Nineteenth Century Utilitarianism and the Emergence of the Commercial Society

I. Setting the Stage for the Nineteenth Century

In 1800, many features of the medieval order remained in Europe, in spite of changes in ethics, economics, and political philosophy during the previous century. Government in Europe and elsewhere continued to be largely by birthright, as kings inherited their thrones, and nobles their positions in the noble chambers of parliament.[1] The commoner chambers were largely populated by men from wealthy families (or their employees), most of whom won office with little opposition. When elections were contested, only a handful of voters normally voted, generally a small percentage of the wealthiest male population. Senior church officials often held seats in parliament as a right of office. Most other high government officials and military leaders were nobles or from noble families.

Most countries and duchies still had monopoly churches, supported by state taxes and tithes. These were often Lutheran in the north and Catholic in the south. The Netherlands and England were exceptions to this general rule, although each had state supported churches.[2] For most persons, religion was as central to life as ever, although miracles were considered to be a bit less plentiful than in previous periods and natural laws more in evidence. Most persons remained farmers or employees of farmers, who directly produced most their own necessities of life.

Urban commercial centers were growing, but major cities were still relatively small, and the commercial society involved only a small fraction of the population as a whole. London had grown from a half million to a million during the eighteenth century but would include more than 6 million persons in 1900. Paris had a relatively stable population of approximately a half million persons during the eighteenth century, but grew to nearly 3 million persons during the nineteenth century. New York City was a small town in 1700, with a population of approximately 5 thousand, reaching 60 thousand in 1800, and nearly 3.5 million in 1900.

Adam Smith noted that guilds remained strong in British cities in the late eighteenth century and their members often retained monopoly privileges in production and sales. Imports and exports were often controlled by royal monopolies based in capital cities and major port cities.

Most economic production was accomplished in the old fashioned way by artisans working out their homes or in small shops. Smith notes that that this was beginning to change as small factories in England and Scotland were being established that took advantage of in-house specialization and mass production. The cloth industry in particular was expanding rapidly taking advantage of new wind and water powered looms. Nonetheless, highly specialized production was still the exception rather than the rule. Machines had become larger and more sophisticated, as did ocean-going sailing ships, but machines were still mainly constructed of wood and driven by muscle, wind, or water.

Significant innovations and institutional reforms that were underway. Steam engines had been developed for pumping out mines in the eighteenth century. These were soon to be used for transportation. The old medieval strip farms were being "rationalized" into more or less rectangular fields, enclosed with fences of various kinds during the second half of the eighteenth century. This together with marketable private titles, made land a more liquid form of wealth than it had been in previous centuries.

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[1] France's revolution of 1789 was overturned, replaced with Napoleon's dictatorship in 1804, by a constitutional monarchy in 1815. Napoleon ended the republican governments of the Netherlands and Venice during his reign.

[2] The United States of America is another exception. There was no national church although a few of the states continued to support a particular church. Other states had long had rules for religious tolerance. A Catholic national church and aristocratic rule were reestablished in France after Napoleon's defeat in the early nineteenth century.

This literally changed the landscape in Western Europe to the one that we take for granted today. Openness to public debates on policy and scientific issues had increased, although political censorship increased in many places in the years after the French Revolution. Sumptuary laws had largely disappeared.[3]

The secularization of science continued, with more and more phenomenon being explained as consequences of natural laws, although those laws were normally considered to be evidence of divine power and intent. The search for general principles of ethics, good government, and human behavior continued as efforts were made to create theoretical frameworks for the study of man and society with scientific foundations.

Progress had also been made in the social sciences during the eighteenth century, as with the work of Montesquieu and Smith on politics law, ethics, and economics, but more could be done. The rationalization of philosophy, economics, political science, and natural science continued into the nineteenth century. Together, shifts in normative theories, technological advance, and institutional reforms led to the emergence of a more encompassing commercial life during the nineteenth century. The nineteenth century was a transformational century throughout what came to be called "the West."

II. The Return of Happiness as the Ultimate End

In the previous chapter, we explored two of the new paradigms for ethics that emerged in the eighteenth century, the impartial spectator by Smith and the categorical imperative by Kant were among the most important. Both provided new systematic ways of thinking about ethical propositions and public policies. Rather than analyze one choice or maxim at a time more or less intuitively, they suggested that all rules for conduct could be evaluated with a single procedure, although different ones. Is an action or policy likely to gain the praise of an impartial spectator or not? Is rule of conduct such that a universal version of the rule would work well if implemented as law? Their writing occasionally referred to a deity, but their theories allowed ethical evaluations to be made--or at least argued about--in a systematic manner that was independent of divine texts.

Both these normative systems required persons to evaluate the consequences of their actions on others in order to determine whether or not an action was good or bad, a virtue or a vice. In both theories, conclusions were largely, although not entirely, matters of reflection. In Smith's view, moral actions and dispositions could be identified by imagining an impartial spectator's reaction. In Kant, the discovery of universal rules required imagining whether a particular rule of conduct would produce desirable outcomes if adopted by everyone simultaneously. Both also implicitly included objective tests that could be used to validate one's subjective analysis. Did behavior actually elicit praise and respect? Did a maxim when applied universally generate attractive outcomes? The possibility of empirical tests meant these theories were as scientific as theories about the natural world, if not necessarily as precise.

At about the same time that Kant was writing, there was another proposal for a single principle that could be used to determine whether an action was ethical or not. Proponents of that principle, in effect, argued for a return to Aristotle's ultimate end, namely happiness. In contrast to Aristotle, but in common with Smith and Kant, they focused on the effects that actions had on others living in their communities rather than on an individual's character development or salvation.

[3] Sumptuary laws governed clothing, food, and housing. Restrictions were often class-based, as particular colors or type of cloth may be forbidden for one class or sex and mandated for others. Among the most famous in England were the sumptuary laws of Queen Elizabeth in 1574, which for example restricted silk and the color purple to the royal family and a subset of nobles.

Utilitarians ask whether the persons living in a community likely to be happier after a particular action or policy is adopted than before it. If the members of a community were on balance happier afterwards, the action was a good or virtuous one. If not, it was a bad or one. In contrast to Aristotle, Smith, Kant and most theologians, utilitarians were almost indifferent to the effect that an action had on character development, except insofar as those effects might increase an individual's lifetime happiness. It was the consequences of an action, disposition, or public policy that mattered--in particular their effects on the happiness of all persons in the community of interest.

Reconnecting ethics with Aristotle's ultimate end and focusing on society-wide effects rather than character produced another paradigm for ethics and policy analysis.

III. Jeremy Bentham (1748-1832) The Utility Principle as the Foundation for Private and Social Ethics

Jeremy Bentham was born in London and educated at Queens College of Oxford. Bentham, like Montesquieu, was trained in law and subsequently inherited a sufficient fortune to leave that profession at an early age and devote himself to intellectual activities and policy reform. Bentham was the central figure in the group that produced the new moral theory that came to be called utilitarianism, after his utility principle, although he preferred the term felicitarianism.[4]

Bentham argued that right and wrong action, good and bad conduct, and good and bad public policy can all be assessed by their consequences on those affected, including oneself. According to Bentham's utility principle, proper action and good conduct increase the sum of utility in the community of interest (pleasure net of pain or happiness). Improper action, conduct, and policies reduces the sum of happiness in a community and thereby makes the community worse off. Bentham argued that this "utility principle" could be and should be applied to evaluate all actions by all persons.

Bentham's utility principle, thus, provides universal moral guidance for both personal and government conduct.

He and his fellow travelers had a significant impact on ethics, attitudes toward markets, and public policies throughout Europe, North and South America, and Russia. It also led to the subfield of economics called welfare economics that emerged in the twentieth century, which is discussed in part III).

A. An Ethics for Life in Society

Bentham begins his case for the utility principle with the observation that pleasure and pain (broadly understood) is the root source of all human conduct.[5]

> **Nature has placed mankind under the governance of two sovereign masters, pain and pleasure.** It is for them alone to point out what we ought to do, as well as to

[4] A short biography of Bentham can be found in the *Annual Biography and Obituary 1833*, London: Longman, Rees, Orme, Brown, Green, and Longman. The term utilitarian was brought into common usage by John Stuart Mill according to his autobiography. In a somewhat bizarre bequest, Bentham's body was dissected after death and reconstructed with a wax head, which sits upright in a glass case in University College London.

[5] Most of the excerpts are taken from a digitized collection of Bentham's writings assembled by Minerva Classics, *The Collected Works of Jeremy Bentham* (2013), which are taken from the 1843 Bowring collection. Other excerpts are from a digitized version of his *Manual of Political Economy* (2011) available from Amazon. KL again denotes Kindle locations. The entire Bowring collection is available at the Liberty Fund website in various digitized formats. Individual works are cited to aid readers familiar with Bentham's writings or who use other collections or editions. A newer and more complete collections of his works has recently become available from Oxford University Press (1968-2014).

> determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. **They govern us in all we do, in all we say, in all we think: every effort** we can make to throw off our subjection, will serve but to demonstrate and confirm it. *(An Introduction to the Principles of Morals and Legislation*, KL: 3474-3478).

Bentham then shifts to the term utility, which had been adopted by many others at about the same time, as a term that summarizes the net pleasure gained by a course of action.

> **By utility is meant that property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness** (all this in the present case comes to the same thing), or (what comes again to the same thing) **to prevent the happening of mischief, pain, evil, or unhappiness** to the party whose interest is considered. *(An Introduction to the Principles of Morals and Legislation,* KL 3526-3528).

He and other utilitarians emphasize that communities are composed of individuals, and therefore a community's interest is simply the sum of the individuals who are in it.

> **The community is a fictitious body, composed of the individual persons who are considered as constituting as it** were its members. The **interest of the community** then is, what?— **the sum of the interests of the several members who compose it**. (*An Introduction to the Principles of Morals and Legislation*, KL: 3535-3538).

This definition implies that communities have no interests other than those of the individual members. It also implies that every individual counts, not simply the king, members of government, or a privileged subgroup. A community has no interests that are not found in the net gains of the members of the community of interest.

> **It is in vain to talk of the interest of the community, without understanding what is the interest of the individual**.

Having developed the core ideas that ground his normative theory, he next states what he calls the "utility principle" in a clear way.

> **A thing is said to promote the interest, or to be for the interest, of an individual, when it tends to add to the sum total of his pleasures**: or, what comes to the same thing, to diminish the sum total of his pains. (*An Introduction to the Principles of Morals and Legislation*, KL: 3545-3548).

> **An action then may be said to be conformable to the principle of utility, or, for shortness sake, to utility (meaning with respect to the community at large), when the tendency it has to augment the happiness of the community is greater than any it has to diminish it.** *(An Introduction to the Principles of Morals and Legislation,* KL: 3556-3557).

Note that the word tendency is used, which implies that an actions may have more than one possible outcome (because of random or unpredictable effects), but still tend to promote community utility.

Bentham argues that all conventional moral terms such as duty, right and wrong, good and evil, can be characterized with the utility principle.

> **Of an action is conformable to the principle of utility, one may always say either that it is one that ought to be done, or at least that it is not one that ought not to be done.**
>
> One may say also, that **it is right** it should be done; at least that it is **not wrong** it should be done: that it is a right action; at least that it is not a wrong action.

> **When thus interpreted, the words ought, and right and wrong, and others of that stamp, have a meaning: when otherwise, they have none.** (*An Introduction to the Principles of Morals and Legislation*, KL: 3576-3581).

The utility principle implies that ethics and virtue in the sense of rules of good conduct and aims for conduct are no longer principally means of self-improvement, enlightenment, or salvation. Rather ethics and virtue are mainly directed to and judged by their effects on the welfare of one's entire community. This makes ethics a social end rather than a private one. In effect, Locke's civil ethics has become all of ethics, not simply a subset of it.

As true of other principles of morality, the utilitarian principle can also be internalized.

> A man may be said to be a partisan of the principle of utility, **when** the [internal] approbation or disapprobation he annexes to any action, or to any measure**, is determined, by and proportioned to the tendency which he conceives it to have to augment or to diminish the happiness of the community:** or in other words, to its conformity or unconformity to the laws or dictates of utility. (*An Introduction to the Principles of Morals and Legislation*, KL: 3571-3574).

He also suggests that individual actions rarely affect their entire community; thus, in most cases, individuals should simply maximize their own happiness.

> Prejudice apart, the game of push-pin is of equal value with the arts and sciences of music and poetry. **If the game of push-pin furnishes more pleasure, it is more valuable than either.** (*The Rationale of Rewards*, p. 206.)

The pursuit of happiness is necessarily a virtuous activity, regardless of how one goes about it, as long as one's actions do not harm others.

This "self centered" rule of thumb does not apply to persons in government, because their actions tend to affect so many others. The policy choices of government officials have broad impacts on their communities, and so should be based on a careful analysis of the consequences of their actions.

> ... the **happiness of the individuals, of whom a community is composed,** that is, their pleasures and their security, **is the end and the sole end which the legislator ought to have in view:** the sole standard, in conformity to which each individual ought, as far as depends upon the legislator , to be made to fashion his behavior. (*An Introduction to the Principles of Morals and Legislation,* KL: 4188-4190).

> **There is no case in which a private man ought not to direct his own conduct to the production of his own happiness, and of that of his fellow-creatures**. (*An Introduction to the Principles of Morals and Legislation,* KL: 12047).

Moreover, there are limits to the proper sphere of legislation.

> **But there are cases in which the legislator ought not** (in a direct way at least, and **by means of punishment** applied immediately to particular individual acts) attempt to direct the conduct of the several other members of the community.
>
> Every act which promises to be beneficial upon the whole to the community (himself included), each individual ought to perform himself, but **it is not every such act that the legislator ought to compel him to perform.**
>
> **Every act which promises to be pernicious upon the whole to the community (himself included), each individual ought to abstain from of himself, but it is not every such act that the legislator ought to compel**

> **him to abstain from.** (*An Introduction to the Principles of Morals and Legislation,* KL: 12048-53).

In these comments, Bentham is beginning to analyze where "the line" between private and community interests should be placed according to the utility principle, as opposed to a natural rights or contractarian perspective. For the most part individuals should simply attempt to advance their own interests and legislatures the total happiness of their communities. However, not every utility-increasing rule of conduct should be made a formal law and backed by the sanctions of a judicial system. There are at least four cases in which the cost of doing so tends to be greater than the benefits realized.

> **Where, then, is the line to be drawn?** .... If legislation interferes in a direct manner, it must be by punishment. **Now the cases in which punishment**, meaning the punishment of the political sanction, **ought not to be inflicted** ... **are of four sorts**: 1. Where punishment would be groundless. 2. Where it would be inefficacious. 3. Where it would be unprofitable. 4. Where it would be needless. (An *Introduction to the Principles of Morals and Legislation,* KL: 12047-12062).

Some punishments do not increase community utility, others will not change behavior, or do so at a cost greater than the benefits obtained. In other cases, private incentives alone are sufficient to increase aggregate utility, so formal laws and government sanctions are unnecessary. All of law should be aggregate utility, and this requires taking into account both the benefits and cost of law.

B. Ethics and Commerce

Economics is a secondary interest of Bentham's, but he provided one of the description s of the mutual gains to trade in his *Manual of Political Economy* (1800). Bentham argues that essentially every trade increases the happiness of each party. Although the money value of what is exchanged is same, each gains utility from the exchange, which increases total utility.[6]

> **Some advantage results from every exchange, provided it be made intentionally and without fraud**: **otherwise such exchange would not be made**; there would be no reason for making it.
>
> Under this point of view, the two contracting parties receive an equal benefit [in money terms]: **each one of them surrenders what suits him less, that he may acquire what suits him more.** In each transaction of this kind there are **two masses of new enjoyments**.
>
> **But though all trade be advantageous, a particular branch may be more advantageous to one of the parties than to the other.** (*A Manual Of Political Economy*, KL: 2142-2147).

Bentham regards all activities that increase aggregate utility to be good ones; thus trade is inherently good, virtuous, and ethical--all of which have essentially the same meaning in Bentham's schema.[7]

The same logic implies that trade between nations should be free and open.

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[6] Smith (1776) in contrast does not provide a rational motivation for exchange. "This division of labor, from which so many advantages are derived, is not originally the effect of any human wisdom, which foresees and intends that general opulence to which it gives occasion. It is the necessary, though very slow and gradual, consequence of a certain **propensity in human nature,** which has in view no such extensive utility; the **propensity to truck, barter, and exchange one thing for another**" (*Wealth of Nations: Full and Fine Text of 1776 Edition*, p. 7).

[7] Bentham adds two caveats to this. First that there should be no fraud and second that businessmen be of sound mind. "In recommending freedom of trade, I suppose the minds of merchants in their sound, that is, their **ordinary state**. But there have been times

> In commerce, ignorant nations have treated each other as rivals, who could only rise upon the ruins of one another. **The work of Adam Smith is a treatise upon universal benevolence, because it has shown that commerce is equally advantageous for all nations**— each one profiting in a different manner, according to its natural means; **that nations are associates and not rivals in the grand social enterprise**. (*Principles of Penal Law*, KL 25832-25835).

Similar logic applies to other areas of markets and life in which net happiness is produced. He argued, for example, that usury (the charging of high interest rates) should not be a crime.

> **Usury**, which, if it must be an offense, is an offense committed with consent, that is, with the consent of the party supposed to be injured. [It] **cannot merit a place in the catalogue of offenses, unless the consent were either unfairly obtained or unfreely**. In the first case, it coincides with defraudment; in the other, with extortion. *(Introduction to the Principles of Political Economy*, KL 10611-10613).

In this defense, Bentham is challenging Aristotle's assessment of the virtue of careers in finance and Adam Smith's narrower critique of usury.[8]

Bentham suggests that the virtues and honors of the middle ranks of society are most naturally consistent with the principle of utility and so the middle ranks tend to be the most virtuous segment of society. This is at least in part because they are engaged in commerce where reputation matters.

> **The middle ranks of society are the most virtuous: it is among them that in the greatest number of points the principles of honor coincide with the principles of utility**.
>
> **It is in this class also that the inconveniences arising from the forfeiture of esteem are most sensibly felt**, and that the evil **consequences arising from the loss of reputation produce the most serious ill consequences.** (*Principles of Penal Law,* KL: 19665-19668).

The virtuous conduct of the middle class, however, is not necessarily because they have internalized the principle of utility. Rather it is because their pursuit of esteem and wealth are well-aligned with the utility principle, given their economic opportunities.

IV. John Stuart Mill (1806-1873)

Bentham is an important historical figure because of his direct and indirect impact his arguments had on public policies and normative theory. Bentham's line of reasoning was refined, extended, and

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when they have acted as though they were delirious: such were the periods of the Mississippi scheme in France, and the South Sea scheme in England."(*A Manual Of Political Economy* (Kindle Locations 2172-2174). Periods of what Alan Greenspan termed irrational exuberance are also exceptions to his broad support for free trade.

[8] Smith is not against the payment of interest but against high interest rates. He repeatedly comments on the "evil of usury," as with: "In some countries the interest of money has been prohibited by law. But **as something can everywhere be made by the use of money, something ought everywhere to be paid for the use of it**. **This regulation**, instead of preventing, has been found from experience **to increase the evil of usury**. The debtor being obliged to pay, not only for the use of the money, but for the risk which his creditor runs by accepting a compensation for that use, he is obliged, if one may say so, to insure his creditor from the penalties of usury" (*The Wealth of Nations*, p. 247).

defended by successive generations of utilitarians and subsequently became the most common normative framework used in economics.[9] Bentham did not have the last word on ethics or decisions about public policy, but he set in motion a long series of work on utilitarianism that continues today in modern welfare economics.

The ethical and economic theories of Bentham and Smith were not simply re-taught and recapitulated; instead, their ideas and arguments were used as points of departure for newer more fine-grained arguments, theories, and conclusions. The remainder of this chapter focuses on two other very influential utilitarians of the nineteenth century: John Stuart Mill and Herbert Spencer.

John Stuart Mill (1806-1873) can be thought of as Bentham's successor. His father was James Mill, a philosopher, early economist, and writer in his own right, who was closely associated with Bentham's reform and publication efforts. Thus, John Stuart Mill grew up in a utilitarian household, met many prominent liberals and utilitarians, and was encouraged by his father to become an intellectual through a rigorous education at home.[10]

With such an upbringing, it is not surprising that John Stuart Mill became a utilitarian and wrote broadly on policy issues of his day. Mill wrote papers for political magazines and helped edit books as a teenager. Relative to young adults in the 21st century, he had a 10-15 year head start on his career as a philosopher and policy analyst.

He earned his living, however, as a clerk in the London office of the East India Company, rather than as a writer, lobbyist, or academic. He worked for the East India Company from the age of 17 rising from clerk to the rank of chief examiner towards the end of his tenure, as his father had before him.[11] Although Mill earned some income from his writing, it was his "day job" that provided the resources and time for most of his writing. The East India Company was taken over by the British government in 1858, at which point Mill retired on a modest pension at the age of 52 and continued to write.

Mill wrote on a wide variety of topics including epistemology, ethics, economics, and political philosophy. Only a subset of his broad writing is relevant for the purposes of this book. We focus on two books finished in the period after retirement, *On Liberty* (1859) and *Utilitarianism (*1863), and another book published a decade earlier, *Principle of Political Economy* (1848). The latter was widely used in university courses in economics for many decades, until superseded by Alfred Marshall's text book (1890) at the turn of the century. The others continue to be used in contemporary political theory and philosophy courses.

By the time these books were written, the utilitarian approach to private life and public policy was firmly established. Nonetheless, efforts to more fully understand its implications and to defend it from criticism continued, as they do today.

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[9] This is partly because so many notable and text book writing nineteenth century economists, such as Bentham and Mill, were utilitarians; but also because the utility approach to thinking about human decision making proved so clear, tractable, and generalizable.

[10] His father, James Mill (1773-23), had met Jeremy Bentham in 1808 and took up the utilitarian cause along with the liberal one that he had already joined. At some points, he was supported by Bentham during his early "writing phase." His father's intellectual and political circles thus brought John Stuart Mill in contact with many other famous liberals of the early nineteenth century including David Ricardo, Jean-Baptiste Say, and, of course, Jeremy Bentham.

[11] Mill recounts a period of depression or burnout at about the age of 20, at which time he worked full time for the East India Company, participated in a major debate society, which had some failures about that time, and continued to write for the *Westminster Review*, which was struggling financially during the period of his blues. He evidently kept his blues to himself, and it is not clear than any but Mill noticed it. See chapters 4 and 5 of his autobiography.

A. Mill on the Utility Principle, Virtue, and Duty

Mill's *Utilitarianism* is partly a synthesis and partly a response to critiques of utilitarianism. In that book and other writings, Mill attempts to show that general rules of conduct and policy can be deduced from the utility principle.[12]

> **The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness**, wrong as they tend to produce the reverse of happiness.
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> **By happiness is intended pleasure, and the absence of pain; by unhappiness, pain, and the privation of pleasure**. To give a clear view of the moral standard set up by the theory, much more requires to be said; in particular, what things it includes in the ideas of pain and pleasure; and to what extent this is left an open question. (*Utilitarianism* (KL: 46372-76).

Against the charge of hedonism, Mill argued that utilitarians have always favored virtue and virtuous pleasures over vices. In this, Mill adopts Aristotle's argument that virtue is an important source of lifetime happiness. The happiness associated with virtue is more permanent and less costly than the "lower" pleasures Investments in virtue are therefore likely to increase both individual and aggregate utility.[13]

> [Utilitarians] **not only place virtue at the very head of the things which are good as means to the ultimate end**, but they also **recognize as a psychological fact the possibility of its being to the individual a good in itself**, without looking to any end beyond it.
>
> And [they] hold that **the mind is not in a right state**, not in a state conformable to Utility, not in the state most conducive to the general happiness, unless it does love virtue in this manner- as a thing desirable in itself. (*Utilitarianism*, KL: 46917-22).

Mill, in contrast to Bentham, but in a manner similar to Aristotle, emphases the relative merits of pleasures that are uniquely human, as with intellectual ones and those associated with virtue.[14]

> **It is better to be a human being dissatisfied than a pig satisfied**; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, are a different

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[12] Excerpts are from a digitized collection of Mills books assembled by Minerval Classics (2016). It was felt that this collection would be a better source for readers who want to explore more of Mill's writings than physical or digitized copies of the individual works. Nonetheless, the individual works from the collection are cited at the end of the excerpts for those familiar with his individual contribution. Bolding is again added by this author and some reformating and very modest modernization of punctuation has been undertaken. KL again refers to Kindle Locations.

[13] Mill's autobiography includes some personal suggestions about how to pursuit happiness. After his period of blues in his early 20s, he suggests that rather than pursuing happiness, per se, one should pursue something else of value and that happiness will follow. "I never, indeed, wavered in the conviction that happiness is the test of all rules of conduct, and the end of life. But I now thought that this end was only to be attained by not making it the direct end. Those only are happy (I thought) who have their minds fixed on some object other than their own happiness; on the happiness of others, on the improvement of mankind, even on some art or pursuit, followed not as a means, but as itself an ideal end" (*Autobiography*, KL: 50766-69).

[14] Spencer mentions in his autobiography that Carlyle (1850, pp. 515-17) had mocked utilitarianism as "pig philosophy," which may account for Mill's use of pigs in his defense of it.

> opinion, it is because they only know their own side of the question. **The other party to the comparison knows both sides.** *Utilitarianism*, KL: 46429-31).

Consistent with Bentham's remarks made a half century earlier, Mill argues that utilitarian logic does not usually require persons to think globally about the effects of their actions, because their actions do not have effects beyond their families and friends.

> **The great majority of good actions are intended not for the benefit of the world, but for that of individuals**, of which the good of the world is made up; and **the thoughts of the most virtuous man need not on these occasions travel beyond the particular persons concerned,** except so far as is necessary to assure himself that in benefiting them he is not violating the rights, that is, the legitimate and authorized expectations, of any one else.
>
> **The multiplication of happiness is according to the utilitarian ethics the object of virtue.** The occasions on which any person (except one in a thousand) has it in his power to do this on an extended scale, in other words to be a public benefactor, are but exceptional, and on these occasions alone is he called on to consider public utility. **In every other case, private utility, the interest or happiness of some few persons, is all he has to attend to.** (*Utilitarianism*, KL: 46593-99).

Most individual actions have only affects on a person's own happiness and that of his or her friends and family, and so only these effects need be subjected to the utilitarian calculus.

B. Rules of Conduct and Duties that Enhance Life in a Community

Mill attempts to determine maxims or rules of conduct that generally increase aggregate utility. For this reason, he is sometimes regarded to be a "rule utilitarian." With respect to life in society, he argues that some rules of conduct are more important than others, because they have larger long term impacts on aggregate happiness.

The rules that make civil society possible are especially important, as previously argued by Locke, Smith, and Hobbes using different ethical theories.

> **The moral rules which forbid mankind to hurt one another** (in which we must never forget to include wrongful interference with each other's freedom) **are more vital to human well-being than any maxims**, however important, which only point out the best mode of managing some department of human affairs. **They have also the peculiarity, that they are the main element in determining the whole of the social feelings of mankind**.
>
> It is **their observance which alone preserves peace** among human beings: if obedience to them were not the rule, and disobedience the exception, every one would see in every one else an enemy, against whom he must be perpetually guarding himself. (*Utilitarianism*, KL: 47364-68).

Because life in society advances the utility principle and some rules make life in society possible, individuals have duties to follow such rules.[15]

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[15] Mill uses the term duty in a manner that is surprisingly similar to Kant, as an obligation, which if failed, should be punished in some way: "It is a part of the notion of Duty in every one of its forms, that a person may rightfully be compelled to fulfill it. Duty is a thing which may be exacted from a person, as one exacts a debt." (*Utilitarianism*, KL: 47153-55). In this, he may be challenging an earlier argument developed by Spencer in his *Social Statics* that individuals have the right to ignore the state.

The obligation to respect the rights of others and to pay a fair share of the cost of the state can be regarded as the core of Mill's civic ethics. Such rules broadly reduce the pain and increase the benefits of life in communities.

One of many loss reducing (pain reducing) rules discussed by Mill, among the most important is the one that forbids the breaking of promises, as within contracts.

> **The important rank** among human evils and wrongs of the disappointment of expectation is shown in the fact that it constitutes the principal criminality of two such highly immoral acts **as a breach of friendship and a breach of promise**. **Few hurts which human beings can sustain are greater and none wound more than when that on which they habitually and with full assurance relied fails them in the hour of need.** [A]nd **few wrongs are greater than this mere withholding of good.** [N]one excite more resentment, either in the person suffering, **or in a sympathizing spectator**. (*Utilitarianism*, KL: 47387-91).

With respect to markets, Mill notes that the conflict among producers induced by markets--competition--accounts for many of the benefits of markets. This countered arguments made earlier by Montesquieu and other critics writing in the mid-nineteenth century. Competition tends to increase social utility by increasing the efficiency of production and thereby increasing the means available for obtaining happiness.

> **It is the interest of the community, that of the two methods, producers should adopt that which produces the best article at the lowest price**. This being also the interest of the producers, unless protected against competition and shielded from the penalties of indolence. [T]he process most advantageous to the community is that which, **if not interfered with by government, they ultimately find it to their advantage to adopt**. (*Principles Of Political Economy*, KL: 37158-37161).

Mill's discussion implies that market competition is not only compatible with the utility principle, but is among the prime engines of progress. The process of competition within markets improves the products traded and the methods through which they are produced.

What is left unstated is whether a life in commerce also tends to be good. Mill's logic implies that such careers are generally good, because they advance both self interest and benefit one's trading partners. However, he does not directly address this issue--most likely because it had disappeared as a source of controversy by the mid-nineteenth century.

C. On the Proper and Limited Role of a Government

Utilitarians focus on rules of conduct for life in community. Many focused entirely on public policy issues and political reform. Whether more could be said in general on the proper scope of public law than Bentham argued was not clear. Doctrinaire liberals in the mid-nineteenth century such as Bastiat and Spencer argued for a minimal state that focused entirely on the protection of individual rights and security, what some term a "night watchman state."

Mill's *On Liberty* attempts to clarify the issues and deepening the analysis. *On Liberty* analyzes the proper division between a community's formal laws and individual autonomy from the utilitarian perspective. Mill concludes that governments have somewhat broader responsibilities than argued by doctrinaire liberals, although evidently a more limited role than contemporary governments.

Mill uses the utility principle to support what might be called the liberty and negative externality principles.

> The **object of this essay is to assert one very simple principle**, as entitled to govern absolutely the dealings of

> society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties or the moral coercion of public opinion. **That principle is that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection.** That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. (*On Liberty*, KL: 39858-39863).

Mill's analysis supports essentially unlimited freedom of thought and expression. The individual alone is the directly affected by those actions.[16] In areas in which only personal interests are at issue, every person should be entirely fee to choose his or her actions.

In cases in which an individual's actions harm others, the community may legitimately intervene. Mill also argues that individuals also have positive duties associated with life in a community. The aim of all such rules is to increase community utility.

> **I regard utility as the ultimate appeal on all ethical questions**, but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being.
>
> **Those interests, I contend, authorize the subjection of individual spontaneity to external control, only in respect to those actions of each, which concern the interest of other people.** If any one does an act hurtful to others, there is a prima facie case for punishing him, by law, or, where legal penalties are not safely applicable, by general disapprobation.
>
> **There are also many positive acts for the benefit of others, which he may rightfully be compelled** to perform; such as, to give evidence in a court of justice; to bear his fair share in the common defense, or in any other joint work necessary to the interest of the society of which he enjoys the protection. (*On Liberty*, KL 39883-39889).

Mill's analysis focuses on what contemporary economists would call externalities. If a person's action affects others a community can legitimately regulate such actions through laws and formal penalties or disapprobation.

The most important of a community's enforced rules and duties are those that increase the viability of their community.

> Though society is not founded on a contract, and though no good purpose is answered by inventing a contract in order to deduce social obligations from it, **every one who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest.**
>
> This conduct consists, **first**, in not injuring the interests of one another; or rather certain interests, which, either by express legal provision or by tacit understanding, ought to be considered as rights; and **secondly**, in each person's bearing his share (to be fixed on some equitable principle) of the labors and sacrifices incurred for defending the society or its members from injury and molestation.
>
> **As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it,** and the question whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion.
>
> But there is no room for entertaining any such question when a person's conduct affects the interests of no

[16] Religious tolerance remained a divisive issue in England at this time, although far less so than in earlier time.

> persons besides himself, or needs not affect them unless they like (all the persons concerned being of full age, and the ordinary amount of understanding). **In all such cases there should be perfect freedom, legal and social, to do the action and stand the consequences**. (*On Liberty*, KL: 41040-52).

Most instances of social interaction have effects on others, by definition, and so the liberty principle is constrained by the externality principle in social settings. Nonetheless, Mill argues that there are many cases in which community interventions should not take place with respect to externalities for reasons similar to Bentham's. Some laws produce more harm than good, even in cases where there might appear to be a social advantages. The cost and effects of regulation have to be fully taken into account. For example, with respect to commerce, he argues:

> Independently of all considerations of constitutional liberty, **the best interests of the human race imperatively require that all economical experiments, voluntarily undertaken, should have the fullest license,** and that force and fraud should be the only means of attempting to benefit themselves, which are interdicted to the less fortunate classes of the community. (*Principles of Political Economy*, KL: 38890-92).
>
> This is the so-called **doctrine of Free Trade**, which **rests on grounds different from, though equally solid with, the principle of individual liberty** asserted in this Essay. Restrictions on trade, or on production for purposes of trade, are indeed restraints; and all restraint, qua restraint, is an evil. **[T]he restraints in question affect only that part of conduct which society is competent to restrain, and are wrong solely because they do not really produce the results which it is desired to produce by them**. (*On Liberty*, KL: 41409-13).

Trade is an example of an area of life in which persons may harm or benefit one another and so is a legitimate area of legislation. However, most economic regulations have consequences that are more harmful than beneficial. Although such laws and regulations cannot be rejected on the basis of the liberty principle, they can be rejected by the utility principle.

> **Laisse faire, in short, should be the general practice: every departure from it, unless required by some great good, is a certain evil.** (*Principles of Political Economy,* KL: 39115-39119).

Although Mill was regarded as a radical or left liberal during his lifetime, he favored essentially unrestricted commerce. He did so for reasons that differed somewhat from Smith, Bentham and Bastiat. He favored open markets partly because the results of exchange usually increased aggregate utility and partly because, in practice, the regulation of trade tended to reduce rather than increase it.

Mill also discusses cases in which voluntary exchange is a prelude to harmful actions and regulation may increase aggregate utility. Mill suggests, for example, that records for goods and services often involved in crime, such as poisons, be mandated so that criminal use of such products can be more easily detected and punished.[17]

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[17] It can be argued that Mill's views gradually became mainstream in Europe, as he and other left liberals gradually won the policy debates of their day. Spencer opposed many of those policies, which he regarded to be paternalistic and unnecessarily coercive. His work nonetheless was more widely read than Mill's at the time that they were written, and thus provides a very useful window into mainstream liberal views on a wide variety of subjects during the second half of the nineteenth century, especially among the upper middle classes of the West. Spencer's philosophical work broke new ground by connecting ethics with human nature, and biological and social evolution.

D. Civic Virtue, Prosperity, and Progress

Mill also argues that a subset of virtues tend to increase prosperity, and communities therefore should attempt to promote those virtues.

> **What, for example, are the qualities in the citizens individually which conduce most to keep up the amount of good conduct, of good management, of success and prosperity, which already exist in society?**
>
> **Everybody will agree that those qualities are industry, integrity, justice, and prudence.** But are not these, of all qualities, the most conducive to improvement? **and is not any growth of these virtues in the community in itself the greatest of improvements?**
>
> **If so, whatever qualities in the government are promotive of industry, integrity, justice, and prudence,** conduce alike to permanence and to progression; **only there is needed more of those qualities to make the society decidedly progressive** than merely to keep it permanent. (*Representative Government,* KL: 42095-100).

These dispositions tend to increase our ability to undertake cooperative enterprises, which increases our productivity in all kinds of human endeavors.

> **Works of all sorts, impracticable to the savage or the half-civilized, are daily accomplished by civilized nations,** not by any greatness of faculties in the actual agents, but **through the fact that each is able to rely with certainty on the others for the portion of the work which they respectively undertake**.
>
> **The peculiar characteristic**, in short, **of civilized beings is the capacity of cooperation**, and this like other faculties **tends to improve by practice**, and becomes capable of assuming a constantly wider sphere of action.
>
> **Accordingly there is no more certain incident of the progressive change taking place in society, than the continual growth of the principle and practice of cooperation**. (*Principles of Political Economy*, KL 34678-84).

To utilitarians, progress is simply an upward trend in aggregate (and average) utility. Mill suggests such progress is most likely when the virtues that support cooperative enterprises are commonplace, because these allow such enterprises to be more broadly undertaken. In the language of contemporary economics, an increase in such ethical dispositions causes team production to become increasingly effective and so more broadly used.

By including a role for internalized ethical rules in progress, Mill is lending his support to the main hypothesis of this book. Progress is partly caused by changes in norms. For Mill, it is the norms that make people better at cooperating that are most important. According to Mill, shifts in norms that increase propensities to cooperate tend to improve life for all.

V. Herbert Spencer (1820 - 1903)

Mill was educated by his father with the intent of producing an intellectual with an interest in utilitarianism and public affairs. His father brought him into Bentham's utilitarian circle and secured a job for him in a major corporation. Herbert Spencer's education and career were much more haphazard.

Spencer was born into an upper middle class family of teachers who held a much more relaxed theory of education than Mill's father. At the age when Mill was learning Greek and Latin, Spencer was off exploring the forests, streams, and sand pits near his home. Rather than taking rigorous lessons from his father, Spencer was encouraged

to figure things out for himself, and given substantial opportunities to do so--although he was also home schooled by his father and uncle.

In his late teens and twenties, having some talent at geometry and algebra, Spencer pursued various careers in engineering, although none worked out. In contrast, Mill took a single job at age 17, where he worked for most of his adult life. Towards the end of his 20s, Spencer obtained a job at the *Economist* magazine, at which point he began to think seriously about becoming a writer, a career path for which he had little training and had not previously shown very much promise.[18]

Spencer subsequently wrote for the book-buying and magazine reading public. Spencer sold enough of his books and articles worldwide to make a living off them. Writing and thinking were his "day job" for most of his adult life. As a consequence, he was more widely read than Mill in the late nineteenth century.

Spencer developed a new evolutionary approach to society and utilitarian ethics, which were major innovations at the time he developed them. Interest in Spencer's evolutionary approach to society, ethics, the human mind, and biology greatly increased after Darwin published his famous book in 1859.[19]

Although they were both liberals, Spencer was a doctrinaire liberal and Mill a left or radical liberal. They freely criticized each other's philosophical work and policy arguments, and occasionally corresponded with one another. Their writing was not a true dialogue, but often included short passages that indicated that the other's arguments were being challenged. Both *On Liberty* (1859) and *Utilitarianism* (1863) were partly responses to Spencer's *Social Statics* (1851).[20]

Spencer regarded himself to be a utilitarian, although he thought that other utilitarians had made a variety of logical errors. For example, in his first book, *Social Statics* (1851), Spencer argues that utilitarians are correct with respect to the best grounding principle for ethics, but neglected many ambiguities in their reasoning.

He argued that happiness cannot be analyzed without acknowledging an individual's and community's state of evolution. Both individuals and communities tend to change through time.[21]

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[18] Spencer's autobiography provides a detailed account of his early life, reconstructed for the most part from letters to and from his father and uncle, and between his father and uncle. His father and uncle were both successful teachers of the children of relatively wealthy families, a few of which would live in their households at a time. He and Mill knew each other, meeting at academic meetings and occasionally for supper.

[19] Spencer's early writing career was reasonably successful, but was ultimately made possible by well-timed modest inheritances from his uncles and father.

[20] Spencer's broader readership implies that he had a larger direct impact on mid-nineteenth century politics and philosophy than Mill's did, although Mill's work was also very influential, especially among academia.

Mill's perspective, however, was more influential than Spencer's in the long run. This was partly because politics moved in Mill's direction rather than Spencer's during the late nineteenth and twentieth centuries, and partly because of Mill's more careful mode of thought and expression.

[21] Excerpts are from the digitized collection of Spencer's writings assembled by Amazon (2011). Individual works are cited, bolding is added by this author, and some modernization of punctuation is undertaken to improve readability. KL refers to kindle locations in the collected works.

> Neither, if we compare the wishes of the gluttonous school-boy with those of the earth-scorning transcendentalist into whom he may afterwards grow, do we find any constancy in the individual.
>
> So we may say, **not only that every epoch and every people has its peculiar conceptions of happiness, but that no two men have like conceptions; and further, that in each man the conception is not the same at any two periods of life**. (*Social Statics*, KL: 39568).]

If individuals change through time in significant ways, obviously it will be difficult if not impossible to determine the specific practices and rules of conduct that will maximize happiness.

Nonetheless, Spencer attempted to place utilitarian reasoning on firmer ground by taking better account of human nature and the potential for social evolution.

A. Instinct, Intuition, and Reason in the Development of Ethics

Although Spencer has respect for man's rational ability, he argues that instincts, rather than reason often determines our choices, and that the mechanisms of pleasure and pain have evolved to promote our survival interests and those of the communities in which humans live.

> Quite different [from reason], however, is the method of nature. Answering to each of the actions which it is requisite for us to perform, **we find in ourselves some prompter called a desire. [T]he more essential the action, the more powerful is the impulse to its performance**, and the more intense the gratification derived therefrom. **Thus, the longings for food, for sleep, for warmth, are irresistible**; and quite independent of foreseen advantages. ...
>
> **May we not then reasonably expect to find a like instrumentality** employed **in** impelling us to that line of conduct, in the due observance of which consists **what we call morality**? (*Social Statics*, KL: 39817-33).

Spencer goes on to suggest that our moral sense is nonetheless imperfect, just as our "geometric sense" is.

> **[T]he perception of the primary laws of quantity bears the same relationship to mathematics, that this instinct of right bears to a moral system**; and that as it is the office of the geometric sense to originate a geometric axiom, from which reason may deduce a scientific geometry, **so it is the office of the moral sense to originate a moral axiom, from which reason may develop a systematic morality**. (*Social Statics*, KL: 40072-75)]

Spencer argues that utilitarian philosophy ultimately rests on a well-evolved moral sense. Nonetheless, Spencer is not an intuitionist. He argues that one's understanding of morality is improved by education, reason, and observation, as true of other areas of life. Morality, like, geometry, can be reduced to principles that allows us to better understand it and use it.

B. Spencer on the Evolutionary Basis of Happiness and Ethics

Spencer's theory of happiness and right and wrong are grounded in an evolutionary theory of man and society.

> **Survival of the fittest insures that the faculties of every species of creature tend to adapt themselves to its mode of life.** It must be so with man. From the

> earliest times groups of **men whose feelings and conceptions were congruous with the conditions they lived under**, must, other things equal, have spread and **replaced those** whose feelings and conceptions were incongruous with their conditions. *(Principles of Ethics*, KL: 17267-69).]

To promote survival, three levels types of conduct are relevant, that with respect to (1) one's self, (2) one's children, and (3) fellow members of the same species. Insofar as rules of conduct can be improved for any or all of these, there will be evolutionary pressures that support such revisions.

Although rules for all three types of conduct may be perfected, Spencer argues that the conduct that tends to be evaluated in moral terms tends to be concerned with effects on persons outside the family, and so in the terminology of this book can be regarded as civil ethics. Society praises such he actions rather than the others because taking care of oneself and children are largely compatible with self interest (and largely "hard wired" by evolutionary pressures).

> **These ethical judgments we pass on self-regarding acts are ordinarily little emphasized; partly because the promptings of the self-regarding desires, generally strong enough**, do not need moral enforcement, and partly because the promptings of the other-regarding desires, less strong, and often overridden, do need moral enforcement. (*Principles of Ethics*, KL: 12535-37).

Spencer also suggests that evolutionary pressures on moral behavior tend to be strongest (and best) during times of peace.

> Recognizing men as the beings whose conduct is most evolved, let us ask **under what conditions their conduct, in all three aspects of its evolution, reaches its limit**. ...
>
> Hence the limit of evolution can be reached by conduct only in permanently peaceful societies. That **perfect adjustment of acts to ends in maintaining individual life and rearing new individuals, which is effected by each without hindering others** from effecting like perfect adjustments, is, in its very definition, shown to constitute a kind of conduct that can be approached only **as war decreases and dies out**. (*Principles of Ethics*, KL: 12445-61).

In the limit, a perfectly coevolved man and society produce rules of conduct that promote self development, assure the next generation, and promote a society that achieves maximizes prospects for survival, and thus pleasure. Utilitarianism, in this sense, has both biological and evolutionary foundations and objectives.

Spencer argues that all viable ethical theories favor life over death and pleasure over pain and so have (often unrecognized) utilitarian aims. To do otherwise would be to adopt rules of conduct that are suicidal and so the persons and communities following them are not likely to survive in the long run.

He makes this point repeatedly in his writings, arguing from somewhat different perspectives according to the audience that he is attempting to reach, the critics that he is attempting to refute, and the main subject being addressed. It is this which accounts for the broad overlap in ethical theories (at similar states of social evolution).[22]

[22] Spencer is well aware that he was doing so, which gave rise to one of his most enduring quotes: "Hence an amount of repetition which to some will probably appear tedious. I do not, however, much regret this almost unavoidable result; for **only by varied iteration can alien conceptions be forced on reluctant minds**." [June 1879, preface to part I of the *Principles of Ethics* (KL 12213-16).]

C. Ethics and Good Governance

Although general survival interests and therefore moral interests are shared among men and women, individuals vary enough that achieving happiness will be a bit different in every case.

> **The gratification of a faculty is produced by its exercise**. To be agreeable that exercise must be proportionate to the power of the faculty; if it is insufficient discontent arises, and its excess produces weariness. **Hence, to have complete felicity is to have all the faculties exerted in the ratio of their several developments**; and an ideal arrangement of circumstances calculated to secure this constitutes the standard of "greatest happiness;" **but the minds of no two individuals contain the same combination of elements.** *(Social Statics*, KL 39574-58).

Given this, there is no single precise guide for life that will work for everyone or in all places.

One might, however, identify a few general rules or maxims that are likely to advance happiness (or survivorship) in all communities, regardless of their particular concept of happiness and state of evolution. Spencer argues that the principle of "equal liberty" is one such rule for life in society.

> **Thus are we brought by several routes to the same conclusion.** Whether we reason our way from those fixed conditions under which only the Divine Idea—greatest happiness, can be realized—whether we draw our inferences from man's constitution, considering him as a congeries of faculties—or whether we listen to the monitions of a certain mental agency, which seems to have the function of guiding us in this matter, **we are alike taught as the law of right social relationships, that—Every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man.** Though further qualifications of the liberty of action thus asserted may be necessary, yet we have seen (p. 89) that **in the just regulation of a community no further qualifications of it can be recognised**. (*Social Statics*, (KL: 41393-99).

Spencer argues that the equal liberty principle has a number of implications about the proper bounds of law and governance in a community. Among these are:

> These are such self-evident corollaries from our first principle as scarcely to need a separate statement. **If every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man, it is manifest that he has a claim to his life: for without it he can do nothing that he has willed**; **and to his personal liberty: for the withdrawal of it partially, if not wholly, restrains him from the fulfilment of his will**. It is just as clear, too, that **each man is forbidden to deprive his fellow of life or liberty: inasmuch as he cannot do this without breaking the law**, which, in asserting his freedom, declares that he shall not infringe "the equal freedom of any other." For he who is killed or enslaved is obviously no longer equally free with his killer or enslaver. (*Social Statics*, KL: 41550-56).

Note that Spencer is writing before slavery was finally overturned throughout the West, although progress had been made in Europe and North America. He goes on to note that a variety of inequalities are consistent with the equal liberty principle.

> If, therefore, out of many starting with like fields of activity, one obtains, by his greater strength, greater ingenuity, or greater application, more gratifications and sources of gratification than the rest, and does this without in any way trenching upon the equal freedom of the rest, **the moral law assigns him an exclusive right**

> **to all those extra gratifications and sources of gratification; nor can the rest take them from him without claiming for themselves greater liberty of action than he claims**, and thereby violating that law. (*Social Statics*, KL: 41940-44).

However, inequalities based on gender are not of this sort.

> **Equity knows no difference of sex**. In its vocabulary the word man must be understood in a generic, and not in a specific sense. The law of equal freedom manifestly applies to the whole race—female as well as male. (*Social Statics*. (KL 42341-46).

D. Equal Liberty and Commercial Rights

With respect to commerce, Spencer uses the logic of equal liberty to argue in favor of property and against governmental constraints on exchange, usury, and industry.

> [T]he **right of exchange may be asserted as a direct deduction from the law of equal freedom**.
>
> [T]he **right of exchange may be asserted as a direct deduction from the law of equal freedom**. For of the two who voluntarily make an exchange, neither assumes greater liberty of action than the other, and fellow men are uninterfered with–remain possessed of just as much liberty of action as before. Though completion of the exchange may shut out sundry of them from advantageous transactions, yet as their abilities to enter into such transactions depended wholly on the assent of another man, they cannot be included in their normal spheres of action. (*Principles of Ethics*, KL: 24197-201).
>
> Of course with **the right of free exchange** goes **the right of free contract:** a postponement, now understood, now specified, in the completion of an exchange, serving to turn the one into the other. (*Principles of Ethics*, KL: 24223-24).
>
> By the **right to free industry** is here meant **the right of each man to carry on his occupation, whatever it may be, after whatever manner he prefers or thinks best, so long as he does not trespass against his neighbors: taking the benefits or the evils of his way, as the case may be. Self-evident as this right now** seems, it seemed by no means self-evident to people in past times. (*Principles of Ethics*, KL: 24275-77).

According to Spencer, commerce is an area of life in which fundamental rights exist. It is not simply a means of earning a living. Spencer regards commerce to be a direct implication of the equal liberty principle. With minor caveats, against slavery and trade that undermines national defense, trade is a good for individuals, families, and society.

Spencer also notes that the field of political economy as it developed during the nineteenth century reached conclusions about free trade that were broadly similar to those reached through his equal-liberty-based analysis.

> [Political economy] teaches that **meddlings with commerce by prohibitions and bounties are detrimental;** and the law of equal freedom excludes them as wrong.
>
> That speculators should be allowed to operate on the food markets as they see well is an inference drawn by political economy; and by the fundamental principle of equity they are justified in doing this.
>
> Penalties upon usury are proved by political economists to be injurious; and by the law of equal freedom they are negatived as involving infringements of rights. [(1896) *Principles of Ethics* (KL 24595-98).]

E. Ethics and Evolution

Spencer also argues that altruism in its positive and negative forms becomes more important as one shifts from a militaristic to an industrial society, which is to say, from a coercive to a cooperative society.

> But **as civilization advances and status passes into contract**, there comes daily experience of the relation between advantages enjoyed and labor given: the industrial system maintaining, through supply and demand, a due adjustment of the one to the other.
>
> And **this growth of voluntary cooperation–this exchange of services under agreement, has been necessarily accompanied by decrease of aggressions one upon another, and increase of sympathy: leading to exchange of services beyond agreement**. That is to say, the more distinct assertions of individual claims and more rigorous apportioning of personal enjoyments to efforts expended, **has gone hand in hand with growth of that negative altruism shown in equitable conduct and that positive altruism shown in gratuitous aid.** (*Principles of Ethics*, KL: 15878-83).

Commerce supports both forms of altruistic behavior, as well as other ethics deemed to be attractive by contemporary philosophers. In this, Spencer is in agreement with Bastiat, although in Spencer's case, harmony results because ethics and society coevolve.

The coevolution of man, ethics, and society also implies that in the limit, as man and internalized codes of conduce reach perfection, coercion (and government) becomes unnecessary.

> **It is a mistake to assume that government must necessarily last for ever**. The institution marks a certain stage of civilization—is natural to a particular phase of human development. It is not essential but incidental. As amongst the Bushmen we find a state antecedent to government; so may there be one in which it shall have become extinct. Already has it lost something of its importance. ...
>
> Government, however, is an institution originating in man's imperfection; an institution confessedly begotten by necessity out of evil; one which might be dispensed with were the world peopled with the unselfish, the conscientious, the philanthropic; one, in short, inconsistent with this same "highest conceivable perfection." (*Social Statics*, 39713-63).[23]

F. Spencer and 'Doctrinaire Liberalism'

Spencer was one of the most widely read and influential writers of nonfiction in the second half of the nineteenth century. He wrote on a broad range of subjects including psychology, sociology, constitutional theory, and biology. In his mind, all these subjects were linked by the common thread of biological and social evolution.

His policy views were well known to sophisticated persons in Europe in the late nineteenth century and early twentieth centuries,

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[23] This idea is part of Spencer's critique of mainstream utilitarianism of the Bentham and Mill variety: "A system of moral philosophy professes to be a code of correct rules for the control of human beings—fitted for the regulation of the best, as well as the worst members of the race—applicable, if true, to the guidance of humanity in its highest conceivable perfection. Government, however, is an institution originating in man's imperfection; an institution confessedly begotten by necessity out of evil; one which might be dispensed with were the world peopled with the unselfish, the conscientious, the philanthropic; one, in short, inconsistent with this same "highest conceivable perfection." How, then, can that be a true system of morality which adopts government as one of its premises?" (*Social Statics*, KL: 39759-63).

and it attracted a broad range of critical responses from Mill to Nietzche. Many of his ideas carried forward after his death in 1903. Although less cited in the twenty-first century than Mill, his work in sociology, ethics, and evolutionary psychology continue to attract attention.

That his work was well known in the U. S. is, for example, suggested by the Holmes dissent to the majority the famous 1905 Lockner decision of the Supreme Court. The majority opinion implicitly adopts Spencer's reasoning with respect to freedom to contract, arguing that:

> The **general right to make a contract in relation to his business is part of the liberty protected by the Fourteenth Amendment**, and this includes the right to purchase and sell labor, except as controlled by the State in the legitimate exercise of its police power.

The minority dissent by Oliver Wendall Holmes suggests that the majority's reasoning is grounded in Spencer's arguments with respect to freedom of contract, rather than legal precedent:

> The liberty of the citizen to do as he likes so long as he does not interfere with the liberty of others to do the same, which has been a shibboleth for **some well-known writers**, is interfered with by school laws, by the post office, by every state or municipal institution which takes his money for purposes thought desirable, whether he likes it or not. **The 14th Amendment does not enact Mr. Herbert Spencer's *Social Statics*.**

Although the final Lockner decision was far narrower than these excerpts suggest, it is clear that Spencer's positions were both mainstream and taken seriously in the United States at the turn of the century.[24]

With respect to ethics, Spencer provided a new evolution-based interpretation of utilitarianism, which he argued supported a wide range of conventional virtues including justice, generosity, humanity, veracity, obedience, industry, temperance, chastity, marriage, and parenthood. With respect to commerce, Spencer like other nineteenth century liberals, regards it to be a process that increases aggregate happiness. He is generally more concerned about government restraints on it than on any corrupting influence that it may have on individuals, although he acknowledges that by praising wealth itself, regardless of how it is acquired, some undermining of morals does occur.[25]

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[24] Rehnquist (2001: 113–14) provides a short summary of "anti-progressive" Supreme Court decisions.

[25] This is most evident in his essay on "The Morals of Trade," (1859). In that piece, Spencer argues that much of the unethical behavior observed in markets (fraud) arises because people in England admire wealth without regard to how it has been obtained, rather than only wealth that has been obtained through industry, honesty, and frugality. He argues that morals are somewhat higher in his own time than in former times, and that further improvements are underway, partly because of the internalization of utilitarian ideas. "And happily the signs of this **more moral public opinion** are showing themselves. It is becoming a tacitly-received doctrine that the rich should not, as in bygone times, spend their lives in personal gratification; but **should devote them to the general welfare**. Year by year is the improvement of the people occupying a larger share of the attention of the upper classes. Year by year are they voluntarily devoting more energy to furthering the material and mental progress of the masses. **And those among them who do not join in the discharge of these high functions**, are beginning to be **looked upon with more or less contempt** by their own order. This latest and most hopeful fact in human history—this new and better chivalry—promises to evolve a higher standard of honor, and so to ameliorate many evils: among others those which we have detailed" (KL: 76319-24).

Spencer's grounding of pleasure in pain in the survivorship pressures of evolution was essentially unique at the time of his writing (and remains largely so among contemporary philosophers). Evolutionary pressures, he argued, produced mechanisms for pleasure and pain, and a common moral sense. These account for both the overlapping lists of virtues developed by philosophers and for similarities in the maxims adopted by societies at a similar stage of development. A utilitarian philosophy that takes account of evolution can deepen our understanding of such ethical practices. Properly understood, it can also be used to systematically evaluate private codes of conduct, public laws, and constitutional forms of government.

VI. Utilitarian Ethics and Support for Commerce in the Nineteenth Century

There are several shared conclusions among Bentham, Mill, and Spencer that are of particular interest for the purposes of this volume.

Each provided new ethical defenses of both careers in commerce and commercial systems that were broader than the religious ones proposed by Baxter and Barclay, and the secular ones of Montesquieu and Smith. All three agreed that commerce was in general an activity that makes people better off. Insofar as relationships within markets were voluntary, the relationships must be to the advantage of each individual, and so tend to increase aggregate utility. All parties to a voluntary exchange gain from it. Commercial systems, thus, tend to increase aggregate happiness and is a moral or virtuous activity.

Commerce, from the utilitarian perspective, is no longer an ethically neutral activity as it had been in Smith's and Kant's accounts, but praiseworthy because it increases aggregate utility, understood as the sum of the net happiness of all members in a community. To be gainfully and honestly employed in markets was essentially a duty, an important method of increasing social utility.

As a consequence, Bentham, Mill, and Spencer were generally more concerned with governmental barriers to exchange and favoritism, than about the commercial society that was emerging about them. Policy makers should take complete account of the effects of their policies on all members of society. With respect to markets, they agreed that the result would be a shift toward laissez faire policies. Public policy would generally be improved by removing restrains on domestic and international trade (and not imposing new ones).

All three agreed that most individuals are and should be largely, although not entirely, motivated by self interest. This was not a problem for society, given appropriate civil laws, because the results of social intercourse under such laws tends to increase utility both for individuals and for society at large. Thus, people should be substantially be left alone to make their own decisions.

There were caveats to their support for commerce and liberty, the most serious of which were developed by Mill with respect to the significance of externalities--costs borne by third parties not directly involved in the exchanges that produced them. But even Mill regarded such concerns to be relatively unimportant, so that most persons should be free to engage in the activities that added to their and their family's wealth and happiness.

Fourth, all agreed that coercive relationships were unlikely to be mutually beneficial and should be restricted to the minimum required to protect individual liberties and rights. Only criminals should be routinely subject to coercion. Voluntary cooperative relationships were the main engine of progress according to utilitarians.

Utilitarianism was, of course, not created whole cloth by Jeremy Bentham, nor did they invent defenses of market systems. Aristotle

had long ago argued that happiness is the ultimate end.[26] The Christian "golden rule" implied that one's actions should take account of effects on others. The idea of the "pubic weal" had long been included in legal documents and mentioned as a basis for choosing public policies. Many previous writers had defended careers in commerce and commercial systems.

Utilitarians simply systematized and generalized these ideas. Happiness returned to the center stage after a long absence. Utilitarians, unlike Aristotle, did not stress that character development is necessary to maximize individual happiness, although they were generally supportive of the idea. Their focus was on aggregate net happiness (pleasures net of pains), rather than on individual happiness and self development.

VII. Ethics and Commerce: Some Conclusions from Part I

Part I has surveyed ethical theories with several ends in mind. First, the survey demonstrates that ethics and economics are not entirely independent subjects. Philosophers who made the largest contributions to ethics routinely used choices in markets to illustrate the relevance of their theories. Philosophers who made the largest contributions to economic theories were also interested in ethics and often made contributions to ethical theory. Indeed most academic "economists" held positions in philosophy departments until well into the nineteenth century.

Second, the survey demonstrates that ethical theory is a field of study that is at least partly empirical in nature. That is to say, philosophical theories are ultimately grounded in observations about actions and codes of conduct that are widely understood to be ethical within their own societies. Philosophical innovations and refinements are partly responses to theories developed by previous generations of philosophers. Mistakes and inconsistencies in reasoning may be identified and corrected. Ideas may be brought into clearer focus or given deeper foundations. However, innovations and refinements are also partly efforts to understand the world in which a given philosopher lives.

Ideas of virtue and vice, right and wrong, good and bad, are commonplace ideas in most societies. To fully understand those ideas, philosophers attempt to identify the common features in the actions and dispositions that can be so classified. These common features may themselves share common features, and so forth. In this manner, ethicists attempt to discover the ultimate foundations of virtue and vice partly through observation, partly through the search for consistent patterns in what they have observed, and partly through whether their refinements better account for the usual classification of actions and dispositions into virtue and vice. The remainder may be regarded as mistakes made by persons in their communities or as an irreducible error term in their efforts to systematize ideas about virtue and vice. In either case, ethical theories tell us quite a bit about mainstream ideas concerning virtue and vice in the societies in which philosophers lived.

Third, the survey reveals subtle shifts in both ideas about the role of commerce in a good life and good society. The philosophers were all members of relatively prosperous societies in which commerce played a significant role. Philosophical writing tends to be a luxury good produced for the most part in relatively prosperous societies. Significant support for norms that are supportive of commerce and

[26] There are also parallels with other Greek philosophers as well, especially the Epicureans. Epicurus (341-270 BCE) was a Greek philosopher in the generation after Aristotle, who also argued that happiness was the ultimate end of life. He proposed an atom-based and sense-based human universe, well in advance of his peers. Relatively little of his writing survives, however. The term Epicurean is often applied to those interested in a sophisticated materialistic lifestyles, although Epicurus stressed a simple pleasurable lifestyle free from pain. See the *Stanford Encyclopedia of Philosophy* for a short overview. (http://plato.stanford.edu/entries/epicurus/).

for lives in commerce are evident in the ideas of all the philosophers covered. Even Thomas and Erasmus, who are used as counter examples, support honesty, prudence, promise keeping, and industry, if not commerce per se. There is a good deal of agreement about the nature of virtuous conduct.

However, there are differences among the philosophers regarding the role of commerce in a good life and good society, and with respect to the praise worthiness of particular careers in commerce. Dutch and British theologians in the seventeenth century argued that trade, prosperity, and the accumulation of wealth had divine support. Grotius argued that free trade was an natural God-given right, Baxter, that secular careers could be a calling, La Court that prosperity and republican institutions had divine providence. In the Eighteenth century, new more secular support for the ethics that support commerce were developed. Franklin suggests that virtue, especially industry and frugality, tended to enhance one's prospect for being wealthy. Smith, although somewhat skeptical of the need for more than a modest level of wealth for a good life, argued that markets were guided by an invisible hand that tended to maximize prosperity, when it was not interfered with by unnecessary regulations and grants of monopoly. Bastiat argued that there was a divine harmony between ethical and commercial spheres when appropriate civil laws were in place. Bentham pointed out that trade is mutually advantageous to both sides of every non-fraudulent transaction and so tended to increase aggregate utility. Spencer argued that the equal liberty principle implied essentially unfettered exchange was a characteristic of the good society.

Although support for the virtues that tend to make markets work effectively was evident in the writings of all of the philosophers surveyed, the breadth and depth of that support had increased. Moreover, some virtues were given greater prominence than others in the new ethical theories. Prudence, promise keeping, and dutiful rule following were given greater emphasis than bravery or honor. Among utilitarians, happiness returned as the ultimate end and main principle underlying ethical conduct. Virtue consisted of the pursuit of happiness in any manner that did not harm others. Trade was itself virtuous insofar as it generated benefits for all of the parties involved (or it would not have been undertaken). By the early-to-mid nineteenth century, there were a variety of religious, legal, and ethical rationales that implied that a good life, a moral life, could be had by one that spent much of his or her life in commerce.

Realizing profits were part of God's command. Commerce encourages specialization and economic development, in a manner that multiplied the material well being of its participants and produces approval from one's neighbors. Utilitarians would argue that markets tend to generate benefits (pleasure) for most that exceeded their losses (pains). Many of the caveats expressed about commerce by earlier ethical writers, as in Aristotle, Montesquieu, and Smith were rejected by utilitarians. Finance, banking, and retail sales as voluntary relationships would all add to aggregate utility. McCloskey (2006) suggests that popular culture in the nineteenth century had assimilated many of these arguments and conclusions.

Consistent with the main hypothesis of this book, economic growth accelerated in the nineteenth century in all the countries where these stronger ethical supports for commerce had become commonplace. This hypothesis is not new, of course. The effects of ethics on prosperity was noted by many of the authors surveyed in part I. The shifts in norms associated with the emergence of the commercial society was also noted by many persons writing during the nineteenth and early twentieth century.

Spencer, for example, suggests that military codes of conduct tend to be replaced by more cooperative ones, including a work ethic, as industrialization takes place.

> In modern days, especially among ourselves and the Americans, the industrial part of society has so greatly outgrown the militant part, and has **come to be so much more operative in forming the sentiments and ideas**

> **concerning industry**, that these are almost reversed. ... [A]long with the advance of industrialism towards social supremacy, there has arisen the almost **universal feeling that some kind of useful occupation is imperative**. Condemnations of the "idle rich" are now-a-days uttered by the rich themselves. [*Principles of Ethics* (KL 6344-6348).]

Max Weber writing in the early 20th century suggests that changes in norms both launched and sustained capitalism, by which he means the commercial society that had emerged in the late 19th century.

> [I]n general also **an attitude which, at least during working hours, is freed from continual calculations of how the customary wage may be earned with a maximum of comfort and a minimum of exertion**. **Labor must, on the contrary, be performed as if it were an absolute end in itself, a calling**.
>
> But **such an attitude is by no means a product of nature**. It cannot be evoked by low wages or high ones alone, but can only be the product of a long and arduous **process of education**.
>
> **Today,** capitalism, once in the saddle, **can recruit its laboring force** in all industrial countries with comparative ease. In **the past this was in every case an extremely difficult problem.** [Weber (1904). *The Protestant Ethic and the Spirit of Capitalism* (KL 312-316).]

By the time Spencer had finished his ethics and Weber began thinking about markets and the origins of capitalism, the emergence of the commercial society was well under way throughout the West and life in the new more broadly commercial societies was widely regarded to be more attractive than lives in former times.

All this is not to say that Bastiat's or Spencer's perfectly evolved harmony between private actions and social consequences emerged in 1900. Nor is it to say that the decrease in the scope of religion typical among scientists and secular philosophers was accepted by all voters. For many, religion and miracles remained important facts of life. Nor is it to say that unfettered exchange was universally supported in the late nineteenth century. New opponents emerged as well, although they were relatively unimportant politically until the late nineteenth century.

It bears noting that essentially none of the new critics longed for a return to the medieval society of old with its monopoly religion, small local markets, and aristocracy based on birth. Mainstream critics for the most part recognized the merits of the commercial society, with its urban-centric lifestyles, the exchange of work for wages, the purchase of the necessities of life, and so forth. Most simply argued in favor of additional government services, higher wage rates, regulation of working conditions, externalities and monopoly power. Very few attacked on the morality of private property, voluntary exchange, and the freedom to choose employment and place of residence. Instead, they criticized the distribution of wealth produced by the rapid expansion of commerce.

Some of the most radical opponents preferred a society based on cooperatives, a point of view the Mill had some sympathy with, while others wanted an elite-managed society, a perspective not so different from Thomas More's utopian town magistrates. However, communist and fascist ideas for transforming society were minority views in the late nineteenth and early twentieth centuries.[27] The idea

[27] In his autobiography, Mill claims to have become a socialist in his 30s, evidently because he was sympathetic with some of the ideas of leading French socialists. The pieces focused on in this chapter were written well after that, during his 50s and 60s, and express very few, if any, socialist views. Rather, his political writings were consistently "left liberal" for his time, as with his support for free trade, emancipation, universal male and female suffrage, proportional representation, public education, and educational-weighted voting.

that hard work, trade, and profit were ethical activities had taken hold, as observed by Weber.[28]

The idea of economic progress had become increasingly central to intellectual thought and to common experience. Society was no longer thought of in static terms. Shifts in norms and lifestyles were widely considered to be good, rather than threats or nuisances to be blocked or ameliorated. Mill, for example, recognized that his age was one of transition. Spencer argued that society had long been in a state of flux and would continue to evolve until internalized rules of conduct (ethics) were perfect for the existing social and natural environment.

Change was natural, and change for the better seemed commonplace. New ideas and products were often better than the old. The debate among mainstream Western political parties was whether or not a commercial society could be improved, not whether it should be eliminated or not.

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[28] That radical opposition to commerce was a minority viewpoint in the late nineteenth and early twentieth century can be deduced from electoral outcomes in Northern Europe and in the United States. "Left liberals" were relatively numerous and influential than right liberals by the early twentieth century, as was evident in policies with respect to public education and safety net programs in the United Kingdom and France. Only a handful of relatively moderate Progressive party candidates were elected to office in the United States during the late nineteenth and early twentieth century.

Left liberals did not oppose the commercial society, per se, rather they attempted to further open society by equalizing opportunities. Some of the most "radical" argued in favor of shifting the bargaining equilibrium typical in the markets of their time it to favor owners of labor, as with proposals for ten-hour days and a six day work weeks. In Europe, social democratic parties were politically successful after universal male suffrage was adopted in the early twentieth century. However, social democratic governments tended to be left liberals rather than socialist. They did not attempt to radically reform their commercial societies. Rather, they modestly re-balanced labor contracts and created small social insurance programs. They did not nationalize all large industries or undertake massive redistributive programs. Their most radical members abandoned the social democratic parties to form new communist parties after W.W.I, which tended to be supported by relatively small numbers of voters (5-10%).

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