

# The political realism of Jeremy Bentham

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## Abstract

Jeremy Bentham is usually seen as an anti-realist political thinker, or a proponent of what Bernard Williams has termed ‘political moralism’. This article questions that prevalent view and suggests instead that there are good grounds for considering Bentham a political realist. Bentham’s political thought has considerable commonalities with that of the sociologist and political realist Max Weber: both agree that politics is a unique domain of human activity defined by its association with power; that consequently, ethical conduct is unavoidably inflected by power in politics; that a commitment to truth in politics can only ever be contingent; and that politics has a set of basic conditions that it would be not only misguided but dangerous to attempt to transcend. Whilst it is often held that Bentham advanced a reductive framework for understanding politics, in fact, his utilitarianism was a far more realistic approach to political ends and means than has generally been acknowledged, and one that contemporary political theory realists would benefit from taking seriously.

## Keywords

Bentham, fictions, power, realism, Weber

There is an image of Jeremy Bentham as a rather unsophisticated thinker on the subject of politics that has commanded considerable assent amongst students of political thought. At the core of this critical judgement appears to be the view that Bentham lacks the intellectual flexibility to tell us anything unique about politics – that he attempts to apply his philosophical and ethical ideas dogmatically to the political realm at the expense of the nuance required to truly understand the latter

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as a unique sphere of human activity. One version of this critique is that his take on politics is a superficial one. Bentham's utilitarianism, based on a fundamental psychological hedonism, seems a parochial way of understanding human behaviour. John Stuart Mill (1985: 92), heir to the English utilitarian tradition of which Bentham was the progenitor, criticised Bentham's political thought as 'one-sided' and devoid of any sensitivity to the non-rational dimensions of human existence. Henry Sidgwick (2000: 195–218) essentially agreed that Bentham's monistic conception of human motivations made him an incomplete guide to politics. The Benthamite understanding of politics was, scolded Thomas Carlyle, a 'pig philosophy' (2010: 315), whilst Karl Marx described Bentham as 'the arch-philistine' (Pitkin, 1990: 104). Though Bentham's utilitarianism offered a neat formula for rationalising human behaviour, arguably such a reductive account was bound to be defective in the messy and complicated arena of politics.

A more precise, political-theoretical version of this objection to Bentham is that his is an 'unrealistic' account of politics, or a version of 'political moralism'. This was Bernard Williams's view (see Williams, 2014: 2; Runciman, 2017: 5), who contended that Bentham's utilitarianism emphasised the 'priority of the moral over the political', such that the political was to be taken not as an activity independent of philosophy, but as one that is properly subject to philosophical considerations of things like 'goodness' and 'truth' and, indeed, utility. Political moralism, Williams argued, makes us blind to the normative demands that politics itself imposes on actors. Likewise, an 1843 review of the publication of Bentham's collected works saw in the latter's writing the 'blending together' of 'ethical and political opinions' (Empson, 1843: 500). In this light, Bentham's approach appears either hopelessly naïve, seeking to apply a set of abstract principles with no regard to the practicalities and nuances of politics, or dangerously radical. In the second instance, Bentham's ostensible failure to distinguish politics from other realms of human activity is thought to be coextensive with a failure to recognise political constraints and realities. This was Joseph Schumpeter's criticism of Bentham in his *Capitalism, Socialism and Democracy*. Schumpeter (1994: 250) argued that Bentham's 'classical' theory of democracy – which imagines the 'democratic method' as that which posits a 'common good' to be realised by 'making the people itself decide issues' either literally or through mandated delegates – was dangerous because it demanded a participatory form of politics that was simply unfeasible and would necessarily lead to frustrated expectations and disillusionment with government itself. Goethe more biting called Bentham 'that frightfully radical ass' (Pitkin, 1990: 104).

None of these views gives an accurate picture of Bentham's political thought, because they are all based on a fundamentally mistaken premise. In fact, Bentham is an insightful commentator on politics precisely because he understood the specificities of politics as a unique domain of human activity. Partly, the frequent depiction of Bentham as a political moralist is a consequence of the fact that he is conventionally cast as engaging in the activity of political philosophy, seeking to apply his philosophically derived ethics to politics (cf. Nussbaum, 2004; Williams,

2014). Recent specialist scholarship, however, which focuses on Bentham as a theorist of the ‘art and science’ of government, opens the door for a different reading of the utilitarian forefather: as a realist deeply concerned with the peculiar conditions under which political decisions are made (see Engelmann, 2008). This article complements that scholarship and seeks to describe some aspects of Bentham’s work in political realist terms. Whilst in many ways Bentham’s political thought *became* realist over time and in particular as a result of his ‘discovery’ of sinister interest, in fact, the kernels of his realism can be discerned in some of his earliest writings.

The purpose of this article is to establish the affinities between Bentham’s political thought and a particular, Weberian form of political realism. It will first offer an outline of the main principles of a Weberian approach to politics, which include an appreciation of power as the central concept in the political realm, a recognition that ethical conduct in politics cannot be articulated purely in terms of philosophical conviction, a pragmatic attitude towards truth in politics and a scepticism about revolutionary attempts to change the fundamental conditions of politics. Following this, Bentham’s political thought will be assessed against these basic principles. A concluding section will suggest that the history of political thought can help us to see why Bentham has so infrequently been viewed as a realist, as well as indicating that Bentham himself offers an important lesson to contemporary proponents of political realism: that they should take seriously the very real consequences of fictions in the political domain.

## What is political realism? A Weberian approach

Academic interest in the school of political theory realism has increased significantly in the last few decades (see Galston, 2010; Rossi and Sleat, 2014). The realist church includes a range of figures, including the likes of Bernard Williams, Raymond Geuss, Richard Bellamy, John Gray, Enzo Rossi and Matt Sleat, whilst self-identifying realists make appeals to a variety of posited intellectual forefathers, from Thucydides to Carl Schmitt via Machiavelli, Hobbes and Nietzsche (Sleat, 2013: 2). Here is not the place for a detailed examination of the numerous different versions of political realism, however. The focus of this article is on a specific brand of realism advanced by Max Weber, a thinker widely recognised as one of the preeminent realist theorists in the canon of political thought.

Weber himself would not have considered the work he did as political theory as such, but as something more akin to political sociology. Nonetheless, Weber’s *Politics as a Vocation* – originally a lecture delivered to Munich students in the turbulent aftermath of the First World War – is one of the key realist texts of the 20th century (Weber, 2004: xxxix–lxii). His account of politics can be distilled into four basic tenets: that power is the decisive and determinant feature of politics and distinguishes it from other types of human activity; that politics therefore has its own ethical imperatives that cannot be understood simply from a standpoint

external to it; that the commitment to truth in politics must thus be conditional; and finally, that attempting to overturn the basic conditions of politics was quixotic and likely to have harmful consequences.

For Weber (2004: 33), politics is that sphere of human activity specifically concerned with power, and the violence that sits behind power. It is not, he argues, to be understood by an enumeration of its activities, but by ‘the specific means that are peculiar to it’: violence (2004: 33). Famously, Weber (2004: 33) defines the basic political entity, the state, by its relationship with violence: ‘the state is the form of human community that (successfully) lays claim to the monopoly of legitimate physical violence within a particular territory’. More generally, Weber (2004: 33) says that to concern yourself with politics is in essence to concern yourself with the use of and competition for power:

When we say that a question is ‘political’ . . . we always mean the same thing. This is that the interests involved in the distribution or preservation of power, or a shift in power, play a decisive role in resolving that question, or in influencing that decision or defining the sphere of activity of the official concerned.

Questions of politics are indissolubly questions of power, and this gives political decisions and actions a unique inflection that distinguishes them from decisions and actions in other human spheres, like that of law or philosophy.

To this end, Weber argued, politics necessarily has its own ethical imperatives and cannot be judged solely on the basis of pre-political values. The majority of the *Politics as Vocation* lecture is a sociology of the modern state, but in the latter part, Weber takes on the question of the relationship of ethics to politics. He asks whether ‘the ethic that applies to political action is “the same ethic” that holds true for any other community’ (Weber, 2004: 80). Weber decisively rejects this view, but he also rejects the opposite supposition, that politics therefore is devoid of ethical content. Rather – and this is what makes Weber’s argument distinctive – ethical convictions are modulated in the domain of politics: ‘Can the ethical demands made on politics really be quite indifferent to the fact that politics operates with a highly specific means, namely power, behind which violence lies concealed?’, Weber (2004: 81) asked. His answer, unambiguously, was no.

Weber was hostile to suggestions that ethical values could be pursued straightforwardly in politics without regard to the consequences involved. He was a critic, therefore, of what Bernard Williams terms ‘political moralism’ (Williams, 2005: 2), or an ‘absolute ethic’ as he called it himself (Weber, 2004: 82). Such an approach to politics was in fact apolitical, because it was indifferent to the implications of utilising the specific means of power when acting in this domain. Political moralism sees consequences as the responsibility of ‘the world, the stupidity of men – or the will of God who creates them thus’. For Weber, a responsible political actor answers ‘for the (foreseeable) consequences’ of their actions, and thus

an absolutist approach to the political domain was profoundly irresponsible (Weber, 2004: 83–84).

Since Weber thought that pre-political values could not be pursued absolutely in the political realm, and that political actors had to consider the consequences of their decisions when weighing up what course of action to take, it followed therefore that any commitment to truth could only be a conditional one. ‘For an absolutist ethics’, he remarked, ‘this duty [to tell the truth] is paramount’. Yet unconditional commitments of this kind in politics constitute a fundamental derogation from the basic responsibility of the political actor – ‘to inquire about “the consequences”’ (Weber, 2004: 83). The political moralist stipulates that the actor must always tell the truth, if morality demands it; the political realist says that whether or not to tell the truth would depend on the political consequences of doing so.

Finally, Weber was sceptical that the fundamental constraints of politics could be transcended by human endeavour. More than anything else, his lecture was intended for those young, idealistic people in post-war Germany who believed that society could be transformed into some communist utopia. Weber wished to convince them that they could not afford to be indifferent to the consequences of their actions, because the ends they sought would never justify the suffering that could result from the attempt to realise them. However, Weber did believe that certain institutional structures were observably ‘better’ at practising politics than others. Much of the sociological part of his lecture (Weber, 2004: 49–79) is concerned with demonstrating how party, parliamentary democracies like the United Kingdom (and unlike the Germany that Weber had lived in up until that point) were more effective at generating political leaders who understood the environment they operated in and the tools available to them. The institutions of these political forms inculcated responsibility, because they organised power relations in a way that was conducive to the selection of effective political leaders. Weber believed that changes in politics had to be affected through institutions (the concrete manifestations of power), but he was sceptical of revolutionary changes to institutions that sought to transcend the basic logic of politics itself.

Of course, not every contemporary realist agrees with everything that Weber said. For example, Williams – one of Weber’s more prominent champions – pushed back on the suggestion that commitments to truth in politics must only be contingent (Williams, 2002). Nonetheless, Weber offers one of the clearest and most concise outlines of a realist framework that is committed to the view of politics as a relatively autonomous domain of human activity, defined by its association with power, and in possession of its own ethical imperatives. And importantly here, he provides a useful segue to the political thought of Jeremy Bentham.

### **Bentham, politics and power**

To some extent, it is unsurprising that connections between Weber and Bentham might be drawn. Most obviously, both advocated consequentialist frameworks for

understanding politics. Nevertheless, Bentham's approach is frequently seen as the polar opposite of political realism. Williams (2014: 313) categorises him as a particularly doctrinaire ('intransigent', to use his word) moralist, who saw politics not as a distinctive domain of human activity, but simply as a sphere in which abstract moral principles were to be applied and realised. Utility, the extent to which some course of action maximises happiness and minimises pain, represents a pre-political value by which all political conduct might be judged and evaluated. For Williams (2005: 2), Bentham typified an attitude that saw politics as '(very roughly) the instrument of the moral', and political theory as 'something like applied morality'. But was Bentham the kind of antirealist that Williams described and that so worried Weber in post-war Germany? Perhaps there are reasons to doubt this view.

As alluded to in the introduction, one reason for questioning this image of Bentham concerns what he actually thought he was *doing* when writing about politics. For Williams, Bentham fits into a lineage of thinkers that includes Immanuel Kant and John Rawls who have sought to apply their normative, ethical ideas straightforwardly in the political domain. Politics in this mode of thinking is just another undifferentiated place where philosophy is applied. These are, however, rather anachronistic terms in which to discuss Bentham's work, for in his political treatises he was just as concerned with the study of politics and government as unique phenomena in themselves with their own set of structural rules and imperatives (Engelmann, 2008). Considered from this standpoint, Bentham seems more comfortably situated alongside political theorists like Weber than political philosophers like Kant; indeed, as will be argued later, Bentham's views on issues such as the place of truth in politics are starkly un-Kantian.

One notable dissenter from the conventional view of Bentham as a reductive moralist is the Cambridge political theorist David Runciman. There are defects with Runciman's account of Bentham, particularly his charge that the latter was 'insufficiently sensitive' to the nonrational dimensions of human motivation and behaviour. Nonetheless, Runciman is relevant here because he acknowledges a central realist element to Bentham's work. Bentham, Runciman observes, as with most realists, was preoccupied by the functionality of power. Indeed, Bentham believed that it was necessary to clear away the 'smokescreen' of 'moralised language' – particularly the 'nonsense', as he called it, of natural rights – in order to grapple with what really drives politics: power (Bentham, 2002; Runciman, 2017: 5–7).

It is probably an accurate assessment to say that Bentham came to this view, rather than it being deeply entrenched in his earliest works. Nonetheless, that Bentham believed politics was intimately connected with questions of power is evident even in his first major treatise, the *Fragment on Government*, published in 1776. In this work, Bentham was concerned with the origins of political authority, and what he took to be a particularly faulty conception of it that was in vogue in the 18th century. The *Fragment* is predominantly a critique of social contract theory, and specifically the articulation of this theory by William Blackstone, a highly influential common law jurist and the first Vinerian Professor of English

Law, whose lectures Bentham had attended as a young student at Oxford. Bentham ridiculed the idea that there could have been some pre-political point in time where authority was established by law at a single, historical moment as a 'chimera' that he thought had already been 'effectively demolished' by David Hume (Bentham, 1977: 439). Hobbesian theories (as he understood them) of sovereignty as established by an act of law and expressed in the form of commands were faulty. Rather, sovereignty was more akin to a relationship of power: that body which holds such political authority was, he wrote, 'a person, or an assemblage of persons, of a known and certain description' to whom 'a number of persons... are supposed to be in the *habit* of paying *obedience*' (Bentham, 1977: 438, my emphasis). Political relationships of power predated legal authority, not the other way around. Revealingly, Bentham himself considered what he was advancing to be a more realistic account of the relationship between power and obedience than that posited in the orthodox, social contract theories he was criticising. Indeed, as Bentham noted in the *Fragment*, theorists like Blackstone admitted themselves that the 'original contract is a thing... that never had any existence', even at the same time that they asserted that such a contract was 'actually made' (Bentham, 1977: 438). In contrast, Bentham wished to ground his theory of the relationship between power and obedience in the historical reality of actual governments that we have 'account of', which showed that obedience to constituted authority was not the product of consent expressed via a formal contract, but rather was 'gradually established by habit, after having been formed by force' (Bentham, 2002: 331).

Bentham's conception of the nature of politics was derived from his rejection of social contract theory as a plausible explanation for political authority. Power, as Bentham saw it, was the very foundation of politics itself, and thus constituted the most basic dimension to political activity. This is not to say that Bentham believed all political relationships to be coercive ones; like Hume (and indeed, like realists such as Bernard Williams), Bentham thought that the key to political authority was legitimacy and consent, not brute force (Hume, 1994: 16; Williams, 2005: 1–17). Nonetheless, power was an irreducible and ineradicable part of politics in Bentham's mind, and there is a recognition in his work of the arbitrariness that exists behind political society.

Bentham's view that political authority and its origins could not be understood in merely legalistic terms represents a realist seedling in his political thought. However, Bentham was far from adopting a position akin to political realism in his early work. Indeed, as a younger man, he thought that his utilitarian prescriptions could be applied fairly straightforwardly in the political domain; all that was needed was to enlighten the ruling few and to demonstrate to them the truth of his utilitarianism. The only thing that had got in the way of progress thus far, to his mind, was 'inattention and prejudice', and rational argument alone would be enough to convince governors to deliver reforms (Bentham, 1977: 508). Bentham may well have always believed politics to be tied up with questions of power, but in thinking that merely greater enlightenment would pave the way to political change, he was adopting an unrealistic position in his early work.

It might be argued that in presenting his reasoned utilitarian proposals to the rulers of the pre-revolutionary *ancien regime* – especially given the widespread enthusiasm in the period for legal codes and the relative receptiveness of enlightened rulers like Catherine the Great to them – Bentham was simply pursuing the most realistic approach for securing political reform available at the time. It might also be suggested that Bentham, in his preference for appeals to constituted authority over more revolutionary approaches, was always something of a realist. However, a more plausible reading is that Bentham *came* to be more realistic, and that the key development for Bentham's political realism was his recognition that power would continue to trump reason in the political domain, for it is this that anchors Bentham's scepticism about the capacity of enlightened arguments (utilitarian or otherwise) to affect change in politics. As a number of scholars have testified, Bentham's perception of 'sinister interest' was the most decisive progression in his political thought, and arguably the key to explaining his later advocacy of representative democracy (Crimmins, 1994; Dinwiddy, 1975; Schofield, 2006: 109–136). Interests become 'sinister' for Bentham when the particularly narrow ones of individuals in power were opposed to what is in the common interest of all. It was not a lack of knowledge that was standing in the way of reform, but structural interests juxtaposed to that of the community of a whole. Humans are self-interested creatures, and no amount of logic and explanation can convince people to act against their interests. The problem, however, is when such self-interested activity is performed by those in positions of power who ought to be acting in the interest of those over whom they rule. Clear evidence for Bentham of the pernicious influence of sinister interest could be found in the failure of his panopticon prison scheme in the 1790s and the first decade of the 19th century – where a powerful family had intervened to veto its construction near Woolwich Dockyard – and in the legal system, which was rigged to serve the interests of lawyers and judges, not those of the people (Bentham, 1838–1843b: 5; Schofield, 2006: 109–123). In these cases, those with power possessed the means to pursue their narrow self-interest to the detriment of the community as a whole. Politicians, judges and lawyers were expected to be acting in the interests of the people, but instead they were using their power to further their own ends at the expense of the 'universal' or 'democratical' interest. As he put it in 1822, what he had previously attributed to a lack of enlightenment he now realised was 'the elaborately organized, and anxiously cherished and guarded products of sinister interest and artifice' (Bentham, 1977: 508). The determinants of politics, Bentham came to recognise, were not rational argument and the pursuit of truth, but interests and the capacity of individuals and groups to safeguard them. His uncovering of sinister interest revealed to him that reasoning was instrumental.

It is in Bentham's opinion that politics is a domain of human activity uniquely concerned with power and in which power is the primary means available to political actors that he reveals a basically sceptical, realist outlook comparable to that of Weber. Indeed, in his attention to the role of interest in the workings of politics, Bentham might also be associated with a number of contemporary scholars who

understand a scepticism about the power of reason in politics to be a fundamental component of political realism (see McQueen, 2020: 141–161; Sleat, 2016: 32).

## Utility in politics

At some level, though, this is not the especially interesting dimension of Bentham's thought. The view that politics is a domain uniquely concerned with power is a necessary component of political realism, but it is certainly not an exhaustive definition of it. Another central aspect of the realist worldview is the specific relationship that it posits between politics and other fields of human activity. This is partly to do with Weber's teaching that realism is not so much a matter of the ends that one seeks, but of the relationship that one posits between political means and ends. For Weber, realism consists of an awareness of the peculiar political responsibilities of using power when pursuing some end. But it is more than just that: it is about how power works to actually shape the ends that one seeks when acting politically. Williams's criticism of Bentham as a moralist is relevant here, for he contends that the ends that Bentham derived from his utilitarian ethic were entirely unaffected by the contextual factors involved in trying to pursue them through politics. This section will challenge that interpretation of Bentham, and it will do so by demonstrating that for him, 'utility' was a far more complex and politically sophisticated concept than it is often portrayed to be by its critics.

Realists do not advance a monolithic stance on the place of morals – or what Weber called 'conviction' – in politics. Some realists consider politics to be effectively amoral and value pluralistic. Others suggest that politics has its own specific ethical ends (these are proponents of what is usually termed *raison d'état* or *realpolitik*). We might think of Weber as putting forward a softer political realism, one that sees the validity of convictions in politics, but demands that political actors take responsibility for the fact that they are using the morally hazardous means of power in pursuing their convictions (Rossi and Sleat, 2014: 690). That Bentham had strong moral convictions is incontestable. Bentham was a committed utilitarian, and utility in his formulation constituted the extent to which a given action is productive of happiness. He proposed the 'principle of utility' as the sole determinant of *morality*, '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' (Bentham, 1996: 12). In politics, Bentham was consistent: 'the right and proper end of government in every political community is the greatest happiness of all the individuals of which it is composed' (Bentham, 1989: 232). He was certainly, then, no value pluralist. This uncompromising and apparently objectivist conception of utilitarianism is why Bentham is frequently seen as an anti-realist, since utility appears to be posited here as a universal (pre-political) metric against which to judge politics.

Such a reading, though, depends on a very superficial understanding of utility itself. Most importantly, Bentham did not consider utility to be some real, objective thing that exists independently of the judgement of particular people in

particular circumstances. He did not imagine it to equate to ‘a uniquely determined common good that all people could agree on or be made to agree on by the force of rational argument’, as Schumpeter (1994: 251) puts it in his depiction of the utilitarian worldview. And nor was utility a unitary phenomenon like economic rationality that can be measured along a single axis. Rather, utility was the outcome of a complex calculation of *all* the relevant circumstantial factors – costs, benefits, advantages and disadvantages – in a given context, and for Bentham, utility could not be disaggregated from the particular and subjective assessments of individuals (Ben-Dor, 2000: 29). It is easy to misinterpret Bentham’s advocacy of utility as being ‘instead of’ the promotion of other values like freedom or welfare, but in fact these values constitute relevant considerations in the assessment of utility itself (Pitkin, 1990: 106). To this end, Bentham’s utilitarianism was far more compatible with the type of political calculations that realism advocates. Political and circumstantial factors, such as the likelihood of a measure being successful, the trade-offs between competing values and the use of the coercive means of power, are all factors to be considered in establishing the utility of a given course of action. Utility calculations, in other words, are post-political, not pre-political, and this makes for a sophisticated tool of political analysis (Engelmann, 2001). So, whilst pursuing the principle of utility was always and everywhere the right course of action to pursue for actors (including political ones) in Bentham’s reckoning, what actually constituted utility in a given scenario was complex and circumstantial.

One challenge to the interpretation that I am offering is Bentham’s efforts at legal codification. Bentham’s aspiration to produce a *Pannomion* – a complete and comprehensive body of laws that would provide an ‘interwoven rationale’ for each of them – was a concerted effort at simplification and unification (Schofield, 2006: 240), and its tendency towards universalisation rubs up against the more nuanced reading of his work offered here. Michael Oakeshott (1962: 25–26) considered Bentham’s project to be one of vulgar rationalisation: the pursuit of a ‘purely speculative idea’ and the rejection of tradition, custom and contextual particularity. The desire to compose a complete and exhaustive code of laws seems a typically unrealistic enterprise, because in its universalism it elides the specificities of context that are so important to the political realist. But here too, further investigation reveals the subtlety of Bentham’s thinking. As Stephen Engelmann and Jennifer Pitts (2011) have shown, Bentham argued strongly that cultural and historical factors should play a part in utilitarian calculation. Though he believed pleasure and pain were ‘constants of the human condition, and that the goal everywhere should be the maximization of pleasure and minimisation of pain, *i.e.*, the promotion of happiness; different individuals, however, find pain and pleasure in different things’, and these differences were the consequence of temporal and geographical context (Engelmann and Pitts, 2011: 49). For example, as an introduction for his uncompleted *Pannomion*, Bentham penned a fascinating chapter entitled ‘Place and Time’, which heavily qualified the universal applicability of his codification project. Amongst other things, Bentham in this piece declares that:

1. No law should be changed, no prevailing usage should be abolished... without some specific assignable benefit [which] can be shewn as likely to be the result of such a change. 2. The changing of a custom repugnant to our own manners and sentiments, for no other reason than such repugnancy, is not to be reputed as a benefit. (Bentham, 2011: 173–174)

Once again, we see that contextual factors played a central role in Bentham's utilitarianism. That he gave these factors weight is not an indication of a value pluralism; the pursuit of utility everywhere remained a moral imperative to Bentham. Rather, it evidences a realistic approach to politics, one in which historical and cultural, as well as political context all have a bearing on the calculation of utility in different settings.

### Political fictions

Weber mentions another issue for political realists, and that is the question of truth. As he puts it, an individual endorsing an 'absolutist ethic' in politics is compelled to tell the truth irrespective of the consequences, whereas a responsible political actor is always obliged to consider the consequences in weighing up what to say or do. There are a few ways to think about this: one is to consider the question as one about telling the truth or lying. The political realist must acknowledge the possibility that lying about something may be the best thing to do in a particular situation (Philp, 2010: 474). Bentham had something to say about this, for he felt that determining ethically what to say depended on the consequence of saying a given thing: 'except in so far as in some shape or other it leads to and is productive of well-being... what is the value of all the knowledge in the world? – Just nothing' (Schofield, 2006: 26). Generally, Bentham thought that truth and utility were 'mutually supportive' in the sense that 'whatever was true was useful and whatever was useful was true' (Schofield, 2015: 1127). Nonetheless, Bentham did foresee occasions when truth and utility might diverge. In particular, he addressed Kant's problem of whether to tell the truth when 'a madman or assassin, with a naked weapon in his hands, asks whether his intended victim be not there'. Kant says that no right to diverge from the truth can be ever be derived from reason. It is telling that Bentham comes down firmly against Kant, arguing that there are cases like this one when people might be 'properly permitted' to lie (Bentham, 1838–1843d: 267).

Another way to think about this issue is to conceive the question as one between truth and *fiction* – of between describing how the world is in point of fact, and not. Political realism is often thought to be a reductively rationalist framework that describes politics purely in terms of empirically observable interests and power; but realism, as Galston (2010: 408) puts it, calls rather 'for a more complex moral and political psychology' – one that is sensitive to the nonrational and fictional, as well as rational dimensions of human behaviour. This is the primary realist criticism levelled at Bentham mentioned above. As Runciman (2017: 7) contends, 'Bentham

was insufficiently sensitive to the ways in which the attempt to ground political argument in the language of force neglects the capacity of other sorts of arguments to move people successfully'. Bentham's utilitarianism, arguably, is blind to the imaginary and fictive components of human motivation because it seeks to ground a theory of politics in real and observable entities like pleasure and pain.

It is easy to see why this interpretation has proven persuasive. Bentham of course was the great scourge of fictions in the field of jurisprudence. He censured the operations of English law – and especially common law – as riddled with 'fiction, tautology, technicality, circuitry, irregularity, inconsistency', all 'locked up in an illegible character' (Bentham, 1977: 411–412 n), and he was critical of the language of natural rights for its unreality. Particularly in his early treatises, Bentham comes across as the archetypal Enlightenment *philosophe*: an unabashed champion of illuminating reason and logic against the mystique and superstition that had previously surrounded politics. With, as he declared in the *Fragment*, 'the season of fiction . . . now over' (Bentham, 1977: 441), politics could be rationally reordered upon utilitarian principles. Fictions appear in the work of the early Bentham as an unqualified evil to be combatted.

However, the picture becomes more complicated the deeper one digs. Bentham's almost hubristic pronouncement of the end of the 'season of fiction' was the assertion of a relatively young man (he was 28 when the *Fragment* was published). As noted above, the seminal moment in Bentham's developing realism was his conceptualisation of sinister interest and this came considerably later. It was after his 'discovery' of sinister interest that Bentham came to recognise that the place of fictions in politics was not merely a question of truth and untruth (or of 'inattention and prejudice', perhaps), but of power.

It is also important to be specific about what Bentham meant by a fiction. Rather unhelpfully, CK Ogden (2001) has referred to Bentham's 'theory of fictions', which imposes an anachronistic unity on his thought. Schofield (2006: 2) has correctly qualified that Bentham really had a 'theory of real and fictitious entities', and he considered 'fictitious entities' – which were a sort of necessity of language – to be very different to 'fictions' – which were closer to falsehoods. Whilst this is not the place for a deeper inquiry into his philosophical distinctions between fictitious entities and fictions, it is worth noting that Bentham thought at length about *fictions*, and his normative approach to them was complex.

Bentham was a critic of a number of fictions as he saw them; but he was a critic of them not because they were untrue yet ultimately irrelevant statements about the world, but for the precisely opposite reason: because they were consequential, and because he deemed their consequences to be detrimental to human happiness. Early on, Bentham censured fictions like the social contract theory of the origins of government, not just because they were 'chimerical', but because of the consequences that telling them had. In this instance, the fiction of the social contract had anarchical tendencies that undermined the order and the authority of constituted government. It suggested that governments are subject to a pre-political contract, which if broken would legitimate populations disobeying their rulers. For realists,

this cannot be justified, because it compromises the *sin qua non* of politics itself: stability and order. (Galston, 2010: 408).

What really concerned Bentham were what he termed ‘flagitious’ fictions – those that hid the pernicious abuses or usurpations of power. One example concerns fictions used by the judiciary. Bentham believed that judges used fictions when they wished to apply existing law to new areas, and that this was flagitious because it disguised the fact that they were in fact innovating and generating legislation, which it was not in their gift to do. For Bentham, judges were empowered to *judge* the application of the law; it was the place of legislators to *legislate* (Harrison, 1983: 32–33). What perturbed him about these fictions was not simply that they were falsehoods, but that they had for their object ‘the stealing legislative power, by and for hands which could not, or durst no, openly claim it – and, but for the delusion thus produced, could not exercise it’ (Bentham, 1977: 509). It was flagitious fictions that Bentham wished to expose, for they helped the unelected judiciary usurp the powers of the legislature, which was elected by and properly subject to the people as a whole.

But Bentham did not think all fictions were flagitious, because not all fictions necessarily function to mask the abuse of power. And conceivably, if a fiction were to have, for example, the consequence of protecting people from the abuses of power or of being misruled, then such a fiction would be politically justifiable. To modify one of Bentham’s own maxims, if a fiction worked to empower the disempowered many, it would not be a vice, but a virtue from a realist’s perspective (Bentham, 1838–1843c: 222). In fact, Bentham saw plenty of fictions that worked to ‘give those on the receiving end of power’ protection and agency, and he was prepared to countenance them if they performed such a role, even if they contravened his more philosophical concern with devising an empirically rooted utilitarianism (Runciman, 2008: 136). Whether or not Bentham consented to the use of a fiction depended not merely on philosophical conviction, but whether the consequences of using a fiction for relationships of power could be justified.

A couple of examples help to illustrate just how adaptable this made Bentham’s approach to fictions. In his *Book of Fallacies*, Bentham discusses the notion that ‘the King can do no wrong’. One dimension of this aphorism clearly contravenes reality: the notion that ‘whatever the king does is right, because he does it’, is plainly false, for the king is but a man like any other and is thus fallible. It is a fiction, in that it is not a statement of some empirical reality. Yet Bentham also perceived a ‘salutary’ or useful dimension to this fiction, and that is that it actually could work to protect people from the misuse of power, for ‘the king can do no wrong’ can also be translated in ‘plain and proper expression’ as ‘for whatever act the king as such performs, some other official person appointed by him is, in a penal sense, responsible’ (Bentham, 2015: 346). This would help prevent those in government who are actually capable of wielding power from hiding behind the authority of the king: if the king can do no wrong, any error he makes must be on account of the poor counsel or even deception of those that advise him. The fiction of the king’s infallibility did not, therefore, disguise the misuse of power, so much

as it helped to prevent it. Bentham recognised the *ambivalence* of fictions in politics; in some situations, they may be an accessory to abuses of power, but in others, they may provide a security against it. Another example of what might be thought of as a useful fiction can be found in Bentham's constitutional writings for the Kingdom of Tripoli. Here, Bentham prefaces his utilitarian constitution with a proclamation to be given by the sovereign of Tripoli to his subjects. This proclamation would describe a visitation from the Prophet Mohammed, in which the latter commands the Pasha to 'provide for the wants of [his] people' and to 'call the people around [him], and thus shalt [he] then know their wants' (Bentham, 1990: 75). This was, of course, a fiction for Bentham – an account which did not correspond to reality. But he sanctioned its use because it would have the effect of lending legitimacy to a constitutional settlement that he believed would increase the aggregate happiness of the people of Tripoli. Indeed, a second address to be given by the Pasha would acknowledge the principle of utility as his 'only right and proper end in view and object of pursuit' and would establish 'rights and securities...the securities against misrule: securities against abuse of power on the part of the Sovereign or those in authority under him' (Bentham, 1990: 78).

A final fiction that Bentham discussed is a quintessentially democratic one: that the people are infallible (Runciman, 2008: 137). Of course, Bentham did not think the people were truly infallible; humans are by nature perpetually prone to error, and he foresaw occasions when people might not correctly perceive what was in their interests. Nonetheless, Bentham maintained that the people should be treated *as if* they were infallible, in order that the ruling few might never become detached from those that they serve. Bentham worried that if rulers could treat the people as fallible, they might feel emboldened to disregard the pronouncements of the people through public opinion and in elections. This, he believed, was a recipe for misrule, and the fiction of popular infallibility was a vital security against such misrule (Bentham, 1999: 144).

In recognising the relevance of contextual factors when deciding whether or not a *fiction* was legitimate, Bentham put forward a realist position. He may have lamented the need for fictions from a philosophical standpoint, because he believed that fictions were incompatible with the rational framework that he desired for explaining human behaviour. But he also recognised that this conviction should not stand in the way of fictions that might function to protect people and promote utility. To privilege neat formulas and truthful accounts of reality over those things that might actually work practically to empower the powerless – or in his words, to prefer 'regularity' over happiness – was an untenable political position for Bentham (1990: 124–125). It was to him some version of making the perfect an enemy of the good. Runciman's reading of Bentham as a one-dimensional rationalist seems an unfair one, then (and it clashes with another he offers in 2008: 116–141). What made Bentham's thinking on the topic of fictions realistic is that he saw their capacity to shape how we experience political reality

and judged them according to whether or not they worked to check power or to facilitate its misuse.

## Realism and revolution

Bentham was not only a committed utilitarian but, after the turn of the 19th century, a committed democrat too. His utilitarianism, in conjunction with his perception of sinister interest, had a distinctly democratic logical terminus: the only way in which misrule could be prevented and utilitarian policies pursued in government was for the interests of those in power to conform with the general interest of all, and to do this, Bentham thought that the governing few ought to be rendered dependent on the governed many. Thus, whilst democracy was not a sufficient guarantor of utility in politics, it became in Bentham's mind a precondition of it (Rosen, 1983: 48–54). Once again, however, realism is less a matter of the ends that one seeks than the political means that one proposes in pursuit of them. How, then, to make political society more democratic? Bentham came to believe that good ideas would only be useful if those wielding power were prepared to implement them, and those interested in democratic policies – the people – were certainly not in possession of significant political power in the politics of the turn of the 19th century. Bentham thus dedicated his later life to drawing up constitutional codes that would entrench the power of the people, in order that those to whom governors would be subject would also be those who had an interest in utility being pursued; that is, the people as a whole, for 'what interest have they in being governed badly?' (Bentham, 1838–1843a: 445). In the *Constitutional Code*, Bentham (1983a: 25) wrote that sovereignty ought to reside in the people, and that they should be the final political arbiters in a representative democracy. High-minded ideals like natural rights would not do. What was required were concrete changes in power relationships via constitutional and institutional reforms.

But the matter is more complex than this, for it was also clear to Bentham that institutional change can be made in varying differing ways with correspondingly different political ramifications. By what means should democratic constitutional change be prosecuted? The first thing to say is that Bentham was sceptical that the fundamental conditions of politics could be altered in order to make such reforms. In particular, he did not believe it possible to overcome the basic distinction between the governing few and the governed many and enable the people to literally rule themselves (Rosen, 1983: 13). A state in which all people ruled 'would be – not government, but the absence of all government' (Bentham, 1989: 238). The nature of government and political order for Bentham was in itself the division between rulers and ruled; to attempt to transcend this was to attempt to eliminate political order altogether. Bentham it might be said was sceptical about changing the basic nature of politics on two counts: he came to see it as quixotic to believe that reasoned arguments would convince self-interested actors to act selflessly, but he also believed that the institutionalisation of more

democratic power arrangements could not be achieved by making the people as a whole literally governors themselves.

Bentham's eventual repugnance for the French Revolution is a case in point, since the Revolution to him manifested two distinctly unrealistic approaches to democratic reform. Bentham of course agreed with many of the principles of the Revolution. He agreed on the necessity of redressing the balance of power between the ruled many and the ruling few in favour of the former, and he was no opponent of rights as protections for individuals themselves, but only a particular, defective conception of them. He was also initially positive about events in France; he was good friends with Jacques-Pierre Brissot and corresponded with Mirabeau, and he wrote constitutional proposals between 1788 and 1789 on the composition of the national legislature and the mode of representation that ought to be adopted (Bentham, 2017: 84–85; De Champs, 2015: 93–108). In 1792, he was even made an honorary citizen of the new French Republic. But as the French Revolution evolved, it was clear to Bentham that it was pursuing entirely laudable principles via dubious means. Firstly, it sought to assert arguments for the protection of individuals in place of actual, substantial securities in the form of positive laws. Significantly, the arguments the Revolution's proponents deployed were undermining the capacity of real governments to offer legal securities. The 1795 *Declaration of the Rights of Man and the Citizen*, and the natural rights it affirmed, aimed at democratic ends but in practice had the adverse effect. Statements about the rights you would like people to have, argued Bentham, were not the same as legislating and providing for those rights in practice. 'Hunger', Bentham famously remarked, 'is not bread' (Bentham, 2002: 330). But worse than that, the *Declaration* (and its attendant natural rights) was a 'Compleat code of Anarchy' (Bentham, 1988: 284): it suggested that individuals themselves ought to determine whether or not they were obligated to obey a government, which challenged the capacity of governments to enforce rights by compelling individuals to respect them. The idea, he asserted, that everyone has a natural and 'unbounded' right to liberty, which if contravened would invalidate the authority of a government, was a recipe for chaos, since 'all rights are made at the expence [sic] of liberty: all laws by which rights are created or confirmed. No right without a correspondent obligation' (Bentham, 2002: 334). Arguments for natural rights, or what Bentham called 'nonsense', were not only inadequate, but dangerous, and the anarchy they promoted would leave people worse off. Secondly, the revolutionaries in Bentham's mind were attempting to transcend the basic conditions of politics. Jacobinism played up to the aspirations that the people could literally rule themselves, which violated the basic political truth that government is the activity of the few over the many (Schofield, 2004: 396–397). It suggested, in other words, that the relationship between governors and the governed ought to be abolished. Even if Bentham agreed with the values that the Revolution invoked, he could not sanction the revolutionary means of attaining them because of the consequences they would have.

Indeed, Bentham displayed a much more general antipathy towards revolution, which he believed could never be justified from a utilitarian standpoint. Despite his eventual praise for the United States, Bentham was a critic of the American Revolution too. ‘No government’, he wrote in the 1780s, ‘can be so bad that a friend to mankind should be justified in advising revolt in order to substitute to it any other form of government’ (University College London Library 170.199). As Emmanuelle De Champs (2015: 119) puts it, Bentham ‘believed that political stability was a necessary condition for reform and the responsibility of rulers was to work within existing expectations’.

As noted above, context, both geographical and temporal, also played an important role in Bentham’s political views. Bentham was concerned that the Jacobin programme for democracy being instigated in France would be replicated in England, with disastrous consequences. It was not that Bentham repudiated the cause of reform itself; he was acutely aware of the injustices in the political arrangements of England and desired a fundamental reordering of them. But pursuing such changes in the febrile context in which he wrote would entail consequences that Bentham could not justify. Significantly, Bentham found himself on the opposite side of the argument for reform in England from people like Joseph Priestley, who he otherwise greatly admired (Bentham, 1983b: 292). He rejected proposals for democratic reforms to Parliament at the time, not because he no longer saw democracy as the institutional arrangement that would promote general utility, but because of a concern about *timing* (Geuss, 2008: 30–34). Bentham as a realist worried about the consequences of pursuing such a course of action in the particular, volatile circumstances of the 1790s:

No man in the three kingdoms has a fuller comprehension of the imperfections of the law; no man a more painful and indignant sense of them; no man has been more assiduous in investigating them; no man less sanguine in his expectation of seeing them voluntarily amended. It is with this body of grievances before my eyes that I say not withstanding – no change in the constitution – no Reform in Parliament. (University College London Library 170.173)

To Bentham, the efforts at democracy in France and the proposals for similar bids in England were characteristic of an approach to politics that took no notice of the consequences of pursuing convictions through politics, and that relied on empty yet potentially dangerous language. Bentham’s brief retrenchment to a position of constitutional conservatism was not the result of some fundamental change in values, but a function of the fact that Bentham exemplified a sceptical realism about how to achieve things in the political domain.

## Conclusion

One obvious question that I want to address in concluding is: if I and the few others who have argued for Bentham to be viewed as a political realist are correct,

why have the vast majority of people who have written about Bentham got it wrong? Why in other words, has Bentham been so widely understood as a political moralist of the 'intransigent' kind? Turning to the history of political thought is helpful in answering this question, for it tells us two things. Firstly, the prevalent image of Jeremy Bentham that we have inherited is in large part the product of the specific caricature of him presented by John Stuart Mill. In many ways the intellectual heir of Bentham, Mill nonetheless was desirous to disassociate himself from Bentham in an attempt to establish his own system of thought as a distinctive version of Utilitarianism. In an 1838 essay, Mill was at pains to cast Bentham as 'one-sided' and unimaginative in his approach to politics in order to emphasise what was incisive or original about his own: his arguably more realistic attention to the non-rational dimensions of human behaviour (Mill, 1985: 92). And since Mill has become so totemic to contemporary liberals, Millians have correspondingly imbibed the critical reading of Bentham that he advanced. This rendering is also reinforced by the fact that Bentham published little of what he wrote in finished, digestible form; Mill's reading of Bentham has been accepted largely because it has been challenging to glean an alternative interpretation from the source material itself. As two scholars put it, Mill's 1838 essay on Bentham 'is perhaps the single most influential source for shaping Bentham's later reputation' (Engelmann and Pitts, 2011: 45). Historians of Bentham help us to recognise the decisive role that Mill had in the subsequent reading of Bentham's work, and why it might be reasonable to question the validity of that reading.

Secondly, the history of political thought tells us that Bentham has not frequently been seen as a political realist because he has so rarely been discussed as a serious thinker about politics at all. Bentham is usually read for his writing on ethics, or 'deontology' as he termed it. On occasions, laudable attempts have been made to take seriously Bentham's constitutional and legal writings, especially the *Constitutional Code* and his powerful attack on natural rights and contract theory. However, little has been said about Bentham's approach to politics, not least because his views on politics have usually been packaged together with his broader ethical and philosophical opinions. But if the foregoing is correct, it is entirely necessary to separate out Bentham's views on politics to recognise what is so distinctive about his work. Appreciating that Bentham viewed politics as a distinctive domain of human activity is the key to grasping what conduct he advocated for political actors, and whilst this is often recognised by Bentham specialists, it also ought to be acknowledged by non-specialists working in the field of political theory.

Partly, this article has a historical purpose of probing the predominant frame through which Bentham has been viewed by offering a realist reappraisal of his approach to politics. Bentham was especially attentive to questions of power relationships, he was sceptical about moralising language in politics and he possessed a realistic understanding of political means and ends and how they go together. Correcting the historiography is important in itself, but this article is not simply a historical exercise, and I think that Bentham offers some lessons about politics

that remain relevant to the field of political theory and the proponents of political realism today. Specifically, Bentham tells us that the political realist cannot simply be concerned with what is *real* in an empirical, tangible sense, but must also consider what *really* works in practice. Realism can certainly seem just as unrealistic as other political ideologies when it attempts to apply a neat or 'regular' framework to the messy world of politics and in so doing overlooks the fact that human behaviour is often *not* neat or regular. But Bentham argues that the political realist – the person who genuinely cares about the consequences of his or her actions of relationships of power – must go beyond neat formulas and theories. The *democratic* political realist, for example, cannot prefer 'regularity' over the happiness of the people, but must be open-minded to whatever is likely to serve the democratic cause, whether it be a fiction like the infallibility of the people's judgement, or something more tangible like the constitutionally prescribed capacity of citizens to elect and dismiss their representatives. Both, in Bentham's reckoning, are important. Ultimately then, Bentham ought to be taken seriously by political realists, for he offers a powerful qualification to realism, and one that if taken on board would help fortify it against the charge that it is too reductive to offer a meaningful guide to politics.

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