

J. Bentham, *Of Sexual Irregularities, and Other Writings on Sexual Morality*, a cura di Philip Schoefeld, Catherine Pease-Watkin e Michael Quinn, Oxford (UK,) Clarendon Press (Oxford University Press), 2014, pp. 180

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Of Sexual Irregularities, and Other Writings on Sexual Morality, the last volume of *The Collected Works of Jeremy Bentham*, probably will come as a surprise to many, Benthamite scholars or just casual reader alike. To the former, because it dispels many myths surrounding Bentham's approach to sexuality; to the latter, because said approach is completely in tune with our current sensibilities, something that is quite unexpected for an early XIX century group of manuscripts.

The volume contains three essays: *Of Sexual Irregularities* (the main essay of the volume), *Sextus*, and *General Idea of Not Paul but Jesus*. All deal, albeit with different variations, on the same main subject: homosexuality and its criminalization. All argue that the criminalization of homosexuality, and any other form of consensual and private sexual activity, is and should be considered immoral on utilitarian grounds alone, although other considerations come into place¹. This is because it tends to increase the pain of a great number of members of the population that have to *refrain* from seeking satisfaction of their

¹ For instance, round this time Bentham has been convinced by Malthus's arguments that the increase of the population would not be matched by the increase of food production. Same-sex copulation, with its impossibility of bearing any offspring, would be beneficial, as it does not bring an increase on the size of population. Punishing this kind of sexual acts is not only anti-utilitarian (increases pain in a large number of individuals, decreases happiness in the same number), it is also detrimental to the survival of the humankind as a whole, or so the argument goes.

sexual urges. Making the satisfaction of those urges illegal forces these persons to either: i) refrain themselves from satisfying those urges; ii) or to satisfy them in secret, risking legal punishment and social embarrassment if caught. This, according to Bentham, is anti-utilitarian on the following grounds:

First, it forces people to deny themselves pleasure, a kind of pleasure that is hardwired into our biology. Because of it, we are *compelled* to satisfy it (either with a partner or through masturbation). Second, the only possible utilitarian justification for punishment is to deter². A conduct that is biologically compulsory, like sexual gratification, cannot be deterred without causing a disproportionate amount of pain to the subject of punishment. If one also takes into consideration that conduct is consensual and that nobody is actually harmed³, then commission of said conduct does not decrease the amount of happiness of the greatest number. Therefore, overall, the punishment of these kinds of consensual sexual acts does not increase the general amount of happiness of the general number of the population. On the contrary, it decreases it, as it forces a disproportionate amount of suffering on a great number of the population.

Taking examples from ancient Greece and Rome, Bentham argues that the punishment of this sexual acts ówith the sole exception of the non-consensual kindó were not punished until the advent of Christianity, specially the variant preached by Paul of Tarsus. Bentham blames him for the anti-utilitarian and prudish dominant Christian morality of his days, and distinguishes it from the kind of morality preached by Jesus, which he considers at least utilitarian and almost silent on sexual issues.

There is not much space in this review to discuss all these theses in full, but I would like to add why, in my opinion, this book is surprising in more than one way. Just two reasons, to be exact: i) they dispel the myth, started by John Stuart Mill, that Bentham was óinnocentó on sexual matters, that he lived in a state of perpetual boyhood, and so on. That has always sounded odd to me. A philosopher who dedicated his long life on the

² Cf. H.L.A. Hart, "Prolegomenon to the Principles of Punishment" in H.L.A. Hart, *Punishment and Responsibility*, OUP, 1968, pp. 1 ó 28, in particular sections 2 to 4 of the essay.

³ Being shocked by it does not constitute harm.

development on a quite clear hedonist philosophy and morality could not be ignorant of sexual issues. These essays prove that he was not. Bentham had an acute grasp on sexuality and the urges caused by it especially the lengths people would go to satisfy them and how painful is to try to suppress them because of fear of the law or because of fear of moral or religious sanction; ii) It is amazingly current. Most ó if not all - of his arguments can be of use in today's current debate surrounding the issue of same sex marriage and other related topics. His critique of traditional Christian morality is also interesting, relevant, and current. In more than one way, is almost uncanny that a philosopher born on the XVIII century would have these views. It is also understandable why he did not publish them in his time; the risk of legal punishment in the Regency era was, perhaps, too great.

This volume is, in short, not only historically interesting but also incredible useful in the continuous framing of arguments surrounding the complexity of sexual morality. It is a triumph of classical utilitarianism, so commonly misunderstood.