Katarzyna Doliwa*

On Jeremy Bentham's Passion for Reform

[O reformatorskiej pasji Jeremy'ego Benthama]

Abstract

The aim of this article, which adopts a historical approach, is to present Jeremy Bentham not so much as a philosopher, but as a reformer fighting for the implementation of his ideas, using philosophical concepts – primarily the principle of utility – as his weapon. The belief that all human actions should be guided by the (rational and unconditional) principle of the greatest happiness for the greatest number of people was the basis for all of Bentham's efforts to reform the social order.

The English philosopher went to great lengths in his passion for reform; he was a total and consistent reformer – he wanted changes in the legal system, criminal law, civil law, constitutional law, and also in the penitentiary system (Panopticon); he wanted to modify the British political system, reformed the language, demanded rights for women, and also postulated the recognition of certain rights for animals as beings capable of suffering – and always, regardless of the area being reformed, the basis for his actions was the principle of utility.

Keywords: Jeremy Bentham, principle of utility, nineteenth-century legal reforms, Panopticon, codification of law.

Jeremy Bentham, a leading representative of 19th-century British empiricism,[1] ensured continuity for this school of thought, worthily replacing D. Hume, whom he was a declared admirer of. The first stage of 19th-century empiricism, which went down in history as the utilitarian movement, differed, however, from the version adopted by Hume and his predecessors, Locke, and Berkeley – who primarily studied the nature, scope, and limits of cognition – while 19th-century utilitarianism was practical in nature, aiming

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* **Katarzyna Doliwa** – PhD in Law, Institute of Theory and Philosophy of Law, Faculty of Law, University of Bialystok, Poland (affiliation); https://orcid.org/0000-0001-8583-8379; kdoliwa@uwb.edu.pl / dr nauk prawnych, Zakład Teorii i Filozofii Prawa, Wydział Prawa, Uniwersytet w Białymstoku (afiliacja).

[1] Bentham was born in 1748, in the eighteenth century, but his most important works were published at the end of the century or after his death and had the greatest influence on nineteenth-century thinkers – for this reason, he is often referred to as a nineteenth-century writer.

at wide-ranging reforms, primarily of the law, the criminal justice system, political life, and economics. Bentham himself wanted to reform almost all areas of social life. Changing the world for the better was the primary goal of his activities. While Hume was concerned with understanding the world, Bentham wanted above all to reform it. Although Hume was probably a better and more creative philosopher, Bentham had the valuable ability to use philosophical ideas as tools in the struggle for a better world. In his opinion, knowledge, in accordance with the principles of utilitarianism, should be used to make the world a more rational and just place.[2]

The aim of this article is to present Bentham not so much as a philosopher, but as a reformer, a passionate and tireless fighter in the battles to implement his ideas, where his weapons were philosophical concepts – above all, the principle of utility, which the English philosopher did not invent, but clearly articulated, drawing on the writings of D. Hume, C. Beccaria,[3] J. Priestley, F. Hutcheston, and Helvetius, and which he made the basis of both morality and law.[4] The belief that the goal of all human actions should be the principle of the greatest happiness for the greatest number of people was at the root of all Bentham's efforts to reform the social order. He was not guided, at least not primarily, by a sense of Christian mercy or compassion for the victims of the extremely repressive British penal system, but by a utilitarian imperative glorifying the usefulness of all human activity, expressed in the words: 'By the principle of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words, to promote or to oppose that happiness.'[5]

Bentham is an example of a thinker who had the courage to spend most of his life fighting for the implementation of what he considered necessary, yet radical, social reforms (this is by no means a common attitude – many thinkers practiced philosophy for its own sake, without worrying particularly about changing reality according to the principles underlying their ethical concepts). He developed his projects with great meticulousness, describing every element of the planned undertaking in detail: 'With passion and dedication, he worked for years on many projects regulating in minute detail the functioning of institutions that would later become modern prisons, social welfare homes, schools, ministries, and workplac-

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[2] F. Copleston, History of Philosophy. Bentham to Russell, vol. 8, London, New Jersey 1966, pp. 2 and 3.

[3] H. L. A. Hart writes about numerous traces of Beccaria's works in Bentham's writings and borrowings from the Italian thinker, H. L. A. Hart, *Bentham and Beccaria* [in:] *idem*, Essays on Bentham, Oxford 2011, pp. 40–52.

[4] F. Copleston, History..., p. 4.

[5] J. Bentham, An Introduction to the Principles of Morals and Legislation, at: https://oll.libertyfund.org/titles/bentham-an-introduction-to-the-principles-of-morals-and-legislation [accessed: 15.07.2025].

es. In all these cases, he meticulously developed numerous techniques and strategies, which he then composed and combined to create efficient and effective social institutions.'[6]

Bentham, with the encouragement of his father, a prominent lawyer who envisioned a career in the bar for his son, began studying law at Oxford University. However, he was much more attracted to theoretical reflection than legal practice – the main result of his law studies was his conviction that the English legal system needed profound reform. He was particularly opposed to the structure of the English criminal code and the organization of the penitentiary system. English parliamentarians believed that punishments should be as severe as possible in order to deter people from committing crimes, eliminate the worst criminals through executions, often public and brutal, and satisfy the desire for revenge of victims and their families. Under the Bloody Code, as the criminal law system in force during Bentham's time is customarily called, more than two hundred crimes, ranging from murder to petty theft, were punishable by death.[7] Bentham observed this situation with horror, considered it irrational, and demanded a balance between punishment and the degree of offense,[8] arguing that the death penalty could in many cases be replaced by imprisonment. Because conditions in prisons at that time were extremely poor (there was no division by age or gender, overcrowding was common, hunger was rife, and infectious diseases were widespread), leading to widespread suffering,[9] Bentham, a reformer by vocation, decided to devise a plan for the ideal prison from scratch.

In 1791, he developed an innovative prison model called the Panopticon, which he fought to implement for two decades. Initially, he presented the idea (in which he assigned himself the role of supervisor, performed free of charge) to the French National Assembly. After the French rejected the project, much to Bentham's disappointment,[10] he made efforts to implement it in England, which also ended in failure. The difficulties in implementing his innovative idea astonished the philosopher – after all, he had created a concept of a prison that allowed for easy and complete supervision of inmates by a person in control, a system designed to improve the moral character of prisoners. This system used their ability to work and was perfectly suited to the needs of the new industrial society; it could be successfully applied to the operation of a factory, hospital, or asylum.[11]

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[6] R. Nahirny, Granice kontroli. Maszyneria władzy Jeremy Benthama, Warszawa 2018, p. 11.
[7] F. McLynn, Crime and Punishment in Eighteenth Century England, London, New York 2013, p. XI.
[8] F. McLynn, Crime..., p. 43.
[9] See: H. Mayhew, J. Binny, The Criminal Prisons of London and Scenes of Prison Life, London 1862.
[10] Bentham presented his offer to the newly constituted National Assembly, recognizing that France was entering an era of rational government, an era in which philosophy would reign supreme.
[11] J. Bentham, Panopticon or the Inspection House, London 1791, pp. 107–120.

Bentham assumed that the Panopticon would be built on a circular plan, with cells for individual prisoners located in the ring thus created. The tower of the head of such a unit was located in the very centre of the building, under a dome that was to serve as its roof. Thanks to a number of special solutions – a system of blinds and partitions – prisoners could not tell whether they were being watched by guards at any given moment or whether the observation tower was empty. Thanks to this, the inmates would constantly feel the gaze of an invisible authority upon them and feel that they were under constant surveillance. Bentham's goal was to deprive the inmates of privacy so that they would become their own supervisors, and the presence of an actual supervisor could be dispensed with from time to time.[12] Access to the observation tower, via a specially designed underground corridor, was not only available to guards, representatives of the judiciary, or municipal authorities, but also to ordinary members of society, whom Bentham called 'spontaneous visitors.' These visitors could visit the Panopticon at any time, without prior notice, observing not only the prisoners (perhaps their relatives or friends), but also the work of the guards.[13] In this way, Bentham incorporated a mechanism of democratic control into the design of his ideal prison.

The concept of the Panopticon became known to a wider audience thanks to M. Foucault's famous 1977 work entitled *Discipline and Punish: The Birth of the Prison*, in which the author uses the structure of the panoptic surveillance system as a metaphor for the organization of contemporary society. In this social model, individuals are under permanent surveillance, constantly watched by an invisible guard from a central observation tower. Foucault used his reflections on Bentham's work as a starting point for presenting the idea of a surveillance society in which people are permanently monitored, although this surveillance does not take place in prison, but is made possible by the accumulation of knowledge and the power of mass media.[14] Many researchers of Bentham's legacy note that such use of the English philosopher's concept, presenting him in an unfavourable light as the precursor of the idea of Big Brother, results from Foucault's misreading of Bentham's thoughts, and that the ideas expressed in *Panopticon* require rehabilitation.[15]

Janet Semple, a scholar involved in the project of reading Bentham's unpublished manuscripts, emphasizes an aspect of the *Panopticon* overlooked by Foucault: its author managed to find a way to mete out punishment that is both economical and humane, free from unnecessary violence – in accordance with the motto of utilitarianism, the suffering of prisoners, although nec-

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[12] J. Bentham, Panopticon…, pp. 5–12.
[13] J. Bentham, Panopticon…, pp. 32 and 33.
[14] M. Foucault, Nadzorować i karać. Narodziny więzienia, Warszawa 1993, pp. 235–273.
[15] A. Brunon-Ernst, *Introduction* [in:] *idem* (ed.), Beyond Foucault: New Perspectives on Bentham's Panopticon, London, New York 2016, p. 5.

essary, remains suffering and must be taken into account in the calculation of happiness[16] – a system that allows the moral value of human actions to be calculated on the basis of their possible impact on happiness and suffering. Jeremy Bentham proposed a prison that would allow for easy and complete supervision of prisoners by the person in command, a system also designed to improve the moral character of the prisoner, utilizing his ability to work, ideally suited to the needs of the new industrial society.

"Bentham's concept, which condemned the death penalty, was not only free from senseless cruelty, but also took into account the importance of conditional suspension of punishment in the rehabilitation of prisoners; the philosopher believed that crime was like a disease that needed to be treated." Prisoners may be considered mentally unstable, but their condition has not reached such a degree that they can be classified as idiots or madmen.[17] The philosopher devised a system for marking convicts, like the modern electronic ankle bracelet worn by prisoners – a kind of permanent tattoo with the name and date of birth.[18] The reasons for his opposition to unnecessary cruelty towards convicts were not so much humanitarian as they were based on a strong economic aversion to waste – after all, prisoners could work, so they should not be eliminated. As J. Semple sums up, Bentham, as a man of the early Enlightenment, saw the prison primarily as a flawlessly functioning work of precise social engineering.[19]

Another issue that had been at the centre of Bentham's attention for decades was the reform – in the spirit of utilitarianism – of the English constitution and the codification of law. He considered the existing legal system to be chaotic and confused, inefficient, failing to meet its objectives, and in urgent need of change based on the criterion of utility. He expressed his beliefs in works such as: *A Catechism of Parliamentary Reform* (1817), *Papers Relative to Codification and Public Instruction* (1817), *Radical Reform Bill, with Extracts from the Reasons* (1819), and *Leading Principles of a Constitutional Code for Any State* (1823).

Bentham was deeply convinced of the clear superiority of law established in statutes over all kinds of declarative norms.[20] He took up the fight on many po-

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[16] J. Semple, Bentham's Prison: A Study of the Panopticon Penitentiary, Oxford 1993, p. 3.

[17] J. Semple, Bentham's..., pp. 82 and 146.

[18] J. Semple, Bentham's..., p. 181 ff.

[19] J. Semple, Bentham's..., p. 17.

[20] J. Hołówka, Etyka w działaniu, Warszawa 2002, p. 76. Leszek Kołakowski expressed a similar view when analyzing the provisions of the UN Declaration of Human Rights. He noted that the term *human rights* can be interpreted as 'restrictions that the state, or rather the monarch, agrees to recognize, restrictions imposed on the authorities, whether under direct pressure or even without coercion, and accepted by the king for various reasons.' Examples of such restrictions can be found in documents such as the *Magna Carta*, *Habeas Corpus* in England, *neminem captivabimus* in Poland, and the Edict of Nantes in France. 'These are therefore laws by which subjects, mainly the nobility, defend themselves against the arbitrariness and violence of their rulers, as well as against taxes.' Human rights are effectively binding when they are expressed in laws.

lemical fronts to codify the laws of England[21] – codification was, for him, a remedy for many of the ills of the legal systems of the time and was also intended to be helpful in combating the idea of natural rights. Bentham saw codification as the embodiment of clarity, consistency, and order, especially in comparison to common law, which was seen by many members of the legal community as a highly uncertain,[22] unsystematic system and therefore difficult to apply effectively.

Reflecting on the unity and completeness of the legal system, Bentham categorically states that the postulate of completeness has not yet been fulfilled, especially when it comes to the British system. He considers its fundamental part, common law, to be a fictional creation, whose author and specific content cannot be identified. Bentham compares common law to ether, a substance invented by scientists unable to accept the idea of a vacuum 'filling' the space of the universe (it was supposed to contain celestial bodies and be responsible for magnetism and gravitational attraction); fictitious common law, like ether for material bodies, is a skeleton, a kind of background for real law, written in the code, to which 'shreds and scraps' of law are attached. According to Bentham, anyone who wants to study or reform the legal system as a whole must first create it: 'Shreds and scraps of real law, stuck on upon that imaginary ground, compose the furniture of every national code. What follows – that he who, for the purpose just mentioned or for any other, wants an example of a complete body of law to refer to, must begin with making one.'[23] Fully recognizing the flaws of the English legal system, he wrote to Americans: '(…) if you love each one of you his own security – shut your ports against our common law as you would shut them against the plague,' warning that 'wheresoever the common law is harboured, security is excluded.'[24]

Bentham, the creator of the term *codification*,[25] dreamed of placing the entire legal system within the rigid framework of a code, creating a compre-

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Kołakowski emphasizes that they are not meant to be something like Moses' tablets carved in stone, valid for eternity, but, as he notes, this is how human rights are conceived in (…) the Declaration of Human Rights, L. Kołakowski, *Po co nam prawa człowieka*, 'Gazeta Wyborcza' 2003, 250, Oct. 25, p. 11.

[21] See: M. Kaino, *Bentham's Constitutional Code and His Pannomion* [in:] P. Schofield, X. Zhai (eds), Bentham on Democracy, Courts, and Codification, Cambridge 2022, p. 315. Bentham also prepared drafts of codified laws for other countries, including Russia, Morocco, Bavaria, and Spain. Alf Ross writes about the enthusiasm that the English philosopher showed for the idea of codification, see: A. Ross, On Law and Justice, Oxford 2019, p. 440.

[22] G. J. Postema, Bentham and the Common Law Tradition, Oxford 2019, pp. 59 and 280.

[23] J. Bentham, An Introduction…, *passim*.

[24] M. E. Lang, Codification in the British Empire and America, Clark 2005, p. 35. Bentham repeatedly expressed his belief in the disastrous impact of common law on the American legal system; for example, he wrote letters to President Madison proposing the creation of a complete code of laws for the United States, see: D. J. Boorstin, The Americans: The National Experience, New York 2010, p. 36.

[25] The term *codification* was first used by Bentham in a letter to Tsar Alexander I, in which he described the numerous benefits that the introduction of a uniform, comprehensive set of laws would bring to the ruler. This neologism originated from two Latin words – 'codex' (a collection of sheets placed between slats) and 'facere' (to make, to build), K. Sójka-Zielińska, Wielkie kodyfikacje cywilne. Historia i współczesność, Warszawa 2009, p. 31, A. Wasilewski, Kodyfikacja prawa administracyjnego: idea i rzeczywistość, Warszawa 1988, p. 58.

hensive collection of laws, which he called *pannomion*[26] in Greek. Its basic and most important feature was to be completeness[27] (it would cover state, civil, and criminal law[28]), limiting the work of judges to subordinating a given factual situation to a specific provision of the code.[29] In order to establish clear boundaries of the law, Bentham assumed that only the contents of the pannomion could be considered law.[30] He expressed concern about the abuse of freedom of interpretation by judges, warned against the resulting threats to the stability of jurisprudence, and argued that a judge interpreting a law could always pass a judgment 'as he pleases,' and thus become 'a juggler who, to the great surprise of the audience, pours from the same bottle sometimes a sweet drink, sometimes a bitter one.'[31]

The political reform project, presented at the end of his life, was based on two assumptions: the belief that every member of the human race strives to pursue their own interests, and the conviction that anyone who wields power is prone to abuse it.[32] Bentham did not assume that those in power would be inclined to act selflessly for the benefit of the whole community, but he did assume that they would act for the common good when it was in their own interest, as it were, incidentally.[33] The only system in which this is possible, according to Bentham, is representative democracy, in which there is an appropriate system of safeguards against disregard for the public interest – the governed control the rulers, and power is dispersed. The first and most important institution in this concept is a unicameral parliament (two chambers are an unnecessary expense, and the existence of a chamber where the right to sit is hereditary is, in the philosopher's opinion, undemocratic), which deliberates continuously, is essentially omnipotent, derives its legitimacy from the act of election, and whose members are elected annually and can also be dismissed during their term of office. The tool of the parliament would be an efficient administration with a government headed by a prime minister, elected by parliament for four years and accountable to it.[34] Bentham did not support Montesquieu's division of powers; the judiciary was to be the second arm of the executive and was to be absolutely subordinate to parliament. The solutions proposed by the English philosopher were intended to make it more likely that those in power, who, like all people, primarily pursue their own

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[26] A. Ross, On Law..., p. 439.
[27] J. Bentham, Codification Proposal Addressed to All Nations, London 1830, p. 3.
[28] Bentham's concept assumed a specific way of linking civil and criminal law, with Bentham defining the latter much more broadly than it is currently done, see: M. Kaino, *Bentham's...*, p. 318.
[29] K. Sójka-Zielińska, Wielkie..., pp. 31 and 32, M. Kaino, *Bentham's...*, p. 315.
[30] J. Bentham, *A General View of a Complete Code of Laws* [in:] The Works..., vol. 3, p. 205.
[31] K. Sójka-Zielińska, Wielkie..., p. 34.
[32] J. Bentham, *Constitutional Code* [in:] The Works of Jeremy Bentham, J. Bowring (ed.), Edinburgh 1838–1843, vol. 9, p. 5.
[33] B. Parekh, *Introduction* [in:] *idem* (ed.), Bentham's Political Thought, New York 1973, p. 30.
[34] J. Bentham, *Constitutional...*, pp. 153–162.

interests, would also care about the interests of the entire community (which is the sum of the interests of all its members) in order to remain in office, be elected or reappointed, and thus, in governing, they would implement the principle of utility. In Bentham's project, at the very top of the hierarchy of dependencies is, in fact, an ordinary member of the community with the right to vote – it is he who rewards or punishes the representatives of the legislature in each successive vote.

Bentham's passion for reform also contributed to the development of higher education in England. The fact that the universities of Oxford and Cambridge required candidates to belong to the Church of England and evaluated their religious knowledge was considered by the philosopher to be contrary to the basic principle of utilitarianism – the greatest happiness for the greatest number of people. Bentham therefore decided to get involved in creating a university that would be a secular alternative to existing schools, for those eager to learn who could not find a place for themselves at existing universities. This vision was realized in 1828 with the establishment of the first new university in England since the Middle Ages – University College London (UCL). Although Bentham himself is not the founder of the school, UCL operates on the basis of his ideas; it was founded on the principles of inclusiveness and open access to education, regardless of religion or social status. UCL has become a thriving centre of Benthamism – it is home to the *Bentham Project*, a global centre for research on Bentham's work, which publishes scholarly editions of his collected works and correspondence.[35] Bentham is present in the university he helped to establish, not only in spirit but also in body – his embalmed body is located in the school's entrance hall, in a glass case, and until recently he was listed in the minutes of board meetings as 'present, not voting.'[36]

In his work A *Fragment on Ontology*, the philosopher also expresses his reformist passion in the sphere of language. He introduces an interesting distinction between entities that exist in reality and fictional entities, the latter having been created by certain needs of language. Bentham argues that the use of names by people leads them to believe that there are entities corresponding to these names and that these entities are real. This belief often leads to misunderstandings, mistakes, and ultimately to arguments and mutual animosity. The way to avoid them may be to gradually eliminate expressions that do not correspond to any entities from language, especially legal language, and replace them with terms that have referents.[37] Bentham, who

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[35] The Bentham Project is a platform aimed at volunteers who are not professional researchers, operating on the principles of collaboration, verifiability, and open resources, which enables participants to decipher Bentham's manuscripts, see: Bentham Project at https://www.ucl.ac.uk/bentham-project/ [accessed: 15.07.2025].

[36] B. Magee, The Story of Philosophy, London 1998, p. 182.

[37] J. Bentham, Theory of Fictions, C. K. Ogden (ed.), London 2013, p. XXIII ff and p. 86 ff.

was critical of his contemporary legal practitioners[38] and whose intention, as shown above, was to comprehensively reform British legislation, emphasized that legal terms are of a special nature; they differ from ordinary expressions of language and should therefore be treated differently from others, and the definition by the nearest genus and specific difference (*per genus proximum et differentiam specificam*) does not apply to them. The analysis of such terms cannot be a study of individual, abstracted words taken out of context; it must take into account the context, the involvement of legal expressions in a sentence.[39] Studying the word 'right' alone is therefore a task doomed to failure, whereas examining the task 'You have the right' will yield results, because it is only in sentences that legal terms play their characteristic roles (Bentham's recommendation was ignored, and until the time of his late student, Herbert L. A. Hart, the traditional method of explaining legal provisions was practiced).[40] Such a sentence refers to a real entity – a human being who is subject to the power of pleasure and pain, the basic categories of Bentham's utilitarian concept. The concept of right in Bentham's system is closely correlated with the concept of obligation[41] – it is always a specific human being who is obligated, in relation to whom the categories of pleasure and pain operate. When that specific person fails to fulfil their obligation, they face inevitable punishment. 'For every right which the law confers on one party, whether that party be an individual, a subordinate class of individuals, or the public, it thereby imposes on some other party a *duty* or *obligation*. But there may be laws which command or prohibit acts, that is, impose duties, without any other view than the benefit of the agent: these generate no rights: duties, therefore, may be either *extra-regarding* or *self-regarding*: extra-regarding have rights to correspond to them: self-regarding, none.'[42] A right consists in the state imposing an obligation on a certain entity to perform certain actions, and failure to perform them is associated with the threat of sanctions.

A similar argument is made by contemporary Israeli historian and philosopher Yuval N. Harari, who argues that natural laws belong to the realm of mental fiction and are not part of the ontological structure of reality.[43] Harari notes that most people, due to the fact that their power depends precisely on collective fictions, have a significant problem distinguishing between what is essentially fictional and what is real. He proposes a kind of test, close to Bentham's ethics, which allows us to distinguish between fictional and real entities – according to

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[38] P. Schofield, Utility and Democracy. The Political Thought of Jeremy Bentham, Oxford 2006, p. 304 ff.

[39] A. Goldworth, Bentham's Concept of Pleasure: Its Relation to Fictitious Terms, 'Ethics' 1972, 82, 4, p. 336 ff.

[40] H. L. A. Hart, Essays in Jurisprudence and Philosophy, Oxford 1983, pp. 30 and 31, R. Harrison, Bentham, London 1983, p. 88 ff.

[41] J. Bentham, *A General...* [in:] The Works..., vol. 3, p. 159, see: M. Sicker, *Jeremy Bentham on Law and Jurisprudence* [in:] Jeremy Bentham Critical Assessments, B. C. Parekh (ed.), vol. 3, London, New York 1993, p. 221.

[42] J. Bentham, An Introduction..., *passim*.

[43] Y. N. Harari, Sapiens. Od zwierząt do bogów, Warszawa 2014, pp. 136–140.

him, the best test of whether something is real or fictional is the 'suffering test'. For example, a 'nation' is fictional because it lacks consciousness – it cannot suffer, feel pain, or experience fear. Even if a nation loses a war, it is always individual soldiers and civilians who suffer, not the nation as a whole. Similarly, a 'corporation' cannot suffer – it is therefore not real – nor does the pound sterling suffer, for example, by losing value, so it too belongs to the realm of fiction. According to Harari, this distinction can bring about a significant positive change in human relations and can also change the way people treat animals.[44]

The way in which representatives of the human species treat animals also became the subject of Bentham's passion for reforming reality in accordance with the basic directive of utilitarianism. Bentham was the first philosopher to write explicitly about animal rights, although he had a predecessor in this field – the precursor of the humanitarian approach to animals was D. Hume, who stated 'no truth appears to be more evident, than that beast are endowed with thought and reason as well as men'[45]. Hume demonstrated, using an analogy, that if animals exhibit behaviour similar to that of humans, and human behaviour is known to be caused by associations between ideas, then it can be assumed that animals also behave in a certain way as a result of similar associations between ideas in their minds. Given his definitions of *thought* and *reason*, Hume considered this argument to be 'irrefutable' proof that animals have the capacity for thought and reason.[46] Bentham himself did not go as far as his predecessor – he did not focus on whether animals are equal to humans in an intellectual sense, but on their ability to feel suffering. Unlike Hume, Bentham argued that the most important thing was not whether animals could reason or use language, but whether they could feel suffering – one of the measures in the 'hedonic calculus.' Although Bentham's writings focused primarily on the greater happiness of human society, he was interested in the universal happiness of a given civil society, but the principle of utility extends to all sentient beings. When considering which entities under someone's control can experience happiness, he distinguishes two categories: firstly, other people, and secondly, animals degraded to the status of objects as a result of their interests being neglected by 'insensitive ancient jurists.'[47] Bentham perceives the relationship between humans and animals as follows: 'But is there any reason why we should be suffered to torment them? Not any that I can see. Are there any

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[44] Y. N. Harari, *Homo Sapiens As We Know Them Will Disappear in a Century or So* [interview for 'The Guardian' 2017, Mar. 19].

[45] D. Hume, A Treatise of Human Nature, Oxford 1978, p. 176.

[46] Hume's reasoning was criticized by J. Searle, who questioned the irrefutability of his argument, arguing that similar types of behaviour can often result from quite different processes. Toy robot dogs or computers may behave in a manner similar to that of humans when living ideas reach their consciousness, but few would consider this fact to be irrefutable proof that these objects function as a result of living ideas presented to their consciousness, see: J. Searle, *Animal Minds*, 'Midwest Studies in Philosophy' 1994, 19, pp. 206–219.

[47] J. Bentham, An Introduction…, *passim*.

why we should *not* be suffered to torment them? Yes, several. (…) The day has been, I grieve to say in many places it is not yet past, in which the greater part of the species, under the denomination of slaves, have been treated by the law exactly upon the same footing as, in England for example, the inferior races of animals are still. The day *may* come, when the rest of the animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny. The French have already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. It may come one day to be recognized, that the number of the legs, the villosity of the skin, or the termination of the *os sacrum*, are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason, or, perhaps, the faculty of discourse? But a full-grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day, or a week, or even a month, old. But suppose the case were otherwise, what would it avail? the question is not, Can they *reason*? nor, Can they *talk*? but, Can they *suffer*?'[48] He believed that the ability to suffer should be the basis for granting animals rights and protecting them from unnecessary suffering. Bentham argued that if animals feel pain, they should be treated ethically, and their interests should be taken into account in human decision-making processes using the happiness calculation – their greater pleasure or lesser suffering counts. Although Bentham and the utilitarians took the position that humans could use and even kill animals for their own needs, the condition for this was that no unnecessary suffering be caused[49] – Bentham opposed killing animals for sport or baiting them with dogs, which in the eyes of many contemporaries made him a radical or even an extremist[50]. It is significant that until Bentham published his treatise, no philosopher had categorically claimed that the humane treatment of animals was a human obligation or that animals were entitled to it by virtue of their rights or moral status.[51] Bentham's pioneering approach to animal rights, taken up by J. S. Mill,[52] contributed to the development of the animal rights movement; contemporary movements of this type, which see Peter Singer's *Animal Liberation* as their manifesto, are in fact derived from Bentham's philosophical reflections.[53]

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[48] *Ibid.*

[49] G. L. Francione, R. Garner, The Animal Rights Debate. Abolition or Regulation, New York 2010, pp. 7–9.

[50] T. Regan, Defending Animal Rights, Urbana, Chicago 2001, p. 14.

[51] W. Daniłowicz, *Teoria etyczna J. Benthama a dereifikacja i prawa zwierząt*, 'Studia Prawnicze', 2020, 1, pp. 12 and 13.

[52] J. S. Mill strongly opposed certain regulations concerning the treatment of animals. He considered them cruel and argued that they could not be rationally justified, see: R. Martin, *Mill's Rule Utilitarianism in Context* [in:] B. Eggleston, D. E. Miller, D. Weinstein (eds), John Stuart Mill and the Art of Life, Oxford 2012, p. 27. His name can be found among those members of the Royal Society who openly opposed cruelty to animals by drafting the document Prevention of Cruelty to Animals, T. Regan, Defending…, p. 14.

[53] T. Regan, Defending…, p. 17.

Bentham, a staunch defender of subordinate beings, not only worked for animal rights, but is now also considered one of the heroes of the women's rights movement. L. C. Boralevi, author of *Bentham and the Oppressed*, calls him outright 'the father of feminism,'[54] despite the fact that his proposals for the introduction of universal suffrage did not include women (alongside people under the age of 21, illiterates, those dependent on parish support, bankrupts, and insolvent debtors[55]). Although granting voting rights to women would have been in line with the principle of utilitarianism, Bentham remained a realist here – he realized that allowing women into political life would not find even the slightest approval in English society, and he knew that it was too early for that.[56] However, the philosopher recognized the urgent need to improve the lot of women, who were weaker than men and materially dependent on them. In his work *Principles of the Civil Code*, published in French in 1802, he wrote: 'If there be any difference, it ought to be in favour of the weakest – in favour of the females, who have more wants, fewer means of acquisition, and are less able to make use of the means they have. But the strongest have had all the preference. Why? Because the strongest have made the laws.'[57] Bentham argues that civil law, like criminal law, aims to ensure the greatest happiness for the greatest number of people. The demand for the improvement of women's situation seemed obvious on the basis of the principle of utility – with a few rational legislative measures, the lot of half of society could be significantly improved by providing women with greater access to income and material goods, which are, after all, an essential component of the 'hedonic calculus.'[58] In his work *Constitutional Code*, he expresses the belief that legislative changes in favour of women are all the more necessary because there are many causes of suffering that do not affect men but are specific to women – such as the pains associated with pregnancy, childbirth, raising children, periodic and sporadic weakness, a disadvantage in all physical struggles with men, and loss of reputation in cases where men do not suffer such a loss.[59] Bentham was aware of the fact that the law made women victims of tyranny on the part of men, who could treat them as servants or even slaves – under the law. Out of concern for the fate of women, he proposed the introduction of short-term marriage contracts.[60] He also advocated for girls to have access to

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[54] L. C. Boralevi, Bentham and the Oppressed, Berlin, New York 1984, p. 5.

[55] J. Bentham, *Constitutional…*, p. 16.

[56] J. Bentham, *Constitutional…*, p. 108.

[57] J. Bentham, Principles of the Civil Code, at: https://www.laits.utexas.edu/poltheory/bentham/pcc/pcc.pa02.c03.html [accessed: 15.07.2025].

[58]   J. M. Kelly, Utilitarianism and Distributive Justice. Jeremy Bentham and the Civil Law, Oxford 1990, pp. 193–195, P. Schofield, *A Defence of Jeremy Bentham's Critique of Natural Rights* [in:] Bentham's Theory of Law and Public Opinion, X. Zhai, M. Quinn (eds), Cambridge 2014, p. 226.

[59]   J. Bentham, *Constitutional…*, p. 108.

[60]   M. Sokol, *Jeremy Bentham on Love and Marriage: A Utilitarian Proposal for Short-Term Marriage*, 'The Journal of Legal History' 2009, 30, 1, pp. 1–21.

education and higher education, arguing that they were equal to boys in terms of cognitive abilities, and even pointed to studies showing that they were better than boys. Bentham was deeply convinced that, in order to achieve the greatest happiness for the greatest number of people, women should be given the opportunity to decide their own fate and pursue their own aspirations and desires.[61]

Jeremy Bentham undertook the mission of reforming many traditional, rigid social systems and institutions, which he considered irrational and based on superstition, and whose fundamental sin was that their operation contradicted his philosophical credo. Bentham went far in his passion for reform; he was a total reformer. He wanted changes in the legal system, reformed the language of law, and sought to change the British political system. He advocated the abolition of the monarchy and the House of Lords, the dissolution of the Church of England, and the introduction of universal suffrage and an annually elected parliament, and the basis for these demands was always the principle of utility, and not, for example, a particular attention to the democratic system or a deep conviction that it was a unique and only correct system. He advocated granting certain rights to animals, wanted to reform the education system, and fought for women's rights. He was convinced that, as a utilitarian, he should speak out in every public discussion concerning important socio-political issues, and at the same time assumed that every existing element of social and political life could be reformed in such a way as to benefit the majority of society. He was not afraid to be the first in many fields, he was not afraid to shock his contemporaries, constantly convinced that after careful reflection, every rational-minded person should agree with him and applaud his actions. He was not alone in his struggle. A worthy successor to Bentham in the total struggle for a better tomorrow was J. S. Mill, who partially transformed his master's utilitarianism, as well as developed and supplemented it. Mill, like Bentham, did not limit himself to writing or philosophizing – for decades he fought devotedly for the implementation of practical guidelines derived from the utilitarian principle he had perfected. The efforts of Bentham and his successor had a lasting effect – in the second half of the 19th century, the principles of utilitarianism formed the basis of the functioning of English governmental and administrative institutions, and their influence is still visible in Great Britain today – which is one of the significant differences between the British order and that established in the New World, where to this day the emphasis is primarily on individual freedom and there is a reluctance to restrict it in favour of common happiness.

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[61] L. C. Boralevi, Bentham…, pp. 14–18.

Abstrakt

Celem artykułu, w którym przyjęto metodę historyczną, jest przedstawienie Jeremy'ego Benthama nie tyle jako filozofa, ile jako reformatora toczącego boje o realizację swoich pomysłów, gdzie orężem były koncepty filozoficzne – przede wszystkim *zasada użyteczności*. Przekonanie, że wszelkimi ludzkimi poczynaniami winna niezmiennie kierować (racjonalna i bezwyjątkowa) zasada największego szczęścia największej liczby ludzi, legło u podstaw wszystkich działań Benthama zmierzających do zreformowania porządku społecznego.

Angielski filozof w swojej pasji reformatorskiej posunął się daleko; był reformatorem totalnym i konsekwentnym – chciał zmian w systemie prawnym, prawie karnym, cywilnym, konstytucyjnym, a także w systemie penitencjarnym (Panoptikon); pragnął modyfikować brytyjski system polityczny, reformował język, domagał się przyznania praw kobietom, postulował także uznanie pewnych praw zwierząt, jako istot zdolnych do cierpienia – i zawsze, niezależnie od reformowanego obszaru, podłożem jego działań była zasada użyteczności.

Słowa kluczowe: Jeremy Bentham, zasada użyteczności, dziewiętnastowieczne reformy systemu prawnego, Panoptikon, kodyfikacja prawa.

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