

## WILLIAM GODWIN ON THE MORALITY OF FREEDOM

Robert Lamb<sup>1,2</sup>

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**Abstract:** This article argues that a commitment to individual freedom plays a crucial role in William Godwin's utilitarian political theory. In his *Enquiry Concerning Political Justice*, Godwin argues that morality is grounded not in rights but rather in duties and that each individual has a constant obligation to act in the way most conducive to the general good. Yet, despite this apparently strict act-utilitarianism, he does defend one key individual entitlement: the right to a sphere of discretion in which agents can exercise their own private judgment, a right that directly informs Godwin's critique of various social and political institutions. I argue that though his defence of individual freedom is an ultimately utilitarian one, its value is not contingent on consequentialist calculations.

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### I

The belief that utilitarianism is incapable of accommodating individual liberty is widely shared by political philosophers. It is frequently alleged that Jeremy Bentham's version entails the inevitable sacrifice of individual freedom at the altar of general happiness because of its agent-relativity.<sup>3</sup> At the same time, John Stuart Mill's somewhat perfectionist alternative is often regarded as one that leaves no room for meaningful freedom, since it appears openly to regard some sorts of human behaviour as superior to others.<sup>4</sup> My aim is to outline another, often overlooked (and significantly different) utilitarian defence of individual freedom: that advanced by eighteenth-century British 'radical' philosopher William Godwin in his *Enquiry Concerning Political Justice*.<sup>5</sup>

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<sup>2</sup> Dept. of Politics, Amory Building, University of Exeter, Exeter, Devon EX4 4RJ. Email: r.lamb@ex.ac.uk

<sup>3</sup> For a recent denial of this well-worn charge, see Frederick Rosen, *Classical Utilitarianism from Hume to Mill* (London, 2003).

<sup>4</sup> It is often claimed that Mill's impassioned defence of freedom and individuality in *On Liberty* is glaringly inconsistent with his identification of 'higher' pleasures in *Utilitarianism*. See, for example, C.L. Ten, *Mill on Liberty* (Oxford, 1980).

<sup>5</sup> *Political Justice* was first published in 1793, but then republished with significant revisions in 1795 and again with further tinkering in 1797. My analysis focuses on the third edition, which appears to represent the most coherent and systematic expression of a utilitarian political theory. Whether or not Godwin actually counts as a utilitarian thinker is a matter of some dispute. Older historical accounts of utilitarianism do include him as a prominent figure in its development — for example Leslie Stephen, *The English Utilitarians* (London, 1900), Elie Halévy, *The Growth of Philosophical Radicalism*

In the preface to *Political Justice*, Godwin describes his arguments as ‘ill suited to answering a temporary purpose’, aimed instead at uncovering ‘immutable truth’.<sup>6</sup> Despite this claim, he did later admit that his text was, in many respects, ‘a child of the French Revolution’.<sup>7</sup> Thus, although *Political Justice* is the culmination of a complex intellectual heritage — indebted to the *philosophes*, Epicureanism and Rational Dissent — it is also a contribution to the British ‘debate’ on the French Revolution and a response to the tumultuous political circumstances of the 1790s.<sup>8</sup> Godwin and his contemporaries bore witness to a raft of draconian legislation passed by William Pitt’s Tory government that explicitly aimed to vanquish an alleged threat to national security posed by an enemy within: in this case that of ‘republicans’ and ‘levellers’.<sup>9</sup> The repressive measures included the intermittent suspension of habeas corpus, the curtailment of public meetings, the censorship of the utterance of ‘seditious words’ in either political pamphlets or private

(London, 1952) and John Plamenatz, *The English Utilitarians* (London, 1958). Recent scholarship has, however, been more divided on the matter. Among those who regard Godwin as a utilitarian are D.H. Monro, *Godwin’s Moral Philosophy: An Interpretation of William Godwin* (London, 1953); John P. Clark, *The Philosophical Anarchism of William Godwin* (Princeton, 1977); Don Locke, *A Fantasy of Reason: The Life and Thought of William Godwin* (London, 1980); Peter H. Marshall, *William Godwin* (London, 1984). Those who contest this interpretation include F.E.L. Priestly, in the introduction to his edition of the *Enquiry Concerning Political Justice* (Toronto, 1946); William Stafford, ‘Dissenting Religion Translated into Politics: Godwin’s Political Justice’, *History of Political Thought*, I (2) (1980), pp. 279–99; and Mark Philp, *Godwin’s Political Justice* (Ithaca, 1986), esp. ch. 4. Most of the arguments against a utilitarian interpretation privilege the role of Godwin’s early intellectual immersion in the tradition of Rational Dissent. Philp in particular stresses this and contends that it is only through placing Godwin in this context that we can make sense of Godwin’s commitment to a ‘right of private judgement’. Philp is willing to concede that the dominant influence of the Dissenting tradition in the first edition gives way to a thoroughgoing rule-utilitarianism by the second (pp. 157–9), though he does maintain that Godwin ‘can hardly be said to offer this sophisticated form of utilitarianism as a sophisticated form of utilitarianism’ (p. 159).

<sup>6</sup> William Godwin, *Enquiry Concerning Political Justice and its Influence on Morals and Happiness* (1798), ed. F.E.L. Priestly (Toronto, 1946), Vol. I, p. xvii.

<sup>7</sup> This description was added reflectively in Godwin’s ‘Thoughts Occasioned by Dr. Parr’s Spital Sermon’ (1801), in *Uncollected Writings by William Godwin (1785–1822)*, ed. J.W. Marken and B.R. Pollin (Gainesville, FL, 1968). In the preface to the first edition of *Political Justice*, he reveals that ‘of the desirableness of a government in the utmost degree simple he was not persuaded but in consequence of ideas suggested by the French Revolution’, Vol. I, p. x.

<sup>8</sup> Mark Philp’s *Godwin’s Political Justice* provides a richly detailed analysis of the different philosophical contexts within which *Political Justice* can be understood. See chs. 1–3 for a discussion of the main influences on Godwin’s intellectual development, which argues that Rational Dissent was the most significant and enduring.

<sup>9</sup> The most significant government-sponsored loyalist organization was the John Reeves ‘Association for the Protection of Liberty and Property against Republicans and Levellers’.

conversations and the recruitment of a network of government spies, which duly peopled coffee houses and taverns in search of the so-called ‘friends of liberty’.<sup>10</sup> Such developments, which Godwin described as ‘alarming encroachments upon our liberty’, inspired the writing (and revision) of *Political Justice* for the ‘panic struck’ British public of the 1790s.<sup>11</sup>

## II

Given such political circumstances, it is perhaps not particularly surprising that a defence of individual freedom is at the heart of Godwin’s political theory, albeit in a quite different way from those of his immediate contemporaries. In 1790s Britain there was a spectacular revival of natural rights political arguments, which began with the veteran Dissenter Richard Price’s infamous ‘Discourse on the Love of Our Country’ (1789), a tubthumping sermon that, though ostensibly intended to celebrate the ‘Glorious Revolution’ of 1688, was evidently inspired by the French Revolution. The aspect of Price’s sermon that loomed largest in Edmund Burke’s notoriously apoplectic response, *Reflections on the Revolution in France* (1790), was the assertion that 1688 had actually established three fundamental rights for the people of England: ‘the right to chuse our own governors; to cashier them for misconduct; and to frame a government for ourselves’.<sup>12</sup>

Part of Burke’s refutation of this claim rested simply on an interpretation of the events themselves which, he argued, failed to vindicate Price’s assertion of rights.<sup>13</sup> However, another key aspect of Burke’s refutation of Price’s argument was his suggestion that the sovereignty of British governments was something bequeathed from past political tradition; something *inherited*. In one particularly memorable passage, Burke declares that

... from the Magna Charta to the Declaration of Right, it has been the uniform policy of our constitution to claim and assert our liberties, as an *entailed inheritance* derived to us from our forefathers, and to be transmitted to our posterity . . . We have an inheritable crown; an inheritable peerage; and

<sup>10</sup> For a particularly vivid and illuminating account of the context surrounding government legislation in the 1790s and the responses to it, see John Barrell, *Imagining the King’s Death: Figurative Treason, Fantasies of Treason, 1793–1796* (Oxford, 2000).

<sup>11</sup> Godwin, *Political Justice*, p. xii.

<sup>12</sup> Richard Price, ‘A Discourse on the Love of Our Country’, in *Political Writings of the 1790s: Volume 3*, ed. G. Claeys (London, 1995), p. 16.

<sup>13</sup> Burke’s pronouncement was rather that ‘[s]o far is it from being true, that we acquired a right by the Revolution to elect our kings, that if we had possessed it before, the English nation did at that time most solemnly renounce and abdicate it, for themselves and for all their posterity for ever’. E. Burke, *Reflections on the Revolution in France* (Harmondsworth, 1968), p. 104; see also pp. 99–100.

an house of commons and a people inheriting privileges, franchises, and liberties, from a long line of ancestors.<sup>14</sup>

It is not merely the fact that 1688 failed to establish inalienable individual rights against 'our governors'; the contention is rather that government is something that is legitimately threaded through history in hereditary succession.<sup>15</sup> It is this second aspect of Burke's argument — the case for the moral rightness of hereditary political institutions — that Thomas Paine then attempted to comprehensively undermine in his *Rights of Man*, published in 1791. When making his case against the justification of political authority on hereditary grounds, Paine advances a theory of sovereignty that is both limited and conditional: he argues that past constitutional agreements cannot have any lasting authority, since this would give the dead authority over the living. Instead, 'every age and generation must be as free to act for itself, *in all cases*, as the ages and generations which preceded it'.<sup>16</sup> Therefore, even if Burke's interpretation of the meaning of the Glorious Revolution were, as a matter of fact, a reliable one, it still has no authority over or bearing on contemporary political issues.

Paine endorses the three rights cited by Price (as well as several others) and, crucially, does not care whether they were actually established by a particular historical incident or not. But he does not spend much time furnishing these individual rights with any comprehensive or detailed justification. For Paine, individuals have rights simply by virtue of their membership of the moral universe, which is constituted by all 'living' human beings. All individuals are holders of natural rights, some of which become civil rights after the establishment of a social contract and the rest of which are retained to be held against government and other agents.<sup>17</sup> Rights-based moral and political arguments became increasingly dominant in the political writing of British radicals — such as Thomas Spence, Mary Wollstonecraft and John Thelwall — throughout the decade.<sup>18</sup>

<sup>14</sup> *Ibid.*, p. 119.

<sup>15</sup> Burke's defence of inheritance seems to rely on what modern philosophers refer to as the 'naturalistic fallacy', the derivation of a moral 'ought' from a factual (and thus non-moral) 'is'. His response to such a charge would probably be to suggest that the very concept of a naturalistic fallacy is a dangerous abstraction.

<sup>16</sup> Thomas Paine, 'Rights of Man, Part One', in *The Complete Works of Thomas Paine*, ed. Philip S. Foner (New York, 1969), Vol. I, p. 251.

<sup>17</sup> *Ibid.*, pp. 275–7.

<sup>18</sup> This is not to say that all natural rights arguments in the 1790s were Paineite. For discussions of the prominence of rights theories and of the various languages of political argument in the 1790s, see Iain Hampsher-Monk, 'John Thelwall and the Eighteenth-Century Radical Response to Political Economy', *The Historical Journal*, 34 (1991), pp. 1–20; Iain Hampsher-Monk, 'On Not Inventing the British Revolution', in *British Radicalisms*, ed. M. Festenstein and G. Burgess (Cambridge, 2005); G. Claeys, 'The French Revolution Debate and British Political Thought', *History of Political Thought*,

For Paine, it is not only individuals who are holders of rights but also national political communities. His subsequent reputation as a cosmopolitan political thinker and ‘citizen of the world’ has often eclipsed the important (and problematic) role that nationhood is given in the first part of *Rights of Man*.<sup>19</sup> Herein, he explicitly defines sovereignty as something that is located in a ‘nation’, which ‘has at all times an inherent, indefeasible right to abolish any form of government it finds inconvenient’.<sup>20</sup> Furthermore, he asserts that it is the first three articles of the French Declaration of the Rights of Man that encapsulates the ‘basis of liberty’.<sup>21</sup> The third article importantly stipulates that it is ‘the nation’ that ‘is the source of all sovereignty’ and that no ‘*individual or . . . body of men* [are] entitled to any authority which is not expressly derived from it’.<sup>22</sup> This idea of nationhood in which Paine invests so heavily is also invoked in his critique of Burke.

In fact, it is rarely remarked upon that Paine upbraids Burke not only for the content of his attack on the French Revolution, but also for actually having launched the attack in the first place. Burke is not only mistaken in his defence of the rights of the dead over the living, he is mistaken in thinking it his business to interfere with the rights of a nation. By placing such importance on the sovereignty embodied by (and rights contained) in a ‘nation’, Paine is able to reject Burke’s specific arguments concerning events in France. In other words, as well as dismissing the substance of *Reflections* as ‘an outrageous abuse on . . . the principles of Liberty’,<sup>23</sup> he also rejects the notion that Burke’s opinion could ever be of any relevance to the French.<sup>24</sup>

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XI (1990), pp. 59–80; G. Claeys, ‘The Origins of the Rights of Labor: Republicanism, Commerce, and the Construction of Modern Social Theory in Britain, 1796–1805’, *Journal of Modern History*, 66 (1994), pp. 249–90; Mark Philp, ‘The Fragmented Ideology of Reform’, in *The French Revolution and British Popular Politics*, ed. M. Philp (Cambridge, 1991); M. Philp, ‘English Republicanism in the 1790s’, *The Journal of Political Philosophy* (1999), pp. 235–62. For a discussion of the particularly complex case of Mary Wollstonecraft, see Lena Halldenius, ‘The Primacy of Right: On the Triad of Liberty, Equality, and Virtue in Wollstonecraft’s Political Thought’, *British Journal for the History of Philosophy* (forthcoming).

<sup>19</sup> For a discussion that stresses his cosmopolitan credentials, see Ian Dyck, ‘Local Attachments, National Identities and World Citizenship in the Thought of Thomas Paine’, *History Workshop Journal*, 35 (1993), pp. 117–35.

<sup>20</sup> Paine, ‘Rights of Man’, p. 341.

<sup>21</sup> *Ibid.*, p. 316.

<sup>22</sup> *Ibid.*, p. 314.

<sup>23</sup> *Ibid.*, p. 245.

<sup>24</sup> ‘Neither the people of France nor the national assembly were troubling themselves about the affairs of England or the English parliament; and why Mr. Burke should commence an unprovoked attack upon them, both in parliament and in public, is a conduct

## III

The political theory outlined by Paine in *Rights of Man* in many ways typifies the sort of rights-based arguments that dominated British radicalism in the 1790s and Godwin's political thought stands out as a rejection of such arguments. He denies outright any attempt to situate rights in the opinion or will of a nation on the grounds that such an argument is nothing more than moral relativism — 'nation' is, he claims, 'an arbitrary term' of no ethical significance.<sup>25</sup> It follows from this that the 'voice of the people' can never justify a particular government because popularity provides no guarantee against 'absurdity and injustice': 'universal consent' does not have the power to 'convert wrong into right'.<sup>26</sup>

Godwin suggests that Paine has been 'misled by the vulgar phraseology'<sup>27</sup> circulating on the issue of individual liberty. This 'vulgar phraseology' is clearly the language of natural rights, the 'confused' underpinnings of which Godwin aims to 'explode'.<sup>28</sup> 'Few things' he suggests, 'have contributed more to undermine the energy and virtue of the human species than the supposition that we have a right . . . to do what we will with our own'.<sup>29</sup> For Godwin, rights are not axioms from which morality is to be derived. 'Morality' is rather

Nothing else but that system which teaches us to contribute upon all occasions, to the extent of our power, to the well-being and happiness of every individual and sensitive existence.<sup>30</sup>

This seems to be an unambiguous statement of act-utilitarianism, one that would seem necessarily hostile towards inviolable individual rights.

Godwin appears particularly scornful of rights of free association and free speech. 'According to the usual sentiment', he observes

Every club assembling for any civil purpose, every congregation of religionists assembling for the worship of God, has a right to establish any

that cannot be pardoned on the score of manners, nor justified on that of policy.' *Ibid.*, p. 249.

<sup>25</sup> Godwin, *Political Justice*, I, p. 258. See also *ibid.*, p. 220 for further discussion of this point.

<sup>26</sup> *Ibid.*, p. 165.

<sup>27</sup> *Ibid.*, p. 164. Godwin and Paine were allied politically by their enthusiasm for the French Revolution, but were never especially close. Godwin remained a keen admirer, citing Paine as 'an acute and original author' in *Political Justice* (p. 164). It has often been suggested that Godwin directly assisted with the publication of Paine's *Rights of Man* in 1791, when publisher Joseph Johnson backed out of it due to its (correctly) presumed inflammatory nature. See Marshall, *William Godwin*, pp. 80–1. The possibility of this has, however, been challenged by Mark Philp, 'Godwin, Holcroft and the Rights of Man', *Enlightenment and Dissent*, I (1982), pp. 37–42.

<sup>28</sup> Godwin, *Political Justice*, I, p. 158.

<sup>29</sup> *Ibid.*, p. 161.

<sup>30</sup> *Ibid.*, p. 159.

provisions or ceremonies, no matter how ridiculous or detestable, provided they do not interfere with the freedom of others.<sup>31</sup>

On the contrary, he contends that

If a congregation of men agree universally to cut off their right hand, to shut their ears upon free enquiry, or to affirm two and two . . . to be sixteen, in all these cases they are wrong, and ought unequivocally to be censured for usurping an authority that does not belong to them.<sup>32</sup>

The demolition of individual rights in this passage appears again to have a bluntly act-utilitarian basis. The reason that individuals are not permitted the freedom to ‘shut their ears’ is that they have, at all times, a moral duty to engage in critical enquiry and think for themselves. This idea of a duty of critical enquiry features prominently in Godwin’s critique of Paine’s rights-based political arguments. As noted above, Paine argues that one entailment of the sacredness of national sovereignty is that non-nationals have no right to opine on internal political issues — thus Burke has no right to pass comment or criticism on the activities of the French. Godwin dismisses Paine’s argument out of hand and asserts instead that ‘the most insignificant individual ought to hold himself free to animadvert upon the decisions of the most august assembly’.<sup>33</sup> Moreover, ‘other men are bound in justice to listen to him, in proportion to the soundness of his reasons, and the strength of his remarks’ rather than on the basis of irrelevant factors such as nationality.<sup>34</sup> For Godwin, therefore, Paine is thoroughly misguided in his rebuke of Burke’s *act*. But it is not merely the case that individuals like Burke simply ought *to be able* to animadvert freely, rather they *ought* to animadvert freely — it is an activity to which they are bound by the demands of justice. It is for this same reason that no individual has a right to ‘shut their ears upon free enquiry’.

As Godwin is keenly aware, in order for an agent to fulfil a moral duty, that person must logically have a ‘right’ to do so. In order to accommodate such logic, he draws a distinction between ‘active’ rights and ‘passive’ rights. The difference between these two rights is not explicable in terms of degree: it is not, for instance, the Hohfeldian distinction between a ‘claim right’ and a ‘privilege’ or ‘liberty’: both active and passive rights are claim rights, since both generate a duty of forbearance in others.<sup>35</sup> The difference is instead a matter of justification. Active rights are claimed to be self-justifiable individual freedoms and as such are ‘superseded and rendered null by the superior

<sup>31</sup> *Ibid.*, p. 164.

<sup>32</sup> *Ibid.*, p. 166.

<sup>33</sup> *Ibid.*, p. 165.

<sup>34</sup> *Ibid.*, pp. 165–6.

<sup>35</sup> In his ‘Summary of Principles, Godwin defines a ‘right’ as ‘the claim of the individual to his share of the benefit arising from his neighbours’ discharge of their several duties’ a claim that ‘is either to the exertion or the forbearance of his neighbours’. *Ibid.*, p. xxv.

claims of justice'.<sup>36</sup> Such rights ignore the fact that 'every one of our actions fall within the province of morals' and thus that 'we have no rights in relation to the selecting of them'.<sup>37</sup> For Godwin, the nature of justice is such that 'we have in reality nothing that is strictly speaking our own'.<sup>38</sup> He is infamously ruthless in the application of this insight and demands that individuals devote their 'talents' 'understanding', 'strength' and 'time' for 'the production of the greatest quantity of general good'.<sup>39</sup> As he holds this utilitarian attitude towards morality and regards the idea of active rights to be 'the offspring of ignorance and imbecility',<sup>40</sup> it is unsurprising that he flatly dismisses the notion that individuals can be said to hold a right to 'personal liberty'.<sup>41</sup> Such a right would seem to permit individuals to engage in actions of their own choosing, which would be likely to conflict with the demands of general utility: 'there cannot be a more absurd proposition than that which affirms the right of doing wrong'.<sup>42</sup> So, individuals have no active rights.

Unlike what Godwin regards as self-justifiable active rights, passive rights have a utilitarian justification: they are rights that derive their normative force from prior obligations. Godwin endorses two different passive rights. The first is an entitlement to a 'sphere of discretion', within which each individual 'has a right to expect shall not be infringed by his neighbours'.<sup>43</sup> Within such a sphere, 'it is necessary that every man should stand by himself, and rest upon his own understanding' when it comes to deciding on a particular course of action: individuals must always be ensured this certain area of liberty.<sup>44</sup> The reason for this entitlement is that individuals have a fundamental 'right to private judgement'. The precise scope of the discretion demanded by this right is somewhat ambiguously defined. Notably, an individual's right to discretion fails to generate a corresponding duty in others to leave them completely alone whilst they utilize their private judgment. Rather, our 'neighbours' are

<sup>36</sup> *Ibid.*, p. 166.

<sup>37</sup> *Ibid.*, p. 159. Godwin's presentation of the case against rights changes between the editions of *Political Justice*. He initially describes rights as 'discretionary powers', which individuals could be said to have over minor matters: 'in things of total indifference, as whether I sit on the right or on the left side of my fire, or dine on beef today or tomorrow. Even these rights are much fewer than we are apt to imagine, since before they can be completely established, it must be proved that my choice on one side or the other can in no possible way contribute to the benefit or injury of myself or of any other person in the world'. 'Omitted Chapters', in *Political Justice*, ed. Priestly, Vol. III, p. 256.

<sup>38</sup> *Ibid.*, I, p. 162. 'There is no situation in which we can be placed, no alternative that can be presented to our choice, respecting which duty is silent' (*ibid.*, II, p. 332).

<sup>39</sup> *Ibid.*, I, p. 135.

<sup>40</sup> *Ibid.*, p. 161.

<sup>41</sup> *Ibid.*, p. 167.

<sup>42</sup> *Ibid.*, p. 165.

<sup>43</sup> *Ibid.*, p. 167.

<sup>44</sup> *Ibid.*, p. 168.

actually duty bound to advise and even admonish us, with the express aim of influencing our actions through rational discussion. Each neighbour must 'employ every means in his power for the amendment of our errors', using if necessary 'the most unreserved animadversion upon our propensities and conduct' as it is 'absurd' to believe there are certain issues that are solely of interest to one individual.<sup>45</sup> Yet at the same time Godwin insists that 'there is scarcely any tyranny more gross than that of the man who should perpetually intrude upon us his crude and half-witted advices', that is, a man who would think it his duty 'to repeat and press it upon us without end'.<sup>46</sup> No individual should 'expect to dictate to me' and each 'should remember that I am to act by my deliberation and not his. He may exercise a republican boldness in judging, but must not be peremptory and imperious in prescribing'.<sup>47</sup> The line between imperiousness and permissible admonition appears, then, to be a very fine one, but the point is clear enough: individuals must be guaranteed a right to complete liberty to act on the sole dictates of their private judgment (albeit whilst listening to the advice of other agents).<sup>48</sup>

#### IV

Godwin spends much of *Political Justice* identifying those social and political institutions that endanger this right to individual liberty and places particular focus on the threat posed by political authority and political associations. Godwin's rejection of the forces of government is legendary.<sup>49</sup> All political authority, he argues, inevitably thwarts individual independence. One of the

<sup>45</sup> *Ibid.*, p. 162. That said, Godwin does suggest at one point that if an individual is able to freely consult their own understanding, 'it will rarely happen that the authority of other men's judgement in cases of general enquiry will be of great weight' (*ibid.*, p. 233).

<sup>46</sup> *Ibid.*, p. 163.

<sup>47</sup> *Ibid.*, p. 168. Godwin's exercise of such a 'republican boldness' in his personal life did not always run smoothly. He and his closest friend, the radical playwright Thomas Holcroft, regularly exchanged their latest dramatic and philosophical compositions for criticism expressed with 'perfect sincerity'. Eventually, their criticism proved so honest, and so harsh, that they had to suspend the frankness and agree to tone down their remarks. The agreement did not last long, however, as Godwin could not resist approaching Holcroft's 'The Lawyer' with a 'sledge hammer of criticism', which prompted a lengthy fall-out between the two. Marshall, *William Godwin*, pp. 234–5.

<sup>48</sup> This account of individual freedom links to an important distinction Godwin makes later in *Political Justice* between two different types of independence: 'natural independence', which is to be desired and 'moral independence', which is to be deplored. Moral independence requires a sphere of active rights and is thus 'always injurious' (II, p. 496). Natural independence, by contrast, is clearly what individuals have in the sphere of liberty outlined above: it is 'freedom from all constraint, except that of reasons and inducements presented to the understanding' (pp. 495–6).

<sup>49</sup> The only caveat to Godwin's wholesale rejection of government appears at the beginning of his discussion of punishment: 'government, or the actions of society in its corporate capacity, can scarcely be of any utility except so far as it is requisite for the sup-

reasons for this is the propensity of government toward self-perpetuation. Governments, according to Godwin, attempt to eternalize their authority and because of this their existence is wholly inimical to human improvement and social progress. They 'render the future advances of mind inexpressibly tedious and operose' and violently contain intellectual 'reflection' in an 'unnatural' stasis.<sup>50</sup> The authority of government is established not only through the monopoly of force it commands, but also through the way in which it ensures respect from those who are its subjects. Government facilitates a 'modification in my conduct' akin to that 'which might be due in the case of a wild beast' and combines it 'with the modification which is due to superior wisdom'.<sup>51</sup> Godwin regards this unholy amalgam of externally inculcated human motivations as a complete 'violation of political justice'.<sup>52</sup> His conclusion is that 'the conduct of an enlightened and virtuous man can only be conformable to the regulations of government so far as those regulations are *accidentally* coincident with his private judgement'.<sup>53</sup>

The main ground upon which Godwin criticizes government is clearly the influence it has over individual opinion. 'Opinion' is, he claims, 'the castle, or rather the temple of human nature; and, if it be polluted, there is no longer anything sacred or venerable in sublunary existence.'<sup>54</sup> It is not merely the case that government somehow encourages individuals to have the *wrong* opinions that is at issue, but rather the fact that it influences opinion *at all*. Any such influence necessarily invades the sphere of discretion that individuals must be guaranteed and violates the right to private judgment. Once opinion becomes at all influenced by 'political superintendence', individuals are 'immediately involved in a slavery to which no imagination of man can set a termination'.<sup>55</sup> The way in which government influences opinion is not only through its demand of respect and obedience, but also through its 'pernicious' practice of providing external (and thus artificial) inducements for action.

The two best examples of such inducements are the promise of reward and the threat of punishment.<sup>56</sup> In the case of the former, Godwin cites 'the most

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pression of force by force; for the prevention of the hostile attack of one member of the society, upon the person or property of another' (*ibid.*, p. 322).

<sup>50</sup> *Ibid.*, p. 231.

<sup>51</sup> *Ibid.*, I, pp. 231–2.

<sup>52</sup> *Ibid.*, p. 231.

<sup>53</sup> *Ibid.*, p. 237, emphasis added.

<sup>54</sup> *Ibid.*, II, p. 215.

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*, pp. 321–2. Godwin also suggests that '[i]f in any instance I am made the mechanical instrument of absolute violence, in that instance I fall under a pure state of external slavery. If on the other hand, not being under the influence of absolute compulsion, I am wholly prompted by something that is frequently called by that name, and act from the hope of reward or the fear of punishment, the subjection I suffer is doubtless less aggravated, but the effect upon my moral habits may be in a still higher degree injurious

important influence of opinion' as 'the mode of rewarding public services' through pensions and salaries.<sup>57</sup> Institutionalized reward renders virtuous action impossible because it alters the intentions that lie behind individual actions and a virtuous intention is a necessary for moral agency. In the case of punishment, individual opinion (and therefore motivation for action) is guided only by 'fear'.<sup>58</sup> Godwin seems to imply that the effect of punishment is even more insidious and pervasive than that of reward, because it acts not only on the individual in question but actually on society as a whole: it acts 'not only retrospectively' on the punished person but also 'prospectively upon [her] contemporaries and countrymen'.<sup>59</sup> The commonality between reward and punishment is that the effect of both is the subversion of virtue by 'positive institution'.

In addition to directly informing Godwin's diagnosis of social ills, his conception of liberty also underpins his critique of what might otherwise have been the cure: political associations. He denounces them as an 'evil', on the grounds that they encourage only 'disorder' and 'mischief', because they are, by their very nature, unable to provide an adequate forum for 'discussion' and 'conversation'.<sup>60</sup> Such associations attract 'the acrimonious, the intemperate, and the artful' rather than 'the prudent, the sober and the contemplative'.<sup>61</sup> The entire objective of political associations is to seek power and to give 'their opinion a weight and operation which the opinion of unconnected individuals cannot have'.<sup>62</sup> As a result of this ambition, there is unsurprisingly more than just a potential tendency towards absolute uniformity of opinion: indeed, it is inevitable. Each person is forced to learn the same 'creed', a process that vitiates any possibility of an individual exertion of the right to private judgment. Godwin's conclusion is that 'every argument' that can be marshalled against the forces of government 'is equally hostile to political associations'.<sup>63</sup>

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(I, pp. 170–1). The roots of these ideas may lie in the writings of Archbishop François Fénelon, who defended a form of 'pure love', one that involves no external inducements for action. See in particular his 'Dissertation on Pure Love' (1720). In *Political Justice*, Godwin infamously argued that if two people were trapped in a 'burning building' and one was Fénelon and the other our parent, justice would demand that we rescue the Archbishop. For a discussion of this argument see Lamb, 'The Foundations of Godwinian Impartiality', *Utilitas*, Vol. 18 (2006), pp. 134–53. I am grateful to Ben Thompson for discussions of Fénelon's moral philosophy.

<sup>57</sup> Godwin, *Political Justice*, II, pp. 305–6.

<sup>58</sup> *Ibid.*, pp. 329–37.

<sup>59</sup> *Ibid.*, I, p. 177.

<sup>60</sup> *Ibid.*, pp. 294–300.

<sup>61</sup> *Ibid.*, pp. 286–7.

<sup>62</sup> *Ibid.*, p. 286.

<sup>63</sup> *Ibid.*, p. 293. Godwin repeated this critique of political associations in 'Considerations on Lord Grenville and Mr. Pitt's Bills', a pamphlet he wrote and published anonymously.

## V

So, for Godwin, individuals have a right to a private judgment which, in turn, requires a guaranteed sphere of discretion within which they must remain free from all interference except for the rational arguments presented to them by others. Moreover, this right of private judgment is incompatible with a number of political and social institutions. As noted, the right to private judgment is described as a 'passive' right, one that derives its moral force from a prior obligation. But how exactly are such rights *generated* by obligations?

Alan Ryan observes that Godwin 'employs the language of rights because he is a rigorist as well as a utilitarian' and therefore 'I have an absolute duty always and at all times to do what I can for the general welfare, and conversely I have an absolute right to what I need for the purpose'.<sup>64</sup> Because such rights derive from prior duties, the implication is that Godwin values freedom only so far as it is generative of utility: the moral justification of the right of private judgment is the overarching duty we have to maximize the general good. This is how most interpreters have approached his case for the right to private judgment. John Clark claims that the value of individual freedom is 'derived'<sup>65</sup> from the utility principle and any individual right necessary for the exertion of this freedom 'stems entirely' from its instrumental value.<sup>66</sup> Is it then the case that Godwin is committed to an instrumentalist utilitarian defence of freedom, whereby the individual right is conditional on the overall good?

An instrumentalist reading clearly accounts for part of the story. There are certainly many moments in *Political Justice* when Godwin seems purely interested in the utility of individual freedom. At one point he describes it as 'the most *valuable* of all human possessions'<sup>67</sup> and elsewhere asserts that 'promoting the *best interests* of mankind eminently depends upon the freedom of social communication'.<sup>68</sup> 'Civil liberty' is, he remarks, 'chiefly desirable as a *means* to procure and perpetuate.'<sup>69</sup> Perhaps most significantly, he suggests that 'to be free is a circumstance of little value, if we could suppose men in a state of external freedom, without the magnanimity, energy and

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mously, signed merely 'a lover of order', in response to the increasingly draconian legislation passed by the Tory government in the mid 1790s. Herein, Godwin again defended freedom of thought and discussion against government legislation, suggesting that '[n]o state of a human being can be devised more slavish, than where he is told that he must not expostulate; he must not answer; the master claps a padlock upon his lips and he must be silent; he must not have an opinion of his own'. 'Considerations', in *Uncollected Writings*, ed. Marken and Pollin, p. 250.

<sup>64</sup> Alan Ryan, *Property and Political Theory* (Oxford, 1984), p. 92.

<sup>65</sup> Clark, *The Philosophical Anarchism of William Godwin*, p. 203.

<sup>66</sup> *Ibid.*, p. 144.

<sup>67</sup> Godwin, *Political Justice*, II, p. 331, emphasis added.

<sup>68</sup> *Ibid.*, I, p. 295, emphasis added.

<sup>69</sup> *Ibid.*, p. 259, emphasis added.

firmness that constitute all that is valuable in a state of freedom'.<sup>70</sup> These sentiments clearly seem to reveal a standard act-utilitarian attitude to freedom. The right to private judgment appears, then, to be a mere shadow of our moral duty to always act in accordance with the demands of general utility.

However, though in a sense correct, this instrumentalist reading has the potential to misrepresent the structure of Godwin's utilitarianism and, in doing so, mask the unique position that freedom occupies within his political theory. Godwin does not value individual freedom contingently: its role in his political theory is such that it is, unlike most utilitarian rights, immune to changes in facts or circumstances. This can be fleshed out in two ways: first through discussion of Godwin's conception of happiness and second through a brief analysis of the second 'passive' right that he identifies, that of property ownership.

## VI

Hedonistic versions of utilitarianism invoke accounts of happiness that are agent-relative: they value *any* activity that increases individual utility, a sentiment aptly captured by Bentham's famed equation of the utilities of pushpin and poetry.<sup>71</sup> It is this relativity that leaves utilitarianism vulnerable to any number of counter-intuitive moral problems — one of which is its apparent inability to guarantee any individual rights or freedoms if their existence happens to conflict with the demands of overall happiness. As R.M. Hare has shown, it is difficult to see how human slavery can be considered self-evidently unjust on utilitarian criteria.<sup>72</sup> As emphasized earlier, Godwin is infamously ruthless in his application of utilitarian reasoning in *Political Justice* and rejects the idea that individuals have significant rights; not even a right to life when duty calls upon them to resign it.<sup>73</sup> Given this attitude, Godwin could be expected to offer a similarly strict utilitarian moral assessment of slavery. However, he firmly rejects slavery as an 'evil'. This sentiment does not at first seem particularly problematic, since any utilitarian political thinker can reject slavery on the basis of an estimated calculation of overall happiness: slavery is thus wrong *not* because it violates rights, but rather because slaves tend to live unhappy lives.

This is clearly *part* of Godwin's argument, which notes that slaves are 'abridged' of 'independence and enjoyment'.<sup>74</sup> However, although Godwin does regard slavery as wrong for utilitarian reasons, this judgment does not

<sup>70</sup> *Ibid.*, pp. 258–9.

<sup>71</sup> John Stuart Mill, 'Bentham', in *Mill on Bentham and Coleridge*, ed. F.R. Leavis (London, 1950), p. 95.

<sup>72</sup> R.M. Hare, 'What is Wrong with Slavery?', *Philosophy and Public Affairs*, 8 (2) (1979), pp. 103–21.

<sup>73</sup> Godwin, *Political Justice*, I, p. 167.

<sup>74</sup> *Ibid.*, pp. 443–4.

rely on a relativistic conception of human happiness. Thus, addressing contemporary parliamentary arguments in Britain, which defended slavery on the grounds that the slaves themselves are quite content with their lot, Godwin replies:

The true answer to this question, even granting them their fact, would be: 'It is not very material to a man of a liberal and enlarged mind whether they are contented or no. Are they contented? I am not contented for them. I see in them beings of certain capacities, equal to certain pursuits and enjoyments. It is of no consequence in the question that they do not see this, that they do not know their own interests and happiness. They do not repine? Neither does a stone repine. That which you mention as an alleviation finishes in my conception the portrait of their calamity . . . It is my duty, if I can, to make them a thousand times happier than they are, or have any conception of being'.<sup>75</sup>

Slavery is, then, unjust whether or not the slave in question regards herself as happy. What this demonstrates is that, for Godwin, individual happiness is not assessable in subjective terms as it would be for Bentham: individuals are not always aware of what is good for them. But, more crucially, it shows that although Godwin is adamant that 'the true object of moral and political disquisition is pleasure or happiness'<sup>76</sup> he is not a hedonist.

Indeed, pleasure or happiness for Godwin is something assessable only in qualitative terms. He elaborates on this, carefully distinguishing 'primary' pleasures of the external senses from more 'exquisite', 'secondary' pleasures. Among these pleasures he includes 'intellectual feeling', 'sympathy' and 'self-approbation'.<sup>77</sup> Crucially, 'the right cultivation of all our pleasures, require individual independence' and 'without independence men cannot become either wise, or useful, or happy'.<sup>78</sup> The cultivation of pleasures requires 'soundness of understanding', which in turn requires 'freedom of enquiry'.<sup>79</sup> Furthermore, as noted earlier, if external forces *ever* threaten the freedom of individuals, then virtuous action is prevented. This is because in order for an individual action to generate utility and thus earn the appellation

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<sup>75</sup> *Ibid.* Elsewhere in *Political Justice*, Godwin shows a similar attitude towards the 'happy slave': 'To such men we ought to say, "You are satisfied with an oblivion of all that is eminent in man; but we will awake you. You are contented with ignorance; but we will enlighten you. You are not brutes: you are not stones. You sleep away existence in a miserable neglect of your most valuable privileges: but you are capable of exquisite delights; you are formed to glow with benevolence, to expatiate in the fields of knowledge, to thrill with disinterested transport, to enlarge your thoughts, so as to take in the wonders of the material universe, and the principles that bound and ascertain the general happiness".' (*ibid.*, p. 241).

<sup>76</sup> *Ibid.*, p. xxiii.

<sup>77</sup> *Ibid.* See also pp. 240–1.

<sup>78</sup> *Ibid.*, p. xxiv.

<sup>79</sup> *Ibid.*, p. xxvii.

'virtuous', it must not only cause an overbalance of pleasure; it also must spring from an agent with a virtuous intention.<sup>80</sup> The relation between freedom and happiness is clearly not a contingent one: the individual entitlement to a sphere of discretion can never be traded for a gain in utility or discarded when circumstances change.

This conclusion is borne out in the account Godwin provides of the second, legitimate 'passive' right he identifies, that of property ownership, to which he devotes the entire last 'Book' of *Political Justice*. His theory of property is subtle, complex and difficult to summarize adequately. Nevertheless, its normative component is vital to an understanding of the importance of freedom in his political theory. Godwin recognizes three different possible justifications of property ownership, which he refers to as 'degrees'. The justification that he appears to endorse is robustly utilitarian. It requires that

. . . my permanent right in those things the use of which being attributed to me, a greater sum of benefit or pleasure will result than could have otherwise appropriated. It is of no consequence, in this case, how I came into possession of them, the only necessary conditions being their superior usefulness to me, and that my title to them is such as is generally acquiesced in by the community in which I live. Every man is unjust who conducts himself in such a manner respecting these things as to infringe, in any degree, upon my power of using them, at the time when the using them will be of real importance to me.<sup>81</sup>

An agent has a right to a piece of property, then, provided her possession results in a 'greater sum of benefit or pleasure' than otherwise. The corollary of this is, of course, that property ownership, though an exclusive right, is unlikely to be a very secure one. This is evident from Godwin's earlier discussion of the nature of rights, in which he makes clear that 'every shilling' we possess is 'appropriated by the laws of morality': I have 'no right to dispose of [it] at my caprice'.<sup>82</sup> Thus, whilst utility grounds our right to ownership, it also places severe limitations on it. Indeed, as Alan Ryan points out, this argument would seem to amount 'to the denial of anything one could call property rights at all'. 'Anyone', Ryan suggests 'who thinks Godwinian utilitarianism a plausible version of utilitarianism has to accept that utilitarianism is not in

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<sup>80</sup> The importance of individual intentions in determining the justness of an action is a prominent, though little remarked upon, aspect of Godwin's moral philosophy: 'No principle of moral science can be more obvious and fundamental than that the motive by which we are induced to an action constitutes an essential part of its character. This idea has perhaps sometimes been carried too far. A good motive is of little value when it is not joined to a salutary exertion. But, without a good motive, the more extensively useful action that ever was performed can contribute little to the improvement or honour of him that performs it.' (*ibid.*, II, p. 332).

<sup>81</sup> *Ibid.*, p. 432. See also pp. 422–3.

<sup>82</sup> *Ibid.*, I, p. 169.

principle favourable to property rights.’<sup>83</sup> Individual ownership rights are never absolute; they are merely rights of stewardship and they evaporate if another agent can use the property in question in a way that generates more happiness.

The defence that Godwin provides for this strict utilitarian basis for property ownership is, however, not an unequivocal one. Indeed, there are additional stipulations in the passage cited above: he describes as ‘unjust’ any conduct that seeks to remove my property when it is ‘of real importance *to me*’, rather than of any more general utility. The implication is that as long as what I have appropriated is of use to my own welfare, my right to it is protected regardless of wider utilitarian concerns. This claim is not a throwaway comment, nor is it indicative of incoherence on Godwin’s part. The reason that an agent may legitimately hold on to the property that they have appropriated, regardless of the better use that another can make of it, comes down to the importance of individual freedom.

After his delineation of the utilitarian justification of property ownership, Godwin explains that

It has already appeared that one of the most essential of the rights of a man is my right to the forbearance of others; not merely that they shall refrain from every thing that may, by direct consequence, affect my life, or the possession of my powers, but that they shall refrain from usurping upon my understanding, and shall leave me a certain equal sphere for the exercise of my private judgement . . . Hence it follows that no man may, in ordinary cases, make use of my apartment, furniture or garments, or of my food, in the way of barter or loan, without having first obtained my consent.<sup>84</sup>

He is quite clear then: no individual can (at least in ordinary cases) violate the property right of another. Though the morally correct criteria for ownership is utility, this utility cannot ordinarily trump the right of possession: as Godwin puts it ‘he is only the steward. But still he is the steward’.<sup>85</sup> When it comes to property rights, the rule that individuals must have a right to freedom is of more utility than that achievable through any ownership right.

### Conclusion

Individual freedom — defined as a condition under which agents exist without the encumbrance of others — clearly occupies a very special position within Godwin’s utilitarian political theory. Nevertheless, the ultimately utilitarian basis of Godwin’s defence of individuality raises a rather awkward question: namely, how much room is actually left for individual freedom

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<sup>83</sup> Ryan, *Property and Political Theory*, p. 93.

<sup>84</sup> Godwin, *Political Justice*, II, pp. 432–3.

<sup>85</sup> *Ibid.*, p. 434.

within a political theory that includes a notion of human perfectibility?<sup>86</sup> Is Godwin's claim that 'each man must be *taught* to enquire and think for himself'<sup>87</sup> something dangerously contradictory? Although individuals are guaranteed a certain sphere of liberty, which cannot be violated, is this only freedom to conform to a predefined utilitarian morality? Godwin assumes that individuals will *improve* through independence, but since he is so sure of what improvement is, does this really represent an idea of freedom at all?

Such criticisms, though clearly pointed, are not necessarily fatal. After all, at the normative level Godwin's *prescription* is liberty, individuality and independence. His hope is that by following his path the human species will enter a stage of perpetual improvement. But, as he was aware, despite the occasional rhetorical flourish, improvement is something that is not guaranteed. In other words, regardless of the *outcome* at the end of a process of individuals living in accordance with their private judgment, their right to do so must at all times be preserved. Freedom of thought and discussion may be in some sense a means to an expected end for Godwin, but his defence of the means remains unequivocal regardless of whether the end is actually achieved. In his critique of co-operative institutions and practices such as marriage and cohabitation, he suggests that, in a more enlightened future age, societies will reject 'concerts of music' and 'theatrical exhibitions';<sup>88</sup> after all, who in their right mind would want to blithely 'repeat the words and ideas that are not their own'?<sup>89</sup> Yet this society of enlightened individuals who would rather compose their own music than play that of another is what Godwin believes is possible for the future: in the meantime, his moral theory defends the right of every individual to decide what (or whether) they wish to perform.

*Robert Lamb*

UNIVERSITY OF EXETER

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<sup>86</sup> Though Godwin does suggest that 'man is perfectible' (*ibid.*, I, p. 92), he is careful to insist that by this 'it is not meant that he is capable of being brought to perfection'. Rather, 'the word seems sufficiently adapted to express the faculty of being continually made better and receiving perpetual improvement . . . The term perfectible, thus explained, not only does not imply the capacity of being brought to perfection, but stands in express opposition to it. If we could arrive at perfection, there would be an end to our improvement' (*ibid.*, p. 93).

<sup>87</sup> *Ibid.*, p. 288, emphasis added.

<sup>88</sup> *Ibid.*, II, p. 504.

<sup>89</sup> *Ibid.*