothing. These lofty pyramids have disappeared or have been lowered, and their debris has been spread abroad: industrious men have formed new establishments, of which the infinite number proves the comparative happiness of modern civilization. Hence we may conclude, that security, by preserving its rank as the supreme principle, indirectly conducts to the establishment of equality; whilst this latter, if taken as the basis of the social arrangement, would destroy security in establishing itself."<sup>4</sup>

Could the preserving of security (which trumps the preserving of equality) be considered a form of the preservation of political rights? Isn't it the case that the authority of governance – the authority of government functionaries to avail one to one's political right – is the same on the occasion of preserving or protecting security as it is on the occasion of preserving one's rights? Bentham attacks the advocates of equality at any cost or equality as a foundational principle: "Hence we may conclude, that security, by preserving its rank as the supreme principle, indirectly conducts to the establishment of equality; whilst this latter, if taken as the basis of the social arrangement, would destroy security in establishing itself."<sup>5</sup>

Perhaps we could say that, since in this system impartiality is the product of the identity of interests (a relation between the interests of governors and the interests of the governed), the right to participate in such an identity would be a fundamental political right bestowed by the political functionaries (who represent the power of the state), and

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid, Ch.12.

<sup>5</sup> Bentham, Jeremy, *Principles of the Civil Code*, digitized from volume 1 of the 1843 Bowring edition of Bentham's works [Principles of the Civil Code. Jeremy Bentham](#) Part 1. *Objects of the Civil Law*. Chapter 12. *Security and Equality – Means of Reconciliation*.

that in no sense can this 'right' be considered to be 'given naturally' prior to the establishment of 'government'. Since the only rights in this system emanate from the 'principle of the identity of interests' (which is a synonym for 'government'), no meaningful right can there be, which precedes government.

But this argument needs to be modified, since the 'principle of the artificial identity of interests of governors and governed' as Bentham words it, was founded on Adam Smith's 'principle of the *natural* identity of interests of governors and governed', which in turn is based on the logico-semantic notion of the relation between 'sensation' and the 'thing sensed', and on the grammatical-semantic notion of the distinction between 'speaker' and 'listener' or 'speaker' and the 'thing said', - which makes the principle of the identity of interests, whether in Bentham or Adam Smith's version a principle grounded in naturally occurring constructs of speech, action and belief. And if this is so, then the principle, whether in its 'artificial' or 'natural' form, is not in itself a contract between people, but a logico-semantic construct occurring naturally – part of language, action and disposition – and as such gets its authority from grammar and predication and forms of speech, and not from the contractual nature of government and governing. This is a somewhat complicated way of saying that my previous comment, that 'the right to participate in such an identity of interests would be a fundamental political right bestowed by the political functionaries', - that this comment is not accurate, to say the least, since the authority enabling political rights – the authority of functionaries - comes from their own participation in the framework governed by the principle of the identity of interests, and that the authority of the principle itself comes from a different place altogether: the authority of the principle itself, as the framework enabling the participation of both 'governors' and 'governed', is primarily of a methodological nature – the kind of authority reminiscent of the authority some contribute to the Word of God, the authority of a naturally occurring logico-semantic framework governing all human interaction within a mode of enquiry – the only mode of enquiry compatible with the highly abstracted notions of method, justice and right.

So, if I want to argue that impartiality within this system is the product of the principle of the identity of interests, I will also have to explain how this impartiality is the product of the choice of the right method (since it could not be attributed to the authority of any of the participants on their own). It might be easier to argue that both the 'principle of the identity of interests' and the authority to participate in the principle have their source in a much simpler and universal framework or conception (but nonetheless, a truly authoritative one). Grammatical or political constructs seem to get their authority from beyond the construct itself, an authority residing beyond the construct per se, - still within reach or affiliated with the construct, but manifested in a different category. One simple solution is to find the authority to participate in such naturally occurring constructs in the mode of enquiry itself – in the method – since the relation between participants and the mode of enquiry the participants engage in (what defines the framework) exists in different categories (spans over different categories): to take the case in hand as an example: if 'governor' would be 'first', and 'governed' 'second', then the 'third' would be the framework itself – the principle and the mode of enquiry – the method.<sup>6</sup>

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<sup>6</sup> The terms 'mode of enquiry' or 'method' would refer in this case, not only to the manner in which we have defined the principle, but, more importantly, to the manner of its application (again the difference between the roles of the 'expositor' and the 'censor') – marking the transition from the principle as

Perhaps the entitlement to one's political right, within the framework of the principle, can be considered a feature of the framework, and the authority to make one's access to one's political rights possible, also part of the framework; *but the general sense of authority here is founded, not in the political per se, but in the grammatical.* When the political framework takes on (mimics) the features of a basic grammatical construct (the identity of the interests of governors and the governed, which is based on the relation between 'tormentor' and 'tormented') it becomes too easy to forget that the authority available – even the political authority – does not originate in the political per se.

## 2. Bentham's 'dictum'.

If the principle of utility has always been considered a sure-fire prescription, then Bentham's dictum didn't lag far behind (as a prescription of sorts). And hasn't Bentham's somewhat mysterious dictum been associated in the minds of scholars with a numerical or quantitative value? J. S. Mill considered the dictum to function as some kind of an explanation for the principle of utility. But that might not have been Bentham's interpretation of the matter (or intention). I found a version of the dictum in Bentham<sup>7</sup>, which shows that, if anything, the idea formulated as what we here call 'Bentham's dictum' was considered by Bentham himself to be part of a description of the limitations of the principle of utility. Whereas it seems that for Mill the dictum has meaning as a prescription of sorts, in Bentham the dictum appears to be, not so much a dictum – a prescription – but a warning sign indicating a dead-end on the path to happiness. But first let us examine the various existing interpretations of what is known as the 'dictum'.

Consulting Sidgwick's "*Methods of Ethics*"<sup>8</sup>: Sidgwick discusses Bentham's dictum in the context of the distinction between the Intuitional and the Utilitarian systems: "For though Benevolence would perhaps be more commonly defined as a disposition to promote the Good of one's fellow-creatures, rather than their Happiness (as definitely understood by Utilitarians); still, as the chief element in the common notion of good (besides happiness) is moral good or Virtue, if we can show that the other virtues are---speaking broadly---all qualities conducive to the happiness of the agent himself or of others, it is evident that Benevolence, whether it prompts us to promote the virtue of others or their happiness, will aim directly or indirectly at the Utilitarian end."<sup>9</sup>

Sidgwick explains that, "though Utilitarianism and Common Sense may agree in the proposition that all right action is conducive to the happiness of some one or other, and so far beneficent, still they are irreconcilably divergent on the radical question of the *distribution* of beneficence."<sup>10</sup> And he adds:

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embedded naturally in all we do to the Artifice or its application.

<sup>7</sup> I was not able to confirm that what is referred to in Mill's *Utilitarianism* as 'Bentham's dictum', indeed exists in Bentham in the same form or wording. We can see, though, that Sidgwick refers to it as "Bentham's well-known formula, "every man to count for one, nobody for more than one"." It is unclear whether Sidgwick is directly quoting Bentham on that occasion.

<sup>8</sup> Henry Sidgwick, Book IV, chapter III, '*Relation of Utilitarianism to the Morality of Common Sense*'.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

“Here, however, it seems that even fair-minded opponents have scarcely understood the Utilitarian position. They have attacked Bentham's well-known formula, “every man to count for one, nobody for more than one,” on the ground that the general happiness will be best attained by inequality in the distribution of each one's services. But so far as it is clear that it will be best attained in this way, Utilitarianism will necessarily prescribe this way of aiming at it; and Bentham's dictum must be understood merely as making the conception of the ultimate end precise---laying down that one person's happiness is to be counted for as much as another's (supposed equal in degree) as an element of the general happiness---not as directly prescribing the rules of conduct by which this end will be best attained. And the reasons why it is, generally speaking, conducive to the general happiness that each individual should distribute his beneficence in the channels marked out by commonly recognised ties and claims, are tolerably obvious.”<sup>11</sup>

In the above Sidgwick seems to suggest that the dictum should be understood in a non-prescriptive manner (repeating): “Bentham's dictum must be understood merely as making the conception of the ultimate end precise ... - not as directly prescribing the rules of conduct by which this end will be best attained.” While working on my dissertation (*Three Essays on Bentham*) the distinction between the non-prescriptive and the prescriptive modes of philosophical enquiry became one of the leading themes. Very few philosophical systems concerned with principles of morals and legislation have properly rendered the transition from the non-prescriptive to the prescriptive mode of enquiry.<sup>12</sup> Even in Bentham's work, it is difficult to separate the two modes (or detect a disciplined transition from one to the other), despite the fact that Bentham himself sometimes mentions it, or makes distinctions that appear to correspond with the non-prescriptive/prescriptive distinction – such as the distinction between the expository ‘what is’ and the censorial ‘what ought to be’.

Since the dictum emphasizes the notion of impartiality, it also, unnecessarily perhaps, brings to the fore the quantificational notion of impartiality, the contractarian notion of impartiality. Mill writes (in *Utilitarianism*, note 3):

“This implication, in the first principle of the utilitarian scheme, of perfect impartiality between persons, is regarded by Mr. Herbert Spencer (in his *Social Statics*) as a disproof of the pretensions of utility to be a sufficient guide to right; since (he says) the principle of utility presupposes the anterior principle, that everybody has an equal right to happiness. It may be more correctly described as supposing that equal amounts of happiness are equally desirable, whether felt by the same or by different persons. This, however, is not a *presupposition*; not a premise needful to support the principle of utility, but the very principle itself; for

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<sup>11</sup> Ibid.

<sup>12</sup> Many of the political theories in existence have been conceived within a metaphysical, or even epistemological framework. But the subject of the transition from a non-prescriptive to a prescriptive mode of enquiry cannot be part of a metaphysical (or even epistemological) enquiry, since the subject belongs purely to philosophical method, and as such can only be part of a theory of meaning, in which the necessary distinction between substantive and adjectival terms can be made.

what is the principle of utility, if it be not that "happiness" and "desirable" are synonymous terms? If there is any anterior principle implied, it can be no other than this, that the truths of arithmetic are applicable to the valuation of happiness, as of all other measurable quantities”.

Mill uses a similar argument as a proof of the principle of utility (Ibid, Chapter IV, p. 439, *Utilitarians*, Anchor Books, New York, 1973):

“The only proof capable of being given that an object is visible, is that people actually see it. The only proof that a sound is audible, is that people hear it: and so of the other sources of our experience. In like manner, I apprehend, the sole evidence it is possible to produce that anything is desirable, is that people do actually desire it. If the end which the utilitarian doctrine proposes to itself were not, in theory and in practice, acknowledged to be an end, nothing could ever convince any person that it was so.”

P. J. Kelly writes, in *Impartiality: A Philosophical Perspective*: “the ideal of impartiality is not the peculiar prerogative of the contractarian tradition. One important strand of such thinking is the impartial spectator theories deployed by utilitarians but derived from Adam Smith's *Theory of the Moral Sentiments*.” Kelly’s comment brings to light the fact that the notion of impartiality seems to be a common link between contractarian theories and utilitarian (typically non-contractarian) theories. Kelly says: “The crucial idea, similar to that found in Kant's contractarian universalisability test, is that the moral point of view is the impartial point of view free from immediate passions, private interests and partiality.” And: “It should be pointed out that it was not a device adopted by the two most important classical utilitarians, Jeremy Bentham and John Stuart Mill, however it has come to be associated with the utilitarian tradition.”<sup>13</sup>

I find this point very revealing as to the nature of Bentham’s utilitarianism and its difference from Kant’s moral theory. Kant must have assumed, for the purpose of defining the categorical imperative, the existence (and validity) of an objective observer’s point of view (the imagined point of view of the person considering their own actions in light of a universal-impersonal point of view – a point of view that has no footing in the real speech situation, which has only two valid positions, those of speaker and listener – first and second person voice). In Kant, and in contemporary discussions of consciousness (primarily in analytical philosophy) the third person position is often used to represent the alleged objective personal point of view. It can be shown that because the constructs and terms of Bentham’s method are typically logico-semantic (as distinguished from logico-metaphysical) a notion of the existence of a third, objective, point of view would be meaningless, since the only interpersonal or intersubjective terms possible within such a system are derived from the positions of speaker and listener.

Diana Mertz Hsieh comments on the distinction between moral and legal equality:

“...Mill's third argument for impartialism, namely the equal moral worth of all persons. Mill cites Bentham's dictum "everybody to count for one, nobody for more than one" as "explanatory commentary" on the principle of utility (Mill 336) ... however, there is a difference between the legal and the moral equality of

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<sup>13</sup> P. J. Kelly, *Impartiality: A Philosophical Perspective*.

persons. Although all individuals might meet the requirements of legal equality (e.g. reason, free will, self-responsibility, etc.), that indicates little about the proper standard of morality.”<sup>14</sup>

Bentham’s dictum is being widely referred to in the literature on justice, but its interpretation always hinges on the interpretation of the principle of utility, which many times does no justice to Bentham’s definition of the principle. In this sense the dictum can indeed be seen as an explanation of the principle, but since the dictum emphasizes the notion of impartiality, it also, unnecessarily perhaps, brings to the fore the quantificational notion of impartiality, the contractarian notion of impartiality. In this sense the ‘dictum’ seems to confuse matters more than help settle them.

The dictum easily becomes a symbol of Bentham’s theory of justice, because it seems to address the issue of the distribution of goods and rights. It seems to represent a notion of impartiality possibly understood as ‘external’ or ‘objective’ impartiality (as derived from an external, objective, point of view), a notion that easily translates into an equal quantificational distribution of rights and goods, such as contractarians or critics of utilitarianism would adhere to. But the secret seems to be that Bentham’s notion of impartiality cannot be understood as grounded in externality – it is not compatible with an external, objective point of view. Since within Bentham’s method or system there is no such external third point of view, the dictum must be interpreted in ‘internal’ or subjective terms – the terms of the point of view of a particular participant in discourse – and for that matter (as the dictum tries to represent), ANY particular participant. The dictum simply expresses the idea that the theory as a whole is based (‘internally’) on the particular individual as a participant in the intersubjective, in life; a particular participant whose notion of justice is expressed in the modalities of his action, speech and belief (intention), - not in a definition of ‘justice’ as an external ‘substantive’ principle. Because the dictum tracks back to the principle of utility (Bentham’s version of it) and evokes the notion of justice, it might be viewed, less as an explanation of the principle of utility, and more as a principle in need of an explanation.

The secret, perhaps, to interpreting the dictum is in avoiding the quantificational denotation of the terms ‘count’ and ‘one’, and in paying attention to the fact that Bentham’s notion of impartiality is not based on the point of view of an objective observer, but on the logico-semantic construct of speaker and listener, which does not allow for such an external third.

The problem of interpreting the dictum is of ‘the eye of the beholder’ type. For example, when Rawls, or Mill, for that matter, set out to interpret Bentham’s ‘dictum’ they bring to their analyses the quantificational terminology and the assumption (which to them is self-evident) that impartiality means (and necessitates) the existence of a third, objective point of view, a point of view from which the equality of distribution or ‘impartiality’ can be judged. The internal, qualitative, property of ‘judgement’, which drives Bentham’s theory, even in matters apparently quantitative, seems to escape the

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<sup>14</sup> Mertz Hsieh Diana, *The Bias of Impartialism*, Apr 4<sup>th</sup>, 97, Forum: Washington University in St Louis, Classical Ethical Theories class.

attention of Mill, Whewell and Rawls.<sup>15</sup>

The Benthamite notion of impartiality or egalitarianism has little in common with the contractarian notion of impartiality or equality, since it is governed, not by the category of ‘substance’ but by the categories of modality (or perhaps these could be better described as the categories of ‘action’ and ‘being acted upon’). To understand this categorial difference better one could, perhaps, turn to Ogden’s *Bentham’s Theory of Fictions*.

Mill, of course, complicates matters, by employing Bentham’s dictum in the context of his own (Mill’s) discourse on social inequalities:

“The equal claim of everybody to happiness in the estimation of the moralist and the legislator, involves an equal claim to all the means of happiness ... All persons are deemed to have a *right* to equality of treatment, except when some recognised social expediency requires the reverse. And hence all social inequalities which have ceased to be considered expedient, assume the character not of simple inexpediency, but of injustice...”<sup>16</sup> (my emphasis).

Mill literally drags Bentham’s expression (the alleged dictum) into a field of discourse laden with the terms of equal distribution similar to the gist of Rawls’s work. The whole point of Bentham’s theory is, that the assessment of the realm of social justice must come from a principle internal to a person – it is a principle of judgement in its purest form – not an external principle of calculus.

A somewhat similar view of the nature of the misinterpretation of Bentham’s method is presented in Tom Warke’s *A reconstruction of Classical Utilitarianism*:

“My next contention regarding Bentham’s utility concept concerns his method of resolving conflict between psychological and ethical hedonism — his method of designating right conduct among acts with non-zero extent, affecting agents whose interests conflict due to their differing intensity responses to the relevant pleasures and pains. In my view, Bentham’s greatest happiness principle as a means of rank ordering such acts is distinguished by its egalitarian interpersonal weighting rule: “Everybody to tell for one, nobody for more than one.” Any different interpersonal weighting rule (as, for example, John Rawls would impose) generates a different ethics.”<sup>17</sup>

Warke finds, just as I have, that the problem with many of the interpretations of Bentham’s method and theory of justice, whether pertaining to Bentham’s dictum or to his definition of the principle of utility, is in the categorial divide (the difference of kind) between the method of the critic (such as Rawls’) and the method criticized-analyzed-

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<sup>15</sup> The mention of J. S. Mill, Whewell, and Rawls together here is meant to turn the reader’s attention to the fact that Mill, Whewell (a staunch opponent of Bentham), and Rawls, share more, in respect of their philosophical method (the kind of philosophy they practice), with one another than with Bentham, - a fact that would help explain Mill’s interpretation of Bentham’s dictum.

<sup>16</sup> Mill, *Utilitarianism*, V.

<sup>17</sup> Warke, *A reconstruction of Classical Utilitarianism*, the UCL Bentham Project.



interpreted (Bentham's).<sup>18</sup>

**3. What seems here (in *Rationale of Reward*<sup>19</sup>) to be a reflection of Bentham's 'dictum' sheds light on the context in which Bentham presents it: more of a limitation than an explanation of the principle of utility.**

In the *Rationale of Reward*, Bentham approaches, what can be called, with some modifications, 'Bentham's dictum'<sup>20</sup>:

“True it is, that take any man for example, it may with propriety be said, that the public has a right to his services, has a right to command his services, for that the interest of any one man ought to give way to the interest of all. But if this be true as to any one man who happens to be first taken, equally true is it of any other, and so in succession of every man. On the one hand, then, each man is under an obligation to submit to any burthen that shall be proposed; on the other hand, each man has an equal right to see the burthen imposed, not upon himself, but upon some other. If either of these propositions be taken in their full extent, as much may be said in favour of the one of them as of the other. In this case, if there were no middle course to take, things must rest in *status quo*, the scale of utility must remain in equilibrio, one man's interest weighing neither more nor less than another's; the burthen would be borne by nobody, and the immunity of each would be the destruction of all. But there is a middle course to take, which is, to divide the burthen, and lay it in equal proportion upon every man.”<sup>21</sup>

What is commonly referred to as Bentham's dictum: “every man to count for one, nobody for more than one”, has been for generations more an enigma than the explanation of the principle of utility that Mill thought or meant it to be. From the above passage it can be seen how in Bentham the idea of “one man's interest weighing neither more nor less than another's” is, to begin with, made in respect of a man's interest, - an aspect which takes us to the principle of the artificial identity of interests. But more significantly is the context here, in which the expression is presented not as something that ought to be, but as a possible undesirable given situation in which, because of the seeming 'equal' weight of one man's interest versus another's the burthen of obligation is not met properly – “the burthen would be born by nobody”. And it is this impasse that requires the burthen to be divided among the participants – the “middle course” to be

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<sup>18</sup> In his essay, *On the Definition of Political Economy*, Mill writes (p. 14, of *The London and Westminster Review*, 1836): “with the consideration of a definition of science is inseparably connected that of the *philosophic method* of the science: the nature of the process by which its investigations are to be carried on: its truths to be arrived at ... in whatever science there exist, among those who have attended to the subject, what are commonly called *differences of principle*, as distinguished from differences of matter-of-fact or detail, - the cause will be found to be a difference in their conceptions of the *philosophic method* of the science. The parties who differ are guided, either knowingly or unconsciously, by different views concerning the nature of the evidence appropriate to the subject. They differ not solely in what they believe themselves to see, but in the quarter from which they obtained the light by which they think they see it.”

<sup>19</sup> Bentham, *Rational of Reward*, beginning p. 193 of volume VII of the Bowring edition 1837 of *Bentham's Works*.

<sup>20</sup> A formulation similar to what is known as the 'dictum' is used here to address, not the question of the individual's rights, but that of his obligations – the flip side of the validity and availability of rights.

<sup>21</sup> *Ibid.*, p. 207.

taken. The whole discussion takes place under the umbrella of considerations of ‘interest’ and the influence of reward and punishment on each man’s interest and its fulfillment, - such a fulfillment always being weighed against other men’s interests, including the interest of government.

What is unique to this situation is that the ‘burthen’ is always individual, and that “there are many cases in which the individual burthen cannot be divided.” Bentham continues:

“An expedient sometimes practiced in these cases, is, instead of distributing the burthen of the office, to lay it on entire upon some one person, according to lot. This prevents the injustice there would be in laying it upon any one by design: but it does not correct the inequality. The mischiefs of partiality and injustice are obviated; but not so the sufferings of him upon whom the unfortunate lot falls. The principle of utility is in this case only partially followed. It is one of those instances in which the principle would seem to have given occasion to a wrong conclusion. According to this principle, it is said that the interest of the minority ought to be sacrificed to that of the majority. The conclusion is just, if it were impossible to avoid a sacrifice; palpably false, if it is. But to charge this as a defect upon the principle itself, is as unreasonable as it would be to maintain that the art of book-keeping is a mischievous art, because entries may be omitted.”<sup>22</sup>

So it becomes quite clear that J. S. Mill’s employment of the expression “every man to count for one, nobody for more than one” in *Utilitarianism* is not so much part of his effort to further explain the principle of utility, as it is part of an effort to undermine Bentham’s original theory (or even if we refrain from attributing to Mill this kind of subversive sentiment, there is definitely an effort here to make the ‘dictum’ his own, to serve Mill’s philosophical agenda).<sup>23</sup> In the above Bentham shows the requirement that “the scale of utility must remain in equilibrio, one man’s interest weighing neither more nor less than another’s” to lead to a division of labour, or to “lay it entire upon some one person”, and “in this case” the principle of utility to be “only partially followed”. In other words, the expression known to us, via Mill, as ‘Bentham’s dictum’, appears in Bentham as part of “one of those instances in which the principle of utility would seem to have given occasion to a wrong conclusion”. Is it, then, a coincidence that this same ‘every man to count for one’ is employed so coyly by Mill as an explanation of Bentham’s principle of utility (as part of what Bentham allegedly presents ‘censorially’, as ‘what ought to be’) - a misrepresentation to be used by future generations as a valid interpretation of Bentham’s principle of utility. Some might argue that presenting a ‘non-prescriptive’ expression as ‘prescriptive’ would not, by itself, constitute a misrepresentation. I beg to differ: Mill encourages us to think that the dictum is an explanatory comment “written under the principle of utility”, making it in effect a prescriptive substitution case for the definition of the principle – we would be expected to view the prescriptive (censorial) meaning of the principle of utility in light of the dictum,

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<sup>22</sup> Ibid.

<sup>23</sup> The suggestion made here, that Mill had an agenda concerning Bentham may sound extreme, but finds support in other texts, in which Mill directly addresses the subject of Bentham’s person and work, such as Mill’s *Bentham* (our concern here, though, is with differences in respect of philosophical method between Bentham and Mill).

thus making the dictum part of the operational requirements of the principle when applying it.<sup>24</sup> Even though the dictum is represented in Mill as an 'explanation' (and as such, part of 'analysis' – the non-prescriptive aspect of the principle), Mill's use of the dictum (via the context) posits it as part of the prescriptive-operational side of utilitarianism. We have seen in Bentham's comments in the *Rationale of Reward* how the so-called dictum is merely an expression of Bentham's own frustration with the occasions on which the principle of utility cannot be brought full term. It is for Bentham, it seems, if not a flaw, then a limitation, and as such definitely not a prescription.

Here is Mill's full wording concerning the 'dictum' (in *Utilitarianism*):

“Those conditions being supplied, Bentham's dictum, "everybody to count for one, nobody for more than one", might be written under the principle of utility as an explanatory commentary. The equal claim of everybody to happiness in the estimation of the moralist and the legislator, involves an equal claim to all the means of happiness, except in so far as the inevitable conditions of human life, and the general interest, in which that of every individual is included, set limits to the maxim; and those limits ought to be strictly construed.”<sup>25</sup>

Mill's words do reflect the limitations which the 'dictum' represents in respect of “the inevitable conditions of human life, and the general interest, in which that of every individual is included,” but his wording merely trivializes, what in Bentham is clearly presented as the making of a choice between the least harmful of two options:

“If there were no middle course to take, things must rest in status quo, the scale of utility must remain in equilibrio, one man's interest weighing neither more nor less than another's; the burthen would be born by nobody, and the immunity of each would be the destruction of all. But there is a middle course to take, which is, to divide the burthen, and lay it in equal proportion upon every man.”<sup>26</sup>

Bentham's discussion of his version of what Mill calls the 'dictum' should be seen in the context of Bentham's study of Security and Equality and the precedence given to Security when the two are in opposition. Mill in effect turns the tables on Bentham by introducing a somewhat abbreviated formulation of the same idea as 'a dictum', - as a means (and a prescription) for achieving Equality: “The equal claim of everybody to happiness...”<sup>27</sup> So much for old friends and contemporaries left to interpret one's work.

#### **4. Conclusion:**

I believe, based on other texts in which J. S. Mill comments upon Bentham's philosophical achievements and personality (such as Mill's *Bentham*), that, though, in Mill's case the evidence shows the need he had to distance himself from Bentham philosophically and personally, the divide between the two, especially as reflected in our

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<sup>24</sup> The prescriptive force given to the dictum by Mill would influence our understanding of both the principle of utility in itself, and the manner of its application.

<sup>25</sup> Mill, *Utilitarianism*.

<sup>26</sup> Bentham, *Rationale of Reward*, p. 207.

<sup>27</sup> Mill, *Utilitarianism*.

own study of utilitarianism, is primarily the result of the different kinds of philosophical method employed by Bentham and Mill – the former engaging in a theory of signification and meaning – a rhetoric at times - the latter practicing the political metaphysics we are all too familiar with. In this sense (in respect of method and kinds of method) J. S. Mill seems much closer to Whewell and Rawls, than to Bentham; while Bentham could be affiliated, in respect of method, with Hobbes on one side, and Wittgenstein on the other (at least as concerns the founding of the distinctions and principles of his theory on grammatical and semantic constructs).

Bentham's ideas of impartiality and equality are, for the most part, the outcome of a theory securely founded on semantic and grammatical distinctions and constructs, often thinly disguised as legislative terms, such as the distinction between the expository and the censorial modes of enquiry (first presented in Bentham as the two roles of the legislator) and the distinction between substantive and adjectival terms (first presented as the distinction between Substantive and Adjectival Law). And it is this foundation that allows for the proper individuation of persons and a clear sense of impartiality, while not losing (while not letting us lose) sight of the interests of others and the state.

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