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Jeremy Bentham, *The Works of Jeremy Bentham, vol. 1 (Principles of Morals and Legislation, Fragment on Government, Civil Code, Penal Law)* [1843]



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CHAPTER I. OF THE PRINCIPLE OF UTILITY.

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

But enough of metaphor and declamation: it is not by such means that moral science is to be improved.

II.

The principle of utility is the foundation of the present work: it will be proper therefore at the outset to give an explicit and determinate account of what is meant by it. By the principle† of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words, to promote or to oppose that happiness. I say of every action whatsoever; and therefore not only of every action of a private individual, but of every measure of government.

III.

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: if that party be the community in general, then the happiness of the community: if a particular individual, then the happiness of that individual.

IV.

The interest of the community is one of the most general expressions that can occur in the phraseology of morals: no wonder that the meaning of it is often lost. When it has

a meaning, it is this. 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.

V.

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

VI.

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.

VII.

A measure of government (which is but a particular kind of action, performed by a particular person or persons) may be said to be conformable to or dictated by the principle of utility, when in like manner the tendency which it has to augment the happiness of the community is greater than any which it has to diminish it.

VIII.

When an action, or in particular a measure of government, is supposed by a man to be conformable to the principle of utility, it may be convenient, for the purposes of discourse, to imagine a kind of law or dictate, called a law or dictate of utility: and to speak of the action in question, as being conformable to such law or dictate.

IX.

A man may be said to be a partizan of the principle of utility, when the 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.

X.

Of an action that 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.

XI.

Has the rectitude of this principle been ever formally contested? It should seem that it had, by those who have not known what they have been meaning. Is it susceptible of any direct proof? It should seem not: for that which is used to prove every thing else, cannot itself be proved: a chain of proofs must have their commencement somewhere. To give such proof is as impossible as it is needless.

XII.

Not that there is or ever has been that human creature breathing, however stupid or perverse, who has not on many, perhaps on most occasions of his life, deferred to it. By the natural constitution of the human frame, on most occasions of their lives men in general embrace this principle, without thinking of it: if not for the ordering of their own actions, yet for the trying of their own actions, as well as of those of other men. There have been, at the same time, not many, perhaps, even of the most intelligent, who have been disposed to embrace it purely and without reserve. There are even few who have not taken some occasion or other to quarrel with it, either on account of their not understanding always how to apply it, or on account of some prejudice or other which they were afraid to examine into, or could not bear to part with. For such is the stuff that man is made of: in principle and in practice, in a right track and in a wrong one, the rarest of all human qualities is consistency.

XIII.

When a man attempts to combat the principle of utility, it is with reasons drawn, without his being aware of it, from that very principle itself.‡ His arguments, if they prove any thing, prove not that the principle is *wrong*, but that, according to the applications he supposes to be made of it, it is *misapplied*. Is it possible for a man to move the earth? Yes; but he must first find out another earth to stand upon.

XIV.

To disprove the propriety of it by arguments is impossible; but, from the causes that have been mentioned, or from some confused or partial view of it, a man may happen to be disposed not to relish it. Where this is the case, if he thinks the settling of his opinions on such a subject worth the trouble, let him take the following steps, and at length, perhaps, he may come to reconcile himself to it.

1. Let him settle with himself, whether he would wish to discard his principle altogether; if so, let him consider what it is that all his reasonings (in matters of politics especially) can amount to?
2. If he would, let him settle with himself, whether he would judge and act without any principle, or whether there is any other he would judge and act by?
3. If there be, let him examine and satisfy himself whether the principle he thinks he has found is really any separate intelligible principle; or whether it be not a mere principle in words, a kind of phrase, which at bottom expresses neither more nor less than the mere averment of his own unfounded sentiments; that is, what in another person he might be apt to call caprice?
4. If he is inclined to think that his own approbation or disapprobation, annexed to the idea of an act, without any regard to its consequences, is a sufficient foundation for him to judge and act upon, let him ask himself whether his sentiment is to be a standard of right and wrong, with respect to every other man, or whether every man's sentiment has the same privilege of being a standard to itself?
5. In the first case, let him ask himself whether his principle is not despotic, and hostile to all the rest of human race?
6. In the second case, whether it is not anarchial, and whether at this rate there are not as many different standards of right and wrong as there are men? and whether even to the same man, the same thing, which is right to-day, may not (without the least change in its nature) be wrong to-morrow? and whether the same thing is not right and wrong in the same place at the same time? and in either case, whether all argument is not at an end? and whether, when two men have said, "I like this," and "I don't like it," they can (upon such a principle) have any thing more to say?
7. If he should have said to himself, No: for that the sentiment which he proposes as a standard must be grounded on reflection, let him say on what particulars the reflection is to turn? If on particulars having relation to the utility of the act, then let him say whether this is not deserting his own principle, and borrowing assistance from that very one in opposition to which he sets it up: or if not on those particulars, on what other particulars?
8. If he should be for compounding the matter, and adopting his own principle in part, and the principle of utility in part, let him say how far he will adopt it?
9. When he has settled with himself where he will stop, then let him ask himself how he justifies to himself the adopting it so far? and why he will not adopt it any farther?
10. Admitting any other principle than the principle of utility to be a right principle, a principle that it is right for a man to pursue; admitting (what is not true) that the word *right* can have a meaning without reference to utility, let him say whether there is any such thing as a *motive* that a man can have to pursue the dictates of it: if there is, let him say what that motive is, and how it is to be distinguished from those which

enforce the dictates of utility: if not, then lastly let him say what it is this other principle can be good for?

CHAPTER II.

OF PRINCIPLES ADVERSE TO THAT OF UTILITY.

I.

If the principle of utility be a right principle to be governed by, and that in all cases, it follows from what has been just observed, that whatever principle differs from it in any case must necessarily be a wrong one. To prove any other principle, therefore, to be a wrong one, there needs no more than just to show it to be what it is, a principle of which the dictates are in some point or other different from those of the principle of utility: to state it is to confute it.

II.

A principle may be different from that of utility in two ways: 1. By being constantly opposed to it: this is the case with a principle which may be termed the principle of *asceticism*.^{*} 2. By being sometimes opposed to it, and sometimes not, as it may happen: this is the case with another, which may be termed the principle of *sympathy* and *antipathy*.

III.

By the principle of asceticism I mean that principle, which, like the principle of utility, approves or disapproves of any action, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question; but in an inversive manner: approving of actions in as far as they tend to diminish his happiness; disapproving of them in as far as they tend to augment it.

IV.

It is evident that any one who reprobates any the least particle of pleasure, as such, from whatever source derived, is *pro tanto* a partizan of the principle of asceticism. It is only upon that principle, and not from the principle of utility, that the most abominable pleasure which the vilest of malefactors ever reaped from his crime would be to be reprobated, if it stood alone. The case is, that it never does stand alone; but is necessarily followed by such a quantity of pain (or, what comes to the same thing, such a chance for a certain quantity of pain) that the pleasure in comparison of it, is as nothing: and this is the true and sole, but perfectly sufficient, reason for making it a ground for punishment.

V.

There are two classes of men of very different complexions, by whom the principle of asceticism appears to have been embraced; the one a set of moralists, the other a set of religionists. Different accordingly have been the motives which appear to have recommended it to the notice of these different parties. Hope, that is, the prospect of pleasure, seems to have animated the former: hope, the aliment of philosophic pride: the hope of honour and reputation at the hands of men. Fear, that is, the prospect of pain, the latter: fear, the offspring of superstitious fancy: the fear of future punishment at the hands of a splenetic and revengeful Deity. I say in this case fear: for of the invisible future, fear is more powerful than hope. These circumstances characterize the two different parties among the partizans of the principle of asceticism: the parties and their motives different, the principle the same.

VI.

The religious party, however, appear to have carried it farther than the philosophical: they have acted more consistently and less wisely. The philosophical party have scarcely gone farther than to reprobate pleasure: the religious party have frequently gone so far as to make it a matter of merit and of duty to court pain. The philosophical party have hardly gone farther than the making pain a matter of indifference. It is no evil, they have said: they have not said, it is a good. They have not so much as reprobated all pleasure in the lump. They have discarded only what they have called the gross; that is, such as are organical, or of which the origin is easily traced up to such as are organical: they have even cherished and magnified the refined. Yet this, however, not under the name of pleasure: to cleanse itself from the sordes of its impure original, it was necessary it should change its name: the honourable, the glorious, the reputable, the becoming, the *honestum*, the *decorum*, it was to be called: in short, any thing but pleasure.

VII.

From these two sources have flowed the doctrines from which the sentiments of the bulk of mankind have all along received a tincture of this principle; some from the philosophical, some from the religious, some from both. Men of education more frequently from the philosophical, as more suited to the elevation of their sentiments: the vulgar more frequently from the superstitious, as more suited to the narrowness of their intellect, undiluted by knowledge: and to the abjectness of their condition, continually open to the attacks of fear. The tinctures, however, derived from the two sources, would naturally intermingle, insomuch that a man would not always know by which of them he was most influenced: and they would often serve to corroborate and enliven one another. It was this conformity that made a kind of alliance between parties of a complexion otherwise so dissimilar: and disposed them to unite upon various occasions against the common enemy, the partizan of the principle of utility, whom they joined in branding with the odious name of Epicurean.

VIII.

The principle of asceticism, however, with whatever warmth it may have been embraced by its partizans as a rule of private conduct, seems not to have been carried to any considerable length, when applied to the business of government. In a few instances it has been carried a little way by the philosophical party: witness the Spartan regimen. Though then, perhaps, it may be considered as having been a measure of security: and an application, though a precipitate and perverse application, of the principle of utility. Scarcely in any instances, to any considerable length, by the religious: for the various monastic orders, and the societies of the Quakers, Dumplers, Moravians, and other religionists, have been free societies, whose regimen no man has been astricted to without the intervention of his own consent. Whatever merit a man may have thought there would be in making himself miserable, no such notion seems ever to have occurred to any of them, that it may be a merit, much less a duty, to make others miserable: although it should seem, that if a certain quantity of misery were a thing so desirable, it would not matter much whether it were brought by each man upon himself, or by one man upon another. It is true, that from the same source from whence, among the religionists, the attachment to the principle of asceticism took its rise, flowed other doctrines and practices, from which misery in abundance was produced in one man by the instrumentality of another: witness the holy wars, and the persecutions for religion. But the passion for producing misery in these cases proceeded upon some special ground: the exercise of it was confined to persons of particular descriptions: they were tormented, not as men, but as heretics and infidels. To have inflicted the same miseries on their fellow-believers and fellow-sectaries, would have been as blameable in the eyes even of these religionists, as in those of a partizan of the principle of utility. For a man to give himself a certain number of stripes was indeed meritorious: but to give the same number of stripes to another man, not consenting, would have been a sin. We read of saints, who for the good of their souls, and the mortification of their bodies, have voluntarily yielded themselves a prey to vermin: but though many persons of this class have wielded the reins of empire, we read of none who have set themselves to work, and made laws on purpose, with a view of stocking the body politic with the breed of highwaymen, housebreakers, or incendiaries. If at any time they have suffered the nation to be preyed upon by swarms of idle pensioners, or useless placemen, it has rather been from negligence and imbecility, than from any settled plan for oppressing and plundering of the people.* If at any time they have sapped the sources of national wealth, by cramping commerce, and driving the inhabitants into emigration, it has been with other views, and in pursuit of other ends. If they have declaimed against the pursuit of pleasure, and the use of wealth, they have commonly stopped at declamation: they have not, like Lycurgus, made express ordinances for the purpose of banishing the precious metals. If they have established idleness by a law, it has been not because idleness, the mother of vice and misery, is itself a virtue, but because idleness (say they) is the road to holiness. If under the notion of fasting, they have joined in the plan of confining their subjects to a diet, thought by some to be of the most nourishing and prolific nature, it has been not for the sake of making them tributaries to the nations by whom that diet was to be supplied, but for the sake of manifesting their own power, and exercising the obedience of the people. If they have established, or suffered to be established, punishments for the breach of celibacy, they have done no more than comply with the

petitions of those deluded rigorists, who, dupes to the ambitious and deep-laid policy of their rulers, first laid themselves under that idle obligation by a vow.

IX.

The principle of asceticism seems originally to have been the reverie of certain hasty speculators, who having perceived, or fancied, that certain pleasures, when reaped in certain circumstances, have, at the long run, been attended with pains more than equivalent to them, took occasion to quarrel with every thing that offered itself under the name of pleasure. Having then got thus far, and having forgot the point which they set out from, they pushed on, and went so much further as to think it meritorious to fall in love with pain. Even this, we see, is at bottom but the principle of utility misapplied.

X.

The principle of utility is capable of being consistently pursued; and it is but tautology to say, that the more consistently it is pursued, the better it must ever be for human-kind. The principle of asceticism never was, nor ever can be, consistently pursued by any living creature. Let but one tenth part of the inhabitants of this earth pursue it consistently, and in a day's time they will have turned it into a hell.

XI.

Among principles adverse* to that of utility, that which at this day seems to have most influence in matters of government, is what may be called the principle of sympathy and antipathy. By the principle of sympathy and antipathy, I mean that principle which approves or disapproves of certain actions, not on account of their tending to augment the happiness, nor yet on account of their tending to diminish the happiness of the party whose interest is in question, but merely because a man finds himself disposed to approve or disapprove of them: holding up that approbation or disapprobation as a sufficient reason for itself, and disclaiming the necessity of looking out for any extrinsic ground. Thus far in the general department of morals: and in the particular department of politics, measuring out the quantum (as well as determining the ground) of punishment, by the degree of the disapprobation.

XII.

It is manifest, that this is rather a principle in name than in reality: it is not a positive principle of itself, so much as a term employed to signify the negation of all principle. What one expects to find in a principle is something that points out some external consideration, as a means of warranting and guiding the internal sentiments of approbation and disapprobation: this expectation is but ill fulfilled by a proposition, which does neither more nor less than hold up each of those sentiments as a ground and standard for itself.

XIII.

In looking over the catalogue of human actions (says a partizan of this principle) in order to determine which of them are to be marked with the seal of disapprobation, you need but to take counsel of your own feelings: whatever you find in yourself a propensity to condemn, is wrong for that very reason. For the same reason it is also meet for punishment: in what proportion it is adverse to utility, or whether it be adverse to utility at all, is a matter that makes no difference. In that same *proportion* also is it meet for punishment: if you hate much, punish much: if you hate little, punish little: punish as you hate. If you hate not at all, punish not at all: the fine feelings of the soul are not to be overborne and tyrannized by the harsh and rugged dictates of political utility.

XIV.

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

XV.

It is manifest, that the dictates of this principle will frequently coincide with those of utility, though perhaps without intending any such thing. Probably more frequently than not: and hence it is that the business of penal justice is carried on upon that tolerable sort of footing upon which we see it carried on in common at this day. For what more natural or more general ground of hatred to a practice can there be, than the mischievousness of such practice? What all men are exposed to suffer by, all men will be disposed to hate. It is far yet, however, from being a constant ground: for when a man suffers, it is not always that he knows what it is he suffers by. A man may suffer grievously, for instance, by a new tax, without being able to trace up the cause of his sufferings to the injustice of some neighbour, who has eluded the payment of an old one.

XVI.

The principle of sympathy and antipathy is most apt to err on the side of severity. It is for applying punishment in many cases which deserve none: in many cases which deserve some, it is for applying more than they deserve. There is no incident imaginable, be it ever so trivial, and so remote from mischief, from which this principle may not extract a ground of punishment. Any difference in taste: any difference in opinion: upon one subject as well as upon another. No disagreement so trifling which perseverance and altercation will not render serious. Each becomes in the other's eyes an enemy, and, if laws permit, a criminal.* This is one of the

circumstances by which the human race is distinguished (not much indeed to its advantage) from the brute creation.

XVII.

It is not, however, by any means unexampled for this principle to err on the side of lenity. A near and perceptible mischief moves antipathy. A remote and imperceptible mischief, though not less real, has no effect. Instances in proof of this will occur in numbers in the course of the work.† It would be breaking in upon the order of it to give them here.

XVIII.

It may be wondered, perhaps, that in all this while no mention has been made of the *theological* principle; meaning that principle which professes to recur for the standard of right and wrong to the will of God. But the case is, this is not in fact a distinct principle. It is never any thing more or less than one or other of the three before-mentioned principles presenting itself under another shape. The *will* of God here meant cannot be his revealed will, as contained in the sacred writings: for that is a system which nobody ever thinks of recurring to at this time of day, for the details of political administration: and even before it can be applied to the details of private conduct, it is universally allowed, by the most eminent divines of all persuasions, to stand in need of pretty ample interpretations: else to what use are the works of those divines? And for the guidance of these interpretations, it is also allowed, that some other standard must be assumed. The will then which is meant on this occasion, is that which may be called the *presumptive* will: that is to say, that which is presumed to be his will on account of the conformity of its dictates to those of some other principle. What then may be this other principle? it must be one or other of the three mentioned above: for there cannot, as we have seen, be any more. It is plain, therefore, that, setting revelation out of the question, no light can ever be thrown upon the standard of right and wrong, by any thing that can be said upon the question, what is God's will. We may be perfectly sure, indeed, that whatever is right is conformable to the will of God: but so far is that from answering the purpose of showing us what is right, that it is necessary to know first whether a thing is right, in order to know from thence whether it be conformable to the will of God.*

XIX.

There are two things which are very apt to be confounded, but which it imports us carefully to distinguish:—the motive or cause, which, by operating on the mind of an individual, is productive of any act: and the ground or reason which warrants a legislator, or other by-stander, in regarding that act with an eye of approbation. When the act happens, in the particular instance in question, to be productive of effects which we approve of, much more if we happen to observe that the same motive may frequently be productive, in other instances, of the like effects, we are apt to transfer our approbation to the motive itself, and to assume, as the just ground for the

approbation we bestow on the act, the circumstance of its originating from that motive. It is in this way that the sentiment of antipathy has often been considered as a just ground of action. Antipathy, for instance, in such or such a case, is the cause of an action which is attended with good effects: but this does not make it a right ground of action in that case, any more than in any other. Still farther. Not only the effects are good, but the agent sees beforehand that they will be so. This may make the action indeed a perfectly right action: but it does not make antipathy a right ground of action. For the same sentiment of antipathy, if implicitly deferred to, may be, and very frequently is, productive of the very worst effects. Antipathy, therefore, can never be a right ground of action. No more, therefore, can resentment, which, as will be seen more particularly hereafter, is but a modification of antipathy. The only right ground of action, that can possibly subsist, is, after all, the consideration of utility, which, if it is a right principle of action, and of approbation, in any one case, is so in every other. Other principles in abundance, that is, other motives, may be the reasons why such and such an act *has* been done: that is, the reasons or causes of its being done: but it is this alone that can be the reason why it might or ought to have been done. Antipathy or resentment requires always to be regulated, to prevent its doing mischief: to be regulated by what? always by the principle of utility. The principle of utility neither requires nor admits of any other regulator than itself.

OBJECTIONS TO THE PRINCIPLE OF UTILITY ANSWERED.†

Trifling scruples and “trifling verbal difficulties may be raised in opposition to the principle of utility, but no real and distinct objection can be opposed to it. Indeed, how can it be combated, if not by reasons drawn from the principle itself? To say that it is dangerous, is to say that to consult utility *is* contrary to utility.

The difficulty in this question arises from the perversity of language. *Virtue* has been represented as opposed to utility. *Virtue*, it has been said, consists in the sacrifice of our interests to our duties. In order to express these ideas clearly; it is necessary to observe, that there are interests of different orders, and that different interests are in certain circumstances incompatible. *Virtue* is the sacrifice of a smaller to a greater interest—of a momentary to a permanent interest—of a doubtful to a certain interest. Every idea of virtue, which is not derived from this notion, is as obscure as the motive to it is precarious.

Those who, for the sake of peace, seeking to distinguish politics and morals, assign utility as the principle of the first, and justice of the second, only exhibit the confusion of their ideas. The whole difference between politics and morals is this: the one directs the operations of governments, the other directs the proceedings of individuals; their common object is happiness. That which is politically good cannot be morally bad; unless the rules of arithmetic, which are true for great numbers, are false as respects those which are small.

Evil may be done, whilst it is believed that the *principle of utility* is followed. A feeble and limited mind may deceive itself, by considering only a part of the good and evil. A man under the influence of passion may deceive himself, by setting an extreme

CHAPTER III.

OF THE FOUR* SANCTIONS OR SOURCES OF PAIN AND PLEASURE.

I.

It has been shown that 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 behaviour. But whether it be this or any thing else that is to be *done*, there is nothing by which a man can ultimately be *made* to do it, but either pain or pleasure. Having taken a general view of these two grand objects (*viz.* pleasure, and what comes to the same thing, immunity from pain) in the character of *final* causes; it will be necessary to take a view of pleasure and pain itself, in the character of *efficient* causes or means.

II.

There are four distinguishable sources from which pleasure and pain are in use to flow: considered separately, they may be termed the *physical*, the *political*, the *moral*, and the *religious*: and inasmuch as the pleasures and pains belonging to each of them are capable of giving a binding force to any law or rule of conduct, they may all of them be termed *sanctions*.†

III.

If it be in the present life, and from the ordinary course of nature, not purposely modified by the interposition of the will of any human being, nor by any extraordinary interposition of any superior invisible being, that the pleasure or the pain takes place or is expected, it may be said to issue from, or to belong to, the *physical sanction*.

IV.

If at the hands of a *particular* person or set of persons in the community, who under names correspondent to that of *judge*, are chosen for the particular purpose of dispensing it, according to the will of the sovereign or supreme ruling power in the state, it may be said to issue from the *political sanction*.

V.

If at the hands of such *chance* persons in the community, as the party in question may happen in the course of his life to have concerns with, according to each man's spontaneous disposition, and not according to any settled or concerted rule, it may be said to issue from the *moral* or *popular sanction*. ‡

VI.

If from the immediate hand of a superior invisible being, either in the present life, or in a future, it may be said to issue from the *religious sanction*.

VII.

Pleasures or pains which may be expected to issue from the *physical*, *political*, or *moral* sanctions, must all of them be expected to be experienced, if ever, in the *present* life: those which may be expected to issue from the *religious* sanction, may be expected to be experienced either in the *present* life or in a *future*.

VIII.

Those which can be experienced in the present life, can of course be no others than such as human nature in the course of the present life is susceptible of: and from each of these sources may flow all the pleasures or pains of which, in the course of the present life, human nature is susceptible. With regard to these, then (with which alone we have in this place any concern), those of them which belong to any one of those sanctions, differ not ultimately in kind from those which belong to any one of the other three: the only difference there is among them lies in the circumstances that accompany their production. A suffering which befalls a man in the natural and spontaneous course of things, shall be styled, for instance, a *calamity*; in which case, if it be supposed to befall him through any imprudence of his, it may be styled a punishment issuing from the physical sanction. Now this same suffering, if inflicted by the law, will be what is commonly called a *punishment*; if incurred for want of any friendly assistance, which the misconduct, or supposed misconduct, of the sufferer has occasioned to be withholden, a punishment issuing from the *moral* sanction; if through the immediate interposition of a particular providence, a punishment issuing from the religious sanction.

IX.

A man's goods, or his person, are consumed by fire. If this happened to him by what is called an accident, it was a calamity: if by reason of his own imprudence (for instance, from his neglecting to put his candle out), it may be styled a punishment of the physical sanction: if it happened to him by the sentence of the political magistrate, a punishment belonging to the political sanction—that is, what is commonly called a

punishment: if for want of any assistance which his *neighbour* withheld from him out of some dislike to his *moral* character, a punishment of the *moral* sanction: if by an immediate act of *God's* displeasure, manifested on account of some *sin* committed by him, or through any distraction of mind, occasioned by the dread of such displeasure, a punishment of the *religious* sanction.*

X.

As to such of the pleasures and pains belonging to the religious sanction, as regard a future life, of what kind these may be, we cannot know. These lie not open to our observation. During the present life they are matter only of expectation: and, whether that expectation be derived from natural or revealed religion, the particular kind of pleasure or pain, if it be different from all those which lie open to our observation, is what we can have no idea of. The best ideas we can obtain of such pains and pleasures are altogether unliquidated in point of quality. In what other respects our ideas of them *may* be liquidated, will be considered in another place.†

XI.

Of these four sanctions, the physical is altogether, we may observe, the ground-work of the political and the moral: so is it also of the religious, in as far as the latter bears relation to the present life. It is included in each of those other three. This may operate in any case (that is, any of the pains or pleasures belonging to it may operate) independently of *them*: none of *them* can operate but by means of this. In a word, the powers of nature may operate of themselves; but neither the magistrate, nor men at large, *can* operate, nor is God in the case in question *supposed* to operate, but through the powers of nature.

XII.

For these four objects, which in their nature have so much in common, it seemed of use to find a common name. It seemed of use, in the first place, for the convenience of giving a name to certain pleasures and pains, for which a name equally characteristic could hardly otherwise have been found: in the second place, for the sake of holding up the efficacy of certain moral forces, the influence of which is apt not to be sufficiently attended to. Does the political sanction exert an influence over the conduct of mankind? The moral, the religious sanctions, do so too. In every inch of his career are the operations of the political magistrate liable to be aided or impeded by these two foreign powers: who, one or other of them, or both, are sure to be either his rivals or his allies. Does it happen to him to leave them out in his calculations? he will be sure almost to find himself mistaken in the result. Of all this we shall find abundant proofs in the sequel of this work. It behoves him, therefore, to have them continually before his eyes; and that under such a name as exhibits the relation they bear to his own purposes and designs.

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CHAPTER VII.

OF HUMAN ACTIONS IN GENERAL.

I.

The business of government is to promote the happiness of the society, by punishing and rewarding. That part of its business which consists in punishing, is more particularly the subject of penal law. In proportion as an act tends to disturb that happiness, in proportion as the tendency of it is pernicious, will be the demand it creates for punishment. What happiness consists of, we have already seen: enjoyment of pleasures, security from pains.

II.

The general tendency of an act is more or less pernicious, according to the sum total of its consequences, that is, according to the difference between the sum of such as are good, and the sum of such as are evil.

III.

It is to be observed, that here, as well as henceforward, wherever consequences are spoken of, such only are meant as are *material*. Of the consequences of any act, the multitude and variety must needs be infinite: but such of them only as are material are worth regarding. Now among the consequences of an act, be they what they may, such only, by one who views them in the capacity of a legislator, can be said to be material, † as either consist of pain or pleasure, or have an influence in the production of pain or pleasure. ‡

IV.

It is also to be observed, that into the account of the consequences of the act, are to be taken not such only as might have ensued, were intention out of the question, but such also as depend upon the connexion there may be between these first-mentioned consequences and the intention. The connexion there is between the intention and certain consequences is, as we shall see hereafter, † a means of producing other consequences. In this lies the difference between rational agency and irrational.

V.

Now the intention, with regard to the consequences of an act, will depend upon two things: 1. The state of the will or intention, with respect to the act itself. And, 2. The

state of the understanding, or perceptive faculties, with regard to the circumstances which it is, or may appear to be, accompanied with. Now with respect to these circumstances, the perceptive faculty is susceptible of three states: consciousness, unconsciousness, and false consciousness. Consciousness, when the party believes precisely those circumstances, and no others, to subsist, which really do subsist: unconsciousness, when he fails of perceiving certain circumstances to subsist, which, however, do subsist: false consciousness, when he believes or imagines certain circumstances to subsist, which in truth do not subsist.

VI.

In every transaction, therefore, which is examined with a view to punishment, there are four articles to be considered: 1. The *act* itself, which is done. 2. The *circumstances* in which it is done. 3. The *intentionality* that may have accompanied it. 4. The *consciousness*, unconsciousness, or false consciousness, that may have accompanied it.

What regards the act and the circumstances will be the subject of the present chapter: what regards intention and consciousness, that of the two succeeding.

VII.

There are also two other articles on which the general tendency of an act depends: and on that, as well as on other accounts, the demand which it creates for punishment. These are, 1. The particular *motive* or motives which gave birth to it. 2. The general *disposition* which it indicates. These articles will be the subject of two other chapters.

VIII.

Acts may be distinguished in several ways, for several purposes.

They may be distinguished, in the first place, into *positive* and *negative*. By positive are meant such as consist in motion or exertion: by negative, such as consist in keeping at rest; that is, in forbearing to move or exert one's self in such and such circumstances. Thus, to strike is a positive act: not to strike on a certain occasion, a negative one. Positive acts are styled also acts of commission; negative, acts of omission or forbearance.*

IX.

Such acts, again, as are negative, may either be *absolutely* so, or *relatively*: absolutely, when they import the negation of all positive agency whatsoever; for instance, not to strike at all: relatively, when they import the negation of such or such a particular mode of agency; for instance, not to strike such a person or such a thing, or in such a direction.

X.

It is to be observed, that the nature of the act, whether positive or negative, is not to be determined immediately by the form of the discourse made use of to express it. An act which is positive in its nature may be characterized by a negative expression: thus, not to be at rest, is as much as to say to move. So also an act, which is negative in its nature, may be characterized by a positive expression: thus, to forbear or omit to bring food to a person in certain circumstances, is signified by the single and positive term *to starve*.

XI.

In the second place, acts may be distinguished into *external* and *internal*. By external, are meant corporal acts; acts of the body: by internal, mental acts; acts of the mind. Thus, to strike is an external or exterior[†] act: to intend to strike, an internal or interior one.

XII.

Acts of *discourse* are a sort of mixture of the two: external acts, which are no ways material, nor attended with any consequences, any farther than as they serve to express the existence of internal ones. To speak to another to strike, to write to him to strike, to make signs to him to strike, are all so many acts of discourse.

XIII.

Third, Acts that are external may be distinguished into *transitive* and *intransitive*. Acts may be called transitive, when the motion is communicated from the person of the agent to some foreign body: that is, to such a foreign body on which the effects of it are considered as being *material*; as where a man runs against you, or throws water in your face. Acts may be called intransitive, when the motion is communicated to no other body, on which the effects of it are regarded as material, than some part of the same person in whom it originated; as where a man runs, or washes himself.[‡]

XIV.

An act of the transitive kind may be said to be in its *commencement*, or in the *first* stage of its progress, while the motion is confined to the person of the agent, and has not yet been communicated to any foreign body, on which the effects of it can be material. It may be said to be in its *termination*, or to be in the last stage of its progress, as soon as the motion or impulse has been communicated to some such foreign body. It may be said to be in the *middle* or intermediate stage or stages of its progress, while the motion, having passed from the person of the agent, has not yet been communicated to any such foreign body. Thus, as soon as a man has lifted up his hand to strike, the act he performs in striking you is in its commencement: as soon as

his hand has reached you, it is in its termination. If the act be the motion of a body which is separated from the person of the agent before it reaches the object, it may be said, during that interval, to be in its intermediate progress,* or in *gradu mediativo*: as in the case where a man throws a stone or fires a bullet at you.

XV.

An act of the *intransitive* kind may be said to be in its commencement, when the motion or impulse is as yet confined to the member or organ in which it originated; and has not yet been communicated to any member or organ that is distinguishable from the former. It may be said to be in its termination, as soon as it has been applied to any other part of the same person. Thus, where a man poisons himself: while he is lifting up the poison to his mouth, the act is in its commencement; as soon as it has reached his lips, it is in its termination.†

XVI.

In the third place, acts may be distinguished into *transient* and *continued*. Thus, to strike is a transient act, to lean, a continued one. To buy, a transient act: to keep in one's possession, a continued one.

XVII.

In strictness of speech there is a difference between a *continued* act and a *repetition* of acts. It is a repetition of acts, when there are intervals filled up by acts of different natures: a continued act, when there are no such intervals. Thus, to lean, is one continued act: to keep striking, a repetition of acts.

XVIII.

There is a difference, again, between a *repetition* of acts, and a *habit* or *practice*. The term repetition of acts may be employed, let the acts in question be separated by ever such short intervals, and let the sum total of them occupy ever so short a space of time. The term habit is not employed but when the acts in question are supposed to be separated by long-continued intervals, and the sum total of them to occupy a considerable space of time. It is not (for instance) the drinking ever so many times, nor ever so much at a time, in the course of the same sitting, that will constitute a habit of drunkenness: it is necessary that such sittings themselves be frequently repeated. Every habit is a repetition of acts; or, to speak more strictly, when a man has frequently repeated such and such acts after considerable intervals, he is said to have persevered in or contracted a habit: but every repetition of acts is not a habit.‡

XIX.

Fourth, acts may be distinguished into *indivisible* and *divisible*. Indivisible acts are merely imaginary, they may be easily conceived, but can never be known to be exemplified. Such as are divisible may be so, with regard either to matter or to motion. An act indivisible with regard to matter, is the motion or rest of one single atom of matter. An act indivisible, with regard to motion, is the motion of any body, from one single atom of space to the next to it.

Fifth, acts may be distinguished into *simple* and *complex*: simple, such as the act of striking, the act of leaning, or the act of drinking, above instanced: complex, consisting each of a multitude of simple acts, which, though numerous and heterogeneous, derive a sort of unity from the relation they bear to some common design or end; such as the act of giving a dinner, the act of maintaining a child, the act of exhibiting a triumph, the act of bearing arms, the act of holding a court, and so forth.

XX.

It has been every now and then made a question, what it is in such a case that constitutes *one* act: where one act has ended, and another act has begun: whether what has happened has been one act or many.* These questions, it is now evident, may frequently be answered, with equal propriety, in opposite ways: and if there be any occasions on which they can be answered only in one way, the answer will depend upon the nature of the occasion, and the purpose for which the question is proposed. A man is wounded in two fingers at one stroke—Is it one wound or several? A man is beaten at 12 o'clock, and again at 8 minutes after 12—Is it one beating or several? You beat one man, and instantly in the same breath you beat another—Is this one beating or several? In any of these cases it may be *one*, perhaps, as to some purposes, and *several* as to others. These examples are given, that men may be aware of the ambiguity of language: and neither harass themselves with unsolvable doubts, nor one another with interminable disputes.

XXI.

So much with regard to acts considered in themselves: we come now to speak of the *circumstances* with which they may have been accompanied. These must necessarily be taken into the account before any thing can be determined relative to the consequences. What the consequences of an act may be upon the whole can never otherwise be ascertained: it can never be known whether it is beneficial, or indifferent, or mischievous. In some circumstances, even to kill a man may be a beneficial act: in others, to set food before him may be a pernicious one.

XXII.

Now the circumstances of an act, are, what? Any objects † whatsoever. Take any act whatsoever, there is nothing in the nature of things that excludes any imaginable object from being a circumstance to it. Any given object may be a circumstance to any other. ‡

XXIII.

We have already had occasion to make mention for a moment of the *consequences* of an act: these were distinguished into material and immaterial. In like manner may the circumstances of it be distinguished. Now *materiality* is a relative term: applied to the consequences of an act, it bore relation to pain and pleasure: applied to the circumstances, it bears relation to the consequences. A circumstance may be said to be material, when it bears a visible relation in point of causality to the consequences: immaterial, when it bears no such visible relation.

XXIV.

The consequences of an act are events. ? A circumstance may be related to an event in point of causality in any one of four ways: 1. In the way of causation or production. 2. In the way of derivation. 3. In the way of collateral connexion. 4. In the way of conjunct influence. It may be said to be related to the event in the way of causation, when it is of the number of those that contribute to the production of such event: in the way of derivation, when it is of the number of the events to the production of which that in question has been contributory: in the way of collateral connexion, where the circumstance in question, and the event in question, without being either of them instrumental in the production of the other, are related, each of them, to some common object, which has been concerned in the production of them both: in the way of conjunct influence, when, whether related in any other way or not, they have both of them concurred in the production of some common consequence.

XXV.

An example may be of use. In the year 1628, Villiers, Duke of Buckingham, favourite and minister of Charles I, of England, received a wound and died. The man who gave it him was one Felton, who, exasperated at the mal-administration of which that minister was accused, went down from London to Portsmouth, where Buckingham happened then to be, made his way into his anti-chamber, and finding him busily engaged in conversation with a number of people round him, got close to him, drew a knife, and stabbed him. In the effort, the assassin's hat fell off, which was found soon after, and, upon searching him, the bloody knife. In the crown of the hat were found scraps of paper, with sentences expressive of the purpose he was come upon. Here then, suppose the event in question is the wound received by Buckingham: Felton's drawing out his knife, his making his way into the chamber, his going down to Portsmouth, his conceiving an indignation at the idea of Buckingham's

administration, that administration itself, Charles's appointing such a minister, and so on, higher and higher without end, are so many circumstances, related to the event of Buckingham's receiving the wound, in the way of causation or production: the bloodiness of the knife, a circumstance related to the same event in the way of derivation: the finding of the hat upon the ground, the finding the sentences in the hat, and the writing them, so many circumstances related to it in the way of collateral connexion: and the situation and conversations of the people about Buckingham, were circumstances related to the circumstances of Felton's making his way into the room, going down to Portsmouth, and so forth, in the way of conjunct influence; inasmuch as they contributed in common to the event of Buckingham's receiving the wound, by preventing him from putting himself upon his guard upon the first appearance of the intruder.*

XXVI.

These several relations do not all of them attach upon an event with equal certainty. In the first place, it is plain, indeed, that every event must have some circumstance or other, and in truth, an indefinite multitude of circumstances, related to it in the way of production: it must of course have a still greater multitude of circumstances related to it in the way of collateral connexion. But it does not appear necessary that every event should have circumstances related to it in the way of derivation: nor therefore that it should have any related to it in the way of conjunct influence. But of the circumstances of all kinds which actually do attach upon an event, it is only a very small number that can be discovered by the utmost exertion of the human faculties: it is a still smaller number that ever actually do attract our notice: when occasion happens, more or fewer of them will be discovered by a man in proportion to the strength, partly of his intellectual powers, partly of his inclination.† It appears therefore that the multitude and description of such of the circumstances belonging to an act, as may appear to be material, will be determined by two considerations. 1. By the nature of things themselves. 2. By the strength or weakness of the faculties of those who happen to consider them.

XXVII.

Thus much it seemed necessary to premise in general, concerning acts and their circumstances, previously to the consideration of the particular sorts of acts with their particular circumstances, with which we shall have to do in the body of the work. An act of some sort or other is necessarily included in the notion of every offence. Together with this act, under the notion of the same offence, are included certain circumstances: which circumstances enter into the essence of the offence, contribute by their conjunct influence to the production of its consequences, and in conjunction with the act are brought into view by the name by which it stands distinguished. These we shall have occasion to distinguish hereafter by the name of *criminative* circumstances.‡ Other circumstances again entering into combination with the act and the former set of circumstances, are productive of still farther consequences. These additional consequences if they are of the beneficial kind bestow, according to the value they bear in that capacity, upon the circumstances to which they owe their birth,

the appellation of *exculpativ*^{*} or *extenuative* circumstances:† if of the mischievous kind, they bestow on them the appellation of *aggravative* circumstances.‡ Of all these different sets of circumstances, the criminative are connected with the consequences of the original offence, in the way of production; with the act, and with one another, in the way of conjunct influence: the consequences of the original offence with them, and with the act respectively, in the way of derivation: the consequences of the modified offence, with the criminative, exculpativ, and extenuative circumstances respectively, in the way also of derivation: these different sets of circumstances, with the consequences of the modified act or offence, in the way of production: and with one another (in respect of the consequences of the modified act or offence) in the way of conjunct influence. Lastly, whatever circumstances can be seen to be connected with the consequences of the offence, whether directly in the way of derivation, or obliquely in the way of collateral affinity (to wit, in virtue of its being connected, in the way of derivation, with some of the circumstances with which they stand connected in the same manner) bear a *material* relation to the offence in the way of evidence, they may accordingly be styled *evidentiary* circumstances, and may become of use, by being held forth upon occasion as so many proofs, indications, or evidences of its having been committed.‡§