

Jonathan Avis – **Jeremy Bentham's *Security and Equality of Property***

In this excerpt from *Principles of the Civil Code*, Jeremy Bentham makes a utilitarian argument in defence of unequal property. In utilitarian reasoning the moral option is that which results in the greatest happiness. Accordingly, he contends that the goal of the legislator is the happiness of society, which consists of subsistence, abundance, equality, and security – these being the only legitimate ends of legislation. Bentham tries to show that laws protecting limitless (private) property result in the greatest happiness.

The ends of legislation will sometimes conflict, so they must be ranked. Subsistence and security are superior to abundance and equality, as abundance could not exist without subsistence, and equality could not last without security. Nature compels us to seek subsistence (needs armed with pains and death), so legal motivation is unnecessary. Therefore security is the most important. Nature also compels us to seek abundance, as our wants do not cease when we achieve mere subsistence. Luxury is justified because societies with nothing superfluous are especially prone to bad seasons, war, etc. Law can do nothing directly for subsistence or abundance, but can favour them indirectly by providing security for the fruits of labour.

To address distribution of wealth, Bentham proposes a “scientific” formula to measure the effect of wealth and distribution on the total amount of happiness. He considers the effect of a portion of wealth: a) when it has always been in the hands of the holder; b) when it is leaving his hands; and c) when it is coming into them. Each portion of wealth has a corresponding unit of happiness, so if you have more wealth you have more happiness. Here Bentham recognizes the law of diminishing returns – once you’ve reached a comfortable level, further increases in wealth will yield smaller increases in happiness. The nearer the distribution of wealth approaches equality, the greater the total happiness. For two individuals of equal fortune, wealth passing from one to the other will result in less happiness, as people are more sensible to pain than to pleasure. If the individuals are of unequal fortune, and the loser is the poorer, the evil of loss is aggravated by inequality. If the loser is the richer, the attack on security is partly compensated by the progress toward equality.

Bentham states, “Law alone is able to create a fixed and durable possession which merits the name of property”. For Bentham, property is nothing more than the expectation of benefitting from a thing we possess – it is “a mere conception of the mind”. Ensuring the enjoyment of the fruits of labour is what motivates people to labour beyond their immediate needs. Without law there is no security; without security there may be subsistence, but not abundance, and the only possible equality is “an equality of misery”. Property restrains idleness and produces abundance.

Bentham then looks at what would result from redistributing property. It is painful to lose property because we come to have affection for it beyond its intrinsic value. Fear of losing property prevents us from enjoying the property we have. If property is not secure, industry will die, and productive capital will flee the country. Redistributions of wealth lead to further redistributions, which means no security, no industry, and no happiness. All of these factors militate in favour of defending the existing distribution of wealth, no matter what it might be. Equality must yield to security, for equality as the basis of the social arrangement “will destroy both itself and security at the same time”. (Bentham adds that equality could be gradually achieved without sacrificing the incentive to labour by redistributing property upon death of the owner.)

- ➔ What are some of the assumptions that Bentham’s argument relies upon?
- ➔ How does Bentham’s idea of property differ from Locke’s?