2

Jeremy Bentham on Slavery and the Slave Trade

Frederick Rosen

I

Recent scholarship has not generally approved of Bentham's approach to the institution of slavery. According to Paul Kelly, Bentham's treatment of slavery is an example of a serious difficulty in his account of distributive justice, as the recognized evil of slavery must be reconciled with obligations to secure the property of the masters and the future expectations of the freed slaves.[1] In effect, Bentham rejected the institution of slavery while at the same time recognizing the validity of a number of obligations to sustain it. Kelly contrasts Bentham's approach with that of Rawls, whose contractarian theory of rights does not "acknowledge the legitimacy of any conception of the good which is inconsistent with the principle of right." "Any such institution or practice," Kelly continues, "has no normative force and ought not to be considered in practical decision-making."[2] As long as Bentham and utilitarianism do not rule out practices that violate rights, Kelly believes, this creates "intuitive difficulties" for Bentham's theory.[3] While he acknowledges that Bentham was hostile to the institution of slavery and to the slave trade, he feels that Bentham could have called for immediate abolition with compensation to the slave owners for their loss of property.

Douglas Long makes a similar argument regarding rights from the perspective of liberty and condemns Bentham's approach to slavery for its failure (in writings on political economy) to refer to "dignity, humanity, or rights" and rely only on "the superior capital value and productivity of free labour. "[4] For Long, "his dispassionate analysis of the slave's lot must surely constitute one of his most repulsive applications of security for expectations and the avoidance of disappointment."[5]

The most extensive critique of Bentham on slavery appears in Lea Campos Boralevi's *Bentham and the Oppressed*.[6] Boralevi begins by nothing that slavery was not a major theme in Bentham's writings and wonders why he never wrote at length on so important a topic and never declared himself a clear abolitionist.[7] But she criticizes Long and others for dwelling on a position that is external to Bentham's philosophy and not appreciating a greater failing, depicted at times as an "ambiguity" and at other times as a "contradiction." [8] The theme of slavery brings to light these ambiguities and contradictions and hence may be one reason for Bentham's apparent avoidance of the topic. The contradictions to which she refers are not too

different from those later developed by Kelly in terms of Rawlsian contractarianism. Bentham never reconciled his emphasis on security, and particularly security of property, with a similar emphasis on equality as ends of legislation. Nor did he reconcile his utilitarian emphasis on happiness with that on securing rights to property. These problems might be resolvable in numerous contexts but not in the context of slavery, where the oppression and misery caused by this institution could never be balanced against property rights. She also criticizes Bentham for his denial of the reality and validity of natural rights: ”Bentham is therefore not opposed to the institution of slavery in itself, but considers it evil only on the basis of its effects. This attitude is a coherent consequence of his denial of any theory of natural rights.“[9]

My object in this chapter will be to challenge these views of Bentham’s account of slavery. This challenge will be partly historical, to link up Bentham’s scattered remarks on slavery to the political contexts to which they were associated, partly textual in seeing various passages in the context of the works in which they appeared, and partly philosophical in exploring more gender-ally Bentham’s consistency and the so-called contradictions within his thought.

To introduce this discussion let us turn first to a brief letter concerning the slave trade, written by Bentham, which was Published in the *Public Advertiser* on June 6, 1789.[10] Apparently unknown to most Bentham scholars (including those I have just cited) this letter is unique in being his only writing directed specifically at the issues of slavery and the slave trade. He was writing in the midst of the first major parliamentary debate over the slave trade, which followed William Wilberforce’s speech and motion for its abolition on May 12, 1789, and dealt with the issue of whether or not the Liverpool slave traders should receive compensation if the trade were abolished. The debate was remarkable not only for the quality of the speeches but also for the unanimity among leading politicians, like Pitt, Fox, and Burke, for abolition. Burke and Pitt specifically discussed the question of compensation, and both rejected it. Burke argued that there was no real problem concerning compensation, as the Liverpool traders might simply employ their capital elsewhere.[11] Pitt rose in the House for a second time during the debate to correct any impression that he might support compensation, just because he was concerned with British resolve after abolition in dealing with other nations that took up the trade Britain would have abandoned, or with clandestine British traders.[12]

Bentham wrote his letter to support Pitt on the subject of compensation and to oppose any indemnification of those currently engaged in the slave trade. His letter was direct, passionate, and stated his position clearly. He referred to slaves as “*sensible* and *national* beings, whose necks by length of time have been moulded to the yoke.” On the subject of indemnification, he wrote:

> I observe the traders in human flesh claim an indemnity for the loss of their trade. Might not the same indemnity have been claimed with the same justice by the receivers of stolen goods? Is it worse to steal handkerchiefs and snuff-boxes than to steal men?

It is important to appreciate Bentham's arguments and his rhetoric, as in the following passage:

> What forced them to give their time and money to this employ? Were there no innocent callings to resort to? Is the word *trade* to be a license for every crime? Do murder and oppression put off their nature by being made a trade? Is it a property in crimes to lose their guilt by repetition? Does the perseverance of the tormentor, and the insensibility which is the consequence, deaden the feelings of the tormented? By shutting our eyes against cruelty, can we change its nature?

When Bentham calculated, as in weighing up the claims for compensation or the grounds of it being payment for the diminution of suffering following the abolition of the slave trade, he still rejected such compensation: "Those only are entitled to indemnification, to those only is indemnification wont to be given who ask for it with clean hands." In this "clean hands" category he placed claims by the American loyalists for indemnification following the War of Independence, but not the slave traders.

Bentham saw little difference between those who killed others with their own hands and those who brought about the death of slaves for the purpose of gain. He objected to being taxed to help pay for such crimes and suggested that those who approved of the slave trade might raise funds to compensate the slave traders. He also rejected the idea of allowing the slave trade to continue for a limited period.

It is worth noting that Bentham rejected the sort of solution that Kelly believes will overcome the "intuitive difficulties" in his theory. He flatly opposed compensation of the slave traders. Nor was he particularly concerned with security of property in this evil trade in human flesh. Although he did not explicitly invoke human rights or talk about liberty, except to deny that slave trading could he defended on the principles of free trade (in the analogy with trade in stolen goods), he could easily have done so. Nor did he see any conflict between property and happiness within his system. For Bentham the slave trade was clearly morally criminal involving murder and oppression on a massive scale and should be abolished by act of parliament.

Despite this clear example of Bentham's public opposition to the slave trade, the question of the paucity of his writings on slavery and the lack of evidence concerning a clear position on the abolition of slavery itself might still be raised. Furthermore, it might be argued that, however he dealt with compensation for the slave trade in this brief essay, problems might remain in his system concerning the application of the principle of utility which have a bearing on slavery and the slave trade. But as we shall see in the next sections, slavery was a highly complex institution and practice, and few in the eighteenth and early nineteenth centuries thought the theoretical and particularly the practical issues raised by slavery might be resolved simply by legislating for its abolition.

II

Until the eighteenth century most traditional religions and philosophies accepted the legitimacy of slavery in one form or another. Hugh Thomas relates a story of the King of Ashanti, who in 1820, following the abolition of the slave trade by Britain, asked a British official why the Christians no longer wanted to buy slaves:

> Was their God not the same as that of the Muslims, who continued to buy, kidnap, and sell slaves just as they had always done? Since the Koran accepted slavery, some Muslims even persuaded themselves that the new Christian behavior was an attack on Islam.
>
> Further, French, Portuguese and even Spanish traders still acted as if they thought that slavery was ordained by God, just as the Anglo-Saxons had done up till 1807.[13]

Thus, it seemed odd to this African king that the slave trade should be suddenly abolished on religious grounds at this particular time.

When Thomas Clarkson, the founder of the Society for the Abolition of the Slave Trade in 1787, published his history of the abolition in 1808, he nonetheless could declare:

> To Christianity *alone* we are indebted for the new and sublime spectacle of seeing men going beyond the bonds of individual usefulness to each other—of seeing them associated for the extirpation of private and public misery—and of seeing them carry their charity, as a united brotherhood, into distant lands.[14]

The reader of this passage might be excused for feeling as confused as the King of Ashanti, as we recall the general view within Christianity, often based on ancient philosophies that underpinned Christian doctrine (particularly that of Aristotle), that justified the institution of slavery over many centuries. The standard moral justification for the enslavement of fellow human beings was either that it was natural and of mutual benefit between masters and slaves, or that having been captured in a "just" war, the slaves were being given a lesser punishment and spared a painful death.[15]

Neither Clarkson nor the King of Ashanti provide an answer as to why in the late eighteenth century Christians began to support an abolitionist agenda. Another answer might come from the influence of the Enlightenment. If human beings are born free and equal, slavery would appear to be difficult to justify. Nevertheless, John Locke, for example, was a stockholder in the Royal African Company and also managed to provide a theoretical justification for slavery based on the forfeiture of one's life and thus one's liberty in committing an unjust act of fighting in an unjust war. It is worth noting that only the combatants (and not their wives and children) might be enslaved. The just victor appears to acquire slaves because the unjust combatants

have forfeited their right to be free. They become subhuman and are only freed when the just victor receives adequate reparations, although the slave has no “rights” to such freedom.[16]

As in Locke, most of the leading figures of the Enlightenment provided both the grounds for opposing slavery (as in an original natural freedom and equality) and some grounds for delaying immediate abolition of the practice. [17] Montesquieu’s *The Spirit of the Laws* contains a number of books and chapters concerned with servitude generally and black slavery in partictilar.[18] His approach was characteristically witty and urbane, but it also exhibits a moral seriousness beneath its irony and humor. For example, in compiling a list of supposed arguments in defense of black slavery, he wrote: “It is impossible for us to assume that these people are men because if we assumed they were men one would begin to believe that we ourselves were not Christians.” [19] Montesquieu was clearly opposed to slavery, which was animated by greed and a desire for luxury rather than a “love of public felicity.”[20] And where it existed, he argued, the civil law should attempt to minimize the abuses and dangers of such an institution.[21]

It would be difficult, however, to call Montesquieu a clear abolitionist. Slavery seemed appropriate for a despotism, if not for a monarchy or republic. [22] Climate also was an important factor, although, here too, Montesquieu was highly ambivalent about the effects of a hot climate as grounds for slavery.[23] Furthermore, he took the view that slaves should not be freed in large numbers by a general law and considered the problems that would arise with the immediate abolition of slavery in different constitutions, and, in particular, in republics.[24] Finally, Montesquieu considered African slavery in a larger context of servitude in numerous shapes, from serfdom and ancient domestic slavery to the status of women in different societies and within different practices, such as polygamy and monogamy.[25] Thus, for Montesquieu and for many writers of the Enlightenment slavery was clearly an evil, but a complex evil, and one not susceptible to simple solutions like immediate abolition.

There were exceptions, and we may briefly mention here Rousseau and Voltaire. Rousseau criticized Grotian and Lockean arguments regarding the legitimacy of slavery based on war, found no natural basis for slavery, and insisted that a right of slavery was a contradiction in terms.[26] In *Candide* Voltaire evoked the feelings of the terrible inhumanity of slavery when Candide and Cacambo came upon a slave in Surinam lying on the ground virtually naked with his left leg and right hand missing.[27] That Candide wept at the sight of the slave confirmed the humanity of both. In addition to this sense of humanity that led to some of the Enlightenment opposition to the slave trade, there was a growing economic argument, developed most strongly by Adam Smith, that free labor was far more productive and efficient than slave labor.[28] This was an argument that Bentham fully accepted and developed in his own economic writings.[29]

For the most part, the language and rhetoric of the Enlightenment was directed against the institution of slavery. But even the French revolutionaries exhibited a considerable reluctance to state simply that slavery should be immediately abolished, or, for that matter, that universal suffrage should be immediately instituted.[30] To proclaim that all humans were free and equal

by nature did not lead to policies that directly implemented the abolition of slavery.

III

In Britain, when the small group of Quakers and their allies decided to act against slavery, they decided on prudential grounds to campaign against the slave trade rather than take a purely abolitionist stance. As Clarkson put it, "1 have no doubt that this wise decision contributed greatly to their success; for I am persuaded that, if they had adopted the other object, they could not for years to come, if ever, have succeeded in their attempt."[31] It was thought that if the slave trade were abolished, slavery would eventually wither away.

The Committee for the Abolition of the Slave Trade was established in May 1787. At an early stage William Wilberforce and Samuel Romilly, close friends and allies of Bentham, became involved in its activities.[32] When Wilberforce initiated the debate over the slave trade in 1789, Bentham, as we have seen, provided strong support in his letter to the *Public Advertiser*. The first vote on the issue in the House of Commons took place in 1791; Wilberforce's bill was defeated by 163 to 88. By the mid-1790s those in favor of the abolition of the slave trade were often labeled "Jacobins," and despite widespread sympathy with the cause of abolition, little happened until 1807, when the bill to abolish the slave trade was successful. The bill was introduced by Wilberforce, but Romilly, who had recently entered parliament and was then Solicitor-General in the Ministry of All the Talents, was instrumental in its success. The final debate in February 1807, when the bill passed by a Substantial majority of 283 to 16, culminated with a speech by Romilly comparing the respective contributions of Napoleon and Wilberforce to mankind. Wilberforce wept, as the House unusually rose to applaud his efforts on behalf of humanity in attempting, now successfully, to abolish this evil trade.[33]

Bentham's relationships with both Wilberforce and Romilly are of some significance in clarifying his attitude toward slavery and the slave trade. Boralevi has observed that although Bentham knew Wilberforce at least from 1795 and they corresponded frequently between 1796 and 1811, most of the correspondence concerned the panopticon project and poor-law reform rather than the slave trade. This "strange fact" is then used by Boralevi to suggest that Bentham did not become an "abolitionist" and was indifferent to the abolitionist movement due to the weakness of his belief in liberty.[34] Otherwise, his extensive correspondence with Wilberforce would have been full of discussions concerning progress and failure to abolish slavery and the slave trade.[35]

Boralevi omits to consider Bentham's close friendship with Romilly, with whom he became acquainted as early as 1784 through George Wilson, a barrister and close friend, whom Bentham had known since the 1770s. After Bentham returned from Russia in 1788 and became a member of Lansdowne's coterie of intellectuals, he renewed his friendship with Romilly and, through Lansdowne and Romilly, established a friendship with the Genevan Etienne Dumont, later his editor, whose recensions would make Bentham famous throughout the world.[36] Romilly, as we have noted, had taken a passionate interest and became active in the Committee for the Abolition of the Slave Trade soon after its founding. At this time he became friends

with Wilberforce, although when Wilberforce approached him in 1806 to take the leading role in the debate over the abolition of the slave trade, Romilly remarked in his diary, they had not met for nine or ten years. In writing this, he gave no indication that the renewal of their friendship was not welcome on both sides, though he indicated that the break was not due to any fault on his part.[37]

At the time of his letter to the *Public Advertiser* and during the early years of the French Revolution, Bentham was working closely with Lansdowne, Romilly, and Dumont, using the libraries at Bowood and Lansdowne House, and exploiting contacts in France that were initially developed through Lansdowne but were actively cultivated by Romilly and Dumont.[38] Romilly's keen interest in the movement to abolish the slave trade was connected to his interest in developments in France, particularly as he had numerous contacts and was in regular correspondence with Dumont, who was then in Paris. On May 22, 1789, Dumont wrote to Romilly that he had joined the Société des Amis des Noirs in Paris, which at that time had approximately a hundred members.[39] In October Dumont reported cautiously: "The question of the negroes is not yet ripe, but I assure you that it is kept alive; and I still think it likely that it will be discussed even this session. The Duke de la Rochefoucauld is very earnest about it."[40] On January 26, 1790, Romilly wrote in despair to Dumont about the lack of progress among the French:

> I grieve beyond measure that the National Assembly does nothing respecting the slave trade. The question has been revived here, the first day that the House met on business. If there were any prospect of the French giving up the trade, I think it certainly would be abolished here. I cannot conceive why it is delayed. If the subject were merely introduced, and the temper of the French seen, it would be sufficient.[41]

The British opponents of the slave trade did try to influence developments in France. Clarkson relates his mission to Paris around July 1789 at the suggestion of Wilberforce to see if the French would abolish the slave trade. When he arrived there, he soon met the leading political figures opposed to the slave trade: Rochefoucauld, Condorcet, Villeneuve, Claviere, Brissot, and Lafayette, most of whom were well known to the Lansdowne circle.[42] He noted, however, that a meeting of the Société to which he went was not well attended, as the French seemed more concerned with the revolution than the slave trade. Many thought that if the former was secured, the latter would soon he abolished.[43] Clarkson then provided a long account of his supplying extensive information for an important speech that Mirabeau was to have given in the National Assembly.[44] In this account of laborious research for Mirabeau, Clarkson makes no reference to Dumont and seems wholly unaware of his role in Mirabeau's speech. In fact, Dumont was setting the questions that Clarkson was attempting to answer, and he, rather than Mirabeau, played the main role in drafting the discourse that Mirabeau was going to use.[45] Nor did Clarkson call attention to the importance of Romilly, except later in the

debate over abolition in 1805-1807.[46]

The significance of Clarkson's omissions is that the movement for the abolition of the slave trade appears to have been and has often been perceived as a largely Christian affair, with the campaign organized and fought mainly by Quakers and Evangelicals and led by Clarkson, Wilberforce, and Granville Sharp. But there was another strand of activity at this time, based in the Lansdowne circle, that also attacked slavery and the slave trade, and this strand included Bentham. With encouragement and practical assistance from Lansdowne and with Romilly and Dumont serving as intermediaries between Bentham and Mirabeau, Bentham wrote numerous works for France, extracts from some of which, prepared by Dumont, appeared in Mirabeau's *Courier de Provence*. Dumont also prepared a French version of part of Bentham's *Panopticon*, and it constituted the first of many recensions of Bentham's writings.[47] With the publication of a number of these works in the new edition of *The Collected Works of Jeremy Bentham*, it is now possible to survey the numerous topics, from legislative procedure to judicial organization, constitutional law, economics, prisons, and colonies that Bentham covered at this time and formed the basis of his receiving honorary French citizenship in 1792.[48] It is significant that he did not (after his letter to the Public *Advertiser*) write specifically on slavery or the slave trade. This may well have been due to a division of labor between himself and Romilly or to his having received the same intelligence as Romilly and Dumont, that the time was not ripe to pursue this cause. Nevertheless, he occasionally alluded to slavery and the slave trade in the material written at this time. In *Emancipate Your Colonies*, probably written in December 1792 and printed in early 1793 (though not published until 1830), Bentham was possibly attempting to defuse tensions leading to war between France and Britain by arguing that were they to give up their colonies, one source of tension and competition would no longer exist.[49] But when we consider the passage on slavery, another dimension appears:

> Great differences of opinion, and those attended with no little warmth, between the tolerators and proscribers of negro slavery:—emancipation [of colonies] throws all these heart burnings and difficulties out of doors; it is a middle term in which all parties may agree. Keep the sugar islands, it is impossible for you to do right:—let go the negroes, you have no sugar, and the reason for keeping these colonies is at end; keep the negroes, you trample upon the declaration of rights, and act in the teeth of principle.—Scruples must have a term: how sugar is raised is what you need not trouble yourselves about, so long as you do not direct the raising of it. Reform the world by example, you act generously and wisely: reform the world by force, you might as well reform the moon, and the design is fit only for lunatics.[50]

At first glance one might see in Bentham's argument ample confirmation of some of Boralevi's objections to Bentham's refusal to urge the abolition of slavery. Indeed, he apparently saw the absence of colonies as a greater source of virtue than the abolition of

slavery, in so far as he proposed the abolition of colonies as a way of avoiding the issue of slavery. If France gave up its colonies the country no longer was responsible for the institution of slavery there. With the abolition of colonies, slavery could continue, but it would be of no concern to the mother country. Bentham seems close to denying any sense of humanity and human feeling.

On the other hand, it is worth recalling that even Clarkson and the Committee did not seek to abolish slavery (as it was considered to be an impossible task) but believed (wrongly, as it turned out) that by prudentially concentrating on the slave trade, slavery itself would also decline. They knew that the direct abolition of slavery probably could not be achieved without force, and Bentham provided the reason for avoiding reform by force in the passage above. Furthermore, Bentham's argument is more concerned with virtue than first appears. At the beginning of the essay, from which the above quotation is taken, Bentham raised the issue of justice regarding colonies, reminding the members of the National Convention that France had earlier made the question of colonies a matter of justice in going to war against Britain on the side of the American colonists fighting for their independence. "You abhor the subjection of one nation to another," wrote Bentham, "You call it slavery."[51]

The link between justice, slavery, and colonies appears elsewhere in Bentham's writings at this time, as, for example, when he wrote: "Colony-holding is a species of slave-holding equally pernicious to the tyrant and the slave."[52] This remark brings out vividly the way Bentham thought about slavery, in so far as black slavery was regarded as one case in a general concept of slavery which included colony-holding as another. For Bentham, to abolish the slave trade, as Clarkson, Wilberforce, and others were contending, would not eventually lead to the abolition of slavery, unless the abolition of the colonies themselves was also undertaken. This belief was not simply a matter of choosing the best means to an end but one of morality itself. The French were showing themselves woefully inconsistent in recognizing the injustice of colonies at one level but in being unwilling to abandon its colonies even where such colonies were shown to be disadvantageous to France.

Bentham developed this idea of the inconsistency of the French in his later attack on the French Declaration of Rights which proclaimed that all men were born free and equal and remained so, but he did so in a world in which many people were born slaves.[53] How could anyone, Bentham asked, be both free and a slave at the same time? Bentham would be misunderstood if he is interpreted simply as denying the validity of the doctrine of moral and natural rights. Boralevi seems to take this view when she accuses him of failing to be an abolitionist because he rejected this doctrine. However, Bentham was insisting on the importance of truth, and the truth was that all people were born as helpless infants in a state of subjection and that most people at most times lived in various degrees of legal, political, economic, and social subjection. To pretend that such subjection did not exist or to insist that it must not exist was both a denial of the truth and an encouragement to pointless violence and chaos that would never lead to a condition of freedom and equality.

That Bentham employed the term "slavery" in these contexts was not meant to be an exercise in rhetorical excess but a serious attempt to define the human condition in terms of varying

degrees of subjection. It is important to note here that, for Bentham, progress toward human happiness could not take place unless there was a willingness to accept this truth about the human condition. To accept such a truth did not entail a denial that black slavery and the slave trade were great evils and should not continue. But it affected how one perceived these evils and how one engaged politically against them.

IV

In *An Introduction to the Principles of Morals and Legislation*, Bentham raised the question of whether or not slavery or other modes of servitude ought to be established or maintained. His answer was to refer the question to "the civil branch of the art of legislation."[54] The civil law writings, drafted in the 1770s and early 1780s, appeared in print in Dumont's first recension, published in 1802, and were eventually translated into English.[55] No one could doubt Bentham's opposition to slavery and commitment to liberty, as when he wrote in almost Rousseauian terms: "No one who is free is willing to become a slave; no one is a slave but he wishes to become free." A few lines later he added: "this condition is never embraced from choice, but, on the contrary, that it is always an object of aversion."[56] Bentham's discussion consisted of the development of two themes. The first was concerned with arguments to establish that the institution of slavery was not beneficial to the master or the slave, and the second, with a strategy for emancipation.

As for the first, Bentham began by stating that slavery took many different forms. Ancient slavery differed, he believed, in Athens and Sparta, and there were major differences between the Russian serf and the plantation slave in the southern states of America.[57] But in drawing the line between slavery and freedom, the distinguishing feature of slavery rested with its perpetuity. With this feature alone, the odious character of slavery was fully revealed; the hopelessness engendered by the perpetuity of slavery destroyed character, ambition, love of life, and every element in human life that was forward-looking and productive. Nevertheless, the masters profited greatly from slavery; if not, they would have abolished it. Bentham, however, believed that there were numerous arguments in favor of abolition. First, no slave would choose slavery, and abolition would bring more happiness to the slaves than unhappiness to the small number of masters. Second, the superiority of free to slave labor could easily be established, as the former had the stimulus of reward and a much greater security of condition to encourage them to work for themselves as well as for their employers. A free man, Bentham believed (following Smith), produced more than a slave who was denied the stimulus of reward and only faced punishment, which failed to have a similar effect, and, in fact, took their minds off the products of their labor. A humble day laborer who received a small wage to maintain himself and his family was still in a superior position to a slave, since the day laborer retained the motive of reward, his or her honor would matter (for in a free society shame at being idle operated as a powerful sanction), and everything a day laborer acquired remained his or her own.

Bentham then turned to develop a strategy for gradual emancipation that attempted to avoid violent revolution. This strategy included suggestions such as fixing a price at which a slave could purchase his or her freedom. Although this might delay liberation, it also could be seen

to serve the interests of the master in providing incentives to more productive labor and hence lead to greater sympathy with abolition. Another suggestion offered several different proposals affecting hereditary succession so that the prospect of inheriting slaves after the death of the masters was limited. Bentham believed in gradual progress and, like those who sought to abolish the slave trade, thought that full emancipation would eventually take place.[58]

Boralevi has strong objections to Bentham's argument, which go to the heart of his theory:

> Here the increase in general happiness clashes with the loss of property suffered by the master. The conflict is resolved by Bentham with a compromise which appears distinctly to be more in favour of property than of the slaves. According to the priority always given to security over the other "subsidiary ends" of abundance and equality, Bentham's plea for gradual abolition is the best deal he has to offer to the slaves. On the other hand, it is quite clear that he was aware that a different solution could be adopted, if equality was given priority over the other ends.[59]

Boralevi argues that on any straight utilitarian calculation of happiness, and especially one that weighs individuals equally, slavery would be seen as an institution that generated great pain and should be immediately abolished. What stopped Bentham from making this argument was his well-known emphasis on security and in particular security of property, which dictated that emancipation should be gradual. For Boralevi, Bentham was linked with Hobbes's emphasis on security and Locke's defense of property, and it is the institution of slavery that brings to light the contradictions in Bentham's theory.[60]

Did Bentham actually subscribe to what might be called a Lockean view in which property rights were paramount? In his "Article on Utilitarianism" he specifically rejected such a position.[61] Not only did he criticize Locke for too narrow a notion of property in not including all exemptions from pain, which might be the subject of law, as security, but he also accused Locke of devising a theory that would enslave the poor and justify West Indian slavery. Thus, Bentham fully understood that a Lockean emphasis on security of property might well conflict with his principle of utility. For Bentham, as I have argued on numerous occasions, security against being harmed was a form of liberty and in itself generated happiness.[62] On this view slavery was an evil and should be abolished. But if Bentham was not overly concerned with securing the master's property, why did he oppose immediate emancipation? As opposed to Boralevi, I believe that Bentham was far more concerned with protecting the slaves than the masters and would have favored immediate abolition, if he could have been confident that such abolition would enhance the well-being of the slaves.

In his later writings on Spanish colonies in a chapter on slavery and the slave trade, in which he described the slave trade as "this foulest of all political and moral leprosies,"[63] he distinguished between the challenges involved in abolishing slave-trading and slave-holding respectively:

> To abstain from the traffic in slaves, nothing more is necessary than the mere negative act of not engaging in it. . . . To abstain altogether. from *Slave-holding* is a course of conduct, which, though *negative* in the expression, would require *positive* acts: acts which, for the formation of an adequately comprehensive, effective and preponderantly beneficial system, would require to be woven into a chain of such intricacy, that upon a cursory view, the mind is bewildered in the contemplation of it. Be the man who he may, freedom to him is no means of well-being, nor so much as of *being*, except so far as accompanied with subsistence and security: subsistence for others as well as for himself: security for others: against him, as well as for him against others.[64]

The abolition of the slave trade would require only a negative act of abolition and its enforcement. As we have seen, for Bentham no compensation need be paid to the slave traders as they dealt with the human equivalent of stolen goods. But to abolish slave-holding, another social and economic system must be put in its place, one that provided subsistence and security for the newly freed slaves and did not leave them in a worse position in relation to their former masters. The masters also required protection. It was mainly for these reasons that Bentham emphasized gradual emancipation, parlicu-larly for those who had been born slaves or who had been enslaved for a long period.

V

In *Securities against Misrule*, where Bentham attempted to introduce a variety of practices into an absolute Muslim state to produce good government or at least to limit bad government, he raised the question of the relevance of his discussion to the existence of slavery in the state (Tripoli):

> In the country in question one deplorable and deplorably extensive case—the case of slavery—has been seen alone presenting a particular demand for attention. For, though in the here proposed arrangements it is not on any occasion mentioned, it has not, on any occasion, been overlooked. Not knowing what chance there may be that assistance would be given to any endeavors towards the placing this part of the population of the country upon a footing in any respect superior to that of the brute creation, I must leave it to those to whom it belongs to determine what, if any thing, can be attempted in this view with any prospect of success.[65]

There are three important elements in this passage, written in the early 1820s. First, there is no doubt that slavery was an evil condition and should not exist. Second Bentham made it clear that although he did not discuss slavery, it had not been overlooked. Third, he seemed to make action to abolish it depend on a prospect of success. Note, in addition, that security of property

was not mentioned.

The second point is of particular interest, as it deals with the issue of why Bentham did not write at length on the topic of slavery. His response is that slavery, though perhaps not mentioned, was not overlooked. Was Bentham being overly timid in not directly addressing this important subject, which forty years later would lead to one of the bloodiest wars in human history? Bentham may be saying simply that slaves were to be treated in his scheme of legislation the same as any other human being. In *An Introduction to the Principles of Morals and Legislation*, for example, he had no exemptions in the offences against the person that allowed slaves to be harmed by their masters because they were slaves.[66] In *Securities against Misrule*, he similarly expressed the hope that the law of homicide might apply to free and enslaved persons, since one could not easily tell if a dead body was a slave. But in areas where the ruler was the author of decisions, such impartiality would be difficult to establish.[67]

In saying that he had no idea of what reform of slavery might be attempted in this state, Bentham was not being timid but rather revealing his strategy of reform.[68] This strategy, if implemented, might well lead to increased liberty and equality and obviate the need for slavery or other forms of servitude. The strategy was not based on force, so that the abolition of slavery by force was not anticipated. Bentham emphasized the importance of liberty (as security) to good government, so that freedom of expression and the press, free trade, representative government, education, the rule of law, etc. would lead to a condition where slavery would be replaced by free labor and free institutions to the benefit of both slaves and masters. Thus, the issue of slavery might diminish in importance and be conceived as an outmoded institution increasingly belonging to a past age.

In Bentham's more political later writings his attitude toward slavery seemed to change in one important rhetorical, if not theoretical, way. If he attempted in his early writings to define slavery more precisely in terms of the perpetuity of subjection, in his later writings he used the word "slavery" to refer to numerous conditions of subordination where power was exercised unjustly.[69] For example, in *Constitutional Code* he wrote in ringing tones that "*power without obligation* is the very definition of despotism: *slavery*, the condition of those who are subject to it."[70] The context for these remarks was his condemnation of legislators who failed to attend legislative sessions. Later in an attack on monarchy the monarch was referred to as "this universal slave-holder," albeit subjecting the people to political rather than domestic slavery.[71] In an attack on the current mode of remunerating judges that oppressed ordinary people, Bentham, in *Official Aptitude Maximized; Expense Minimized* referred to those who suffered this injustice as slaves who were distinguished from black plantation slavery and that of Catholics under Protestants in Great Britain and Ireland only in that under judicial oppression no clear line of demarcation between masters and slaves existed.[72] In *First Principles Preparatory to Constitutional Code*, Bentham wrote that "every Monarch is a Slaveholder upon the largest scale."[73] In a reference to the British constitution in *Colonies, Commerce and Constitutional Law*, the condition of those who lacked suffrage was depicted as one of slavery to those who had it.[74] The depiction of Roman Catholics as slaves to Protestants, as we have seen, was frequently repeated in his later writings.[75]

This “politicization” of the term “slavery” to incluclе virtually all instances of persistent unjust oppression or even exploitation clearly differed from Bentham’s earlier attempts to define and limit the application of the term. But at the same time it followed from his belief that subjection was characteristic of the human condition and persisted everywhere.[76] When he began to assert the importance of radical reform, he also asserted that certain conditions, analogous to slavery, could both be defined in these terms and then remedied. It was as if by calling these conditions those of servitude and slavery, Bentham was attempting to arouse interest in reform by showing how degrading numerous existing political and legal institutions were to the mass of the people. At the same time he seemed to have implicitly adopted the view, or, at least, the rhetoric attached to it, that there was a remedy for all slavery. If black plantation slavery or domestic slavery in North Africa was less easily abolished, Bentham seemed in the 1820s to have taken these forms on the agenda of reform by now attacking all forms of politically and legally established servitude.[77]

VI

The sheer scale of the problem of slavery throughout the world was enormous. In 1833 when 800,000 slaves were about to be liberated in the British colonies after they served periods of apprenticeship that would extend from 1834 for a further four years for nonagricultural and six years for agricultural slaves, there would still be 2.75 million slaves in the United States, 2.5 million in Brazil, 600,000 in the Spanish colonies, 30,000 in Danish and Swedish colonies, 25,000 in Texas, and nearly a million more in French, Dutch, and Portuguese colonies.[78] In addition, the human beings who were enslaved in North Africa and the Middle East, were Russian serfs, were employed in various conditions of servitude in India, China, Japan and other Far Eastern countries, or were sentenced as criminals to lifelong penal servitude must have numbered many millions more.

The hard-fought struggle to abolish the slave trade, which extended from 1787 to 1807, had very limited practical success, in that it did not lead to a decline in slavery, as was hoped, and, in addition, there was widespread evasion. The Anti-Slavery Society, founded in 1823, bore the full name of the Society for the Mitigation and Gradual Abolition of Slavery throughout the British Dominions, reflecting the fact that those who pressed hardest for the abolition of slavery expected only gradual progress toward their goal.[79] It is of some interest that the movement to abolish the slave trade and slavery followed fairly closely the development of radical politics generally in Britain, starting with growing enthusiasm for reform at and just prior to the French Revolution, retreat during the French wars and anti-Jacobin reaction, and determined progress during the 1820s, culminating in the Reform Bill of 1832 and the abolition of slavery in British colonies from 1833, with the promise of further reform in numerous fields in the future. And the names of prominent figures in the antislavery movement feature in numerous other reform movements from Greek independence, the liberation of the South American colonies, prison reform, law reform, and so forth. With respect to this period, there seems little point in attempting to distinguish between humanitarian and Benthamite impulses toward reform. In some recent scholarship “humanitarian” as opposed to “Benthamite” seems a code word for “religious,” as opposed to a secular, calculating economics, but at the time there

was little or no tension between Bentham and his friends on the one hand, and reforming Evangelicals, Methodists, Quakers, and others dedicated to the relief of suffering humanity on the other.[80] Many of the Church of England clergy simply followed the Tory line in politics, and if that line moved to embrace antislavery, so would the clergy change their stance.[81] According to Walvin, by 1830 most religious bodies, including the Church of England, Church of Ireland, and Roman Catholic Church, opposed slavely.[82] Furthermore, there seemed to have been a major shift in popular sentiment with regard to a belief in divinely ordained rights that opposed slavery.[83] These changes were reflected in the fact that opposition to slavery became almost a condition for standing as a parliamentary candidate at this time.[84]

Recent research on Atlantic slavery has tended to discredit the view (advanced in Eric Williams's *Capitalism and Slavery*) that slavery was already in decline economically prior to the movement for abolition. This view had tended to stress economic factors rather than "moral outrage" as the determining factor in the movement to abolish the slave trade. Seymour Drescher has recently reaffirmed the view he set forth in *Econocide:*

> Slavery's decline did not occur during the final quarter of the eighteenth century nor, *pace* Williams as a consequence of the American Revolution. Both the emergence of political abolitionism, in 1787-1792 and the abolition of the British slave trade in 1806-1807 occurred against a background of slave expansion, and at the peak of slavery's value to British imperial political economy.[85]

In other words, British slavery declined after and not before the movement to abolish it succeeded, It is worth quoting Drescher a second time to obtain his view of what turned opinion against slavery and the slave trade:

> The crucial change in attitudes towards the slave trade occurred neither because the West Indian slave system became economically redundant, nor because of the triumph of free market ideology. It occurred, when certain non-commercial judgments on the slave trade gained ground and prevailed. This was not so much an intellectual revolution as a revolution in public and parliamentary opinion.[86]

What surely counted in this "revolution in public and parliamentary opinion" was the "intellectual revolution" that preceded it. That "intellectual revolution" in part concerned liberty and the utility of liberty to human happiness. The view (developed by Smith) that free labor was more productive and happier than slave labor was important to this intellectual revolution and equally important to the revolution in public and parliamentary opinion that took place in the 1820s.[87]

Bentham might easily stand with Wilberforce and Romilly as an opponent of slavery and the slave trade. Some recent scholarship on Bentham, as we have seen, takes him out of context in expecting more from him or mistakes his philosophical ambitions for an unwillingness to stand more publicly against the evil of slavery. Furthermore, there is no evidence that he emphasized security of property *over* abolition. Security was a complex idea and tended to preclude reform by force and violence. Bentham believed that "to reform the world by force, you might as well reform the moon, and the design is fit only for lunatics."[88] Bentham apparently adhered to this view throughout his life. It stood behind his strategy of gradual reform, which included the abolition of slavery and other forms of injustice and oppression. I should call Bentham a *comprehensive* abolitionist, one who might have foreseen that the bloody struggle in America could produce a kind of abolition, but not one that would establish well being among the newly liberated slaves. But his main object would have been, as it was in his numerous writings, to show which forms of servitude were part of the human condition itself and which formed the basis of oppression and injustice. The remedy then remained with humanity, and Bentham attempted to design the institutions and laws that would enable human beings to progress toward happiness. Slavery and the slave trade, together with numerous other activities, would thus have to be abolished as part of this journey toward human happiness. In this journey the issue of rights versus utilitarianism remained important, but mainly as part of an account of truth rather than one concerning human entitlements. If rights theory obscures the basic truth about subordination and leads one to proclaim one's freedom where there is none and will not be any for the foreseeable future, its relevance to human happiness will at best be consigned to a rhetorical flourish and at worst to useless conflict and even war.[89]

NOTES

1 P. J. Kelly, *Utilitarianism and Distributive Justice, Jeremy Bentham and the Civil Law* (Oxford: Clarendon Press, 1990), 213–14.

2 Kelly, *Utilitarianism and Distributive Justice,* 213.

3 Kelly, *Utilitarianism and Distributive Justice,* 213

4 Douglas G. Long, *Bentham on Liberty: Jeremy Bentham's Idea of Liberty in Relation to His Utilitarianism* (Toronto and Buffalo: University of Toronto Press, 1977), 194.

5 Long, *Bentham on Liberty,* 194.

6 Lea Campos Boralevi, *Bentham and the Oppressed* (Berlin and New York: Walter de Gruyter, 1984), 142–64.

7 Boralevi, *Bentham and the Oppressed*, 142–43, 146.

8 Boralevi, *Bentham and the Oppressed*, 152—53.

9 Boralevi, *Bentham and the Oppressed*, 147.

10 J. Bentham, “To the Printer of the *Public Advertiser*,” June 6, 1789, 1–2, signed “J. B.” For confirmation of Bentham’s authorship, see Bentham to George Wilson, 12 June 1789, *Correspondence of Jeremy Bentham, Volume 4, October 1788 to December 1793*, ed. A. Taylor Milne [*The Collected Works of Jeremy Bentham*—henceforth *CW*] (London: The Athlone Press, 1981), 73.

11 See *The Parliamentary History of England, from the Earliest Period to the Year 1803*, volume. xxviii (London: T.C. Hansard, 1816), 70–71.

12 *The Parliamentary History of England*, volume xxviii, 72–73.

13 Hugh Thomas, *The Slave Trade, The History of the Atlantic Slave Trade: 1440–1870* (London: Picador, 1997), 559.

14 Thomas Clarkson, *The History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave-Trade by the British Parliament*, 2 vols. (London: Longman, Hurst, Rees, and Orme, 1808), i.8 (italics added). See, more recently, David Turley, *The Culture of English Antislavery, 1780-1860* (London and New York: Routledge, 1991), 7.

15 Clarkson’s claim regarding Christianity has some basis, in that nine of the twelve members of the original committee to abolish the slave trade were Quakers, and this Quaker opposition to slavery and the slave trade might easily have been derived from the Quaker opposition to war, a position that has distinguished this sect from many other branches of Christianity. See Clarkson, *The History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave-Trade by she British Parliament*, i.256ff. But see also Thomas Clarkson, *An Essay on the Doctrines and Practice of the Early Christians, as They Relate to War* (London: Society for the Promotion of Permanent and Universal Peace, Tract III, 1817).

16 See Maurice Cranston, *John Locke, A Biography* (Oxford: Oxford University Press, 1985), 115n; John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the “Two Treatises of Gouvernment”* (Cambridge: Cambridge University Press, 1969), 108, 173-77, 211.

17 See Claudine Hunting, “The *Philosophes* and Black Slavery: 1748-1765,” *Journal of the History of Ideas* 39 (1978): 405-18.

18 Montesquieu, *The Spirit of the Law*, trans. Anne Cohler, Basia Miller, and Harold Stone [*Cambridge Texts in the History of Political Thought*] (Cambridge: Cambridge University Press, 1989), Books XV-XVII, 246-84.

19 Montesquieu, *The Spirit of the laws*. Book XV, chapter 5, 250.

20 Montesquieu, *The Spirit of the laws*, Book XV, chapter 9, 253.

21 Montesquieu, *The Spirit of the Laws*, Book XV, chapter 11, 254.

22 Montesquieu, *The Spirit of the laws*, Book XV, chapter 6, 251.

23 Montesquieu, *The Spirit of the Laws*, Book XV, chapter 7, 251. See also chapter 8, 253.

24 Montesquieu, *The Spirit of the Laws*, Book XV, chapter 18, 261.

25 See Montesquieu, *The Spirit of the Laws*, Book XVI, 264-77.

26 Jean-Jacques Rousseau, *The Social Contract*, trans. M. Cranston (Harmondsworth: Penguin Books, 1968), I.4, 53-58.

27 Voltaire, *Candide and Related Texts*, trans. D. Wootton (Indianapolis: Hackett Publishing Company, 2000), chapter 19, 42-43. The hand had been amputated (according to current policy) when a finger became caught in the machinery of a sugar refinery, and the leg, for attempting to escape.

28 Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, 2 vols.., eds. R. H. Campbell, A. S. Skinner, and W. B. Todd (Indianapolis: Liberty Classics, 1981), i.98-99. 387-89, ii.684.

29 See, for example, *Jeremy Bentham's Economic Writings*, 3 vols., ed. W. Stark (London: George Allen and Unwin, 1952-54), iii.77; The *Works of Jeremy Bentham*, 11 vols., ed. J. Bowring (Edinburgh: William Tait, 1838-43), i.345, 441. I am indebted to Boralevi, *Bentham and the Oppressed*, 148, 160-61, for these references and for those in note 28 above.

30 See Cheryl B. Welch, *Liberty and Utility, The French Idéologues and the Transformation of Liberalism* (New York: Columbia University Press, 1984), 23, 204n.

31 Clarkson, *The History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave-Trade*, i.289.

32 See Patrick Medd, *Romilly, A Life of Sir Samuel Romilly, Lawyer and Reformer* (London: Collins, 1968), 153, 155ff.

33 See Thomas, *The Slave Trade*, 555. See also *The Parliamentary Debates from the Year 1830 to the Present Time* (London: T. C. Hansard, 1812), vol. 8, February 23, 1807, 977-79; Medd, *Romilly*, 165.

34 Boralevi, *Bentham and the Oppressed*, 156, 157.

35 Wilberforce's name enters Bentham's *Correspondence* first in relation to the Panopticon prison scheme, and Bentham was aware, at least from early 1791, of the fact that Wilberforce formed one important channel for his ideas and proposals to reach the attention of Pitt. See

Bentham to Pitt, November 26, 1791, *Correspondence of Jeremy Bentham, Volume* 4, 343. Wilberforce was also a major supporter of the Panopticon project over many years. See Janet Semple, *Bentham's Prison: A Study of the Panopticon Penitentiary* (Oxford: Clarendon Press, 1993), as index. Furthermore, when Pitt turned to Wilberforce in 1796 for assistance in drafting a measure to deal with poor relief, Wilberforce turned to Bentham, and "was primarily responsible for stimulating Bentham to develop his thinking on poverty." J. Bentham, *Writings on the Poor Laws, Volume 1,* ed. M. Quinn (*CW*) (Oxford: Clarendon Press, 2001), xiv–xv. Wilberforce would have know of Bentham's friendship with Romilly and may well have know of his letter to the *Public Advertiser* in 1789. There are some references to slavery and the slave trade in their correspondence. See Bentham to Wilberforce, Septemher 1, 1796, *The Correspondence of Jeremy Bentham, Volume 5, January 1794 to December 1797,* ed. A. Tailor Milne (*CW*) (London: The Athlone Press, 1981), 253; Wilberforce to Bentham, April 2, 1798, *The Correspondence of Jeremy Bentham, Volume 6 January 1798 to December 1801*, ed. J.R. Dinwiddy (*CW*) (Oxford: Clarendon Press, 1984), 19; Bentham to Wilberforce, May 31, 1803, *The Correspondence of Jeremy Bentham, Volume 7, January 1802 to December 1808,* ed. J. R. Dinwiddy (*CW*) (Oxford: Clarendon Press, 1988), 232. Most probably, however, slavery was not a topic on which Bentham could assist Wilberforce, and Wilberforce did not seek assistance on it.

36 See *Correspondence of Jeremy Bentham, Volume 4*, 17n–18n.

37 *Memoirs of the Life of Sir Samuel Romilly, Written by Himself; with a Selection from His Correspondence, Edited by His Sons*, 3 vols., 2nd ed. (London: John Murray, 1840), ii.134.

38 See J. H. Burns, "Bentham and the French Revolution," *The Transactions of the Royal Historical Society*, 5th Series, xvi (1966), 95-114. See also the editorial introductions to J. Bentham, *Political Tactics*, ed. M. James, C. Blamires, and C. Pease-Watkin (*CW*) (Oxford: Clarendon Press, 1999) and J. Bentham, *Rights, Representation, and Reform, Nonsense upon Stilts and Other Writings on the French Revolutton,* ed. P. Schofield, C. Pease-Watkin, and C. Blamires (*CW*) (Oxford: Clarendon Press, 2002).

39 *Memoirs of the Life of Sir Samuel Romilly*, i.348-49. See also Lawrence Jennings. *French Anti-Slavery, The Movement for the Abolition of Slavery in France, 1802-1848* (Cambridge: Cambridge University Press, 2000), 1-3. Unfortunately, Jennings fails to consider the Dumont-Romilly connection with early French antislavery.

40 *Memoirs of the Life of Sir Samuel Romilly*, i.368.

41 *Memoirs of the Life of Sir Samuel Romilly,* i.388.

42 See *Clarkson, The History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave-Trade,* ii.122-23.

43 See Clarkson, *The History of the Rise, Progress, and Accomplishment of the Abolition of*

the African Slave-Trade, ii.124, 141.

44 See *Clarkson, The History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave-Trade,* ii.143ff.

45 *Mirabeau, Les Bières flottantes des négriers: Un discours non prononcé sur l'abolition de la traite des Noirs (novembre 1789-mars 1790,* ed. M. Dorigny (Saint-Etienne: L'Université de Saint Etienne, 1999), 8ff, 14.

46 See Clarkson, The History of *the Rise, Progress, and Accomplishment of the Abolition of the African Slave-Trade,* ii.517, 523.

47 See Bentham, *Rights, Representation, and Reform (CW),* xl; see also Burns, Bentham and the French Revolution,' 95—114.

48 See Bentham, *Political Tactics (CW)* and Rights, *Representation, and Reform* (CW).

49 Bentham, *Rights, Representation, and Reform (CW*), xlii-xliii, xliv.

50 Bentham, *Rights, Representation, and Reform* (*CW),*310.

51 Bentham, *Rights, Representation, and Reform (*CW), 291.

52 Bentham, *Rights, Representation, and Reform (CW),* 202.

53 Bentham, *Rights, Representation, and Reform (CW),* 322—24.

54 J. Bentham, *An Introduction to the Principles of Morals and Legislation,* ed. J. H. Burns and H. L. A. Hart, with a new introduction by F. Rosen (*CW*) (Oxford: Clarendon Press, 1996), 241.

55 See J. Bentham, *Traités de legislation civile et pénale, 3 vols.,* ed. E. Dumont (Paris: Chez Bossange, Masson et Besson, 1802), ii.1-236; *Works*, ed. Bowring, i.297-364.

56 Bentham, *Works*, ed. Bowring, i.344.

57 Bentham, *Works*, ed. Bowring, i.344.

58 See Bentham, *Works*, ed. Bowring, i.344—47.

59 Boralevi *Bentham and the Oppressed,* 150—51.

60 See Boralevi, *Bentham and the Oppressed*, 157—58.

61 See J. Bentham, *Deontology together with a Table of the Springs of Action and Article on*

Utilitarianism, ed. A. Goldworth (*CW)*(Oxford: Clarendon Press, 1983), 314—16.

62 See F. Rosen, *Bentham, Byron and Greece: Constitutionalism, Nationalism, and Early Liberal Political Thought* (Oxford: Clarendon Press, 1992), 25—76; *Classical Utilitarianism from Hume to Mill* (London: Routledge, 2003).

63 J. Bentham, *Colonies, Commerce, and Constitutional Law: Rid Yourselves of Ultramaria and Other Writings on Spain and Spanish America*, ed. P. Schofield (CW) (Oxford: Clarendon Press, 1995), 128.

64 Bentham, *Colonies*, *Commerce*, and *Constitutional Law (CW)*, 129.

65 J. Bentham, *Securities against Misrule and Other Constitutional Writings for Tripoli and Greece* (*CW*) (Oxford: Clarendon Press, 1990), 134—35.

66 See Bentham, *An Introduction to the Principles of Morals and Legislation* (*CW*), 191—4. This is not meant to suggest that Bentham ignored offences arising out of relationships between masters and servants (including slaves); see 259—43.

67 Bentham, *Securities against Misrule* (*CW*), 135.

68 See F. *Rosen, Jeremy Bentham and Representative Democracy: A Study of the Constitutional Code* (Oxford: Clarendon Press, 1983), 19—40.

69 In the manuscripts on "Scotch Reform," written in 1806—1807 at the time of the abolition of the slave trade, Bentham on several occasions conceived of the power of "Judge and Co." over the British people in terms of slavery. See, for example, Bentham Manuscripts, University College, xci. 34 (July 31, 1806), xciv. 307 (April 14, 1807?), xcii. 228 (June 6, 1807), xcii. 164 (June 7, 1807), and xciii. 246 (January 11, 1807), where he wrote: "Your Lordship is in the act of abolishing the slavery of the body by delivering Africans from the tyranny of their avowed despots and oppressors. Advance one step further, my Lord, and deliver Britons from the bondage of the mind imposed upon them by the unavowed and more degrading tyranny of their pretended friends, patrons and benefactors." At one point he referred to earlier writings by Jonathan Swift in a similar vein. See UC xci. 246 (January 28, 1808). I am indebted to Dr. Tony Draper of the Bentham Project for these references.

70 J. Bentham, *Constitutional Code, Volume I*, ed. F. Rosen and J. H. Burns (*CW*) (Oxford: Clarendon Press, 1983), 53—54.

71 Bentham, *Constitutional Code* (*CW*), 455.

72 J. Bentham, *Official Aptitude Maximized; Expense Minimized*, ed. P. Schofield (*CW*) (Oxford: Clarendon Press, 1993), 377.

73 J. Bentham, *Fïrst Principles Preparatory to Constitutional Code*, ed. P. Schofield (*CW*)

(Oxford: Clarendon Press, 1989), 171.

74 Bentham, *Colonies, Commerce, and Constitutional Law (CW),* 264.

75 See, for example, *Deontology* (*CW*), 316.

76 See Bentham, *An Introduction to the Principles of Morals and Legislation* (*CW*), 11.

77 Boralevi, *Bentham and the Oppressed,* 153—54, confuses matters somewhat in suggesting that Bentham's later vehemence against slavery and the slave trade was due to the fact that these writings were mainly unpublished. She particularly examines a draft of Letter 16 for *Rid Yourselves of Ultramaria,* which is particularly outspoken. She could not have known (as the text had not then been edited as part of the *Collected Works)* that Bentham himself rejected this draft (UC clxxii. 331—34, 344-43, July 19—20, 1821) and wrote another nearly a year later (UC clxxii. 345—48, April 6, 1822), which he then revised a week later (UC viii. 131—34, April 12, 1822). It is possible that copies of the final version were sent to Bowring in Spain and elsewhere. See note at UC viii. 131, dated April 21, 1822, and *Colonies, Commerce, and Constitutional Law (CW),* lv-lvi. While the final version was not formally published until 1995 in the *Collected Works*, it was available for circulation. Nevertheless, there are considerable differences between the first and later versions. The early version ranges more widely over the evil of slave trading and slave owning, while the final version sticks more narrowly to comparisons between various countries, such as Spain, the United States, England, and France. Bentham had obviously selected a particular rhetorical focus to persuade the Spanish "to clear her morals and reputation from the taint of the Slave Trade and Slave-holding" (UC viii. 131, April 12, 1822), and he excluded material that might offend the Spanish. Boralevi is only partly correct in seeing Bentham's vehemence in his later writings as being due to some of them never having been published rather than, as I have argued, to his strengthening radicalism. In the final version, which he did circulate, he referred to the slave trade, as we have seen, as "this foulest of all political and moral leprosies" (*Colonies, Commerce, and Constitutional Law* (*CW*), 128). I am indebted to Professor Philip Schofield for providing me with edited transcripts of the three versions of the text.

78 See Howard Temperley, *British Antislavery 1833–1870* (London: Longman, 1972), xi–xii.

79 Temperley, *British Antislavery,* 10.

80 See Samuel Clyde McCulloch, ed., *British Humanitarianism, Essays Honoring Frank J. Klingberg* (Philadelphia: The Church Historical Society, 1950), 12. Although Klingberg distinguished between an evangelical party and a reform party (including Bentham), he believed that both contributed to the antislavery movement (F. Klingberg, *The Anti-Slavery Movement in England* (New Haven: Yale University Press, 1926), 51–53, 130. See also Charles Blacton, "Convicts, Colonists and Progress in Australia, 1800–1850" in *British Humanitarian Essays*, 34–35; Ernest Marshall Howse, *Saints in Politics, The "Clapham Sect" and the Growth of Freedom* (London: George Allen and Unwin, 1971), 131, 135. There

was no hostility toward religion in the Lansdowne circle, but Bentham himself on several occasions, raised questions in manuscripts about the connection between Christianity and slavery: “A religion which suffices not to restrain men from the constant practice of the most flagitious enormities, what can it be good for, what the value of it, what the use of it?” He continued in this vein: “Be it what it may with reference to the happiness of a future life—of that life in comparison of which the present is but as a grain of sand in the universe—in its effects on the happiness of the present life, would such a religion be any thing better than a nuisance? the prevalence of it any thing better than a public calamity? the support of it than a public grievance?” (UC clxxii. 335, July 19, 1821). Bentham took a particular interest in the case of Arthur Hodge, who was executed in Tortola in 1811 for causing his slave, Prosper, to be flogged to death for not paying 3d of 6d of a fine for negligence. Hodge had attended Oriel College, Oxford, as a “Gentleman Commoner” and was well instructed in the Church of England. From the evidence he seemed to have indulged in the maltreatment, if not the murder, of other slaves (including the use of torture—e.g., pouring boiling water down their throats), but he was much sustained by his religion at his trial, his final farewells with his family, and his execution. While Bentham could accept that religion might fail in the theological and moral instruction actually given, he wondered if there were problems with the instruction itself, particularly with regard to justice and the acceptance of human misery on earth. See BL Add. MSS 29,808, fos. 200–202 (September 4, 1811), fos. 58–59 (September 4, 1811), 29,807, fo. 47 (July 17, 1815), 29,809, fo. 421 (July 28, 1815), 29,809, fo. 253 (May 4, 1819). My thanks to Ms. Catherine Fuller for supplying me with copies of these transcripts from Bentham’s religious writings in the British Library. The passage quoted from the UC manuscript was brought to my attention by Professor Schofield. See also *The Trial of Arthur Hodge, Esq.*, 2nd ed. (London: John Harding, 1811).

81 See F. Rosen, *Bentham, Byron, and Greece*, 175, 236, 239.

82 James Walvin, ”The Public Campaign in England against Slavery, 1787–1834” in *The Abolition of the Atlantic Slave Trade, Origins and Effects in Europe, Africa, and the Americas*, ed. D. Eltis and J. Walvin (Madison: The University of Wisconsin Press, 1981), 75.

83 Walvin, “The Public Campaign in England against Slavery,” 74.

84 Walvin, “The Public Campaign in England against Slavery,” 71. On popular opinion and culture at this time, see J. R. Oldfield, *Popular Politics and British Anti-Slavery: The Mobilization of Public opinion against the Slave Trade, 1787–1807* (Manchester: Manchester University Press, 1995.

85 Seymour Drescher, *From Slavery to Freedom: Comparative Studies in the Rise and Fall of Atlantic Slavery* (Basingstoke: Macmillan Press Ltd., 1999), 2–3. See Seymour Drescher, *Econocide: British Slavery in the Era of Abolition* (Pittsburgh: Pittsburgh University Press, 1977); Eric Williams, *Capitalism and Slavery* (Chapel Hill: University of North Carolina Press, 1944).

86 Drescher, *From Slavery to Freedom*, 15. See also Judith Jennings, *The Business of Abolishing the British Slave Trade, 1783–1807* (London: Frank Cass, 1997).

87 See Howard Temperley, "The Ideology of Anti-Slavery," in *The Abolition of the Atlantic Slave Trade*, ed. D. Eltis and J. Walvin, 28. See also D. Turley, "British Antislavery Reassessed," in *Rethinking the Age of Reform: Britain in 1780–1850*, ed. A. Burns and J. Innes (Cambridge: Cambridge University Press, 2003), 198–99.

88 See above, note 50. In *Constitutional Code* (*CW*), 142–43, Bentham's legislators declare their opposition to conquest and war (except for self-defense).

89 My thanks to Professor J. **II.** Burns for kindly reading a draft of this article and making numerous suggestions for its improvement. I am also grateful to Dr. Mark Philip for a helpful bibliographical suggestion and to the two editors of this volume for their kindness and patience.