

# An Introduction to the Principles of Morals and Legislation

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[Brackets] enclose editorial explanations. Small ·dots· enclose material that has been added, but can be read as though it were part of the original text. Occasional •bullets, and also indenting of passages that are not quotations, are meant as aids to grasping the structure of a sentence or a thought. Every four-point ellipsis . . . . indicates the omission of a brief passage that seems to present more difficulty than it is worth. Longer omissions are reported between brackets in normal-sized type.—The numbering of paragraphs in small bold type is Bentham's.—The First Edition of this work was *privately printed* in 1780 and first *published* in 1789. The present version is based on 'A New Edition, corrected by the Author' [but not changed much], published in 1823.

First launched:

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## Glossary

**affection:** In the early modern period, ‘affection’ could mean ‘fondness’, as it does today; but it was also often used, as it is in this work, to cover every sort of pro or con attitude—desires, approvals, likings, disapprovals, dislikings, etc.

**art:** In Bentham’s time an ‘art’ was any human activity that requires skill and involves techniques or rules of procedure. ‘Arts’ in this sense include medicine, farming, painting, and law-making.

**body of the work:** This phrase, as it occurs on pages 95, 119 and 138, reflects the fact that Bentham had planned the present work as a mere introduction to something much bigger, the body of the work. See the note on page 4.

**cæteris paribus:** Latin = other things being equal.

**caprice:** whim; think of it in terms of the cognate adjective, ‘capricious’.

**difference:** A technical term relating to definitions. To define (the name of) a kind K of thing ‘by genus and difference’ is to identify some larger sort G that includes K and add D the ‘difference’ that marks off K within G. Famously, a K *human being* is an G *animal* that is D *rational*. The Latin *differentia* was often used instead.

**education:** In early modern times this word had a somewhat broader meaning than it does today. It wouldn’t have been misleading to replace it by ‘upbringing’ on almost every occasion. See especially **18** on page 39.

**event:** In *some* of its uses in this work, as often in early modern times, ‘event’ means ‘outcome’, ‘result’. Shakespeare: ‘I’ll after him and see the event of this.’

**evil:** This noun means merely ‘something bad’. Don’t load it with all the force it has in English when used as an adjective (‘the problem of evil’ merely means ‘the problem posed by the existence of bad states of affairs’). Bentham’s half-dozen uses of ‘evil’ as an adjective are replaced in this version by his more usual ‘bad’, as he clearly isn’t making any distinction.

**excite:** This means ‘arouse’ or ‘cause’; our present notion of *excitement* doesn’t come into it. An ‘exciting cause’ in Bentham’s usage is just a cause; he puts in the adjective, presumably, to mark it off from ‘final cause’, which meant ‘purpose’ or ‘intention’ or the like, though in fact he uses ‘final cause’ only once in this work.

**expensive:** When Bentham speaks of a punishment as being ‘too expensive’ he means that it inflicts too much suffering for the amount of good it does. See the editorial note on page 92.

**fiduciary:** Having to do with a trust.

**ideal:** Existing only as an idea, i.e. fictional, unreal, or the like.

**indifferent:** Neither good nor bad.

**interesting:** When Bentham calls a mental event or ‘perception’ *interesting* he means that it hooks into the *interests* of the person who has it: for him it isn’t neutral, is in some way positive or negative, draws him in or pushes him back.

**irritable:** Highly responsive, physically or mentally, to stimuli.

**lot:** In Bentham’s usage, a ‘lot’ of pleasure, of pain, of punishment etc. is an episode or dose of pleasure, pain, etc. There is no suggestion of *a large amount*.

**lucre:** In a now obsolete sense, ‘greed for profit or gain’ (OED).

**magistrate:** In this work, as in general in early modern times, a ‘magistrate’ is anyone with an official role in government. The phrase ‘the magistrate’—e.g. in paragraph 41. on page 40—refers to the whole legal=judicial system or to those who operate it.

**material:** When on page 43 Bentham speaks of ‘consequences that are material’ he means consequences that *matter*. He uses the phrase ‘material or important’.

**member:** Any part or organ of an organic body (not necessarily a limb). When on page 7 Bentham writes of a community as a ‘fictitious body composed of the individuals who are. . . as it were its members’, this is a metaphor.

**method:** On pages 2 and 4, and throughout chapter 16, Bentham uses ‘method’ in the sense of ‘system of classification’.

**mischief:** This meant ‘harm, hurt, damage’—stronger and darker than the word’s meaning today. Bentham’s ‘mischievous’ and ‘mischievousness’ are replaced throughout by ‘harmful’ and ‘harmfulness’, words that don’t occur in the original

**moral:** In early modern times ‘moral’ had a use in which it meant something like ‘having to do with intentional human action’. When Bentham speaks of ‘moral science’ or ‘moral physiology’ he is referring to psychology. In virtually all his other uses of ‘moral’ he means by it roughly what we mean today.

**nicety:** ‘precision, accuracy, minuteness’ (OED), sometimes with a suggestion of *overdone* precision etc.

**obnoxious:** ‘obnoxious to x’ means ‘vulnerable to x’.

**party:** Bentham regularly uses ‘the party’ to mean ‘the individual or group of individuals’. In assessing some action by a government, the ‘party’ whose interests are at stake could be you, or the entire community.

**peculiar:** This usually meant ‘pertaining exclusively to one individual’; but Bentham often uses it to mean ‘pertaining exclusively to one *kind* of individual’. The line he draws on page 108 between •properties of offences that are shared with other things and •properties that ‘are peculiar’, he is distinguishing (e.g.) •being-performed-by-a-human-being from (e.g.) •being-against-the-law’.

**positive pain:** Bentham evidently counts as ‘positive’ any pain that isn’t a ‘pain of privation’, on which see 17. on page 26.

**science:** In early modern times this word applied to any body of knowledge or theory that is (perhaps) axiomatised and (certainly) conceptually highly organised.

**sensibility:** Capacity for feeling, proneness to have feelings. (It’s in the latter sense that *quantity* comes in on page 29—the notion of *how* prone a person is to feel pleasure or pain.

**sentiment:** This can mean ‘feeling’ or ‘belief’, and Bentham uses it in both senses. The word is always left untouched; it’s for you to decide what each instance of it means.

**uneasiness:** An *extremely* general term. It stands for any unpleasant sense you may have that something in you or about you is wrong, unacceptable, in need of fixing. This usage is prominent in—popularized by?—Locke’s theory that every intentional act is the agent’s attempt to relieve his ‘uneasiness’.

**vulgar:** Applied to people who have no social rank, are not much educated, and (the suggestion often is) not very intelligent.

## Chapter 10: Motives

### 1. Different senses of 'motive'

1. It is an acknowledged truth that every kind of act—and therefore every kind of offence—is apt to have a different character and lead to different effects according to the nature of the motive that gives birth to it. So we need to look into the various motives by which human conduct is liable to be influenced.

2. In the broadest sense that the word is ever given with reference to a thinking being, a *motive* is  
 anything that can contribute to give birth to, or even to prevent, any kind of action.

Now an action of a thinking being is the act either of the body or only of the mind; and an act of the mind is an act either of the intellectual faculty or of the will. [Bentham then mentions motives leading to 'acts of the intellectual faculty' that stay within the understanding and have no influence on the will. Those motives have nothing to do with the production of pleasure or pain; they are irrelevant to our present purposes; and Bentham sets them aside.]

3. The only motives we have any concern with are ones that are of the right kind to act on the will. By a *motive* in this sense of the word, then, is to be understood  
 anything whatsoever which, by influencing the will of a sensitive being, is supposed to serve as a means of determining him to act, or voluntarily to forbear to act, on any occasion.<sup>1</sup>

[The indented passage is verbatim from Bentham.] Motives of this sort, in contradistinction to the former, may be called practical motives, or motives applying to practice.

4. Owing to the poverty and unsettled state of language, 'motive' is used indiscriminately to denote two kinds of objects which have to be distinguished if the subject is to be better understood. Sometimes it is used to denote any of those really existing incidents from which the act in question is supposed to arise; in these uses the word has what may be called its 'literal' or 'unfigurative' sense. At other times it is used to denote a certain fictitious entity, a passion, an affection of the mind, an ideal [see Glossary] being which, on the occurrence of any such ·really existing· incident, is considered as operating on the mind and prompting it to take the course that the influence of the incident is impelling it towards. Motives of this class are avarice, indolence, benevolence, and so forth, as we'll see in more detail further on. This latter may be called the 'figurative' sense of 'motive'.

5. The real incidents to which the name 'motive' is given are of two kinds. •The **internal** perception of an individual lot [see Glossary] of pleasure or pain, the expectation of which is thought likely to determine you to act in such-and-such a manner—e.g. the pleasure of acquiring a certain sum of money, or the pain of exerting yourself on a certain occasion. •Any **external** event the happening of which is regarded as tending to bring about the experience of such pleasure or pain—e.g. the coming up of a winning lottery ticket owned

<sup>1</sup> When the effect or tendency of a motive is to determine a man to forbear to act, it may seem improper to use the term 'motive', since strictly speaking 'motive' means 'something that disposes an object to move'. But we have no acceptable alternative to that improper term. By way of justification, or at least apology, for this popular use of 'motive' I point out that even forbearance to act, or the negation of motion (i.e. of bodily motion), when it is voluntary, presupposes an act of the will that is as much a positive act, as much a case of *motion*, as any other act of a thinking substance.

by you, or the breaking out of a fire in the house you are in, making it necessary for you to get out.

6. Two other senses of the term ‘motive’ need also to be distinguished. ‘Motive’ refers necessarily to *action*: it is a pleasure, pain, or other episode that prompts the person to action. In one sense of the word, then, a motive must be previous to such an event [here = ‘such an action’]. But a man can’t be governed by a motive unless he looks beyond the event that is called his action, looking to its consequences; it is only in this way that the idea of pleasure, pain, or any other event can give birth to it. So he must always look to some event later than the act he is contemplating performing—an event that doesn’t yet exist. . . . Now, because it is always hard and usually unnecessary to distinguish two objects as intimately connected as

(a) the later possible object that is thus looked forward to, and

(b) the present existing object or event that takes place when a man looks forward to (a) the other,

they are both spoken of as ‘motive’. To distinguish them we may call (a) a *motive in prospect* and (b) as a *motive in esse* [= ‘a now-existent motive’; but see the footnote to 7]; and each of these has exterior as well as internal versions. Consider this case:

A fire breaks out in your neighbour’s house; you are afraid of its extending to your own house; you are afraid that if you stay in it you will be burnt; so you run out of it.

Your running out of the house is the act; the other items are all motives to it.

•The fire’s breaking out in your neighbour’s house

is an external motive, and a motive *in esse*;

•the idea or belief of the probability of the fire’s extending to your own house,

•the idea or belief of your being burnt if you stay indoors, and

•the pain you feel at the thought of such a catastrophe,

are all internal events, but still *in esse*;

•the fire’s actually extending to your own house, and

•your being actually burnt by it,

are external motives in prospect;

•the pain you would feel at seeing your house burning,

•the pain you would feel while you were burning,

are internal motives in prospect. These last may in the upshot come to be *in esse*, but then of course they will cease to act as motives.

7. Of all these motives that jointly produce the action, the one that stand nearest to it is the internal motive *in esse* that consists in the expectation of the internal motive in prospect—the pain or uneasiness you feel at the thought of being burnt.<sup>1</sup> All other motives are more or less remote. The motives in prospect are remote in proportion as their expected time of happening is more distant from—and thus later than—the time of the act, and the motives *in esse* are remote in proportion as their time of happening is more distant from—and thus earlier than—the time of the act.

·START OF FOOTNOTE·

Under the term *esse* we must include •past as well as •present existence. They are equally real, in comparison with what is still in the future. Language is seriously deficient in not enabling us to distinguish

<sup>1</sup> In a footnote Bentham says that it may be hard to separate •the expectation from •the pain that accompanies it, and that it isn’t important to do so. Similarly with ‘the other kinds of motives’: sometimes we need to consider them separately, but] it will often be scarcely practicable and not always material to avoid confounding them, as they always *have* been confounded up to now.

•existence as opposed to unreality  
precisely from

•present existence as opposed to past.

The English word 'existence' and *esse* (adopted by lawyers from Latin) have the inconvenience of appearing to confine the existence in question to some single period considered as being present.

·END OF FOOTNOTE·

8. As I remarked earlier, we have no concern here with motives whose influence does not reach beyond the understanding. So if we have any concern with any objects that are spoken of as motives with reference to the understanding [Bentham's phrase], it can only be with ones which through the medium of •the understanding influence •the will. That is the only way in which something can in a practical sense act as a motive on the strength of its influence on the sentiment of belief. . . . When we talk of giving reasons, we are often pointing to motives such as these. Your neighbour's house is on fire; I observe to you •that at the lower part of your neighbour's house is some wood-work that joins onto yours, •that the flames have caught this wood-work, and so forth. I'm saying this in order to dispose you to believe, as I do, that if you stay in your house much longer you will be burnt. In doing this, I suggest motives to your understanding; and these motives, by their tendency to cause or strengthen a pain that operates on you as an internal motive *in esse*, combine to act as motives on the will.

## 2. No motives constantly good or constantly bad

9. In all this chain of motives, the principal or original link seems to be *the last internal motive in prospect*; it is to this that •the other motives in prospect owe their materiality

and •the action owes its existence. [Bentham actually wrote 'and the immediately acting motive owes its existence'; but this passage falls to pieces unless he meant 'the action'. The phrase 'immediately acting' doesn't occur anywhere else in this work.] This motive in prospect is always some pleasure (which the act is expected to produce or continue) or some pain (which the act is expected to prevent or discontinue). A motive is substantially nothing more than pleasure or pain, operating in a certain manner.

10. Now, pleasure is in itself a good; indeed it's the *only* good if we set aside immunity from pain; and pain is in itself an evil, and without exception the *only* evil; or else 'good' and 'evil' have no meaning! And this is equally true of every sort of pain, and of every sort of pleasure. So it follows—immediately and incontestably—that there is no such thing as a sort of motive that is in itself a bad one. Let a man's motive be ill-will, malice, envy, cruelty—it is still a kind of pleasure that is his motive, the pleasure he takes at the thought of the pain that he sees or expects to see his adversary undergo. Even this wretched pleasure, taken by itself, is good. It may be faint; it may be short; it must be impure; but while it lasts, and before bad consequences arrive, it's as good as any other pleasure that isn't more intense.

11. Yet actions are commonly said to come from good or bad motives—always meaning internal motives. This way of speaking is far from accurate, and because it is apt to occur in connection with almost every kind of offence, we need to settle its precise meaning and observe how far it squares with the truth of things.

12. With regard to anything that isn't itself either pain or pleasure: if it is good, that is because it tends to produce pleasure or avert pain; if it is bad, that is because it tends to produce pain or avert pleasure. This holds for everything, including motives. Now the fact is that from one and the



same individual motive, and from every kind of motive, there may come some good actions, some bad ones, and others that are indifferent [see Glossary]. I will now show this with respect to all the different kinds of motives, as determined by the various kinds of pleasures and pains.

**13.** This analysis will be found to be difficult, largely because of a certain perversity of structure that prevails more or less throughout all languages. . . . To speak of motives we must call them by their names, but it is rare to meet with a motive whose name expresses only that and nothing more. Along with the motive's name, a proposition is tacitly involved imputing to it a certain quality; and in many cases the quality will appear to include that very goodness or badness that we are here inquiring into. The name of the motive is a word that is employed—as they commonly say—only

- ‘in a good sense’: meaning that it conjoins the idea of the motive with an idea of approval—i.e. of pleasure or satisfaction that the name-user has at the thought of such a motive; or
- ‘in a bad sense’: meaning that it conjoins the idea of the motive with an idea of disapproval—i.e. of displeasure that the name-user has at the thought of such a motive.

Such approval is likely enough to be based on the opinion that the object in question is good, and according to the principle of utility that's what it ought to be based on; similarly with disapproval and the opinion that the object in question is bad.

Some motives are almost always named by words that

are used only in a good sense—e.g. the motives of piety and honour. The result is that if a man wants to characterise as ‘bad’ an action that he says is apt to arise from such a motive, he must appear to be guilty of a contradiction in terms. And there are many more motives that are hard to name except by names that used only in a bad sense—e.g. lust and avarice. (For the reason, see the footnote to paragraph 17 on page 75.) If a man describes as ‘good’ or ‘indifferent’ actions that he mentions as apt to result from lust or avarice, he too must appear to be guilty of a similar contradiction.<sup>1</sup>

This perverse association of ideas is bound to throw great difficulties in the way of the inquiry now before us. Confining himself to the terms most in use, a man can hardly avoid perpetually seeming to contradict himself. His propositions will appear •false and also •adverse to utility: as paradoxes they will arouse contempt; as harmful paradoxes, indignation. The truths he labours to convey, however important and salutary, do his reader no good and do himself harm. To conquer this inconvenience *completely*, he has only one remedy—nasty medicine!—namely to lay aside the old terminology and invent a new one. Happy the man whose language is ductile enough to permit him this resource! To lessen the inconvenience, where that method of conquering it is impracticable, his only resource is •to enter into a long discussion, •to state the whole matter at large, •to confess that for serious reasons he has violated the established laws of language, and •to throw himself on the mercy of his readers. (Fortunately, language sometimes lets us use two words instead of one, avoiding the inconvenience of

<sup>1</sup> This imperfection of language is the main source of the violent clamours that have from time to time been raised against those ingenious moralists who, travelling off the beaten track of moral theorising, have found more or less difficulty in disentangling themselves from the shackles of ordinary language; for example, Rochefoucault, Mandeville and Helvetius. Doctrines that commonly arose from a lack of discernment on the part of the author, or a lack of skill in matters of language, or perhaps in a few cases from a lack of honesty on the part of a commentator, have often been attributed to the unsoundness of their opinions and—with still greater injustice—to the corruption of their hearts.

inventing new words. Replacing ‘lust’ by ‘sexual desire’ we have a neutral expression; we can replace ‘avarice’ by the neutral expression ‘pecuniary interest’. This is the course I have taken. In these instances, indeed, the combination isn’t novel; the only novelty consists in steady adherence to the one neutral expression, entirely rejecting the terms whose meaning is infected by adventitious and unsuitable ideas.) This perverse association of ideas is bound to throw great difficulties in the way of the inquiry now before us. Confining himself to the terms most in use, a man can hardly avoid perpetually seeming to contradict himself. His propositions will appear •false and also •adverse to utility: as paradoxes they will arouse contempt; as harmful paradoxes, indignation. The truths he labours to convey, however important and salutary, do his reader no good and do himself harm. To conquer this inconvenience *completely*, he has only one remedy—nasty medicine!—namely to lay aside the old terminology and invent a new one. Happy the man whose language is ductile enough to permit him this resource! To lessen the inconvenience, where that method of conquering it is impracticable, his only resource is •to enter into a long discussion, •to state the whole matter at large, •to confess that for serious reasons he has violated the established laws of language, and •to throw himself on the mercy of his readers. (Fortunately, language sometimes lets us use two words instead of one, avoiding the inconvenience of inventing new words. Replacing ‘lust’ by ‘sexual desire’ we have a neutral expression; we can replace ‘avarice’ by the neutral expression ‘pecuniary interest’. This is the course I

have taken. In these instances, indeed, the combination isn’t novel; the only novelty consists in steady adherence to the one neutral expression, entirely rejecting the terms whose meaning is infected by adventitious and unsuitable ideas.)

### 3. Matching motives against pleasures and pains

**14.** From the pleasures of the senses considered all together, arises the motive that can be given the neutral name ‘physical desire’; in a bad sense it is called ‘sensuality’. It has no name used in a good sense. Nothing more can be said about the pleasures of the senses in general; they have to be divided up according to the senses that are involved, which I shall do in **15–16**.<sup>1</sup>

**15.** Corresponding to the pleasures of the taste or palate is a motive that has to be given the round-about name ‘love of the pleasures of the palate’, because there isn’t a one-word-name referring to it in a neutral sense. In particular cases it is called ‘hunger’; in others, ‘thirst’.<sup>2</sup> The phrase ‘love of good cheer’ expresses this motive but seems to go beyond, •implying that the pleasure is to be enjoyed in company, and •involving a kind of sympathy. In a bad sense it is in some cases called ‘greediness’, ‘voraciousness’, ‘gluttony’; in some others. . . .it can be represented by ‘daintiness’. It has no name used in a good sense.

•A boy who has plenty to eat steals a cake out of a shop, and eats it. His motive will be universally deemed a bad one; and if we ask what the motive is, the answer may be ‘gluttony’. •A boy buys a cake out of a shop, and eats it. In

<sup>1</sup> I have put into my catalogue of motives, corresponding to the several sorts of pains and pleasures, such as have occurred to me. I don’t claim that it is complete. To make sure of its being so, I would have to go through the dictionary from beginning to end. . . .

<sup>2</sup> Hunger and thirst, considered as motives, imply not so much the desire for a particular kind of pleasure as the desire for removing a positive kind of pain. They don’t extend to the desire for the kind of pleasure that depends on the choice of food and drink.

this case his motive can scarcely be looked on as either good or bad. . . . But in both cases his motive is the same: it is neither more nor less than the motive corresponding to the pleasures of the palate.<sup>1</sup>

**16.** To the pleasures of the sexual sense corresponds the motive which in a neutral sense may be called ‘sexual desire’. In a bad sense it is spoken of as ‘lasciviousness’ and given a variety of other names of reproof. It has no name used in a good sense.<sup>2</sup>

•A man rapes a virgin. His motive is confidently labelled as ‘lust’, ‘lasciviousness’, or the like, and is universally regarded as a bad one. •The same man, at another time, exercises the rights of marriage with his wife. In this case the motive may be regarded as a good one, or at least as indifferent [see Glossary], and people would hesitate to call it ‘lust’ etc. Yet it may be that in both cases the motive is precisely the same, namely sexual desire.

**17.** The other pleasures of sense are of too little consequence to have given separate names to the corresponding motives.

**18.** Corresponding to the pleasures of curiosity is the motive also called ‘curiosity’, and could instead be called ‘the love of novelty’, or ‘the love of experiment’; and on particular occasions it may be called ‘sport’ or ‘play’.

•A boy, wanting to do something interesting, reads an improving book; the motive may be regarded as a good one, and certainly not a bad one. •He sets his top spinning; the

motive is regarded as at any rate not a bad one. •He sets loose a mad ox among a crowd; his motive may now be described as ‘abominable’. Yet in all three cases the motive may be the very same—namely curiosity.

**19.** Corresponding to the pleasures of wealth is the sort of motive that can be labelled in a neutral sense as ‘pecuniary interest’; in a bad sense it is in some cases called ‘avarice’, ‘covetousness’, ‘rapacity’, or ‘lucre’ [see Glossary]; in other cases ‘niggardliness’; in a good sense—but only in particular cases—‘economy’ and ‘frugality’; and in some cases the word ‘industry’ may be applied to it. In some particular cases it is called ‘parsimony’, this being a sense that is nearly indifferent but leaning towards the bad side.

•For money you gratify a man’s hatred, by putting his adversary to death. •For money you plough his field for him. In the first case your motive is called ‘lucre’, and is regarded as corrupt and abominable; in the second case, for lack of a proper label it is called ‘industry’, and is regarded as innocent and perhaps downright meritorious. Yet the motive is in both cases precisely the same—pecuniary interest.

**20.** The pleasures of skill are not sufficiently distinct or important to have given any name to the corresponding motive.

**21.** To the pleasures of friendship corresponds a motive which in a neutral sense may be called ‘the desire to ingratiate oneself’. In a bad sense it is in some cases called ‘servility’;

<sup>1</sup> It won’t be worthwhile in every case to give an example in which the action would be indifferent: if good as well as bad actions can come from the same motive, it is easy to conceive that indifferent ones can come from it also.

<sup>2</sup> ‘Love’ sometimes includes this idea ‘in its meaning’; but it can’t serve the purpose of picking it out separately, because it can also include at least three other motives, namely the love of beauty corresponding to •the pleasures of the eye, and the motives corresponding to •the pleasure of friendship and •the pleasure of benevolence. We speak of the love of children, of the love of parents, of the love of God—these pious uses protect the word from the ignominy poured forth onto its profane associates. Even ‘sensual love’ wouldn’t serve the purpose, because that would include the love of beauty.

it has no name of its own in a good sense; in the cases where it has been looked on favourably it has seldom been distinguished from a motive that commonly accompanies it in such cases, namely sympathy or benevolence.

•To acquire the affections of a woman before marriage and preserve them afterwards, you do everything that is consistent with other duties to make her happy; in this case your motive is regarded as praiseworthy, though there is no name for it. •For the same purpose you poison a woman with whom she is at enmity; in this case your motive is regarded as abominable, though again there is no name for it. •To acquire or preserve the favour of a man who is richer or more powerful than yourself, you make yourself subservient to his pleasures. Even if the pleasures are lawful, if people attribute your behaviour to this motive you won't get them to find any other name for it than 'servility'. Yet in all three cases the motive is the same—the desire to ingratiate yourself.

**22.** The pleasures of the moral sanction—i.e. the pleasures of a *good name*—have a corresponding motive for which we don't yet have an adequate neutral name. It may be called 'the love of reputation'. It is nearly related to the motive discussed in **21**, because it is neither more nor less than the desire to ingratiate oneself with—or recommend oneself to—the world at large. In a good sense it is called 'honour' or 'the sense of honour'. . . well, no, that isn't strictly correct. Strictly speaking, 'honour' is the name people give to an imaginary object that a man is said to *possess* when he obtains a conspicuous share of the pleasures of a good name that are in question. . . . In particular cases this motive is called 'the love of glory'. In a bad sense it is in some cases called 'false honour'; in others, 'pride'; in others, 'vanity'. In a sense that leans towards the bad side, 'ambition'. In an indifferent sense it is in some cases called 'the love of fame'; in others, 'the sense of shame'. And because the pleasures

belonging to the moral sanction merge indistinguishably with the pains derived from the same source (see footnote to **24** on page 27), it may also in some cases be called 'the *fear* of dishonour', '... of disgrace', '... of infamy', '... of ignominy', '... of shame'.

•You have received an open insult from a man; according to the custom of the country, so as to save yourself from the shame of being thought to bear it patiently. . .

·START OF LONG FOOTNOTE·

A man's bearing an insult patiently—i.e. without taking this method of 'wiping it off'—is thought to show either •that he isn't as sensitive to the pleasures and pains of the moral sanction as a respectable member of society has to be; or •that he does feel a resentment appropriate to a proper sense of the value of those pleasures and those pains, but isn't brave enough to stake his life for the chance of gratifying it. There are various other motives by which the same conduct might be produced: the motives corresponding to the religious sanction, and the motives that come under the head of benevolence. •Piety towards God (because duelling is generally regarded as contrary to the dictates of the religious sanction); •sympathy for your antagonist, whose life would be at risk at the same time as yours; •sympathy for persons who depend on him for support or are connected with him in the way of sympathy; •sympathy for people you are connected with; and even •sympathy for the public, if the man is such that it matters to the public that he should stay alive. But the religious sanction is known to be in general weaker than the love of life, especially among people of the kind who are apt to engage in duelling, a sure proof of which is the prevalence of this very practice. Where the religious sanction is so strong as to preponderate, that is so rare that it exalts the person to the rank of martyr. And it won't often happen

that private benevolence or public spirit predominate over the love of life; and because of the general propensity for detraction it will be even rarer for them to be thought to do so. Now, when someone acts in a manner that could be attributed to any one of several motives all of which he has, the one that appears to be the most powerful will routinely be regarded as having actually •done the most; and because most people are given to swift superficial judgments it will generally be regarded as having done the whole.

The result is that when a man of a certain rank forbears to take this chance of revenging an open insult, most people will attribute this to his love of life, which when it predominates over the love of reputation is. . . .stigmatized with the reproachful name ‘cowardice’.

•END OF FOOTNOTE•

. . . and to obtain the reputation of courage, you challenge him to fight with mortal weapons. In this case some people will count your motive as praiseworthy and will call it ‘honour’; others will count it as blameworthy, and if they bring ‘honour’ into the story it will be in a phrase like ‘false honour’. •In order to obtain a post of rank and dignity, and thereby to increase the respects paid to you by the public, you bribe the relevant electors or judge. In this case your motive is commonly accounted corrupt and abominable, and may be called ‘dishonest ambition’ or ‘corrupt ambition’, as there is no one-word name for it. •In order to obtain the good will of the public, you give a large sum to works of private charity or public utility. In this case people will be apt to disagree about your motive. Your enemies will put a bad colour on it and call it ‘ostentation’; your friends, to save you from this reproach, will choose to attribute your conduct to some other motive such as charity. . . .or public spirit. •A king engages his kingdom in a bloody war, wanting to get

the admiration that goes with the name ‘conqueror’ (let’s suppose that power and resentment don’t come into it) . His motive will be deemed an admirable one by the multitude (whose sympathy for millions is easily outweighed by the pleasure their imagination gets from gaping at any novelty they see in the conduct of a single person). Men of feeling and reflection, who disapprove of the power of this motive on this occasion (without always seeing that it’s a motive that they approve of in other instances) deem it an abominable motive; and because the multitude, who are the manufacturers of language [Bentham’s phrase], haven’t provided a simple name for it, they will call it ‘love of false glory’ or ‘love of false ambition’ or the like. Yet in all four cases the motive is the same—the love of reputation.

**23.** Corresponding to the pleasures of power is the motive that can neutrally be called ‘the love of power’; those who disapprove of it sometimes call it ‘the lust for power’. It has no name in a good sense. In some cases this motive is run together with the love of reputation under the single label ‘ambition’. This is not surprising, given •how intimately the two motives are connected in many cases: it commonly happens that something giving one sort of pleasure gives the other sort at the same time (e.g. government positions which are at once posts of honour and places of trust); and given •that reputation is the road to power.

•If in order to gain a place in administration you poison the man who occupies it, or •if for the same reason you propose a useful plan for the advancement of the public welfare, your motive is the same in both cases. Yet in the first case it is regarded as criminal and abominable; in the second case allowable and even praiseworthy.

**24.** Corresponding to the pleasures and pains of the religious sanction is a motive that has, strictly speaking, no perfectly

neutral name that fits all cases unless the word 'religion' is allowed to serve. But 'religion', strictly speaking, seems to mean not so much the motive itself as a kind of fictitious personage by whom the motive is supposed to be created, or an assemblage of acts supposed to be dictated by that personage; and anyway it doesn't seem to be completely settled into a neutral sense. In the same sense it is also in some cases called 'religious zeal'; in other cases 'the fear of God'. The *love* of God, though commonly contrasted with the *fear* of God, doesn't strictly come under this heading. It coincides properly with a motive that has a different name, a kind of sympathy or good will that has the Deity for its object. In a good sense it is called 'devotion', 'piety', and 'pious zeal'. In a bad sense it is called 'superstition' or 'superstitious zeal' in some cases and 'fanaticism' or 'fanatic zeal' in others; and in a sense that isn't decidedly bad because it isn't exclusive to this motive, 'enthusiasm' or 'enthusiastic zeal'.

•In order to obtain the favour of the Supreme Being, a man assassinates his lawful sovereign. In this case the motive is *now* almost universally regarded as abominable, and is called 'fanaticism'; but *in earlier times* many people regarded it as praiseworthy and called it 'pious zeal'. •With the same purpose a man lashes himself with a whip. In this case, one man will regard the motive as praiseworthy and call it 'pious zeal', while the man next door thinks it contemptible and calls it 'superstition'. •Still with the same purpose, a man eats a piece of bread (or at least what seems to be a piece of bread) with certain ceremonies. In this case too, one man regards his motive as praiseworthy and calls it 'piety' and 'devotion', while the man next door thinks it abominable

and calls 'superstition' and perhaps even 'impiety' (though that is absurd). •With the same purpose a man holds a cow by the tail while he is dying. On the Thames his motive would be regarded as contemptible, and called 'superstition'; on the Ganges it is regarded as meritorious, and called 'piety'. •With the same purpose a man gives a large sum to works of charity or public utility. In this case his motive is called 'praiseworthy' at least by those who see the works in question as praiseworthy, and these people would call it 'piety'. Yet in all these cases the motive is precisely the same—it is just the motive belonging to the religious sanction.<sup>1</sup>

**25.** To the pleasures of sympathy corresponds the motive which in a neutral sense is called 'good will'. (The word 'sympathy' can also be used here, though its meaning seems to be rather broader.) In a good sense it is called 'benevolence' and in certain cases 'philanthropy' and in a figurative way 'brotherly love'; in other cases 'humanity', in others 'charity', in others 'pity' and 'compassion', in others 'mercy', in others 'gratitude', in others 'tenderness', in others 'patriotism', in others 'public spirit'. 'Love' is also used in this sense as in so many others. This motive has no bad-sense name that fits it in all cases; in particular cases it is called 'partiality'. The word 'zeal', with certain adjectives, might also be used sometimes for this motive, though its sense is broader, applying sometimes to ill will as well as to good will. And so we speak of 'party zeal', 'national zeal', and 'public zeal'. . . .

•A man who has set a town on fire is arrested and charged; out of regard or compassion for him, you help him to escape from prison. In this case the generality of people will probably scarcely know whether to condemn your

<sup>1</sup> I hope that people in general, when they see the matter thus stated, will accept that in none of these cases is the motive itself a bad one, whatever be the tendency of the acts it produces; but this doesn't detract from the truth that until now it has been common for men in popular discourse to speak of such acts as coming from a bad motive. The same remark will apply to many of the other cases.

motive or to applaud it; those who condemn your *conduct* will be disposed to attribute it to some other motive; and if they call it 'benevolence' or 'compassion' they will want to prefix an adjective—'false benevolence', 'false compassion'. . . .

- Again, the man is arrested and put on trial; to save him you swear falsely in his favour. People who wouldn't call your motive a bad one in the previous case will perhaps call it so now.
- A man has a lawsuit against you about an estate; he has no right to the estate; the judge knows this, but because of his esteem or affection for your adversary he awards it to him. In this case everyone regards the motive as abominable, calling it 'injustice' and 'partiality'.
- You detect a statesman receiving bribes; out of regard for the public interest you inform against him and prosecute him. In this case, everyone who accepts that your conduct did originate from this motive will regard the motive as praiseworthy, and will call it 'public spirit'. But his friends and supporters won't choose to explain your conduct in any such manner; they will prefer to attribute it to party enmity.
- You find a man on the point of starving; you relieve him, and save his life. In this case everyone will regard your motive as praiseworthy, will call it 'compassion', 'pity', 'charity', 'benevolence'. Yet in all these cases the motive is the same—it is just the motive of good will.

**26.** Corresponding to the pleasures of malevolence or antipathy there is a motive which in a neutral sense is called 'antipathy' or 'displeasure'; and in particular cases 'dislike', 'aversion', 'abhorrence', and 'indignation'; in a sense that is neutral or perhaps leaning a little to the bad side, 'ill-will';

and in particular cases 'anger', 'wrath', and 'enmity'. In a bad sense it is called, in different cases, 'wrath', 'spleen', 'ill-humour', 'hatred', 'malice', 'rancour', 'rage', 'fury', 'cruelty', 'tyranny', 'envy', 'jealousy', 'revenge', 'misanthropy', and by other names that it's hardly worthwhile to try to collect.<sup>1</sup> Like 'good will', 'ill will' is used with adjectives that express the persons who are the objects of the affection [see Glossary]—'party enmity', 'party rage', and so forth. There seems to be no single good-sense name for this motive. In compound expressions it can be spoken of in a good sense, by prefixing adjectives such as 'just' and 'praiseworthy' to words that are used in a neutral or nearly neutral sense.

- You rob a man; he prosecutes you, and gets you punished; out of resentment you attack him and hang him with your own hands. In this case your motive will universally be regarded as detestable, and will be called 'malice', 'cruelty', 'revenge', and so forth.
- A man has stolen a little money from you; out of resentment you prosecute him, and get him hanged by course of law. In this case people will probably be a little divided in their opinions about your motive; your friends will regard it as praiseworthy, and will call it 'just resentment' or 'praiseworthy resentment'; your enemies may be disposed to regard it as blameworthy and to call it 'cruelty', 'malice', 'revenge', and so forth; and to counter this your friends may try to change the motive, calling it 'public spirit'.
- A man has murdered your father; out of resentment you prosecute him and get him put to death in course of law. In this case everyone will regard your motive as praiseworthy, and will (again) call it 'just resentment' or 'praiseworthy resentment'; and your friends, wanting to display the more

<sup>1</sup> Here as elsewhere you may note that many of the names of motives are also names of passions, appetites, and affections—fictitious entities that are contrived only by considering pleasures or pains from some particular point of view. Some of them are also names of moral qualities. This branch of nomenclature is remarkably tangled: to unravel it completely would take a whole volume, not a syllable of which would belong properly to the present design.

amiable principle [see Glossary] from which the malevolent one that was your immediate motive arose, will want to keep the latter out of sight, speaking only of the former, under some such name as ‘filial piety’. Yet in all these cases the motive is the same—it is the motive of ill-will.

**27.** The motive which in a neutral sense is called ‘self-preservation’—the desire to preserve oneself from some threatened pain or evil—corresponds to •the various sorts of pains (or at least to those that are thought of as very intense), and to •death, which seems to us to bring the end all the pleasures and to all the pains that we are acquainted with. In many instances the desire for pleasure merges indistinguishably with the sense of pain. So self-preservation, where the degree of the corresponding pain is slight, will be hard to distinguish sharply from the motives corresponding to various sorts of pleasures. Thus with the pains of hunger and thirst: physical need will often be scarcely distinguishable from physical desire. In some cases it is called, still in a neutral sense, ‘self-defence’. I have already noted this lack of boundaries between the pleasures and the pains of the moral and religious sanctions, and thus of the corresponding motives, and between the pleasures of friendship and the pains of enmity. The same thing holds for the pleasures of wealth and the corresponding pains of privation. So in many cases it will be hard to distinguish the motive of self-preservation from pecuniary interest, from the desire to ingratiate oneself, from the love of reputation, and from religious hope; and in those cases those more specific and explicit names will naturally be preferred to the general and inexplicit ‘self-preservation’. And we could devise a multitude of compound names (some of them are already in use) to distinguish the specific branches of the motive of self-preservation from various motives of a pleasurable origin such as the fear of poverty, the fear of losing such-and-such

a man’s regard, the fear of shame, and the fear of God. To the evil of death corresponds in a neutral sense ‘the love of life’; in a bad sense ‘cowardice’. . . . There seems to be no name for the love of life that has a good sense, unless it is the vague and general name ‘prudence’.

•To save yourself from being hanged, pilloried, imprisoned, or fined, you poison the only person who can give evidence against you. In this case your motive will universally be regarded as abominable; but people won’t call it ‘self-preservation’, because that has no bad sense; so they’ll prefer to change the motive and call it ‘malice’. •A woman, having just given birth to an illegitimate child, destroys or abandons it so as to save herself from shame. In this case, also, people will call the motive a bad one, and rather than giving it a neutral name they will be apt to change the motive and call it by some such name as ‘cruelty’. •To save the expense of a halfpenny, you allow a man whom you could save at that expense to die of starvation before your eyes. In this case everyone will regard your motive as abominable; and to avoid calling it by such a permissive name as ‘self-preservation’ people will be apt to call it ‘avarice’ and ‘niggardliness’, with which indeed in this case it indistinguishably coincides; so as to have a more reproachful label they will be apt to change the motive and call it ‘cruelty’. •To put an end to the pain of hunger, you steal a loaf of bread. In this case your motive may not be deemed a very bad one; and in order to express more indulgence for it people will be apt to find a stronger name for it than ‘self-preservation’, calling it ‘necessity’. •To save yourself from drowning, you beat off an innocent man who has got hold of the same plank. In this case your motive will in general be regarded neither as good nor as bad, and it will be called ‘self-preservation’ or ‘necessity’ or ‘the love of life’. •To save your life from a gang of robbers, you kill them in the conflict. In this case the motive may



be deemed praiseworthy rather than otherwise; and besides 'self-preservation' it is called also 'self-defence'. •A soldier is sent out with a squad against a weaker squad of the enemy; before he reaches them he runs away, to save his life. In this case everyone will find the motive to be contemptible, and it will be called 'cowardice'. Yet in all these various cases the motive is still the same—it is just self-preservation.

**28.** Corresponding to the pains of exertion is the motive that can in a neutral sense be called 'the love of ease' or 'the desire to avoid trouble'. In a bad sense it is called 'indolence'.<sup>1</sup> It seems to have no name that carries with it a good sense.

•To save the trouble of taking care of it, a parent leaves his child to perish. In this case the motive will be deemed an abominable one, and, because 'indolence' will seem too mild a name for it the motive may be changed and spoken of under some such term as 'cruelty'. •To save yourself from being illegally enslaved you make your escape. In this case the motive will be regarded as certainly not a bad one; and because 'indolence' or even 'the love of ease' will be thought too unfavourable a name for it, it may be called 'the love of liberty'. •A mechanic, in order to save his labour, makes an improvement in his machinery. In this case, people will look on his motive as a good one; and finding no name for it that carries a good sense, they will prefer to keep the motive out of sight and speak instead of his ingenuity rather than of the motive that was the means of his manifesting that quality. Yet in all these cases the motive is the same—it is the love of ease.

**29.** It appears then that there's no such thing as a sort of motive that is bad in itself; nor therefore any such thing as

a sort of motive that is in itself exclusively a good one. And it appears too that their effects are sometimes bad, at other times either indifferent or good; and this seems to be the case with every sort of motive. Thus, if any sort of motive is either good or bad because of its effects, this is the case only on individual occasions and with individual motives; and that holds for *every* sort of motive. So if any sort of motive can properly be called a bad one because of its effects, that must be with reference to the balance of all the effects—good and bad—that it has had within a given period, i.e. with reference to its most usual tendency.

**30.** You will want to say:

'What then? Aren't lust, cruelty, avarice, bad motives? Is there even *one* individual occasion in which motives like these can be anything but bad?'

No, certainly; despite which the proposition that *any sort of motive will on many occasions be a good one* is true. The fact is that 'lust', 'cruelty' and 'avarice' are names which, if used properly, are applied only in cases where the motives they signify happen to be bad. The names of those motives, considered apart from their effects, are 'sexual desire', 'displeasure', and 'pecuniary interest'. . . . Why is lust always a bad motive? Because in any case where the effects of the motive are not bad, it oughtn't to be called 'lust'. The proposition 'Lust is a bad motive' merely concerns the meaning of 'lust', and it would be false if we replaced 'lust' by 'sexual desire', although that is a name for the same motive. Hence we see the emptiness of all those rhapsodies of commonplace morality that consist in taking such names as 'lust', 'cruelty', and 'avarice' and branding them with marks of disapproval; applied to •the thing, they are false; applied to •the name,

<sup>1</sup> It may seem odd at first sight to speak of the love of ease as giving rise to action: but exertion is as natural an effect of the love of ease as inaction is, when a smaller degree of exertion promises to exempt a man from a greater.

they are true but empty. If you want to do mankind a real service, show them the cases in which sexual desire merits the name of 'lust', displeasure that of 'cruelty' and pecuniary interest that of 'avarice'.

**31.** If it were necessary to classify motives as good, bad, and indifferent, this might be done on the basis of the nature of their most usual effects. That would yield this:

- Good motives:

- good will
- love of reputation
- desire for friendship
- religion

- Bad motives:

- displeasure

- Neutral or indifferent motives:

- physical desire
- pecuniary interest
- love of power
- self-preservation, understood as including •the fear of the pains of the senses, •the love of ease, and •the love of life.

**32.** [Bentham says that this classification must be imperfect, and may well be wrong. We can't possibly know that the four motives listed as 'good' have *always* led to more good than bad. As for those listed as 'neutral or indifferent', we can't know that the good and bad in their consequences 'have exactly balanced each other'. He continues, more interestingly, with positive reasons for scepticism about this:] The interests of the person himself can no more be left out of the estimate than those of the rest of the community. For what would become of the species if it were not for the motives of hunger and thirst, sexual desire, the fear of pain, and the love of life? And the motive of displeasure may have

a place in the •actual constitution of human nature that is as essential as any of the others; although a system in which the business of life is carried on without it may be conceived as •possible. . . .

**33.** It seems that the only way a motive can safely and properly be called 'good' or 'bad' is with reference to its effects in each •individual instance. The focus here will be principally on the intention the motive gives birth to, because (as I'll show later) the most material effects of the motive come through the intention. A motive is good (bad) when the intention it gives birth to is good (bad); and an intention is good or bad according to the material consequences that are the objects of it. . . . But we have seen that one motive can generate intentions of every sort; so this circumstance can afford no clue for the arrangement of the various •sorts of motives.

**34.** So it seems that a fuller classification would group motives

**how Bentham went on:** according to the influence which they appear to have on the interests of the other members of the community, laying those of the party himself out of the question: to wit. . .

**what he seems to have meant:** according to a comparison between •their influence on the interests of the other members of the community and •their influence on the interests of the person himself; namely. . .

. . . according to the tendency which they appear to have to unite, or disunite, his interests and theirs. On this basis they can be distinguished into social, unsocial, and self-regarding. [Bentham now produces a list of these; it *exactly* matches the list in **31**, with 'good', 'bad' and 'neutral or indifferent' replaced by 'social', 'unsocial' and 'self-regarding' respectively.]

**35.** If it were useful to subdivide further the motives that I have called 'social', we could mark off •good will as the only one that is *purely social*, while the other three can be grouped together as *semi-social*, because the social tendency is much more constant and unequivocal in good will than in any of the other three, which are in fact self-regarding as well as social.

#### 4. Order of pre-eminence among motives

**36.** Of all these sorts of motives, good will is the one whose dictates are in general the surest of coinciding with those of the principle of utility. For the dictates of utility are just the dictates of the most extensive and enlightened—i.e. well-advised—benevolence. The dictates of the other motives may conform to those of utility, or conflict with them, as it may happen.

**37.** In saying this I am supposing that in the case in question the dictates of benevolence are not contradicted by those of a more extensive—i.e. enlarged—benevolence. When **(a)** the dictates of benevolence with regard to the interests of a certain set of persons conflict with **(b)** the dictates of benevolence with regard to the more important or more valuable interests of another set of persons, it's clear that **(a)** are repealed, as it were, by **(b)**; and if a man were governed by **(a)** he couldn't be rightly said to be governed by the dictates of benevolence. If the motives on both sides were equally present to a man's mind, the case where they conflict would hardly be worth marking off, because **(a)** the partial benevolence could be considered as swallowed up in **(b)** the more extensive; if **(a)** prevailed and governed the action, the action must be considered as owing its birth not to benevolence but to some other motive; if **(b)** prevailed, **(a)** could be considered as having no effect. But the fact is

that that **(a)** a partial benevolence may govern the action without entering into any direct competition with **(b)** the more extensive benevolence that would forbid it; because the interests of the less numerous set of persons may be present to a man's mind at a time when those of the more numerous set are either not present or anyway make no impression. This is how the dictates of this motive can conflict with utility yet still be the dictates of benevolence. What makes the dictates of •private benevolence conform on the whole with the principle of utility is that in general they aren't opposed to the dictates of •public benevolence; when they do conflict with them it is only by accident. What makes them conform even better is the fact that, in a civilised society, in most of the cases where they would be apt to run counter to those of public benevolence they are opposed by stronger motives of the self-regarding class, which are played off against them by the laws; and that they are left free only where they aren't opposed by the other more salutary dictates. An act of injustice or cruelty that a man commits for the sake of his father or his son is rightly punished as much as if it were committed for his own sake.

**38.** The motive whose dictates seem to have the second-best chance (after good will) of coinciding with those of utility is *the love of reputation*. There's only one circumstance that prevents the dictates of this motive from always coinciding with those of utility, namely the fact that

men in their likings and dislikings, in their dispositions to approve or disapprove of any mode of conduct, and thus in their good will or ill will towards the person who appears to practice it, are not governed exclusively by the principle of utility. Sometimes they are guided by the principle of asceticism, sometimes by the principle of sympathy and antipathy (see chapter 2).

Another circumstance lessens. . . .the effectiveness of the dictates of the motive of love of reputation in comparison with the dictates of the motive of benevolence, namely the fact that

the dictates of benevolence will operate as strongly in secret as in public; . . . .whereas those of the love of reputation will coincide with those of benevolence only in proportion as the man's conduct seems likely to be known.

But this doesn't make as much difference as at first sight might appear. The more material an act is, the more likely it is to become known; and a slight suspicion can harm a man's reputation as much as a proof. Besides, when someone is considering performing a disreputable act, even if he is sure that *this* act will remain secret he has to reckon with the fact that if he performs it, that will go towards forming a habit that will lead to other acts that may not meet with the same good fortune. There is perhaps no adult human being on whom considerations of this sort don't have some weight; and they have the more weight on a man in proportion to the strength of his intellectual powers and the firmness of his mind (see **12–13** in chapter 6). . . .

**39.** After the dictates of the love of reputation come, apparently, those of the desire for friendship. The former tend to coincide with the dictates of utility because they tend to coincide with the dictates of benevolence. So do the dictates of the desire for friendship, but only with a •narrower benevolence than the kind that dictates of the love of reputation tend to coincide with. But it is still •broader than any benevolence flowing from the dictates of the self-regarding motives. A man's love of reputation will dispose him, at one time or another in his life, to contribute to the happiness of a considerable number of persons; his self-regarding motives throughout his life confine themselves

to the care of that single individual. Other things being equal, *how near* a man's desire for friendship will come to coinciding with the dictates of the love of reputation—and thus with the dictates of utility—will depend on *how many* people he wants to be friends with. On upshot of that is that a member of the English parliament, despite his own weaknesses and the follies of the people whose friendship he has to cultivate, is probably in general a better character than the secretary of a Vizier at Constantinople or of a Viceroy in Hindustan.

[Just a reminder: the topic of this section is the 'ranking' of motives in terms of how close their dictates are to those of benevolence and thus to those of utility.]

**40.** Given the infinite diversity of religions, it's hard to know what general account to give of them or how to rank the associated motive. The word 'religion' turns people's thoughts first to the religion they themselves profess. This is a great source of miscalculation, tending to rank this sort of motive higher than it deserves. The dictates of religion would always coincide with those of utility if it were the case that

- the Being who is the object of religion is supposed by everyone to be as benevolent as he is supposed to be wise and powerful; and
- people's notions of his benevolence are as correct as their notions of his wisdom and his power.

Unfortunately, though, neither of these is the case. He is universally supposed to be all-powerful; for what does anyone *mean* by 'the Deity' except 'the Being, whatever he is, who does everything'? And as for knowledge,

**the rest of the sentence:** by the same rule that he should know one thing he should know another.

**perhaps meaning:** the reasons for crediting God with some knowledge are reasons for thinking that he knows everything.

These notions seem to be as •correct (for all material purposes) as they are •universal. But among the devotees of religion (of whom the multifarious fraternity of Christians is only a fraction) there seem to be few (I won't say how few) who really believe in his benevolence. They call him 'benevolent' but they don't mean that he really is so. They don't mean that he is benevolent in the way a man is thought to be benevolent; they don't mean that he is benevolent in the only sense in which 'benevolent' has a meaning. If they did, they would recognise that the dictates of religion could be neither more nor less than the dictates of utility—not a tittle different from them. But the fact is that on a thousand occasions they turn their backs on the principle of utility. They go straying after those strange principles, its antagonists—sometimes the principle of asceticism, sometimes the principle of sympathy and antipathy. On such occasions the idea they have in their minds is often the idea of *malevolence*, which they strip of its own proper name and instead give it the more attractive name 'the social motive'.<sup>1</sup> The dictates of religion, in short, are simply the dictates of a principle that I introduced in **18** on page 18 as 'the theological principle'. These, as I said back there, are copies of the dictates of one or other of the three original principles—*which* of them depending on the biases of the person in question. Sometimes, indeed, it's the dictates of utility; but frequently the dictates of asceticism or those of sympathy and antipathy. In this respect they are on a par with the dictates of the love of reputation; in another respect they are below it. Everywhere in the world the dictates of religion are somewhat intermixed with ones

that don't conform to the dictates of utility—ones deduced from texts (well or badly interpreted) of the writings that the sect in question regards as sacred. They conflict with utility by imposing •some practices that are inconvenient to a man's self and •others that are pernicious to the rest of the community. The sufferings of uncalled martyrs, the calamities of holy wars and religious persecutions, the mischiefs of intolerant laws. . . .are additional mischiefs far outnumbering those that were ever brought into the world by the love of reputation. On the other hand, the dictates of religion share with those of benevolence a certain advantage over the dictates of the love of reputation and the desire for friendship, namely the power of operating in secret.

**41.** Fortunately, the dictates of religion seem to be steadily coming nearer to those of utility. But why? Because the dictates of the moral sanction do so, and they influence the dictates of religion. Men of the worst religions, influenced by how the surrounding world speaks and acts, keep borrowing new pages out of the book of utility and trying—sometimes with strenuous efforts!—to patch them into the repositories of their faith.

**42.** [This paragraph remarks that the self-regarding and unsocial motives come lower in the ranking than the dictates of religion; that there's no significant rank-difference among the self-regarding motives; and that two instances of 'the unsocial motive' (displeasure) have different rankings if one comes from self-regarding considerations (you are displeased with him because of how he has affected you) and the other

<sup>1</sup> Sometimes, so that this cheat will be better hidden (from their own eyes, doubtless, as well as from others), they set up a phantom of their own that they call 'Justice': whose dictates aim to •modify the dictates of benevolence; or so they say, but the real aim is to •oppose them. But *justice*, in the only sense in which the word has a meaning, is an imaginary personage, invented for the convenience of discourse, whose dictates are those of utility, applied to certain particular cases. Justice, then, is simply an imaginary instrument employed to advance the purposes of benevolence on certain occasions and by certain means. . . .

comes from social considerations (you are displeased with him because of how he has affected some other party whom you care about). The paragraph ends:] Obviously, a motive that is in itself unsocial can come from a social origin and have a social tendency; and *how social* it is will probably depend *how large* the class is of persons whose interests you support. Displeasure that is vented against a man on account of mischief he is supposed to have done to the public may be more social in its effects than any good will that is confined to an individual (see 37 above).

## 5. Conflict among motives

43. When a man is thinking about how to act, he is frequently acted on at the same time by different motives driving him in opposite directions—e.g. one disposing him to do x and another disposing him not to do x. A motive that tends to dispose him to do x may be called an ‘impelling’ motive; one that tends to dispose him not to do x may be called a ‘restraining’ motive. But these labels can of course be switched, depending on whether x is positive or negative. (See 8 on page 44.)

44. I have shown that any sort of motive can give birth to any sort of action, from which it follows that any two motives can come to be opposed to one another. In most cases where the tendency of the act is bad, it has been dictated by a motive that is either self-regarding or unsocial. In such a case the motive of benevolence has commonly been acting, though ineffectually, in the role of a restraining motive.

45. An example may help to show the variety of contending motives that can act on a man at the same time. At a time when it was generally thought meritorious among Catholics to kill Protestants, Charles IX of France ordered one of his

Catholic subjects, a man named Crillon, to waylay and assassinate a Protestant named Coligny. His answer was ‘Excuse me, Sire; but I’ll fight him with all my heart.’ Here were all the three forces above mentioned, including that of the political sanction, acting on him at once.

- By the political sanction—or at least as much of its force as such a command from such a sovereign on such an occasion might be supposed to carry with it—he was enjoined to put Coligny to death by assassination;
- by the religious sanction—i.e. by the dictates of religious zeal—he was enjoined to put him to death somehow;
- by the moral sanction, or in other words by the dictates of honour—i.e. the love of reputation—he was permitted to fight the adversary on equal terms (a permission which when coupled with his sovereign’s command he conceived as an injunction);
- by the dictates of enlarged benevolence (supposing the command to be unjustifiable) he was enjoined not to attempt Coligny’s life in any way, but to remain at peace with him;
- by the dictates of private benevolence (supposing the command to be unjustifiable), he was enjoined not to meddle with Coligny in any way.

Among this confusion of conflicting dictates, Crillon seems to have given the preference in the first place to the dictates of honour, and in the next place to the dictates of benevolence. He would have fought, if his offer had been accepted; it wasn’t, so he remained at peace.

Here a multitude of questions might arise. If the dictates of the political sanction told him to obey the sovereign’s command, what kind of motives for this did they provide him with? Well, the self-regarding kind anyway, because it was

in the power of the sovereign to punish him for disobedience or reward him for obedience. Did they provide him with the motive of religion? Yes, if he thought it was God's pleasure that he should obey; No, if he didn't. Did they provide him with the motive of the love of reputation? Yes, if he thought that the world [= 'society at large'] would expect and require him to obey; No, if he didn't. Did they provide him with the motive of benevolence? Yes, if he thought that the community would on the whole be the better for his obeying; No, if he didn't. Was the king's command legal? This is a mere question of local jurisprudence, and altogether irrelevant to the present topic.

46. This discussion of the goodness and badness of motives is not a mere matter of words. There will be uses for it later on for various important purposes. I'll need it in dissipating various prejudices that are harmful to the community—sometimes by fanning the flames of civil dissensions, at other times by obstructing the course of justice. I'll show that **with many offences** the consideration of the motive is a most material one, because

- it makes a very material difference to the magnitude of the mischief, and
- it is easy for the motive to be ascertained, so that it can have an effect on the demand for punishment;

whereas **in other cases**

- it can't possibly be ascertained, and even if it could it would have no effect on the demand for punishment;

and **in all cases**

a prosecutor's motive for bringing the prosecution is a totally immaterial fact; which shows the harmfulness of the prejudice people are apt to have against informers—a prejudice that judges in particular should guard themselves against.

Lastly, We have to tackle the subject of motives if we are to form a judgment on any means that may be proposed for combating offences at their source.

But before the theoretical foundation for these practical observations can be completely laid, I have to say something about *dispositions*; so that will be the topic of the next chapter.

## Chapter 11: Human Dispositions in General

1. I showed at length in chapter 10 that goodness or badness can't properly be predicated of motives. Well, then, when on a particular occasion a man allows himself to be governed by such-and-such a motive, is there *nothing* about him that can properly be called 'good' or 'bad'? Yes, there is something—his disposition. Now a disposition is a kind of fictitious entity, invented for the convenience of discourse in order to express what is thought to be *permanent* in a man's

frame of mind when on a particular occasion he is influenced by such-and-such a motive to perform an act that appears to him to have such-and-such a tendency.

2. A disposition, like anything else, is good or bad according to the effects it has in increasing or lessening the happiness of the community. So a man's disposition can be considered from the point of view of its influence •on his own happiness

or •on the happiness of others. Looked at in both ways at once or in either one of them, the disposition may be called either 'good' or 'bad' or, in flagrant cases, 'depraved'.<sup>1</sup> There are no good/bad labels to apply to dispositions in reference to their effect on their owners' happiness: we could, though inexpressively, call a disposition 'sound' or 'firm' on the one hand and 'frail' or 'infirm' on the other. From the viewpoint of its effect on other people, a disposition might be called 'beneficent' or 'meritorious' on the one hand and 'pernicious' or 'harmful' on the other. Nothing much needs to be said here about the strand in a man's disposition the effects of which concern only himself in the first instance. When it is bad, it's for the moralist rather than the legislator to reform it; and it isn't susceptible of the various modifications that make so much difference to the effects of the other •strand in a man's disposition. . . .

3. A man, then, is said to have a harmful disposition when he is presumed to be more apt to perform or intend to perform acts that are apparently of a pernicious tendency than in ones that are apparently of a beneficial tendency; and to have a meritorious or beneficent disposition in the opposite case. It makes no difference to any of this what his motives are.

4. I say 'when he is *presumed* to be etc.', because we are looking at one single action with one set of circumstances. The degree of uniformity that experience has shown to be observable in a single person's different actions makes it natural and reasonable for us to infer from our observation of a single act the probable existence (past or future) of a

number of acts of a similar nature. Under such circumstances, what the motive proves to be in one instance is what the disposition is presumed to be in others.

5. I say '*apparently* harmful', meaning that the act appears *to him* to have that tendency. From the mere event [see Glossary], independently of what it seemed to him likely to be, nothing can be inferred about the goodness or badness of his disposition. If to him it appears likely to be harmful, then even if in the upshot it turns out to be innocent or even beneficial, that makes no difference to the case for presuming his disposition to be bad; and if to him it appears likely to be beneficial or innocent, then even if in the upshot it turns out to be pernicious, there's no less reason on that account for presuming his disposition to be a good one. [Bentham wrote 'no more reason'; obviously a slip.] And here we see the importance of the circumstances of intentionality (see chapter 8), consciousness, unconsciousness, and mis-supposal (for those three see chapter 9).

6. The truth of these positions depends on two others that are sufficiently verified by experience. One is that in the ordinary course of things the consequences of actions commonly turn out to conform to intentions. A man who sets up a butcher's shop and sells beef, when he intends to knock down an ox usually does knock down an ox, though by some unlucky accident he may miss his blow and knock down a man; he who sets up a grocer's shop and sells sugar, when he intends to sell sugar he usually does sell sugar, though by some unlucky accident he may chance to sell arsenic in place of it.

<sup>1</sup> It might also be called 'virtuous' or 'vicious', but those terms are unsuitable here because of *how much* good or bad repute they are associated with. The drawback of this is that 'vicious' is apt to come down too hard on a disposition that is ill-constituted only with respect to the person whose disposition it is—involving him in a degree of ignominy that should be reserved for dispositions that are mischievous with regard to others. . . . To exalt small evils to a level with great ones is the way to diminish the share of attention that ought to be paid to great ones.



7. The other is that a man who has intentions of doing mischief at one time is apt to have similar intentions at another.<sup>1</sup>

8. If we are faced with an individual act and want to infer from it the nature of the person's disposition, there are two circumstances we have to take into account: •the apparent tendency of the act, and •the nature of the motive that gave birth to it. *How* these relate to the disposition is different for different motives; ·I'll have to take ten different kinds of case·. In presenting them I shall assume throughout that the apparent tendency of the act is the same as its real tendency—as indeed it usually is.

9. (i) Where the tendency of the act is good and the motive is of the self-regarding kind, the motive doesn't support any inference either way. It doesn't indicate a good disposition, but nor does it indicate a bad one.

A baker sells his bread to a hungry man who asks for it. This is one of those acts of which, in ordinary cases, the tendency is unquestionably good. The baker has the ordinary commercial motive of pecuniary interest. There's clearly nothing in this transaction, as described, that provides grounds for presuming that the baker is a better or a worse man than any of his neighbours.

10. (ii) Where the tendency of the act is bad, and the motive is of the self-regarding kind, this indicates a disposition that is harmful.

A man steals bread out of a baker's shop; this is an act whose tendency will readily be acknowledged to be bad. (In chapter 12 I'll explain why and in what ways it is bad.) His

motive is that of pecuniary interest—the desire to get the value of the bread for nothing. So his disposition appears to be a bad one, for everyone will agree that a thievish disposition is a bad one.

11. (iii) Where the tendency of the act is good, and the motive is the purely social one of good will, the disposition indicated is a beneficent one.

A baker gives a poor man a loaf of bread. His motive is compassion, a name given to benevolence in some particular cases. The disposition indicated by the baker's act in this case is one that every man will readily acknowledge to be a good one.

12. (iv) Where the tendency of the act is bad and the motive is the purely social one of good will, the disposition that the motive indicates is dubious: it may be harmful or meritorious, depending on whether the harmfulness of the act is more or less apparent ·to the agent·.

13. You may think this:

A case of this sort can't exist—it is a contradiction in terms. It is stipulated that the act is one that the agent knows to be harmful; so how could he have been led to it by the motive of good will, i.e. the desire to do good?

To answer this I must remind you of the distinction between enlarged benevolence and confined benevolence (see 37 on page 68). The motive that led him to his act was confined benevolence; if he had followed the dictates of enlarged benevolence he wouldn't have done what he did. Now, although he followed the dictates of the kind of benevolence

<sup>1</sup> 'This man is likely, in virtue of a *good* disposition that he has, to engage in an habitual series of mischievous actions'—that is a contradiction in terms. No-one could say such a thing if he gave to 'disposition' its proper meaning. Suppose that a man with a religious disposition engages, in virtue of that very disposition, in a habitual course of mischief-making, e.g. by persecuting his neighbours; then either •his disposition, though good in certain respects, is not good on the whole, or •a religious disposition is not in general a good one.

that is harmful in any single instance where it is opposed to the other kind, there are incomparably more cases where there is a call for the former (i.e. confined benevolence) than cases where there is a call for the latter (i.e. enlarged benevolence); so the disposition indicated by his act in following the impulse of the former will often be one that will in an average sort of person count as good on the whole.

**14.** A man with a large family of children on the point of starving goes into a baker's shop, steals a loaf, and divides it among the children reserving none for himself. It will be hard to infer that this man's disposition is a harmful on the whole. Now alter the case: the man has one child, who is hungry but in no imminent danger of starving; he sets fire to a house full of people so as to steal money out of it to buy bread with. The disposition here indicated will hardly be regarded as a good one.

**15.** Another case will appear more difficult to decide than either. [This case is historical as regards François Ravallac, who murdered Henry IV of France, but the stories about his son are fictions invented for purposes of discussion.] Ravallac assassinated one of the best and wisest of sovereigns, at a time when a good and wise sovereign. . . . was particularly precious to the inhabitants of a populous and extensive empire. He is taken and condemned to the most excruciating tortures. His son, who is convinced that he is a sincere penitent and that if he were free mankind would have nothing more to fear from him,

enables him to escape. Is this a sign of a good disposition in the son, or of a bad one? Some people may answer: 'Of a bad one, because •the nation has an interest in the sufferings of such a criminal as an example to others, and •the future good behaviour of such a criminal is more than anyone can be entitled to be sure of.'

**16.** Well then, change the case: Ravallac, the son, doesn't facilitate his father's escape but settles for conveying poison to him, so that through an easier death he may escape his torments. The decision may now be more difficult. Granted that the act is a wrong one, and certainly ought to be punished; but is the disposition it shows a bad one? Because the young man breaks the law in this one instance, is it probable that if left alone he would break the laws in ordinary instances, for the satisfaction of any inordinate desires of his own? Most men would probably answer No.

**17. (v)** Where the tendency of the act is good, and the motive is a semi-social one, namely the love of reputation, the disposition indicated is a good one.

In a time of scarcity, a baker aims to get the esteem of the neighbourhood by distributing bread gratis among the working poor. . . . Let's stipulate that it's uncertain whether he had any real feeling for the sufferings of those he has relieved. Even then, his disposition can't with any pretence of reason be called other than good and beneficent. Anyone who denies this must be in the grip of some very idle prejudice.<sup>1</sup>

<sup>1</sup> The bulk of mankind, always ready to depreciate the character of their neighbours in order to exalt their own, will refer a 'good' motive to the class of bad ones if they can find a still better one to which the act might have owed its birth. Each man—

•conscious that his own motives are not of the best class, or convinced that if they are he won't get credit for this from others; and

•afraid of being taken for a dupe, and anxious to show how insightful he is

—takes care first •to attribute each other person's conduct to the least praiseworthy of the motives that can account for it; and then •when he has gone as far he can down that path and cannot drive down the individual motive to any lower class he changes his battery [military jargon = 'points his cannons in a different direction'] and attacks the very class itself. Every time the love of reputation comes up, he will give it a bad name such as 'ostentation', 'vanity', or 'vainglory'. . . .

**18. (vi)** Where the tendency of the act is bad and the motive (again) is the semi-social one of love of reputation, the disposition that it indicates is more or less good or bad depending on •how harmful the tendency of the act is, and on •how close the dictates of the moral sanction come—in the society in question—to coinciding with the dictates of utility. It does not seem probable that in any tolerably civilised—i.e. any nation in which rules like these can come to be consulted—the dictates of the moral sanction will be so far from coinciding with the dictates of utility (i.e. of enlightened benevolence) that the disposition indicated in this case can be other than a good one on the whole.

**19.** An American Indian receives an injury from an Indian of another tribe. He revenges it on the person of his antagonist with the most excruciating torments, because cruelties inflicted on such an occasion gain him reputation in his own tribe. The disposition manifested in such a case can never be deemed a good one among a people who are even a tiny bit more civilised than the Indians.

**20.** A nobleman (to come back to Europe) contracts a debt with a poor tradesman, and later contracts a debt for the same amount to another nobleman (it was from a loss at cards). He can't pay both; he pays the whole debt to the companion of his amusements and no part of it to the tradesman. The disposition manifested in this case can hardly count as anything but bad. But it isn't as bad as if he had not paid either creditor. The principle of •love of reputation or (as it is called in the case of this partial application of it) •honour is here opposed to the worthier principle of •benevolence, and overcomes it. But also overcomes the self-regarding principle of pecuniary interest. So the disposition that it indicates, although not as good as that in which the principle of benevolence predominates, is better than one in which

the principle of self-interest predominates. He would be the better for having more benevolence; but would he be the better for having no honour? This seems to admit of great dispute.

**21. (vii)** Where the tendency of the act is good and the motive is the semi-social one of religion, the indicated disposition (considered with respect to its influence on the man's conduct towards others) is plainly beneficent and meritorious.

A baker distributes bread gratis among the industrious poor, not because •he feels for their distresses, or because •he wants to gain reputation among his neighbours, but because •he wants to gain the favour of the Deity, to whom (he takes for granted) such conduct will be acceptable. The disposition manifested by this conduct is plainly what everyone would call a good one.

**22. (viii)** Where the tendency of the act is bad, and the motive is that of religion, the disposition is dubious. Whether it is good or bad, and *how* good or bad, depends on •how harmful the tendency of the act is, and on •how near the religious tenets of the person in question come to coinciding with the dictates of utility.

**23.** History seems to tell us that even in nations that are tolerably civilised in other respects the dictates of religion are far from coinciding with the dictates of utility (i.e. of enlightened benevolence)—so far that the disposition indicated in this present case may even be a bad one on the whole. But that doesn't apply to most of the countries of Europe at present, where religion's dictates respecting a man's conduct towards other men come very close to coinciding with the dictates of utility. Religion's dictates respecting a man's conduct towards himself seem in most European nations to savour a good deal of the ascetic principle; but obedience to such mistaken dictates doesn't point to any disposition that

is likely to break out into acts of pernicious tendency with respect to others. It very rarely happens that the dictates of religion lead a man to acts that are pernicious in respect to others; except for acts of persecution, or impolitic measures on the part of government, where the law itself is either the principal agent or an accomplice in the mischief. Ravallac was driven by no other motive than this when he gave his country one of the most fatal stabs that a country ever received from a single hand; but fortunately Ravallacs are rare! But there have been more of them in France than in any other country during the same period; and it's noteworthy that it is always this motive ·of religion· that has produced them. When they do appear, nobody but the likes of *them* will say that the disposition they manifest is a good one. It seems hardly deniable that they are the worse for their notions of religion; and that if they had been left to the sole guidance of benevolence and the love of reputation, without any religion at all, it would have been ever so much better for mankind. One may say nearly the same thing about the people who, without any particular obligation, have actively applied laws made for the punishment of those who have the misfortune to differ from the magistrate [see Glossary] in matters of religion, and even more about the legislator himself who has given them the power to do this. If Louis XIV had had no religion, France would not have lost 800,000 of its most valuable subjects. This applies also to the authors of the so-called 'holy wars', whether waged against persons called 'infidels' or persons branded with the still more odious name 'heretics'. . . . It should be noted. . . . that in almost all the countries of Europe, instances of this, though once abundantly frequent, have for some time ceased. In certain countries, the *disposition to persecute* at home when the opportunity presents itself is not yet at an end: if there's no actual persecution, it is only because there are no heretics;

and if there are no heretics, it is only because there are no thinkers. [Bentham builds into that sentence the remark that the disposition to persecute heresy tends to restrain heresy, 'which is one part of the mischiefs of persecution'.]

**24. (ix)** Where the tendency of the act is good and the motive is the unsocial one of ill-will, the motive seems not to point in either direction: there is no indication of a good disposition, nor any of a bad one.

You have detected a baker in selling short weight, and you prosecute him for cheating. You don't do this

- for the sake of gain, because there's nothing you can get by it; or
- out of public spirit; or
- for the sake of reputation, because there's no reputation you can get by it; or
- in order to please the Deity.

You prosecute the man merely because of a quarrel you have with him. On this account of the transaction there seems to be nothing to be said either in favour of your disposition or against it. . . . Your motive is of a sort that can properly enough be called a bad one; but the act is of a sort—·prosecuting a cheating tradesman·—that could never have any bad tendency, or indeed anything but a good one, however often it was performed. In the story as told it was dictated by the motive of ill-will; but the act itself could have been dictated by the most enlarged benevolence, if you had had enough discernment to see this. Now, from the fact that •a man allowed himself to be induced to gratify his resentment by means of an act whose tendency is good it doesn't at all follow that •on another occasion he would be led by the same sort of motive to perform an act whose tendency is bad. The motive that impelled you was an unsocial one; but what social motive could there have been to restrain you? . . . Because the unsocial motive prevailed when it

stood alone, it doesn't follow that it would prevail when it had a social one to combat it.

**25. (x)** Where the tendency of the act is bad, and the motive is the unsocial one of malevolence, the indicated disposition is of course a harmful one.

The man who stole the bread from the baker did it solely in order to impoverish and afflict him; when he had the bread he destroyed it. Everyone must perceive immediately that the disposition evidenced by such conduct is a bad one.

**26.** So much for the circumstances from which the *over-all* harmfulness or meritoriousness of a man's disposition is to be inferred; I now turn to the effect of those circumstances on *how* harmful or meritorious a given disposition is. In the present work we have no direct concern with meritorious acts and dispositions. The penal law's only concern is to measure the depravity of the disposition in cases where the act is harmful. So I shall confine myself to that topic.

**27.** Obviously the nature of a man's disposition depends on the nature of the motives he is apt to be influenced by, i.e. on how receptive he is to the force of such-and-such motives. His disposition is, as it were, the sum of his intentions; the disposition he has during a certain period is the sum or result of his intentions during that period. Of the acts he has been intending to perform during the supposed period, if those that are apparently of a harmful tendency greatly outnumber those that appear to him to be of the contrary tendency, his disposition will be of the harmful sort; if the balance goes the other way, it will be of the innocent or upright sort.

**28.** Intentions like everything else are produced by their causes; and the causes of intentions are motives. Whenever a man forms a good or a bad intention, it must be by the influence of some motive.

**29.** When the act that a motive prompts a man to perform is of a harmful nature, we could call it a 'seducing' or 'corrupting' motive; and any motive that acts as a restraint on a seducing motive can be called a 'tutelary', 'preservatory', or 'preserving' motive.

**30.** Tutelary motives can be further divided into •standing or constant motives and •occasional motives. By 'standing tutelary motives' I mean ones that always or nearly always act with some force tending to restrain a man from harmful acts that he may be prompted to perform, doing that with a force that depends on •the general nature of the act rather than on •any circumstance that an individual act *happens to be accompanied by*. By 'occasional tutelary motives' I mean ones that *may* chance to act in this ·restraining· role, depending on the nature of the ·contemplated· act and of the particular occasion that brings the performing of it into contemplation.

**31.** I have shown that there is no sort of motive by which a man can't be prompted to perform acts that are of a harmful nature, i.e. that can't come to act in the role of a seducing motive. I have shown on the other hand that some motives are notably less likely to operate in this way than others; and that the least likely of all is the motive of benevolence or good will—the most common tendency of which (I have shown) is to act in the role of a tutelary motive. I have also shown that even when by accident benevolence acts in one way in the role of a seducing motive, it still acts in another way in the opposite role of a tutelary one. The motive of good will directed to the interests of one set of persons may prompt a man to perform acts that do harm to another and larger set; but this is only because his good will is imperfect and confined, not bearing in mind the interests of all the persons whose interests are at stake. If that same motive

had arisen from a more enlarged affection, it would have operated effectively as a constraining motive against the very act that his confined benevolence led him to perform. So this sort of motive can truthfully be counted among the standing tutelary motives, despite the occasions in which it may act at the same time as a seducing motive.

**32.** It is nearly the same story for the semi-social motive of love of reputation. The force of this, like that of good will, is liable to be divided against itself: . . . the sentiments of some of the persons whose good opinion is desired can differ from the sentiments of others of those persons. Now, when a really harmful act is performed it can scarcely happen that no-one whatsoever looks on it with an eye of disapproval. So it can scarcely ever happen that a really harmful act isn't opposed by at least a part—if not the whole—of the force of this motive of love of reputation; which means that this motive nearly always acts with some force in the role of a tutelary motive. We can include it, therefore, in the list of standing tutelary motives.

**33.** This holds also for the desire for friendship, though not quite as thoroughly. Why not? Because even a harmful act might happen to be looked on favourably by everyone whom the agent hopes to be friends with. This is all too likely among fraternities such as those of thieves, smugglers, and many other kinds of offenders. Still, this usually isn't the case; so that the desire for friendship can still be regarded on the whole as a tutelary motive, if only because of its close connection with the love of reputation. And it may be listed among standing tutelary motives because the force with which it acts—when it does act—depends not on the occasional circumstances of the act that it opposes but on principles as general as those that put the other semi-social motives into action.

**34.** The motive of religion is not entirely in the same category as those last three. Its force is not liable (as theirs is) to be divided against itself. I'm talking here about the civilised nations of modern times, among whom the notion of the *unity* of the Godhead is universal. In times of classical antiquity it was otherwise. If a man got Venus on his side, Pallas was on the other; if Æolus was for him, Neptune was against him. Æneas, with all his piety, didn't have all the gods on his side in the court of heaven. It's different nowadays: in any given person the force of religion, whatever it may be, is all on one side. It may weigh up which side to take on a given practical issue, and it may opt for the wrong side, as we have seen already that it all too often does. . . . Still, where it acts (as it does in the great majority of cases) in opposition to the ordinary seducing motives, it acts as the motive of benevolence does in a uniform manner, not depending on the particular circumstances of the case but tending to oppose the act in question purely on account of its harmfulness; so that its force is the same, no matter what the circumstances of the case are. So religion can be added to the list of standing tutelary motives.

**35.** As for the motives that can operate occasionally in the role of tutelary motives, these (I repeat) are of various sorts, and various degrees of strength in various offences; depending not only on the nature of the offence but on the circumstances in which the question arose of whether to commit the offence. Absolutely any sort of motive can come to operate in this role: a thief, for example, may be prevented from engaging in a projected scheme of house-breaking by sitting too long over his bottle, by a visit from his mistress, by his having to go elsewhere to receive his share of the loot from a previous crime, and so on.

**36.** Some motives, however, seem more apt to act in this role than others; especially now that the law has set up everywhere artificial tutelary motives of its own creation, to oppose the force of the principal seducing motives. [Bentham means of course only that the law creates the situations in which the motives come into play.] They seem to be of two basic kinds:

- the love of ease—a motive put into action by the prospect of the trouble it may require to overcome physical difficulties that accompany the offence;
- self-preservation, as opposed to the dangers the agent may be exposed to in committing the offence.

**37.** These dangers may be either

- of a purely physical nature or
- results of moral agency, i.e. of the conduct of people who can be expected to object to the act if they come to know about it.

But moral agency requires knowledge regarding the circumstances that will have the effect of external motives in giving birth to the act in question. And when such knowledge regarding the commission of an objectionable act is acquired by persons who may be disposed to make the agent suffer for it, this is called *detection*, and the agent is said to be *detected*. So the dangers that can threaten an offender from this direction all depend on the event his being detected; and they can be grouped under the heading *danger of detection*.

**38.** The danger depending on detection can be divided into two branches:

- what may result from opposition to the enterprise by persons on the spot, i.e. at the very time the offence is being committed;
- what concerns legal punishment or other suffering that may be inflicted some time after the offence.

**39.** Among the tutelary motives that I have called ‘constant’ there are two whose force depends on the circumstance of detection; not as entirely as the force of the occasional ones I have just been discussing, but still in a great measure. These are •the love of reputation and •the desire for friendship. The greater the chance of being detected, the greater the force these motives will have. This is not the case with the two other standing tutelary motives, those of •benevolence and of •religion.

**40.** We are now in a position to determine fairly precisely what is to be understood by the *strength of a temptation*, and what indication it may give of the degree of harmfulness in a man’s disposition in the case of any offence. When a man is prompted to perform a harmful act, the strength of the temptation depends on the ratio between on the one hand

- the force of the seducing motives

and on the other

- the force of whatever occasional tutelary motives the circumstances of the case call into action.

The temptation can be said to be *strong* when the pleasure or advantage to be gained from the crime strikes the offender as great in comparison with the trouble and danger that appear to him to accompany the enterprise; and *slight* or *weak* when that pleasure or advantage strikes him as small in comparison with that trouble and danger. Obviously the strength of the temptation doesn’t depend entirely on the force of the impelling (i.e. seducing) motives: with the motive held steady, the temptation will be stronger or weaker depending on the probabilities regarding trouble and danger.

After taking account of the tutelary motives that have been called *occasional*, the only tutelary motives remaining are the ones that have been called *standing* ones. But the ones I have called ‘standing tutelary motives’ are exactly the ones I have been calling ‘social’. It follows, therefore,

that the strength of the temptation in any given case, after subtracting the force of the social motives, is the ratio between •the sum of the forces of the seducing motives and •the sum of the forces of the occasional tutelary motives.

**41.** The final question to be investigated ·in this chapter· is:

When an offence has been committed, what can we learn about the harmfulness or depravity of the offender's disposition from the strength of the temptation he was under?

It seems that the weaker the temptation by which he was overcome, the more depraved and harmful his disposition is shown to have been. Here is why. The goodness of his disposition is measured by how receptive he is to the action of the social motives (see 17–18 above), i.e. by the strength of the influence that those motives have over him; and the weaker force is by which their influence on him has been overcome, the weaker their influence on him must have been.

Again, given the degree of a man's receptiveness to the force of the social motives, their force in tending to restrain him from engaging in a harmful enterprise is proportional to the apparent harmfulness of the enterprise, i.e. to the amount of mischief that he thinks will arise from it. In other words:

- the less harmful the offence appears to him to be, the less averse he will be—as far as he is guided by social considerations—to perform it;
- the more harmful, the more averse.

So if the nature of the offence is such that it must appear to him highly harmful, yet he still engages in it, this shows that he can't be very receptive to the force of the social motives, and consequently that his disposition is correspondingly depraved. And the weaker the temptation, the more pernicious and depraved his disposition must have been. . . .

**42.** From all this it seems that the following rules can be laid down judging •the depravity of a man's disposition on the basis of •the strength of the temptation and •the harmfulness of the enterprise.

**Rule 1.** The strength of the temptation being given, the harmfulness of the disposition shown by the enterprise is proportional to the apparent harmfulness of the act.

It would show a more depraved disposition to murder a man for a reward of a guinea, or falsely to charge him with a robbery for the same reward, than to obtain a guinea from him by simple theft; given that the offender's trouble and danger would be about the same either way.

**Rule 2.** The apparent harmfulness of the act being given, a man's disposition is the more depraved the slighter the temptation is by which he has been overcome.

It shows a more depraved and dangerous disposition if one man kills another •for mere sport (as Muley Mahomet, Emperor of Morocco, is said to have killed many) than if he killed him •for revenge (as Sylla and Marius killed thousands), or •for self-preservation (as Augustus killed many), or even •for money (as that same Emperor is said to have killed some). And the effects of each depravity on that part of the public that knows about it is also proportional: from Augustus some persons had to fear under some circumstances; from Muley Mahomet every man had to fear at all times.

**Rule 3.** The apparent harmfulness of the act being given, the evidence it provides of the depravity of the offender's disposition is less conclusive, the stronger the temptation that has overcome him.

If a poor man who is near to death from starvation steals a loaf of bread, this is a less explicit [Bentham's word] sign of depravity than if a rich man committed a theft for the same amount. Notice that this rule speaks only of the *strength of the evidence of depravity* in the two cases; it doesn't say



that the poor man is less depraved than the rich one. Given what we have been told about the poor man's theft, he might have gone ahead with it even if the temptation not been so strong. In this case, the alleviating circumstance of strong temptation is only a matter of presumption; in the rule-three case, the aggravating circumstance of weak temptation is a matter of certainty.

**Rule 4.** Where the motive is of the unsocial kind—the apparent harmfulness of the act and the strength of the temptation being given—the depravity is proportional to the degree of deliberation with which it is accompanied [= 'to how much thought the offender gave to the question of whether to act in that way'].

In every man, however depraved his disposition is, it's the social motives that regulate and determine the general tenor of his life whenever the self-regarding motives aren't engaged. If the unsocial motives are put into action, it is only in particular circumstances, and on particular occasions, when the gentle but constant force of the social motives has been subdued for a while. So the general and standing bias of every man's nature is towards the side favoured by the social motives; so that the force of the social motives tends continually to extinguish the force of the unsocial ones (compare: in natural bodies the force of friction tending to extinguish the force generated by impulse). Thus, time, which wears away the force of the unsocial motives, adds to that of the social ones; so the longer a man continues on a given occasion under the dominion of the unsocial motives, the more convincing is the evidence this gives of his unreceptiveness to the force of the social ones.

Thus, if a man beats his antagonist on the spot, in consequence of a sudden quarrel, this doesn't show as bad a disposition as a man who lays a deliberate plan for beating his antagonist, and beats him accordingly, and not nearly as bad as the disposition of a man who has his antagonist in his power for a long times and beats him at intervals, and at his leisure.

**43.** The depravity of disposition indicated by an act is a material [see Glossary] consideration in several respects. Any mark of extraordinary depravity, by adding to the terror already inspired by the crime and by holding up the offender as a person from whom there may be more mischief to be feared in future, adds in one way to the demand for punishment. By indicating a general lack of receptiveness on the part of the offender it may also add in another way to the demand for punishment. The offender's disposition is important in this context because when the severity of punishment is being decided the principle of sympathy and antipathy is apt to look at nothing else. A man who punishes because he hates, and for no other reason, when he doesn't find anything odious in the disposition he doesn't want to punish at all; and when he does want to, he doesn't favour carrying the punishment further than his hatred carries him. [The next sentence is exactly as Bentham wrote it.] Hence the aversion we find so frequently expressed against the maxim that the punishment must rise with the strength of the temptation; a maxim the contrary of which, as we shall see, would be as cruel to offenders themselves as it would be subversive of the purposes of punishment.

## Chapter 12: A harmful Act's Consequences

### 1. Forms in which the mischief of an act may show itself

1. Up to here I have been speaking of the items on which the consequences or tendency of an act can depend:

- the bare act itself,
- the circumstances in which it was, or was supposed to have been, performed,
- what the agent knew or believed about such circumstances,
- what he intended in performing the act,
- what motives gave birth to those intentions, and
- what disposition is indicated by the connection between his intentions and his motives.

I now come to speak of the consequences or tendency themselves, an item that forms the concluding link in all this chain of causes and effects, and is the sole source of the materiality of the whole [= 'the sole reason why all this *matters*']. My only immediate concern here is with the part of this tendency that is harmful, so I shall confine myself to that.

2. The tendency of an act is harmful when its actual or probable consequences are harmful; and the harmful consequences of an act whose tendency is harmful can be thought of as constituting one aggregate item that we could call the *mischief* of the act.

3. This mischief can often be divided into two shares or parcels—the **primary** mischief and the **secondary** mischief, as we might call them. We can label as 'primary' the share of the mischief that is suffered by an identifiable individual, or a number of identifiable individuals. We can label as 'secondary' the share which, taking its origin from the

former, extends itself over some multitude of unidentifiable individuals (it could be the whole community).

4. The primary mischief of an act can be divided into

- the **original** mischief: what comes to any person  $P_1$  who is a sufferer in the first instance and on his own account; the person, for instance, who is beaten, robbed, or murdered; and
- the **derivative** mischief: what comes to any person  $P_2$  because—and only because—of primary mischief suffered by  $P_1$ .

Of course  $P_2$  must be in some way connected with  $P_1$ ; and we have already seen the ways in which one person can be connected with another—namely, in the way of interest (meaning self-regarding interest) or merely in the way of sympathy. And when  $x$  is connected with  $y$  in the way of interest,  $x$  either provides support to  $y$  or gets support from him. (See chapter 6.)

5. The secondary mischief often involves two strands, **pain** and **danger**. The pain it produces is a pain of anxiety, a pain based on the •fear of suffering mischiefs or inconveniences that it is the nature of the primary mischief to produce. We can give it the one-word label *alarm*. The danger is the •chance of suffering those mischiefs or inconveniences. Danger is nothing but the chance of pain, which is the same as the chance of loss of pleasure.

6. An example may serve to make this clear. A man attacks you on the road, and robs you. You suffer a pain on the occasion of losing so much money, and also suffer pain from your anxiety over how he might treat you physically if you don't satisfy his demands. These together constitute the **original** strand in the primary mischief resulting from the robbery.

A creditor of yours who expected you to pay him with part of that money, and a son of yours who expected you to give him another part, are in consequence disappointed; and you have to fall back on the bounty of your father to make up for some part of the deficiency. These mischiefs together make up the **derivative** strand in the primary mischief. The news of this robbery spreads through the neighbourhood, then finds its way into the newspapers and is propagated over the whole country. This causes various people to call to mind the danger that they and their friends—judging from this example—are exposed to in travelling, especially when travelling the same road. They naturally feel a certain degree of pain. How intense it is for any given person will depend on

- how badly he thinks you were treated,
- how often he thinks he may have occasion to travel on that same road, or its neighbourhood,
- how near he is to the place where your robbery occurred,
- his level of personal courage,
- how much money he may have occasion to carry about with him,

and a variety of other circumstances. This constitutes the first part of the secondary mischief resulting from the act of robbery, namely the **alarm**. But the robbery committed on you affects people of various kinds not merely by *getting them to think they have* a chance of being robbed but also (as I'll show in a moment) by *giving them* such a chance. This chance constitutes the remaining part of the secondary mischief of the robbery, namely the **danger**.

7. Let us see what this chance amounts to, and where it comes from. How can one robbery  $R_1$  contribute to producing another robbery  $R_2$ ? Certainly not by creating any direct motive. A motive must be the prospect of some pleasure, or other advantage, to be enjoyed in future; but  $R_1$  is past, and even if it weren't it wouldn't provide any such prospect for the person who may be about to commit robbery  $R_2$ . A man's motive or inducement to commit a robbery must be the idea of the pleasure he expects to derive from the fruits of *that* robbery, a pleasure that exists independently of any other robbery.

8. It seems that the means by which one robbery tends to produce another robbery are these two, both operating on a person who is open to temptation in this direction:

- By suggesting to him the idea of committing another such robbery (and perhaps getting him to believe that it will be easy). This is an influence on his *understanding*.
- By weakening the force of the tutelary motives that tend to restrain him from such an action, thereby strengthening the temptation. In this case the influence works on the *will*.

The tutelary motives exert four forces:

- (i) The motive of benevolence, which acts as a branch of the physical sanction.<sup>1</sup>
- (ii) The motive of self-preservation, as against the punishment that may be provided by the political sanction.
- (iii) The fear of shame—a motive belonging to the moral sanction.
- (iv) The fear of the divine displeasure—a motive belonging to the religious sanction.

<sup>1</sup> To wit, in virtue of the pain it may give a man to witness or otherwise be conscious of the sufferings of a fellow-creature, especially when he himself caused them—in short, the pain of sympathy. See **26** on page 28.

The earlier robbery may have no significant influence on **(i)** and **(iv)**, but it has on the other two.

**9.** How can a past robbery weaken the force with which **(ii)** the political sanction tends to prevent a future robbery? Well, this sanction tends to prevent a robbery by proclaiming some particular kind of punishment against anyone who commits it; the real value of such punishment will of course be lessened by real uncertainty as to whether it will be inflicted.

[Bentham adds: 'and also, if there's any difference, the apparent value will be lessened' by the apparent uncertainty.' This is surely wrong. The real value is the *deterrent* effect, and that is lessened by the *apparent* uncertainty, i.e. by the potential offender's being unsure whether he will be punished if he commits the crime.]

Now this uncertainty is proportionally increased by every case where someone is known to commit the offence without undergoing the punishment. This will of course be the case with every offence for a certain time; if and when the punishment allotted to it takes place, this strand in the mischief of the robbery is finally put a stop to, but not until then.

**10.** How can a past robbery weaken the force with which **(iii)** the moral sanction tends to prevent a future robbery? The way the moral sanction tends to prevent a robbery is by displaying the indignation of mankind as ready to fall on anyone who is guilty of it. Now this indignation will be the more formidable, the more people who join in it; and a man's strongest way of showing that does *not* join in any indignation against a practice is by engaging in it himself. This conduct shows not only that •he feels no indignation against it, but also that •it seems to him that there's no sufficient

reason for being anxious about whatever indignation may be felt against it by others. Accordingly, where robberies are frequent and unpunished they are committed without shame. It was thus among the Greeks in ancient times. It is thus among the Arabs still.

**11.** Thus, in whichever way one offence tends to pave the way for the commission of a later one—whether by suggesting the idea of committing it, or by adding to the strength of the temptation—either way it can be said to operate by the force or influence of example.

**12.** The two branches of the secondary mischief of an act—the alarm and the danger—are intimately connected but perfectly distinct; either can exist without the other. The neighbourhood may be alarmed by the report of a robbery, when in fact no robbery has been committed and none is being planned; a neighbourhood may be on the point of being disturbed by robberies without knowing anything of the matter. As we'll soon see, some acts produce alarm without danger, others produce danger without alarm.

**13.** The danger and the alarm can *each* be divided into two strands: •one consisting of as much of the alarm or danger as is apt to result from the future behaviour of the same agent; •the other consisting of as much as is apt to result from the behaviour of other persons, namely those who may come to perform acts of the same sort and tendency.<sup>1</sup>

**14.** The distinction between the primary and the secondary consequences of an act must be carefully attended to. They really *are* distinct: an act's secondary consequences are often of a directly opposite nature to its primary consequences. In some cases where an act's primary consequences bring mischief, its secondary consequences are

<sup>1</sup> To the former of these strands is opposed as much of the force of any punishment as is said to operate by way of *reformation*; to the latter, as much as is said to operate by way of *example*. See the footnote to **2** on page 92.

beneficial—so beneficial, indeed, as to greatly outweigh the mischief of the primary consequences. This is the case with all acts of punishment, when properly applied. The primary mischief of these is always intended to fall only on persons who have committed some act that it is expedient to prevent; and the secondary mischief, i.e. the alarm and the danger, extends only to persons who are tempted to commit it. To the extent that it tends to restrain them from performing such acts it is of a beneficial nature.

15. So much for acts that produce positive pain, and do so immediately. The simplicity of this case seemed to make it the best one to start with. But acts can produce mischief in various other ways, which are contained, along with the ones already specified, in the following abridged analysis.

Mischief can be classified according to •its own nature or •its cause or •the person or other party who is the object of it.<sup>1</sup>

**With regard to its nature:** mischief can be either •simple or •complex. When it is simple it can be either

- positive, consisting of actual pain or
- negative, consisting of the loss of pleasure;

and whether simple or complex, positive or negative, it can be either •certain or •contingent. When it is negative, it consists of the loss of some benefit or advantage, which may be material [see Glossary] either

- by providing actual pleasure or
- averting pain or danger (which is the chance of pain), i.e. by providing security, or
- both.

To the extent that a benefit tends to produce security, the tendency of a mischief that averts it is to produce insecurity.

**With regard to its cause:** mischief can be produced by an action A either •acting alone or •with help from several other actions; and in the latter case the agent of these other actions may be •the agent of A or •other persons; and they may be •of the same kind as A or •of other kinds.

**With regard to its object,** i.e. the party that is in a way to be affected by it: that party may be either of these two:

- (i) an identifiable individual, who is either
  - the author of the mischief or
  - some other person
 or an assemblage of identifiable individuals;
- (ii) a multitude of unidentifiable individuals, who may be
  - the whole political community or state, or
  - some sub-group of that.

When the object of the mischief is the author himself, it can be called 'self-regarding'; when any other party is the object, 'extra-regarding'; when such other party is an individual it can be called 'private'; when a subordinate branch of the community, 'semi-public'; when the whole community, 'public'.

That is enough for just now. Chapter 16 will present the classification of offences, pursuing the subject through the finer divisions.

In the cases that I have presented by way of illustration, the primary mischief could always be •simple and •positive; •present and therefore certain; •producible by a single action with no need for input from any other action by the same agent or by anyone else; having for its object an identifiable individual or. . . assemblage of identifiable individuals; so •extra-regarding and •private. This primary mischief is accompanied by a secondary mischief the first strand

<sup>1</sup> There may be other bases for classification, but that doesn't prevent the three-part division that I am presenting from being exhaustive. A line can be divided in any one of an infinity of ways, none of which leaves any remainder. See the note at the start of chapter 16.

of which (alarm) is sometimes contingent and sometimes certain, while the other strand (danger) is always contingent; both strands are extra-regarding and semi-public; in other respects they are pretty much on a par with the primary mischief except that the alarm,

**how the sentence ends:** though inferior in magnitude to the primary, is, in point of extent, and therefore, on the whole, in point of magnitude, much superior.

**what Bentham is getting at:** Being robbed (say) is worse than acquiring a new fear of being robbed; but when the fear level is raised for a whole population this is a worse over-all trauma than a single robbery.

16. Two more cases will be sufficient to illustrate the most material of the kinds of mischief presented in my classification.

A man drinks a certain quantity of liquor, and intoxicates himself. The intoxication in this particular instance does him no harm or—it comes to the same thing—no perceptible harm. But it is nearly certain that a given number of acts of this kind would do him a great deal of harm—*how* much will depend on his constitution and other circumstances—because we know this from our everyday experience, It is also certain that one act of this sort will *somehow* tend to increase considerably the man's disposition to perform other acts of the same sort; for this also is verified by experience. So this is a case where the mischief producible by the act is contingent, i.e. in which the act's tendency is harmful only in because it creates a *chance* of mischief. This chance depends on the concurrence of other acts of the same kind, and those must be performed by the same person. The •object of the mischief is the very person who is the •author of it, . . . so the mischief is private and self-regarding.

It doesn't produce any secondary mischief in the form of alarm. It does produce indeed a certain amount of danger through the influence of example; but in most cases this danger will be small enough to be negligible.

17. A man omits paying his share to a public tax. This we see is a negative act, but that doesn't mean that it can't be harmful. It is harmful, and here is why. Defending the community against its external and internal adversaries are tasks—along with others of a less indispensable nature—that can't be done except at considerable expense. Where is the money for meeting this expense to come from? It has to be from contributions collected from individuals, i.e. from taxes. The product of these taxes is a kind of benefit that has to go to the governing part of the community for the use of the whole. There have to be certain persons commissioned to receive and to apply this product. Now, if it's that case that

if these persons had they received the tax-money they would have sent it to its proper destination,

that would have been a benefit, and thus *not* enabling them to receive it would have been a mischief. But it is possible that the money might have been received but not sent to its proper destination, or that the services it was intended to pay for might not have been performed. It could happen that

- the under-officer who collected the tax-money didn't pay it over to his principal;
- the principal didn't send it on to its further destination, e.g. to the judge who is to protect the community against its secret internal enemies, or the soldier who is to protect it against its open external enemies.
- the judge or the soldier received the money but weren't induced by it to perform their respective duties—the judge didn't sit for the punishment of criminals and the deciding of controversies, and the soldier didn't draw his sword in defence of the community.

These, together with countless other intermediate acts that I omit for the sake of brevity, form a connected chain of duties the performance of which is necessary for the preservation of the community. They must *all* be performed if the benefit they are contributing to is to be produced. If they are all performed, the benefit comes into existence, and any act tending to intercept that benefit may produce a mischief. But if any of them are not performed, the benefit fails; and that failure has nothing to do with our man's failure to pay his share of the taxes. So the benefit coming from the tax-money is contingent; and *on a certain supposition* the act of not paying it is not harmful. But in any reasonably well-ordered government that supposition will rarely be true. In the worst-ordered government that exists, most of the taxes that are levied are paid over in the proper way, so that any individual person's failure to pay his share is almost certainly a harmful act.

[Bentham now deals with the line of thought:

'My share of the taxes is such a tiny proportion of the whole that it doesn't significantly increase any benefit; so in not paying it I'm not doing any significant harm; and anyway, point to the persons I am harming!'

He responds:] It is certain that if all of a sudden the payment of *all* taxes were to cease, there would no longer be anything effective done for the maintenance of justice or the defence of the community against its foreign adversaries—the weak would be oppressed and injured in all sorts of ways by the strong at home, and both would be overwhelmed by oppressors abroad. So the situation regarding the individual non-payment of taxes that we are considering is this:

The mischief is remote and contingent; in its first appearance it consists merely in the interception of a benefit; and the individuals who would have received that benefit—who would have actually had more plea-

sure or security—are altogether unidentifiable. But none of that counts against the harmful tendency of the act. The mischief, in point of intensity and duration, is indeed unknown; it is uncertain; it is remote. But in point of extent it is immense; and in point of fecundity, pregnant to a degree that baffles calculation.

[The last two sentences of that are as Bentham wrote them.]

**18.** I should point out that the strand in secondary mischief that consists in *alarm* can occur only if the mischief is extra-regarding and has an identifiable person or persons for its object. When the individuals it affects are altogether out of sight because there's no way to determine which individuals they are, no alarm can be produced because there's nobody whose sufferings you can see, nobody whose sufferings you can be alarmed at. No alarm, for instance, is produced by nonpayment of a tax. If such an offence did happen to produce some kind of alarm at some distant time, the immediate cause of the alarm would be something quite different: the act of a legislator who thought a new tax was needed to make up for the short-fall in the product of the old one; or an enemy, encouraged by the weakness of the country's defence budget because of tax-avoidance, invades the country and extracts from it much heavier contributions than the tax-avoiders had withheld.

·START OF FOOTNOTE·

This line of thought can be developed analogously for the consequences of an act of a beneficial nature. Here again a third order of consequences can take place when the influence of the act on the (passive) beneficiary come to affect his active faculties. This could take any one of four forms.

(1) Evil out of evil: e.g. •a continued chain of acts of

robbery or extortion makes it •not worthwhile to work at anything, which leads to •a loss of productivity on everyone's part.

- (2) Good out of evil: e.g. •a steady course of punishment •puts a stop to habits of depredation, •which leads to •all sorts of good results.
- (3) Evil out of good: e.g. •unduly large handouts to the poor lead to their •losing the habit of working hard, •which leads to •all sorts of bad results.
- (4) Good out of good: e.g. •providing a regular and increasing market for the products of people's labour leads to •increasing rewards for such labour, which leads to •a steady increase in how much of such labour there is.

·END OF FOOTNOTE·

As for any alarm that such an offence ·as illegal tax-avoidance· might raise among the few who regard it with the eyes of statesmen, it is too slight and uncertain to be worth taking into the account.

## 2. How intentionality etc. can influence the mischief of an act

19. We have seen the nature of the secondary mischief that is apt to be reflected, as it were, from the primary, in the cases where the individuals who are the objects of the mischief are identifiable. Now we must look into the circumstances on which the production of such secondary mischief depends. These circumstances are just the four items that were the topics of chapters 8–10, ·four states of mind·:

- the intentionality,
- the consciousness,
- the motive,
- the disposition.

The **danger** created by an offence can be immediately affected by the **reality** of those states of mind; the immediate cause of any **alarm** that it creates has to be the **appearance** of those states of mind. In most cases reality and appearance coincide, and then the whole package can cause both danger and alarm. The different influences of intentionality and consciousness can be represented in the following six cases.

20. Case 1. The act is so completely unintentional as to be altogether involuntary. In this case it brings no secondary mischief at all.

A bricklayer is at work on a house; a pedestrian is walking below; a fellow-workman gives the bricklayer a violent push, so that he falls on the pedestrian and hurts him. It's clear that nothing in this event can give onlookers the least reason to fear anything in future from the man who fell, whatever reason there may be regarding the man who pushed him.

21–25. [Bentham now goes through four cases where the act in question is not downright unintentional but the agent was 'misadvised' in some respect, and in some of them he is also 'rash'. He illustrates only one of the four; and this whole thing seems to be skippable without much loss. After it, Bentham comes to the other extreme:]

25. Case 6. The consequences are completely intentional, and there is no mis-supposal in the case. In this case the secondary mischief is at the highest.

26. Having dealt with •intentionality and •consciousness, I now consider how the secondary mischief is affected by the nature of the •motive.

Where an act is pernicious in its primary consequences, the secondary mischief is not obliterated by the goodness of the motive, however good it is. Despite the goodness of the motive, it has led to an act whose primary consequences are pernicious; and it may do the same in other instances,



though ·admittedly· this is not so likely to happen from a good motive as from a bad one.<sup>1</sup>

**27.** If an act is pernicious in its primary consequences but over-all beneficial because of its secondary consequences, it isn't switched back to over-all pernicious by the badness of the motive, even if it's a motive of the worst kind.<sup>2</sup>

**28.** When not only the primary consequences of an act are pernicious but in other ways the secondary consequences are so too, the secondary mischief may be made worse by the nature of the motive—I mean the part of the mischief that concerns the future behaviour of the same person.

**29.** But it's not from the worst kind of motive that the secondary mischief of an act is most worsened.

**30.** How much the secondary mischief of an act is worsened by the motive behind it is proportional to how likely the motive is to produce equally bad acts by the same person.

**31.** The likelihood of a motive's leading that same person to perform acts of the same kind is proportional to how strongly and constantly that motive influences the person to perform

such acts.

**32.** The tendency of a *kind* of motive to give birth to acts of a given kind among persons in general is proportional to how strongly, constantly, *and extensively* that motive influences the person to perform such acts.

**33.** Now, the motives whose influence is strongest, most constant, *and* most extensive are the motives of

- physical desire,
- the love of wealth,
- the love of ease,
- the love of life, and
- the fear of pain;

all of which are self-regarding motives. The motive of displeasure, however strong and extensive, is nowhere near as constant in its influence (the case of mere antipathy excepted) as any of the other five. A pernicious act motivated by a

<sup>1</sup> An act of homicide, for example, is not made innocent—much less beneficial—merely by coming from a principle of religion, of honour (i.e. of love of reputation) or even of benevolence. Ravallac assassinated Henry IV from a principle of religion, but this didn't even *lessen* the mischief of the act. Indeed, for a reason that I'll present in a moment, it made the act even more mischievous than if it had been driven by a desire for revenge. The conspirators who tried to assassinate the late king of Portugal are said to have acted from a principle of honour. But this certainly won't be thought to have outweighed the mischief of the act, though it may have lessened it. If a son of Ravallac's, as in the fictional case in **16** on page 75, puts his father to death in order to rescue him from the severer hands of justice, merely out of filial affection and not because of any participation in his crime, that motive—while not providing evidence of a mischievous disposition, and while making the son an object of pity for any punishment he is sentenced to—will hardly make the act of rescue a beneficial one!

<sup>2</sup> The prosecution of offences, for instance, is usually driven by one or both of two motives—the self-regarding motive of •pecuniary interest (e.g. when one aim of the prosecution is to collect damages) and the unsocial motive of •ill-will. It is common enough indeed to hear men speak of prosecutions undertaken from public spirit, which we have seen to be a branch of the principle of benevolence. Far be it from me to deny that such a principle may often be an ingredient in the sum of motives by which men undertake prosecutions; but when such a proceeding is engaged in solely out of public spirit without the least trace of self-interest or ill-will, it must be acknowledged to be a proceeding of the heroic kind. Now acts of heroism are, in the very essence of them, rare—if they were common they wouldn't qualify as heroism. But prosecutions for crimes are very frequent, and are almost always beneficial.

desire for vengeance or by some other form of displeasure is nowhere near as harmful as the same pernicious act when driven by any one of those other motives.<sup>1</sup> [In this paragraph and the next, 'five' replaces Bentham's 'three', which seems to have been a slip.]

**34.** As for the motive of religion, whatever it may have sometimes in strength and constancy it isn't equal to any of the five preceding motives in extent, especially in the production of acts of a harmful nature. Still, it may be as universal as they are in a particular country or a particular district. It is liable indeed to be very irregular in its operations. But it is often as powerful as—and sometimes even more powerful than—the motive of vengeance or indeed any other motive. It is, at any rate, much more constant.<sup>2</sup> So a pernicious act when committed through the motive of religion is more

harmful than when committed through the motive of ill-will.

**35.** Lastly, the secondary mischief—meaning the part of it that involves the future behaviour of the same person—is made greater or less by, and in proportion to, the apparent depravity or beneficence of his disposition.

**36.** The consequences I have spoken of up to here are the *natural* consequences of which the act and the other items I have been considering are the causes—consequences that result from the offender's behaviour without the interference of political authority. I now come to speak of punishment, which is an *artificial* consequence that political authority connects to an individual offensive act with the aim of putting a stop to future acts with similar objectionable natural consequences.

<sup>1</sup> That is why a threat or other personal outrage when inflicted on a stranger as part of a scheme of robbery produces more mischief in society (and accordingly is perhaps everywhere more severely punished) than a similar outrage inflicted on an acquaintance as part of a scheme of vengeance. No man is always in a rage, but every man always has some love for money. Thus, a man whose quarrelsomeness leads him once to perform a bad action may go through the rest of his life without doing anything like that again, because he may never again engage in such a violent quarrel. . . . But if a man's love of money once leads him to perform a bad action such as a scheme of robbery, that same motive may at any time lead him to acts that are equally bad. If a man loves money to a certain degree today, he will probably love it at least as much tomorrow. And if a man is disposed to acquire it in that way, he will find inducement to rob wherever and whenever there are people to be robbed.

<sup>2</sup> If a man takes it into his head to assassinate—with his own hands or with the sword of justice—those whom he calls heretics, i.e. people who think (or perhaps only *speak*) differently from him on a subject that neither he nor they understand, he will be as much inclined to do this at one time as at another. Fanaticism never sleeps: it is never gluttoned: it is never stopped by philanthropy, for it makes a merit of trampling on philanthropy: it is never stopped by conscience, for it has conscripted conscience into its service. Avarice, lust, and vengeance have piety, benevolence, honour to oppose them; fanaticism has nothing to oppose it. [In this note, 'philanthropy' carries the very general meaning of 'love of mankind', not the now more common meaning of 'practical benevolence'.]

## Chapter 13: Cases not right for Punishment

### 1. General view of cases not right for punishment

1. The general object that all laws have or ought to have in common is to increase the total happiness of the community; and therefore in the first place to exclude as far as possible everything that tends to reduce that happiness, i.e. to exclude mischief.

2. But all punishment *is* mischief; all punishment in itself is bad. On the principle of utility it ought to be allowed only insofar as it promises to exclude some greater evil.

·START OF A FOOTNOTE·

This chapter on punishment ought, as a matter of good order, to be preceded by a separate chapter on the aims of punishment. But I have little to say on that branch of the subject that hasn't been said before, so it seems better to •exclude this topic from a work that will be too long even without it, and •reserve it to a separate work, to be published later, entitled *Rationale of Punishment* [which eventually appeared posthumously as Part 2 of *Penal Law*]. In that work I shall present the analysis of the various possible modes of punishment, a closely detailed examination of the nature of each and of its advantages and disadvantages, and various other topics that don't seem absolutely necessary to be included here. But I have to say a little concerning the aims of punishment.

The immediate principal end of punishment is to control action—the offender's action or that of others. It controls the offender's action by affecting either

- his will, in which case it is said to aim at 'reforming' him, or

- his physical power, in which case it is said to aim at 'disabling' him.

The only way it can influence the conduct of others is by affecting

- their wills, in which case it is said to make an 'example' of the offender.

A kind of collateral goal that punishment has a natural tendency to achieve is that of providing pleasure or satisfaction to •the injured party where there is one, and to •any parties whose ill-will has been aroused by the offence, whether on a self-regarding account or on the account of sympathy or antipathy. This goal, as far as it can be achieved *gratis*, is beneficial; but no punishment ought to be allotted merely for this purpose, because. . . such pleasure is always outweighed by the pain of the punishment. However, punishment that is inflicted for the other purpose ought, as far as it can be done without expense, to be made to serve this purpose as well. Satisfaction thus given to an injured party in the form of a dissocial pleasure can be called a 'vindictive' satisfaction. . . . Setting an example is the most important aim of all, because of how greatly the offender is *outnumbered* by the persons who might be tempted to offend in a similar way.

·END OF FOOTNOTE·

[When Bentham writes of what can be achieved *gratis* and 'without expense', he isn't referring to money. We will now see him using that language for a different purpose: a good that could be secured through the use of punishment may be achievable 'at a cheaper rate', meaning with less 'expense' in the way of creating evil. This use of the language of accountancy is prominent in the Rules in chapter 14.]

3. Clearly, then, punishment ought not to be inflicted
- where it is groundless, i.e. where there is no mischief for it to prevent because the act was not over-all harmful;
  - where it must be ineffective, i.e. where it can't act so as to prevent the mischief;
  - where it is unprofitable, or too expensive, i.e. where the mischief it would produce would be greater than what it prevented; and
  - where it is needless, i.e. where the mischief may be prevented or cease of itself without it, i.e. at a cheaper rate.

I shall give these a subsection each

## 2. Cases where punishment is groundless

4. (a) Where there was no mischief in the first place—no harm has been done to anybody by the act in question. Included among these are some cases where the act was harmful or disagreeable but the person whose interest it concerns gave his consent to the performance of it. This consent, provided that it's free and fairly obtained, is the best proof that can be produced that the person who gives it suffers no over-all mischief, or at least no immediate mischief; because he is a better judge than anyone else can be as to what gives him pleasure or displeasure.

5. (b) Where the mischief was outweighed—a mischief was produced by that act, but that act was needed for the production of a benefit that was of greater value than the

mischief. This may be the case when something is done as a precaution against instant calamity, and when something is done in the exercise of the various sorts of powers—domestic, judicial, military, and supreme—that every community needs to have established in it.

6. (c) Where there is a certainty of adequate compensation in the given case and in all cases where the offence can be committed. For this to be the case, the offence has to be of a kind that *could* be adequately compensated. But even then we can never know for sure that such a compensation will *always* be forthcoming. So this can't ever, in practice, serve as a basis for absolute impunity; but it may be serve as a ground for a lessening of the punishment that would otherwise seem appropriate.<sup>1</sup>

## 3. Cases where punishment must be ineffective

7. (a) Where the penal provision for the given kind of act is not established until after the individual act is done. This can happen when the legislator doesn't assign a punishment till after the act is done, or when the judge on his own authority assigns a punishment that the legislator had not assigned.

8. (b) Where the established penal provision is not brought to the notice of the person it is intended to operate on; where the law has omitted to use any of the procedures that are needed to ensure that *everyone* who is within the reach of the law is informed of *all* the cases in which he—given his station of life—can be subjected to the penalties of the law.

<sup>1</sup> This seems to have been one reason for the favour shown by perhaps all systems of laws to offenders who stand upon a footing of responsibility [apparently meaning 'who *could* provide compensation']. It is a favour shown not to the offenders themselves but to offences that only responsible persons are likely to have the opportunity of engaging in. It seems to be the reason why embezzlement in certain cases hasn't commonly been punished in the same way as theft, or mercantile frauds in the same way as sidewalk swindling.

9. (c) Where the penal provision. . . *couldn't* affect the man in a way that might prevent him from performing any act of the sort in question. That is the situation

- in extreme infancy, where a man hasn't yet attained the disposition of mind in which his conduct will be influenced by the prospect of evils as distant as those the law threatens him with;
- in insanity, where the person has attained that disposition but then been deprived of it through the influence of some permanent though unseen cause;
- in intoxication, where he has been deprived of it by the transient influence on the nervous system of a visible cause such as the use of wine, or opium or other drugs.

Intoxication is indeed neither more nor less than a temporary insanity produced by an identifiable cause.<sup>1</sup>

10. (d) Where the penal provision. . . could not deter the party from performing the individual act he is about to perform, because he doesn't know that it is of the kind that the penal provision relates to. This may happen

- in the case of unintentionality, where he doesn't intend to perform—and thus doesn't know that he is about to perform—the act that he is in fact about to perform;
- in the case of unconsciousness, where he knows that he is about to perform the act itself but—because he doesn't know all the material circumstances relating to it—doesn't know of its tendency to produce the

mischief that is the reason why it has been made penal [here = 'punishable'] in most instances; and

- in the case of false belief, where he may know that the act tends to produce that degree of mischief, but falsely believes that it is attended by some circumstance which, if it had been real, would have
  - prevented the act from producing that much mischief or
  - led to its also producing a degree of good that would have outweighed the mischief.

11. (e) Where the penal clause •would do its intended work if it acted alone but •can't be effective because of the predominant influence of some opposite cause on the will—i.e. because the evil that he expects to undergo if he doesn't perform the act is so great that the evil promised by the penal clause if he does perform it can't appear greater. This can happen •in the case of physical danger, where the evil in question appears likely to be brought about by the unassisted powers of nature; and •in the case of a threatened mischief, where it is appears likely to be brought about through the intentional and conscious agency of man.

12. (f) Where although the penal clause may exert a full influence over the person's will, his physical faculties. . . are not in a condition to follow the determination of the will; so that the act is absolutely involuntary. For instance, the man's hand is pushed against some object that his will disposes him not to touch, or is tied down so that it can't touch some object that his will disposes him to touch.

<sup>1</sup> [In a footnote Bentham says that with infancy and intoxication there can in *practice* be some doubt as to whether the person really was in the mental state in question. But that doesn't affect the *theory*. If we could know for sure that he was in that state, 'the impropriety of punishment would be as indubitable in these cases as in any other'. The note continues:] The reason that is commonly given for not punishing infants, insane persons, and intoxicated persons is either false in fact or confusedly expressed. It is said that the will of these persons doesn't concur with the act, that they have no vicious will, or, that they don't have the free use of their will. But suppose all this is true—what is it to the purpose? Nothing, except insofar as it implies the reason given in the text.

#### 4. Cases where punishment is unprofitable

**13. (a)** Where the nature of the offence and the nature of the punishment are normally such that the evil of the punishment will turn out to be greater than that of the offence.

**14.** The evil of the punishment divides into four branches, affecting four different sets of persons.

- The evil of coercion or restraint: the pain that it gives a man not to be able to perform the act that he is deterred from by the threat of punishment. This is felt by those who obey the law.
- The evil of fear: the pain that a man who has exposed himself to punishment feels at the thought of undergoing it. This is felt by those who break the law and feel themselves in danger of its being applied to them.
- The evil of sufferance: the pain a man feels in virtue of the punishment itself, from the time when he begins to undergo it. This is felt by those who break the law and on whom it comes actually to be applied.
- The pain of sympathy, and the other derivative evils that come to persons who are connected with the three classes of non-derivative sufferers listed just above.

Of these four lots [see Glossary] of evil, the first will be greater or less depending on the nature the act that the party is deterred from performing; the second and third depending on the nature of the punishment that has been assigned to that offence.

**15.** The evil of the offence will also of course be greater or less according to the nature of each offence. The proportion between the one evil and the other will therefore be different for different particular offences; so the cases where punishment is unprofitable for this ·balance-of-evils· reason can be found only by examining each particular offence; which is

what will be the business of the body of the work [see Glossary]. [Despite Bentham's uses of 'particular', what he is talking about are not •different particular = individual offences but rather •different specific kinds of offence.]

**16. (b)** Where there are *particular* circumstances that make the evil resulting from the punishment greater than the benefit it is likely to produce (in cases where **(a)** doesn't apply, i.e. where *in general* this punishment is justified by its effectiveness as a deterrent to this kind of offence). These circumstances may include:

- The sheer number of delinquents at a particular time, which would greatly increase the contribution of the second and third lots of evil, and also a part of the fourth lot, to the evil of the punishment. [why not also to the first lot?]
- The extraordinary value of the services of some one delinquent, in a case where his punishment would deprive the community of the benefit of those services.
- The displeasure of the people—i.e. of an indefinite number of the members of the community—in a case where some passing event has led them to think that the offence or the offender ought not to be punished at all, or at least ought not in the way the law proposes.
- The displeasure of foreign powers, i.e. of the governing body or many members of some foreign community with which the community in question is connected.

#### 5. Cases where punishment is needless

**17.** Where the purpose of putting an end to the offence can be attained just as effectively at a cheaper rate—by instruction, for instance, instead of by terror, i.e. by informing the understanding rather than by exercising an immediate influence on the will. This seems to be the case with regard to all the

offences that consist in spreading pernicious principles in matters of political or moral or religious duty. And I affirm this even for cases where the person spreading the pernicious principles doesn't sincerely think they will do anyone any good. In such a case instruction can't prevent the writer from trying to inculcate his principles, but it may prevent the readers from adopting them, thus preventing his efforts from

doing any harm. In such a case, the sovereign will commonly have little need to take an active part; if it's in the interests of one individual to inculcate pernicious principles, it will surely be in the interests of other individuals to expose them. And if the sovereign *must* take a part in the controversy, the pen is the proper weapon to combat error with, not the sword.

## Chapter 14: The Proportion between Punishment and Offences

1. We have seen that •the general objective of all laws is to prevent mischief, when it is worthwhile, but that •where punishment is not the only means of doing this there are four cases where it is not worthwhile.
2. When it is worthwhile, there are four subordinate designs or objectives that a legislator whose views are governed by the principle of utility comes naturally to propose to himself in the course of planning to do his best to achieve that one general objective •of preventing mischief.
3. **(i)** His first, most extensive, and most desirable objective is to prevent as far as it is possible and worthwhile, all sorts of offences whatsoever—i.e. to arrange things so that no offence whatsoever is committed.
4. **(ii)** If a man can't be stopped from committing an offence of some kind or other, the next objective is to induce him to choose always the less harmful of two offences either of which will suit his purpose.
5. **(iii)** When a man has resolved on a particular offence, the

next objective is to dispose him to do no more mischief than is needed for his purpose—i.e. to do as little mischief as is consistent with the benefit he has in view.

6. **(iv)** The last objective is, with any mischief that it is proposed to prevent, to prevent it at as cheap a rate as possible.

7. Subservient to these four objectives must be the rules governing the proportion of punishments to offences.<sup>1</sup>

8. **Rule 1.** The first objective is to prevent all sorts of offences as far as this is worthwhile; therefore *The value of the punishment must always be sufficient to outweigh the value of the profit of the offence.*

•START OF FOOTNOTE•

I take the 'profit' of an offence to be not merely •the pecuniary profit but •the pleasure or advantage of any kind that a man gets or expects to get from. . . engaging in the offence. The expectation of the profit of the offence constitutes the impelling motive(s) by which a man is prompted to engage

<sup>1</sup> The same rules can be applied with little variation to rewards as well as punishments. . . .

in the offence. The expectation of the punishment constitutes the restraining motive which—either by itself or in conjunction with others—is to act on him in a contrary direction so as to induce him to abstain from engaging in the offence. Accidental circumstances apart, the strength of the temptation is proportional to the force of the seducing—i.e. impelling—motive or motives. Some authors of great merit and great name have said that the punishment ought not to increase with the strength of the temptation, which is like saying in mechanics, that the moving force or momentum of the power need not increase in proportion to the momentum of the burden!

·END OF FOOTNOTE·

If it isn't sufficient for that, then the offence will be committed; the whole lot of punishment will be thrown away, will be altogether ineffective; unless some other considerations intervene and operate effectively as tutelary motives (see **29** on page 78).<sup>1</sup> This is the case whenever the punishment is fixed while the profit of delinquency is indefinite; or, more precisely, when the punishment is limited to something that can be surpassed by the profit of delinquency.

**9.** The above rule has been often objected to because of its seeming harshness; but this must come from its not being properly understood. The strength of the temptation is,

*cæteris paribus* [see Glossary], proportional to the profit of the offence; the quantum of the punishment must rise with the profit of the offence and therefore *cæteris paribus* it must rise with the strength of the temptation. There's no disputing this. It's true that the stronger the temptation the less conclusive is the delinquent act's evidence of the depravity of the offender's disposition (see **43** on page 82); and in that way the strength of the temptation may weaken the demand for punishment; but it can't imply that the punishment ought to be ineffective, which it is sure to be if it is brought below the level of the apparent profit of the offence. [Bring it below this level might seem benevolent, but really it wouldn't be. It would involve 'cruelty to the public' in not protecting them adequately, and, Bentham adds strikingly:] cruelty to the offender himself, by punishing him to no purpose. . . .

[Regarding Bentham's use of terms like 'purchase' and 'expenditure' see the editorial note on page 92.]

**10. Rule 2.** But whether a given offence will be prevented in a given degree by a given quantity of punishment is never anything better than a chance; and when we purchase that chance by employing punishment we are making an expenditure in advance. However, for the sake of giving it a better chance of outweighing the profit of the offence, *The greater the mischief of the offence, the greater is the expense that it may be worthwhile to incur by way of punishment.*<sup>2</sup>

<sup>1</sup> . . . Some of the Anglo-Saxon laws set a fixed price on a man's life, including that of the sovereign. For 200 shillings you could kill a peasant; for six times as much, a nobleman; for thirty-six times as much you could kill the king. A king in those days was worth exactly 7,200 shillings. If the heir to the throne, for example, grew weary of waiting for it, he had a secure and legal way of gratifying his impatience: all he needed to do was to kill the king with one hand and pay himself with the other, and all was right! . . . This being the product of a remote and barbarous age, its absurdity is now recognised; but we now find that the freshest laws of the most civilised nations are continually falling into the same error. ([Added in 1822:] See in particular: the English Statute laws throughout, Bonaparte's Penal Code, and the recently enacted or not enacted Spanish Penal Code.

<sup>2</sup> For example, if it can ever be worthwhile to be at the expense of such a horrible punishment as burning someone alive, it will be so as to prevent such crimes as murder or incendiarism, rather than to prevent the passing of counterfeit coins. [In Daniel Defoe's novel *Moll Flanders*, the heroine declines to switch from a gang of thieves to a gang of coin-forgers because, she says, that would replace a risk of being hanged by a risk of being burned at the stake.]



**11. Rule 3.** The next objective is to induce a man always to choose the less harmful of two offences; therefore, *Where two offences come in competition, the punishment for the greater offence must be sufficient to induce a man to prefer the less.*

**12. Rule 4.** When a man has resolved on a particular offence, the next objective is to induce him to do no more mischief than is needed for his purpose; therefore *The punishment should be adjusted to each particular offence in such a way that for each part of the mischief there is a motive to restrain the offender from giving birth to it.*<sup>1</sup>

**13. Rule 5.** The last objective is, whatever mischief is guarded against, to guard against it at as cheap a rate as possible; therefore *The punishment ought never to be more than what is needed to bring it into conformity with the rules here given.*

**14. Rule 6.** A single cause may affect different people in different ways and by different amounts; so that a punishment that is the same in name won't always produce—or even appear to others to produce—the same degree of pain in two different persons; therefore *So that the quantity of pain actually inflicted on each individual offender may correspond to the quantity intended for similar offenders in general, the various circumstances influencing sensibility ought always to be taken into account.*

**15.** Of the above rules of proportion, the first four mark out limits on the side of diminution, the limits to how mild a punishment should be; the fifth the limits on the side of increase, the limits to how severe it should be. Those five are

meant to serve as guides to the legislator; the sixth is also meant for that purpose in some measure, but principally for guiding the judge in his attempts to conform, on both sides, to the intentions of the legislator.

**16.** Let us look back a little. To make the first rule more conveniently applicable in practice, it may need to be explained in a little more detail. For the sake of accuracy I had to use, instead of the word 'quantity', the less perspicuous term 'value'. The trouble with 'quantity' is that it doesn't include the circumstances either of certainty or temporal-proximity; and these must always be taken into the account in estimating the value of a lot [see Glossary] of pain or pleasure. (See 2 on page 22.) Now, a lot of punishment is a lot of pain, and the profit of an offence is a lot of pleasure or of some equivalent to it. But the profit of the offence is commonly more certain than the punishment, or anyway appears so to the offender; and it commonly comes much more quickly. If it is to outweigh the profit of the offence, therefore, the punishment must have its value increased in some other way to make up for its short-fall in certainty and proximity. The only way to do this is by increasing the severity of the punishment.<sup>2</sup>

**17.** Also, to make sure that the value of the punishment outweighs the value of the offence, it may be necessary in some cases to take into account the profit not only of the individual offence for which the person is being punished but also of any other offences of the same sort that he is

<sup>1</sup> If you aren't sure about this, think of the offence as divided into as many separate offences as there are distinguishable parcels of mischief resulting from it. Let it consist, for example, in a man's giving you ten blows; if he is punished no more for this than for giving you five blows, five of the ten blows he gives you constitute an offence for which there is no punishment; and when he understands this you can be sure that after giving you five blows he will give you five more, since he can have the pleasure of giving you these five for nothing. [Bentham repeats all this for stealing five/ten shillings. and then concludes:] This rule is violated on almost every page of every body of laws I have ever seen. . . .

<sup>2</sup> It is for this reason, for example, that simple compensation is never regarded as sufficient punishment for theft or robbery.

likely to have already committed without being detected. This random [here = 'guess-work'] mode of calculation, severe as it is, is unavoidable in cases where •the profit is pecuniary, •the chance of detection very small, and •the offensive act of a kind that indicates a habit; for example in the case of frauds against the coinage. If probable earlier offences aren't taken into account in setting the level of punishment, the practice of committing the offence will be sure to be gainful; so that the legislator will have no chance of suppressing it, and the whole punishment bestowed on it will be thrown away. . . .

**18. Rule 7.** In the light of these considerations the following three rules may be laid down to supplement and explain Rule 1. *To enable the value of the punishment to outweigh that of the profit of the offence, it must be increased in point of severity in proportion as it falls short in certainty.*

**19. Rule 8.** *Punishment must be further increased in severity in proportion as it falls short in proximity.*

**20. Rule 9.** *Where the act conclusively indicates a habit, the punishment of it must be increased enough for it to outweigh the profit not only of the individual offence but of other similar offences that the offender is likely to have committed and not been punished for.*

**21.** A few other circumstances or considerations may slightly influence the demand for punishment; but their propriety is either not so demonstrable, or not so constant, or the application of them not so determinate, as that of the foregoing, so that they are probably not worth putting on a level with the others.

**22. Rule 10.** *When a punishment that is qualitatively just right for its intended purpose cannot exist in less than a certain quantity, it may sometimes be useful. . . .to stretch it a little beyond the quantity that would otherwise be strictly necessary.*

**23. Rule 11.** *This may sometimes be the case where the proposed punishment is particularly well suited to serve as a moral lesson.<sup>1</sup>*

**24. Rule 12.** The above considerations tend to dictate an increase in the punishment; the following rule operates to lessen it. There are certain cases (see page 95 above) in which accidental circumstances make punishment unprofitable in the whole; in the same cases it may be made unprofitable in a part only. Accordingly, *In adjusting the quantum of punishment, the circumstances by which any punishment may be rendered unprofitable ought to be attended to.*

**25. Rule 13.** The more various and minute any set of provisions are, the greater the chance that any given article in them won't be borne in mind and so won't bring any benefit. Distinctions that are too complex for a potential offender to take in will be *worse* than useless. The whole system will present a confused appearance, and thus the effect [of the whole thing] will be destroyed. It seems impossible to draw a precise line marking off what is too complex, but it may be of some use to offer the following rule. *Among provisions designed to perfect the proportion between punishments and offences, any whose good effects wouldn't make up for the harm they would do by adding to the intricacy of the legal*

<sup>1</sup> A punishment may be said to be suited to serve as a moral lesson when by reason of the disgrace it stamps upon the offence it is likely to •give the public feelings of aversion towards the pernicious habits and dispositions that the offence appears to involve, and thereby to •encourage the opposite beneficial habits and dispositions.—It is this if anything that must justify inflicting such a severe punishment as the infamy of a public exhibition (I'll propose this later) for any man who lifts up his hand against a woman or against his father. And it is partly on this principle, I suppose, that military legislators think they are justified in inflicting death on a soldier who lifts up his hand against his superior officer.

*code should be omitted.*<sup>1</sup>

**26.** Punishment that is the topic of this chapter belongs to the political sanction, but there are three other sanctions that can also contribute their share towards producing the same effects (see **2** on page 20). You might think, then, that in setting levels of political punishment we should allow for the assistance it can get from those other controlling powers; and it's true that from each of them a very powerful assistance can sometimes be derived. But the fact is that the force of those other powers is never determinate enough to be depended on (except for the moral sanction when its force is explicitly adopted into and modified by the political). It can't be parcelled into exact lots, or meted out in number, quantity, and value, as political punishment can. So the legislator is obliged to provide the full complement of punishment, as if he were sure of not getting help from any of those quarters. If he does get it, so much the better; but in case he doesn't he should make the provision that depends on himself.

**27.** It may be useful to list here the various circumstances that should be attended to in establishing the proportion between punishments and offences. seem to be as follows;

Regarding the offence:

- the profit of the offence,
- the mischief of the offence,
- The profit and mischief of other offences of different sorts that the offender may have to choose out of,
- the profit and mischief of other offences of the same sort that the same offender has probably been guilty of already.

Regarding the punishment:

- the severity of the punishment, composed of its intensity and duration,
- how certain the punishment is,
- how far in the future the punishment is,
- the quality of the punishment,
- the accidental advantage of some quality of a punishment that isn't strictly needed for its quantity,
- the use of a punishment that has a particular quality, as a moral lesson.

Regarding the offender:

- the level of responsibility of the class of persons who are apt to offend in this way,
- the sensibility of each particular offender,
- the particular merits or useful qualities of any particular offender, if the punishment risks depriving the community of the benefit of them,
- how many offenders there are on any particular occasion.

Regarding the public, at any particular time:

- the inclinations of the people for or against any quantity or mode of punishment
- the inclinations of foreign powers.

Regarding the law. . . .:

- the need to forgo a certain amount of proportionality for the sake of simplicity.

**28.** There may be some who will think:

'The nicety [see Glossary] needed for applying such rules is just so much labour lost, because gross ignorance

<sup>1</sup> Despite this rule, I'm afraid that in what is to come I may be thought to have carried my endeavours at proportionality too far, .i.e. allowed too much complexity. My excuse is that until now hardly any attention has been paid to proportionality between offences and punishment; Montesquieu seems to have been almost the first to have the least idea of any such thing. So it seems better to have too much than too little. The difficulty is to invent; when that is done, if anything seems superfluous it can easily be removed.

never troubles itself about laws, and passion doesn't calculate.'

But the evil of ignorance admits of cure; and 'Passion doesn't calculate', like most very general and oracular propositions, is not true. When things as highly important as pain and pleasure are at stake (and they are in fact the *only* things of importance), who is there that doesn't calculate? Some men calculate with less exactness, some with more; but all men calculate. I wouldn't say even that a madman doesn't calculate. (There are few madmen who aren't visibly

afraid of the strait-jacket.) Passion calculates differently in different men according to •the warmth or coolness of their dispositions, •the firmness or irritability [see Glossary] of their minds, •the nature of the motives by which they are acted on. Fortunately, the passion that corresponds to the motive of pecuniary interest is both •the passion that is the most given to calculation and •the one whose strength, constancy, and universality make it the greatest threat to society. So this nicety, if that's what we are to call it, has the best chance of being effective where effectiveness matters most.

## Chapter 15: The Properties to be given to a Lot of Punishment

1. I have presented the rules that ought to be observed in adjusting the proportion between punishment and offence. The properties to be given to a lot [see Glossary] of punishment in each case will of course be what it needs to have to be capable of being applied in conformity to those rules, **the quality will be regulated by the quantity.**

2. The first rule, you may remember, was that the quantity of punishment must never be insufficient to outweigh the profit of the offence. . . . The fifth rule was that the punishment ought never to be more than what is required by the various other rules. . . . The fourth rule was that the punishment should be matched to the individual offence in such a way that every part of the mischief of that offence has a penalty (i.e. a tutelary motive) to encounter it. . . . Now a lot of punishment can't conform to those rules unless

the lot of punishment can vary in quantity in a way that matches the variation of quantity in the mischief of the species of offence to which it is assigned.

. . . . So the first property that ought to be given to a lot of punishment is that of being quantitatively variable in conformity to every variation there can be in either the profit or mischief of the offence. We could call this property *variability*.

3. Intimately connected with that is a second property that we could call *equability*. Take a mode of punishment (proper in all other respects) that has been established by the legislator and that can be screwed up or let down [Bentham's phrase] to any required degree; it won't be much use if any one of these degrees can produce a very heavy degree of pain, or a very slight one, or even none at all, according to circumstances. If that is the case, then if circumstances happen one way a great deal of needless pain will be produced; if they happen the other way, no pain at all will be applied, or none that will be effective. A punishment that is open to this ·sort of· irregularity can be called an

‘unequable’ one; when free from it, an ‘equable’ one.<sup>1</sup> . . .

4. A mode of punishment that is apt to be unequable is banishment, when the place the party is banished from is some determinate place, appointed by the law, that may be of no interest or value to the offender. Another such is pecuniary or quasi-pecuniary punishment having to do with some particular kind of property which the offender may have some of but may not. All these punishments can be split down into parcels and measured out with the utmost nicety, being divisible at least by *time* if by nothing else. So none of them lacks variability; but in many cases their lack of equability may make them as unfit for use as if they did.

5. The third rule of proportion said that where two offences come into competition the punishment for the greater offences must be sufficient to induce a man to prefer the less. To be sufficient for this purpose it must be evidently greater in the eyes of all men who are liable to face a choice between the two offences, i.e. in effect in the eyes of all mankind. In other words, the two punishments must be perfectly commensurable—i.e. both measurable by some one standard. From this arises a third property that may be called *commensurability*; a punishment has this property if it is commensurable with other punishments.

6. But it seldom happens that a punishment is uniformly greater one another of a different kind; especially when the lowest degrees of what is ordinarily the greater are compared with the highest degrees of the one that is ordinarily the less; which is to say that punishments of different kinds are in few instances uniformly commensurable. The only certain and universal means of making two lots of punishment

perfectly commensurable is by making one an ingredient in the other. This can be done by adding to the lesser punishment •another quantity of punishment of the same kind or •another quantity of a different kind. . . . We can’t always be sure what a given person will think about which of two punishments is greater, but we can be absolutely sure that he’ll think that any given punishment is greater than none at all!

7. The threat of punishment can’t act on a potential offender unless the idea of the punishment and of its connection with the offence is present in his mind. . . . For the idea of it to be present, it must be remembered, and to be remembered it must have been learnt. Now, the punishments whose connection with the offence is most easily learnt and so effectively remembered are those the idea of which is already in part associated with some part of the idea of the offence; and that’s the case when the offence and the punishment have some circumstance in common—in which case the punishment is said to bear an analogy to, or to be characteristic of, the offence. So fourth property that ought to be given (whenever it can conveniently be given) to a lot of punishment is *characteristicalness*.

8. It is obvious, that the effect of this contrivance will be greater the closer analogy is; and the analogy will be closer the more material the shared circumstance is (see 3 on page 43). Now, the most material circumstance that an offence and a punishment can have in common is the hurt or damage that they produce. So the closest analogy—though not the only analogy—there can be between an offence and the punishment assigned to it is their being alike in the

<sup>1</sup> By the English law, several offences—including suicide, and certain kinds of theft and homicide—are punished by a total forfeiture of moveables, not extending to immoveables. In some cases, this is the principal punishment; in others, the only one. The upshot is that if a man’s fortune consists in moveables he is ruined; if in immoveables he suffers nothing.

kind of hurt or damage they produce; and punishment of which that is true is called 'retaliation', in the proper and exact sense of the word. Retaliation, therefore, in the few cases where it is practicable and not too expensive [see Glossary], will have one great advantage over every other mode of punishment.

9. What really acts on the mind is only the *idea* of the punishment, or in other words the *apparent* punishment; all that the real punishment does is to give rise to that idea. So it's the apparent punishment that does all the •work in setting an example, which is the principal objective of punishment, and the real punishment that does all the •mischief. The ordinary and obvious way of stepping up the apparent punishment is by stepping up the real; but it can be done to some extent by other less expensive means. . . . These consist in the choice of •a punishment with a particular quality independent of its quantity, or in •a particular set of ceremonies distinct from the punishment itself and accompanying the infliction of it.

10. . . .The best way for a given quantity of punishment to be made more exemplary is by its having an analogy to the offence. So that is another reason for making the punishment analogous to, or in other words characteristic of, the offence.

11. Punishment, remember, is in itself an expense, an evil, which is why Rule 5 says not to produce more of it than is demanded by the other rules. And that is what happens when any particle of pain is produced that contributes nothing to the intended effect. If a mode of punishment is •more apt than another to produce any such superfluous and needless pain it may be called 'unfrugal'; if •less it may be called frugal. *Frugality*, therefore, is a sixth property to be wished for in a mode of punishment.

12. A perfectly frugal mode of punishment would be one where •no superfluous pain is produced for the person punished and •the operation that gives him pain also gives pleasure to someone else. I mean pleasure of •the self-regarding kind. It goes without saying that pleasure of •the unsocial kind will be given to everyone who is hostile to the offence that the punished person has committed. Now this is the case with pecuniary punishment, as also with confiscation of goods that can then be given to others. The pleasure produced by such an operation is not in general equal to the pain; but it can be so in particular circumstances, e.g. where the person from whom the thing is taken is very rich, and the one to whom it is given is very poor; and in any case the pleasure is always more than can be produced by any other mode of punishment.

13. The properties of exemplarity and frugality seem to have the same immediate goal, though their routes to it are different: both aim at lessening the ratio of the real suffering to the apparent; but exemplarity tends to increase the apparent, whereas frugality tends to reduce the real.

14. So much for the properties to be given to punishments in general, whatever offences they are punishments *for*. Those that follow are less important, either because they only concern certain offences in particular or because they depend on the influence of transitory and local circumstances.

In the first place, the four distinct goals into which the main and general goal of punishment is divisible (see the note on page 92) can give rise to four properties, each of which makes the punishment that has it effective in achieving one of those goals. The principal goal, namely *setting an example*, has already had a particular property assigned to it. There remain the three lesser goals: reformation, disablement, and compensation.

**15.** A seventh property to be wished for in a mode of punishment is *subserviency to reformation*, i.e. reforming tendency. Any punishment is subservient to reformation in proportion to its **quantity**, because the greater a man's punishment the stronger is its tendency to make him averse to committing any offence, especially one of the kind he has been punished for. But some punishments have a particular reforming effect with regard to certain offences, because of their **quality**; and that gives them an advantage over all other punishments for those offences. This influence will depend on the motive that causes the offence; the punishment most subservient to reformation will be the sort that is most likely to invalidate the force of that motive.

**16.** Thus, in offences originating from the motive of ill-will the punishment with the strongest reforming tendency is the one that is most likely to weaken the force of the irascible affections [= 'angry feelings']. And in any offence that consists in an obstinate refusal to do something that is lawfully required of the offender, with his obstinacy being maintained by his resentment against those who have an interest in forcing him to compliance, the most effective punishment seems to be confinement to spare diet.

**17.** With offences that arise from the joint influence of •indolence and •pecuniary interest, the punishment seems to have the strongest reforming tendency is the one that is most likely to weaken the force of the offender's indolence. And in cases of theft, embezzlement, and every sort of fraud the best mode of punishment seems in most cases to be penal labour.

**18.** An eighth property to be given to a lot of punishment in certain cases is efficacy with respect to disablement—'disabling efficacy', for short. A lot of punishment can have this property to perfection, and with much greater

certainty than the property of subserviency to reformation. Its drawback is that it is apt in general to run counter to *frugality*, because in most cases the only sure way to disable a man from doing mischief also disables him to a large extent from doing good to himself or to anyone else. So the infliction of a punishment that serves the purpose of disablement won't be warranted unless the mischief of the offence is so great as to demand a very considerable lot of punishment for the purpose of setting an example.

**19.** The punishment with the greatest efficacy of this kind is obviously *death*; the efficacy of that is certain. So it is the punishment specially fitted to cases where the name of the offender, as long as he lives, can keep a whole nation in flame. This will sometimes be the case with competitors for the sovereignty and leaders of factions in civil wars; though the death penalty may seem to savour of hostility more than of punishment when it is applied to offences of such a questionable nature, where criminality depends more on success than on anything else. Also, this punishment is utterly unfrugal, which is one among many objections to the use of it in any but very extraordinary cases.

**20.** In ordinary cases the purpose of disablement can be met well enough by one or other of the various kinds of confinement and banishment, of which imprisonment is the most strict and effective. When an offence is so circumstanced that it can't be committed except in a certain place—as is the case with most offences against the person—the law can disable the offender from committing it by simply prevent him from being in that place. In any of the offences that consist in the breach or abuse of any kind of *trust*, the goal can be achieved at a still cheaper rate, merely by forfeiture of the trust; and in general *any* offence that trades on some relation the offender has to someone else is subject to disablement

merely by forfeiture of that relation, i.e. of the right to reap the advantages of it. Examples: any offences that consist in an abuse of •the privileges of marriage or of •the liberty of engaging in any lucrative or other occupation.

**21.** The ninth property is that of subserviency to compensation. If what is wanted is vindictive compensation, this property of punishment will be in proportion to its quantity, i.e. to how severe it is; if lucrative compensation is the aim, this is the special and characteristic property of pecuniary punishment.

**22.** Next in line is the property of popularity—a very fleeting and indeterminate kind of property that can belong to a lot of punishment one moment and be lost by it the next. By ‘popularity’ I mean the property of being not unacceptable to the bulk of the people among whom it is proposed to be established. Strictly it should be called *absence of unpopularity*; for it can’t be expected that any species or lot of something like punishment it should be warmly acceptable to the people; it is sufficient for the most part if they don’t hate the thought of it. Now, the property of characteristicalness (see 7 above) seems to go as far as any towards reconciling the people’s approval to a mode of punishment<sup>1</sup>. . . . The main point of adding this property to the list is to warn the legislator not to introduce any mode or lot of punishment that most of the people are violently opposed to—unless he has a powerful need to do so.

**23.** The effects of unpopularity in a mode of punishment are analogous to those of unfrugality. The unnecessary pain that makes a punishment unfrugal is most apt to be suffered by the offender. An unpopular punishment also

produces superfluous pain, but mostly suffered by persons who are altogether innocent, the people at large. That is one mischief; and another is the weakness that unpopular punishment is apt to introduce into the law. When the people are. . .dissatisfied with the law, they won’t help in its enforcement. . .and this contributes greatly to the uncertainty of the punishment; which leads to an increase in the frequency of the offence; which is likely in due course to lead to an increase in the severity of the punishment—an addition to the world’s pain that otherwise would be needless.

**24.** This property must involve some prejudice on the part of the people, which it is the legislator’s business to correct. If the people’s aversion to the punishment in question were based on the principle of utility, the punishment would be wrong on other grounds, and the question of its popularity or unpopularity needn’t arise. So really it is a property not of the punishment but of the people—a disposition to dislike something that merits their approval. . . .

**25.** The eleventh and last of all the properties that seem to be required in a lot of punishment is *remissibility*. The general presumption is that when punishment is inflicted there is a need for it, that it ought to be inflicted, and that therefore it cannot need to be remitted. But in very special and deplorable cases, it happens that punishment is inflicted where. . .the sufferer is innocent of the offence. At the time of sentencing he appeared guilty; but events since then have brought his innocence to light. When this happens, there’s no help for the part of the punishment that he has suffered already; what is needed is to free him from the part that is yet to come. But is there any yet to come? If

<sup>1</sup> So characteristicalness is useful in a mode of punishment in three ways: •It makes a mode of punishment P easier to bear in mind before it is inflicted; •it enables P to make a stronger impression especially after it has been inflicted, i.e. it makes it more exemplary; and •it tends to render it more acceptable to the people.



there is, it's because the punishment consists in a certain duration of imprisonment, banishment, penal labour, or the like. . . . There is no remission if the punishment consisted in whipping, branding, mutilation, or capital punishment. The most perfectly irremissible of all is capital punishment. Other punishments that can't be remitted can be compensated for; and although the unfortunate victim cannot be put into the same condition, means may be found of putting him into as good a condition as he would have been in if he had never suffered. This may in general be done very effectually where the punishment has been purely pecuniary.

The property of remissibility may appear to be of use when although the offender has been justly punished his good behaviour during the time of his punishment suggests that a part of it should be remitted. But this it can scarcely be, if the punishment is in other respects what it ought to be. The setting of an example is a more important objective than reformation. . . . No reformation on the part of the offender can warrant the remitting of any part of the punishment; if it could, a man could reform immediately and so free himself from most of the punishment that had been regarded as necessary. . . . It's different if the punishment at first assigned was more than was necessary for setting an example, so that a part of it was needless on the whole. This is likely enough to be the case under the imperfect systems that are in operation today; and therefore during the continuance of those systems it may be thought useful to have remissibility on the ground of good behaviour; but this wouldn't be the case in any newly constructed system that conforms to the rules of proportion that I have presented above. . . .

**26.** Looking over the various possible modes of punishment you'll see that not one of them has all the above properties in perfection. The best that can be done on most occasions is

to compound them, making them into complex lots each of which consists of a number of different modes of punishment put together; the nature and proportions of the parts of each lot depending on the nature of the offence that it is designed to combat.

**27.** It may be useful to bring together and exhibit in one view the eleven properties listed above. They are as follows.

Two of them are meant to establish a proper proportion between a single offence and its punishment:

**(1)** Variability.

**(2)** Equability.

One aims to establish a proportion between several offences and several punishments, namely

**(3)** Commensurability.

A fourth helps to place the punishment in the only situation in which alone it can be effective, and at the same time to give it the two further properties of exemplarity and popularity, namely

**(4)** Characteristicalness.

Two others are concerned with excluding all useless punishment, one indirectly, by heightening the efficacy of what is useful, and the other in a direct way:

**(5)** Exemplarity.

**(6)** Frugality.

Three others contribute respectively to the three lesser goals of punishment, namely

**(7)** Subserviency to reformation.

**(8)** Effectiveness in disabling.

**(9)** Subserviency to compensation.

Another property tends to exclude an unintended mischief that a particular mode of punishment is liable accidentally to produce, namely

**(10)** Popularity.

The remaining property is

**(11)** Remissibility, which tends to palliate a mischief that all punishment is liable to produce accidentally.

Of these properties, **(3, 4, 5, 7, 8)** are more particularly calculated to increase the profit that is to be made by

punishment; **(6, 9, 10, 11)** aim to lessen the expense; and **(1, 2)** equally serve both those purposes.

**28.** I now come to take a general survey of the system of offences....