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Droits réservés

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1. Why is public reasoning downplayed in Benthamite democracy?

- 1 The concept of “public reason”¹ has primarily been developed by contemporary proponents of deliberative democracy, including Rawls and Habermas.² It reflects the importance of citizens engaging with one another in a particular way, using specified types of reasons when deliberating on important questions. There are many different configurations of this basic idea. In general, however, they share a contention that citizens should be more than simply self-interested at the ballot box. Consequently, in some sense, “instead of reasoning from the point of view of the private utility maximiser, through public deliberation, citizens [should] transform their preferences according to public-minded ends”.³
- 2 Bentham is not often considered part of this tradition. Rather, he is believed to embody a “private utility maximisers” view of voters in a democracy. As a consequence, he is thought to have much more to say about the logic for voting than about the value of deliberation before voting, and the question of how this should take place. Perhaps this is to be expected, given some of the premises of his democratic theory. He is famous for his egoism, announced on the very first page of *An Introduction to the Principles of Morals and Legislation* (IPML),⁴ and for endorsing the secret ballot.⁵ On the second of these questions he is both insistent and consistent:

It is *impossible* the majority of grown persons in a nation can have each of them an interest distinct from that of the whole. They have not naturally of their own any such separate interest.⁶
- 3 For Bentham, aggregation makes public-interested voting unnecessary, because it would be impossible for a majority of self-interested voters to produce a result which departs from the public interest. Consequently, “public happiness, or in other words,

public interest, is in this instance better promoted in every point of view by keeping the votes secret than by rendering them public". The secret ballot was, therefore, critical because it enabled voters to vote according to their own interests: "he [who] acts [votes] in secret he is at free liberty to do what he thinks right and for his interest (which in this case are but two phrases for the same thing)".⁷

- 4 Rawls believed that citizens had a duty of public reason, to appeal in debate, and on certain questions vote according to, only particular types of reasons which can be justified to all "reasonable persons". Voting, and presumably by extension consideration the basis on which the vote, for Bentham was more of an individual matter. As a consequence, Benthamite electors were to be encouraged to ask "what's best for me?" before casting their vote.⁸ The absence of a public-interested, or even "public", dimension of this account would appear to make a Benthamite view on public reason redundant. That view is seemingly corroborated by Bentham's individualism; his contention that "[t]he interest of the community... [is] the of sum of interests of the several members who compose it".⁹ As Schofield and others have pointed out, that conception of the public interest was rooted in Bentham's metaphysics and epistemology. It lends itself to an aggregative, egoistic defence of democracy.¹⁰

- 5 Bentham's suspicion of elites could also help to explain this emphasis on counting self-interested votes. A key motivation behind the later Bentham's belief in democracy was the view that voting was required to check the tendency of governing elites to favour their own particular interests. It is in response to these "sinister" interests that he proposed parliamentary reforms, since:

it is, that of the thousand persons of thereabouts, on whose will the prosperity of the millions depends, [that] the action of the whole number ...is determined by a particular and sinister interest, on almost all points, standing, and working, in direct opposition to that of the millions.¹¹

- 6 As Schofield identifies, Bentham believed that those same elites also had, and exploited, an ability to manipulate the terms of public discourse:

it was the interest of the ruling few to appeal to 'taste' in order to maintain their dominance over the subject many, and to provide an apparent justification of the oppression which they exercised and from which they benefited.¹²

- 7 Bentham's earlier writing on fallacies reiterates how serious a danger he thought this kind of manipulation posed for public decision making.¹³ Part of his response to this problem was quantitative utilitarianism. He argued in "Rationale of Reward" there was no real qualitative distinction between the pleasure derived from hobbies exalted or decried by society. Citizens who referred to publicly-formed notions of taste of this sort were thus likely to be deceived. Instead, they should rely on their own understanding of their own interests, grounded in direct experience.¹⁴

- 8 At a wider level, if publicly-formed notions of this kind could be manipulated by elites, democratic decisions also needed to avoid the effects of this kind of deception. In part, this is what led Bentham to propose a view of democracy which asked individuals to vote in secret according to their own interests rather than in public according to community interests. Bentham's views on taste, deception, and quantitative utility thus all complement his argument against public voting:

Expose him [the voter] to the public eye... You expose him at the same time to the eyes of some individual or individuals who have an interest of *their own opposite to the interest of the public* and who have it in their power to make you suffer if you do

not give preference to theirs, or what comes to the same thing, an opinion or caprice of theirs.¹⁵

- 9 Public voting thus made the mass of ordinary voters, who by dint of their similarity in circumstance and scale of numbers, had much in common, vulnerable to the influence of relatively small groups in society with different interests. The implication here is that democracy should protect voters from the deceptive influence of the public gaze rather than exposing them to it. Given that Bentham thought public discourse could so easily mislead and deceive citizens, we should perhaps be cautious in assessing suggestions that he believed that such discourse could play a positive role before voting. Indeed, it would be extremely difficult to reconcile a view of this sort with any account of public reason akin to that proposed by Rawls.
- 10 The resources that Bentham provides for any such account of public reasoning are, arguably, less developed than other parts of his democratic theory. The ideas that Bentham puts forward when explaining the role of public opinion, for example, provoke a multitude of questions and relatively few detailed answers. Rosen identifies many of these questions in his definitive analysis of the “Constitutional Code”. Whilst in that text Bentham refers to the Public Opinion Tribunal (POT), a fictitious entity given constitutional status to represent the public interest, he does not explain exactly how we could expect the middle class newspaper proprietors and journalists it involves to represent the interests of the working class. Fundamentally, whilst the POT is said to speak for the public interest, the exact mechanism by which it does so is not fully explained.
- 11 Similarly, the Constitutional Code also contains the optimistic claim that public opinion will achieve complete conformity with the principle of utility, but does not explain how this infallibility will practically be achieved:

Even at the present stage in the career of civilisation, its dictates coincide, on most points, with those of the *greatest happiness* principle... sooner or later they will cease to be discernible; aberration will vanish, coincidence will be complete.¹⁶
- 12 A sense that these claims about the role of public opinion are less developed than much of Bentham’s work is perhaps reinforced by the fact that Bentham, in other texts, vehemently rejects the possibility of claims to infallibility being justified, in the French constitution, Papacy, and elsewhere.¹⁷
- 13 Taken together, these ideas seem to imply that Bentham was a democrat more concerned with the benefits of self-interested voting and democratic institutions than the kinds of deliberative questions considered by contemporary public reason theorists. He spent a vast amount of time elucidating the details of voting procedures and democratic institutions, but left critical questions about pre-voting discussion and public opinion unanswered. These themes, amongst others, have led Bentham scholars to focus on institutional design and constitution-making ahead of the type of public reasoning required before voting. The implication that Bentham was not a “public reason theorist” is common in the secondary literature.
- 14 As an archetypal proponent of a “private utility maximiser” view of voters, Bentham is sometimes portrayed as “a paternalistic utilitarian who wants to employ a corps of civil servants to measure utility and then govern to maximise it”. This is considered at odds with the kind of “free, indeterminate public opinion” associated with public deliberation, and the idea of public reason.¹⁸

- 15 The language used by Bentham scholars reinforces the impression that Benthamite democracy reflects an aggregation of interests rather than public deliberation. When outlining reasons for Bentham's conversion to democracy, for example, Dinwiddie insists that:
- Whenever the joint affairs of a community are not managed by the joint influence, fairly *compounded* of all the orders of which it consists - whenever the small number acquire the whole, or the greater part of the direction of the common interests, they are sure to draw towards themselves the advantages, and thrust upon the multitude the burdens of the social union, to the utmost of their power.¹⁹
- 16 Voting is portrayed as an antidote to the abuse of power by a small number of people in a society; one which *compounds* the joint influence of all through aggregation. Similarly, in Schofield's examination of Bentham's arguments for democratic reform, the question of franchise extension is considered in relation to whether new electors would enhance or diminish the "overall... aggregate aptitude".²⁰ Seen in these terms, voters are more like individual inputs to a democratic equation than participants in deliberation, bound to appeal only to certain types of "public" reasons.
- 17 Unanswered questions about the role of public opinion, an aggregative definition of the public interest, a robust defence of the secret ballot and self-interested voting, quantitative utilitarianism, and a suspicion of public discourse, all contribute to the perception that Bentham did not provide an account of public reasoning before voting, akin to contemporary views of public reason. Below, I examine two scholars who provide some key ideas which could contribute to a Benthamite view of public reasoning.

2. Two exceptions

1. Peter Niesen

- 18 Peter Niesen uses principles from Bentham's corpus to emphasise the potential value of pre-voting discussion. Niesen's argument bases Bentham's "deliberative" credentials on a reading of his understanding of parliamentary discourse.²¹
- 19 Niesen accepts that Bentham defined the interests that should be served by political decisions as the aggregate of individual interests. Despite this, Niesen argues, deliberation, and the principles on which it is conducted, nonetheless play a vital role in Bentham's democratic theory. Deliberative principles, Niesen contends, become vital in a Benthamite democracy precisely because the abstract aggregation of individuals' interests that he sought to complete for so much of his life, was difficult to achieve in practice. In practical terms, therefore, Niesen argues that Benthamite policy makers and citizens should not form policies by reference to abstract felicific calculations. Instead, they should pursue utility through public-spirited deliberation, in practice, akin to that proposed by contemporary deliberative democrats.
- 20 The exchange of ideas and reasons between Benthamite deliberators thus acts as the closest approximation we have to exact utility calculations, because it allows for the interests of each individual to be appropriately considered as part of the public interest. Just as Bentham used an abstract calculus to count the interests of each person equally, so the "right" discursive conditions perform a similar purpose by allowing for each party's needs and preferences to be presented, considered, and judged fairly.

These vital discursive conditions thus help to secure the merits of “well-ordered deliberation” which can consequently “be seen as a functional equivalent to the elusive [felicific] calculus that Bentham had suggested”.²²

- 21 Parliamentary deliberation should aim to mimic the outcomes of a felicific calculus through its procedures. Parliamentary discourse, by presenting relevant information and claims regarding interests, thus puts legislators in a better position to emulate the merits of pure abstract utilitarian calculation of outcomes.
- 22 According to Niesen, Bentham’s analysis of the post-revolutionary French Assembly illustrated his belief in the importance of discussion before voting rather than simply the aggregation of individual votes. In “Political Tactics”, Bentham, like some deliberative democrats, argues that legislators voted more effectively in service of the public interest after well-ordered debate than before it. It was vital, therefore, to allow every assembly member to vote after he had received the benefit of the assembly’s deliberation. The alternative, which required assembly members to vote in sequence after their own contribution would create a final speaker “into whose lap the collected wisdom of the whole assembly is poured in a full tide, sees no one to whom he can give the benefit of illumination but himself”.²³
- 23 It was vital, therefore, to distinguish between deliberation and decision in parliamentary process so that members could consider the merits of contributions to a debate before casting their vote. For Niesen, this critique illustrates Bentham’s belief that deliberation had the capacity to improve representatives’ votes; it enabled decisions which reflected the wisdom gained through prior discourse: “Bentham’s criticism is that the French practice rules out changes of mind on the part of earlier speakers and thereby disadvantages later speakers”.²⁴
- 24 Rather than replacing discussion with aggregation, Bentham’s utilitarianism instead urges us to make use of appropriate modes of discourse in order to reach decisions that best serve the public interest. Bentham’s famous belief that individuals are, in general, motivated by self-interest, thus does not imply that we should merely expect them each to vote according to what benefits them and then aggregate the results to reach the public interest.
- 25 Niesen’s work has the great merit of challenging the idea that Bentham was simply an aggregative democrat with little to contribute to contemporary debates on public reasoning. His reading is largely based on an understanding of “Political Tactics” (PT). As Niesen himself implies there are, however, some significant reasons why this book should not form the cornerstone of an interpretation of Bentham on public reasoning. First, this text could be seen as a less reliable reflection of the author’s views than many other works, because corresponding original manuscripts do not exist to corroborate the published text. It is fair to assume that we may infer an author’s intentions more reliably from works whose publication they oversaw, and from original manuscripts, than from text which has been edited, translated, and retranslated in their absence. “Political Tactics” falls into the latter category: the published version of that work is a re-translation into English from an earlier translation into French by Dumont. It is possible that both the original translation of this text into French, and its subsequent translation and editing back into English, both perfectly reflected Bentham’s views; it is possible that they did not. This caveat does not invalidate any of the arguments the work contains. It should, however, temper the degree of confidence we place in this single work as a reflection of Bentham’s beliefs.

- 26 Second, PT addresses a very specific question. It is not an attempt to prescribe general conditions for useful discussion, nor to explain how citizens should engage in deliberation and voting. Instead, PT provides an examination of how parties do and should behave within the constraints imposed on them by membership of an assembly, and how the design of that body should be adjusted to work in the interests of the community. We cannot, therefore, extrapolate from passages in PT to reach more general conclusions about public reasoning. To do so could lead to a view that citizens should follow assembly members and consider the public interest before voting. This would be an extremely troubling interpretation of Bentham. As some of the references above demonstrate, he argued vehemently that considering the public interest when voting was both unnecessary and dangerous.²⁵
- 27 Given the significant differences between Bentham's arguments for parliamentary and public discourse, there are few reasons to believe that parliamentary principles put forward in PT can reliably be applied to a public context. Consider how fundamentally different public discourse as advocated in the "Constitutional Code" is from parliamentary discourse advocated in PT. In the former, the Public Opinion Tribunal is defined as having an unlimited, open membership and an open agenda because its ends are public. In contrast, only assembly members are assumed to take part in the deliberations outlined in PT. While a fascinating reference point for various debates, therefore, Niesen's contribution does not readily suggest grounds for a Benthamite equivalent to contemporary public reason accounts.

2. Oren Ben-Dor

- 28 Like Niesen, Oren Ben-Dor also provides potential foundations for a Benthamite view of public reasoning. Below, I briefly outline his view then a challenge to it.²⁶
- 29 Ben-Dor's interpretation emphasises the ability of Benthamite citizens to reach consensus. He cites Bentham's various references, for example in the "Constitutional Code", to his expectation that individuals discussing political questions in clear language would ultimately reach agreement. The Public Opinion Tribunal (POT) has a crucial role in making this consensus possible. The POT was a fictitious entity, formally recognised in Bentham's constitutional writing. It provided a significant check against abuses of political power:
- he [the King] may kill any person he pleases, violate any woman he pleases; take to himself or destroy any thing he pleases. Every person who resists him...is, by law, killable... Yet, without the form of an act of parliament he does nothing of all this. Why? Because of the power of the Public Opinion Tribunal.²⁷
- 30 The Tribunal's main functions were "statistic", "censorial", "executive" and "melioration-suggestive". It should collect information, question the utility of proposals, punish and reward officials, and suggest alternatives where appropriate. The version of the POT proposed in the "Constitutional Code" had a universal membership, and proposes no literacy or other qualification.²⁸
- 31 It followed from Bentham's utilitarianism that public discourse should take place regarding utilitarian ends, namely the harms and benefits that different pieces of legislation would be likely to create. Since he believed that the rightful ends of political action concerned the pleasures and pains they created, it followed that the rightful object of political discourse should also be a form of instrumental reasoning,

considering prospective pleasures and pains, and the probabilities of them being realised. By making use of this basis for public discourse, citizens could make agreement possible and facilitate future agreements.²⁹

- 32 Ben-Dor's reading of the POT goes beyond this, however. Public discourse, following the principles set out in the POT, does not produce consensus by some happy accident, or the fact that previously self-interested citizens consciously choose to forsake their own interests for the public interest. Instead, the process is itself geared towards consensus. It helps to produce agreement by creating an identification of interests between the individuals in a community and the community at large. Rather than simply allowing consensus to emerge from discourse, therefore, Ben-Dor's interpretation instead references Bentham's extensive writing on persuasion and incentives. Pre-voting discourse between citizens as part of the POT therefore operationalises individuals' ability to judge public ends in concert while still being motivated by a concern for self-interest. When this form of public reasoning has successfully taken place, self-interested individuals will consider "what is good for me?", and produce answers which also serve the community at large.
- 33 This alignment of interests is achieved through an "intersubjective consensus" regarding public decisions.³⁰ Individuals co-ordinate themselves through the kind of utilitarian reasoning which follows from Bentham's ethical theory. By discussing the possible consequences of various political decisions (the possible benefit or harm which might result from different possible outcomes), they begin to equate the terms of their own welfare with those of the whole community. Public opinion aligns individual and community interests by providing a disincentive for individuals to behave in ways which damage the public good. Just as Bentham believed that a wise legislator should use "direct legislation" to impose punishments that deter crimes which harmed the public interest so, too, could public opinion be used to encourage citizens to think of their own interests in ways which serve the public interest. A community might, for example, encourage the perception amongst peers that it is in one's own interests to hold and discharge responsibilities towards others, to vote, to donate to charity, to vote in elections, or volunteer for good causes.
- 34 Beliefs like these were to be encouraged through the "moral sanction" which, according to Ben-Dor, Bentham believed could be deployed by public opinion to provide approval for useful beliefs and actions. This sanction was an important aspect of how Bentham believed self-interested individuals could be encouraged to act in socially useful ways. For this reason Bentham, in the "Table of the Springs of Action", explicitly acknowledged the importance of the principle of sympathy which motivates individuals to help others. When allied to rationally justified moral norms, expressed through public opinion, "love of justice" could be a powerful tool to promote utility, and may include:
- desire for self-preservation (if justice involves the individual concerned);
 - sympathy for someone suffering injustice, now or in the future;
 - antipathy toward someone profiting from, or causing, injustice.³¹
- 35 Just as an egoist might act on her "love of justice", so she might also act on a desire for public approval. A self-interested individual considering a practice which will harm the public good must thus consider the disapproval she will receive from the community. As "someone profiting from, or causing injustice" she will be subject to "antipathy" from the community and experience pain, and the absence of pleasure as a result. For

this reason, it could be in her self-interest to abstain from actions which harm the public good if this is what the moral sanction, expressed through public opinion, dictates. Just as Adam Smith believed that the sentiment of sympathy could promote moral behaviour, analogously, the (dis)approval of the community can materially shape a Benthamite citizen's interests.³²

- 36 If repeated consistently and persistently, this process could help to shape an individual's conception of her own interests. The approval of her peers therefore provides the individual with an incentive to gradually conform her preferences to the public utility, because only by doing so could she also gain the public approval from which she derives further utility. In his earlier writing, Bentham called this provision of incentives "indirect legislation". Whilst direct legislation was concerned with the punishment of harmful actions through prosecution, indirect legislation shaped behaviour of beneficial actions through non-legal means. It was a powerful tool placed in the hands of the legislator; a "subtle engineering of conduct based on the understanding of the motives for action, in order to manipulate...an individual's perception of what is his or her best interest".³³ A public-spirited legislator could thus use indirect legislation in pursuit of the public interest whilst also satisfying the self-interest of individuals in a community. Through the course of his career, however, Bentham lost faith in the ability of those with power to effectively use mechanisms like indirect legislation to promote the public interest. Although the early Bentham believed that an enlightened legislator could help to achieve optimal outcomes through such means, the later Bentham was intensely distrustful of political elites. His belief that they were often self-serving rather than public-spirited became a central theme in Bentham's political thought.
- 37 Consequently, Ben-Dor argues that the Public Opinion Tribunal utilises a power akin to indirect legislation, and places it in the hands of the public rather than their governors. He uses the "Constitutional Code", and the role of the Public Opinion Tribunal (POT) within it, to conceptualise this role. The POT allows citizens to mutually shape the social environment against which their incentives are determined, and makes agreement possible in the process.
- 38 Using this view as a starting point, effective public reasoning could, therefore, encourage the development of a group of egoists who genuinely believe that their own interests are served by performing actions that help the community. It would encourage consensus on the consequences of political decisions which are harmful or beneficial. Doing so required the involvement of an unlimited group of participants. Together, their contributions would reflect the public interest rather than particular interests. The POT could not, therefore, be constituted by political parties or other sectional groups. Instead, Ben-Dor's Bentham gives the tools required to shape citizens' incentives, through the moral sanction, to a public unencumbered by party loyalties.³⁴ This group would thus engage in a dynamic process to evaluate laws and proposals and create new incentives for fellow citizens.
- 39 According to Ben-Dor the Public Opinion Tribunal was, therefore, the means by which Bentham believed utilitarian consensus could be formed through an alignment of individual interests which was influenced by the public at large rather than their representatives. It did so by acknowledging the utility that individuals derived from public approval.

- 40 Using this argument, we could understand the role and function of public reasoning in Benthamite political theory in the same terms: it is a process which serves the public interest by promoting its convergence with the self-interest of citizens in a community and seeks to identify and explore the utilitarian harms and benefits concomitant with various courses of political action.
- 41 Ben-Dor's is an elegant interpretation which unifies Bentham's writing on motivation and language with important aspects of his constitutional writing. Having outlined relevant aspects of Ben-Dor's argument, below I raise some challenges for this thesis as a basis for a Benthamite approach to public reasoning. Overall, in constructing a subtle and sophisticated set of arguments, Ben-Dor risks departing from some vital democratic principles that Bentham wanted to preserve.
- 42 Like Niesen, Ben-Dor's argument implies that individual interests should, through or in discussion, be directed towards the public interest. As we have seen, an essential element of Bentham's democratic views was the contention that individuals' votes, as reflections of self-interest, need to be protected from putative public interest claims rather than exposed to them. Given the stridency and consistency with which he argued for the secret ballot, it is difficult to believe that Bentham would have considered a process of consensus-seeking public-interested deliberation any more favourably than he did public voting. The objections to a view based on Niesen's reading of "Political Tactics" thus apply to Ben-Dor's interpretation of the "Constitutional Code".
- 43 Ben-Dor's view that public opinion should be used to reshape individuals' conception of their own interests is also in tension with Bentham's view of sinister interests and deception. Bentham's work on taste, suspicion of public discourse as an accurate reflection of the public interest, and his work on fallacies, suggest that a process like that proposed by Ben-Dor could easily be manipulated. Thus, while individuals participate in the POT with the motivation of self-interest,³⁵ the terms of debate may in fact reflect warped (sinister) perceptions of public interest. Individuals' understanding of their own interests could thus be distorted through apparent consensus if the terms of debate were imperfect. Indeed, Bentham argued that deception of this sort could substantially diminish the ability of public opinion to play even the more modest role of providing a check against misdemeanours:
- The efficacy of the public hate, considered as a constraint against mis-deeds, depends upon its being its being constantly and exclusively allied with the real injury of the public... and never upon any mistaken or imaginary alarms, Whatever... tends to make men hate that which does not actually hurt them, contributes to distort or disarm public opinion, in its capacity of a restraint upon injurious acts.³⁶
- 44 Thus, Ben-Dor's view risks promoting a false kind of consensus; an agreement manipulated to favour the interests of some within a community, because it conceives of the POT as an engine for producing agreement by changing individual interests. There is thus a tension between the expectation of a consensus – through discourse – produced by the POT that Ben-Dor describes and two themes in Bentham's thought which will be familiar from the arguments above. First, Bentham believed that such discourse could often be manipulated to favour the sinister interests of a ruling elite. Second, he argued that the negation of these sinister interests was a fundamental justification for democracy. The negation of sinister interests "in direct opposition to that of the community at large... supported by powers adequate to the accomplishment

of all its purposes” is fundamental to Benthamite democracy,³⁷ and Ben-Dor’s view cultivates rather than repels those sinister interests.

- 45 Alongside these substantive challenges to Ben-Dor, there is a linguistic one. Throughout “Constitutional Limits and the Public Sphere”, he repeatedly attributes a belief in “utilitarian consensus” to Bentham. The “Constitutional Code” is used as evidence for this. Ben-Dor is right to acknowledge that Bentham anticipated agreement between citizens who reason clearly together, and believed that much disagreement was the result of the use of unclear, non-utilitarian terms of debate which obfuscated relevant interests, as the arguments on fallacies suggest.
- 46 It is misleading, however, to describe this agreement as a fully-fledged “consensus”. Bentham never used that term; throughout all available texts from the “Constitutional Code”, he refers only to the possibility of agreement rather than consensus. This distinction might appear trivial. The term “consensus” in contemporary political theory has, however, a number of connotations that Bentham would have been unlikely to subscribe to. Rawlsian consensus, for example, conveys not merely that citizens agree a response to “fundamental political decisions”³⁸ but that they do so for the *same*, shared reasons. All other things being equal, Bentham would have no reason to necessarily prefer an agreement reached on political principles as a “modus vivendi” (in Rawls’ terms) to one reached for shared reasons. In contrast, Rawls sees this difference as fundamental to his conception of public reasoning whereby principles “initially accepted for instrumental gain... [become] an essential part of individuals’ worldview”.³⁹ Of course, for Bentham, instrumental gain is a fully legitimate reason for reaching agreement.
- 47 There is little in the “Constitutional Code” (CC) to suggest that Bentham intended his references to agreement to convey adherence to something similar to this kind of full consensus for the “right”, i.e. shared, reasons. The term “consensus” appears nowhere in his vast body of work, and was in fact popularised in the nineteenth century, after his death. The attribution of a contemporary term like “consensus” to Bentham thus risks projecting onto his work assumptions and beliefs regarding deliberation that he was unlikely to have held.

Conclusion

- 48 I have outlined some reasons why Bentham has been considered to emphasise the aggregation of votes over public reasoning as a means to reaching effective democratic decisions. Foremost amongst these are his argument in favour of the secret ballot, aggregative definition of the public interest, views on taste, suspicion of public discourse, and determination to check sinister interests.
- 49 Two contemporary views have been examined which provide grounds for a Benthamite view on this question. While there is great merit in each of these interpretations, I have argued that both face significant challenges. Importantly, an understanding of public reasoning along the lines described is likely to be in tension with Bentham’s argument that exposing individual voters to public scrutiny would be both unnecessary and dangerous.
- 50 In considering the extent to which Bentham’s work provides grounds for an account of public reasoning, we should not depart from principles which were critically important

to his view of democracy. The themes described in the first part of this paper limit, but need not eradicate, scope for a Benthamite view of public reasoning.

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NOTES

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15. Bentham, J., RRR p. 431 (italics added).
16. Bentham, J. *Constitutional Code*, p. 36.
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ABSTRACTS

Bentham's democratic theory is often understood in relation to his belief that an aggregation of individuals' votes will ultimately reflect the public interest. As a result, scholars have historically paid more attention to the design of Benthamite institutions which reflect this aggregative notion of the public interest rather than to the character of public deliberation before voting. This article examines two contemporary exceptions to that trend: Peter Niesen and Oren Ben-Dor. Both present a potentially rich understanding of public reasoning using "Political Tactics" and the "Constitutional Code" respectively. I outline a challenge to each. First, whilst Niesen acknowledges the value of well-ordered deliberation within an assembly, his reliance on

“Political Tactics” in doing so limits the scope of his argument. As Niesen himself implies, the subject matter and provenance of this work necessarily limit the extent to which it can justify conclusions about Bentham’s views on public reasoning. Second, Ben-Dor’s original and compelling view makes innovative use of much of Bentham’s writing on persuasion and the provision of incentives to individuals by their community. His argument that a form of public reasoning helps to shape a “utilitarian consensus”, however, neglects the fact that Bentham never used that particular term. In addition, this type of consensus runs counter to Bentham’s more fundamental democratic views. Given Bentham’s work on fallacies and deception, the expectation of consensus risks promoting the kind of manipulated agreement, fuelled by the influence of elites, that he wanted democracies to avoid. Both of these readings should thus be welcomed as a departure from the historical implication that Bentham was an aggregative democrat with little to offer our understanding of public reasoning. For the reasons stated, however, an understanding of Bentham’s views on public reasoning based on either Ben-Dor’s or Niesen’s arguments must also be contested. This leaves open the possibility that an alternative view could be discerned which responds to the challenges outlined.

Selon une lecture classique, la théorie benthamienne de la démocratie est fondée sur le principe du principe selon lequel l’agrégation des suffrages individuels reflète l’intérêt public. C’est pourquoi les commentateurs ont en général porté leur attention sur la façon dont le vote réalise l’agrégation des intérêts individuels plutôt que sur les délibérations publiques qui précèdent le vote. Récemment, Peter Niesen et Oren Ben-Dor ont pourtant étudié les processus de délibération collective chez Bentham. Cet article pointe des difficultés avec ces deux approches. D’une part, en s’appuyant principalement sur la *Tactique des Assemblées législatives*, P. Niesen limite la portée de sa démonstration. L’analyse originale d’O. Ben-Dor prend en compte les écrits de Bentham sur la persuasion et les pressions exercées par la communauté sur les individus pour montrer comment se constitue un « consensus utilitariste » dans une société politique donnée. Pourtant, il néglige le fait que Bentham ne parle jamais de « consensus », et que cette idée même est contraire à ses idéaux démocratiques. En effet, Bentham dénonce à plusieurs reprises l’influence manipulatrice exercée par les élites et cherche à en briser les mécanismes. Faut-il faire de Bentham l’un des penseurs de la délibération publique, au risque d’occulter des aspects importants de sa théorie démocratique ?

INDEX

Keywords: Bentham, deliberation, public reasoning, aggregative democracy, public interest

Mots-clés: Bentham, délibération, raisonnement public, démocratie agrégative, intérêt public

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