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Jeremy Bentham and President Roosevelt's Four Freedoms

Manuel Escamilla-Castillo

I

In this paper¹ I want to examine and compare what seem, on the face of it at least, to be two very different doctrines: that enunciated by President Franklin D. Roosevelt in his State of the Union Address given in 1941; and that contained in Jeremy Bentham's discussion of natural rights in his *Nonsense on Stilts*, written in 1791 in response to the French Declaration of the Rights of Man (1789). Roosevelt's speech has come to be known as the Speech of the Four Freedoms. Despite the pressures of the times, it looked forward to the future and set out what it took to be the primary objectives of the new world order that would follow the successful ending of the Second World War. One outcome of the speech was the post-war concern to place human rights at the heart of the international order. Bentham's reflections were also responding to an event at the start of some 25 years of European (and often wider) warfare and they too looked to establish some fundamental principles for the nature of government in the eventual new order. Whereas Roosevelt emphasized freedom and rights, Bentham placed the emphasis on happiness and 'securities against misrule' and, rather than looking for the protection of rights and freedoms antecedent to government, saw the concern of government to pursue the secondary principles or subordinate ends of civil law – subsistence, abundance, equality and security – through which happiness would be attained. Nevertheless, as I shall argue, their two positions are actually closely related – not least in being influenced by the Founding Fathers' recognition of the centrality of the pursuit of

happiness – and their comparison underlines the continuing relevance of Bentham's thought, and of his understanding of happiness, to discussions of the proper ends of government in the modern world.

On 6 January 1941, President Franklin D. Roosevelt fulfilled the constitutional requirement to deliver the State of the Union Address, a particularly solemn and significant moment in the political year. That speech came to be known as the Speech of the Four Freedoms. He began by referring to the international situation, a situation so extremely difficult that in his opinion he was justified in using the address to set forth the problems of the world and to identify solutions for them. The constitutional mandate for information refers to the problems of the United States, not to the problems of the world. But in 1941, faced with the efforts of many to adhere to the traditional isolationist position of the United States,² he insisted that it was undeniable that the main problem of the Union was the world war currently being waged. For that reason, the speech was dedicated to the analysis of the international situation. Roosevelt was in a special position. The United States was preparing itself to assume the role of one of the great world powers, of which there would be only two by the end of the war. Roosevelt was aware of this, and aware also that it gave him enormous responsibility. It turned him into a world sovereign, a 'Legislator of the world', to use an established expression.

The Second World War (hereafter WWII) represents, in certain relevant respects, a continuation of the First World War (hereafter WWI). Of course, there were new major issues, of which the rise of totalitarianism was the most important. But, inasmuch as WWII was a continuation of WWI, with both wars seeking to solve national growth problems through imperial expansion, to that extent, Roosevelt recognized that WWII could be ended and peace achieved only with a new world order in which empires no longer existed.

This scenario of the historical redundancy of a dominant political model was not new to Roosevelt. On a national scale and, of course, without the bloodthirsty inhumanity of WWI, the Great Depression that began in 1929 also required a search for new models of social and economic organization. The New Deal was Roosevelt's response to that national and world anguish. It does not matter now whether the response was right or not in terms of economic efficiency or effectiveness of rights and freedoms.³ What remains important, for the purposes of this paper, is the consistency of New Deal policy with the proposals set out in the Four Freedoms Speech. That speech was Roosevelt's response to a world that had reached, with WWII, a maximum degree of the disruption that had been anticipated by the Great Depression: 'In the future days which

we seek to make sure, we look forward to a world founded upon four essential human freedoms.⁴

‘The first [of the Four Freedoms] is freedom of speech and expression [...]’.⁵ For Roosevelt, a modern political order could no longer be established on any basis other than the freedom of the person to form independently an image of the world and to publicly express that image. Many fundamental questions are involved here: the sovereignty of the individual conscience, the appeal to the opinion of the enlightened public, a commitment to the pursuit and development of objective truth and to the expression of views that lies at the heart of democracy itself, and so on. That freedom, as against the idea of mere tolerance that preceded it, builds a deeper commitment, indeed a transcendent foundation, into the very core of the new world view: ‘[t]he Second is freedom of every person to worship God in his own way [...]’.⁶ These first two freedoms are considered as encompassing the content of the First Amendment of the United States Constitution: ‘Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.’

Apart from the greater breadth of the First Amendment, a further difference between it and Roosevelt’s text is that it speaks of ‘freedoms’: that is to say, recourse is had to the concept of freedoms of the English tradition, as Edmund Burke theorized.⁷ Old English liberties, according to Burke, are something that we detect *a posteriori* in the evolution of laws and political institutions, and not as *a priori* fundamentals of the political order. Burke notes that:

Government is not made in virtue of natural rights, which may and do exist in total independence of it; and exist in much greater clearness, and in a much greater degree of abstract perfection: but their abstract perfection is their practical defect. By having a right to every thing they want every thing. Government is a contrivance of human wisdom to provide for human *wants*. Men have a right that these wants should be provided for by this wisdom.⁸

Another important difference between the approach of the Speech and that of the First Amendment is that the Constitution sets out the limits of the government in its different branches (‘Congress shall make no law ...’); it does not enumerate the rights that define the government. The difference between the points of view in these two texts is remarkable. The Speech lists freedoms that were to structure the world political

order; the First Amendment, on the other hand, supplementing the Constitution, specifies restrictions on government action. In fact, the Constitution of the United States, in essence, is a list of the tasks that can be undertaken in the country's governance. The idea behind this approach was very popular at the time of the adoption of the Constitution and featured heavily in the debate between supporters of and opponents to the inclusion of a Bill of Rights in it. Those who proposed excluding a statement of rights thought that making a list of rights meant limiting them; for them, citizens have all the rights, not only those that a list would contain even at its widest. Government, on the other hand, in all its branches, would have only those possibilities of action expressly authorized by the Constitution, as exceptions to the general principle of omnicompetence of citizens.⁹

Despite these differences, President Roosevelt's first two freedoms expressed the essential content of the First Amendment by insisting that a central part of the idea of freedom, perhaps the most important part, is religious freedom and freedom of expression. The other two freedoms he lists present a different set of problems. They are freedom from fear and freedom from want. From the theoretical point of view, the main difficulty of these two freedoms is precisely that their definition as liberties clearly exceeds the traditional negative definition of freedom, which characterizes it as an absence of coercion and situates it in the relational sphere: I am free as long as no one else hinders my capacity for action. It is important to clarify whether President Roosevelt's Four Freedoms really refer to freedom or if Roosevelt was using the prestige and the popular acceptance of the word 'freedom' to introduce political objectives other than freedom – or perhaps even contrary to it. This would be the case if the use of the word 'freedom' by Roosevelt in 'freedom from fear' and 'freedom from want' could be said to be what have been called the rhetorical (or poetic) uses of freedom – usage that links freedom, which is a moral notion, to the physical realm. It is a use of the term that is connected with the idea, which Isaiah Berlin subsequently developed, of 'positive liberty'. According to this idea, the achievement of freedom depends not just on others not acting to restrain human behaviour (negative liberty), but requires that they contribute with their own actions to the personal achievements of those who claim freedom. Proponents of negative liberty hold that many of the confusions of political theory in relation to freedom derive from this essentially improper use of language. In fact, it is a matter of introducing the idea of freedom into the field of an antonym, necessity, to which Edmund Burke refers in the passage quoted above. Thus, if Roosevelt's last two freedoms are to be

understood in terms of Berlin's notion of positive freedom, we would have to conclude that the president had introduced himself into a land very different from that of freedom. This is most clearly so in the case of freedom from want, since this refers to the satisfaction of basic needs. In the case of freedom from fear, the question is more complex, as we shall see in relation to Bentham's theory.

Another interpretation might be to understand these last two freedoms in terms of the capabilities approach of Amartya Sen. Effectively, Sen develops another sense of freedom, building on what John Rawls calls 'primary goods', by speaking of freedom as capacity. This refines the concept of positive freedom: 'Capability is, thus, a set of vectors of functioning, reflecting the person's freedom to lead one type of life or another.'¹⁰ Sen thus places himself within the limits of the concept of freedom. He himself admits as much by including his discussion of freedom as a capacity within a work dedicated to the discussion on equality. Moreover, Sen explicitly refers to the second pair of freedoms identified by Roosevelt: 'Freedom from want, which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants';¹¹ freedom from fear, 'which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor'.¹² If these two freedoms are understood, as Sen proposes, as distinct dimensions of freedom, then Roosevelt's proposal would be coherent and could not be interpreted as an attempt to introduce political objectives unrelated to the logic of rights under the pretext of defending freedom.

Understanding freedom as a capability allows us to redirect the idea of positive freedom in a way that is not contrary to that of negative freedom. This means that when Roosevelt speaks of Four Freedoms, he is not making a mistake (as would be the case if we accepted that his last two freedoms leave the real sphere of freedom to enter into that of necessity), but he continues to talk about freedom in its proper sense. Moreover, understanding freedom as capability allows us not to be confined to the merely negative aspect of freedom, while avoiding the self-contradiction that occurs when freedom is extended to include necessity. Sen seeks to escape from the old opposition between formal and material freedom by claiming the material bases that he considers indispensable for the deployment of capabilities as components of freedom. In conclusion, if Sen's proposal is accepted, we should conclude that Roosevelt was talking all the time just about freedom, not about freedom and necessity.

Roosevelt's explanations of these last two freedoms can be summed up in the value and purpose of a healthy peace, in the case of freedom from want, and in a peace in its original sense of the absence of war, in freedom from fear. The Address is thus situated on a clearly rhetorical ground, which was necessitated by the two major crises facing the presidency of Roosevelt, the Great Depression and WWII. Sen states:

[This] language is not aberrant here. It fits into a broad general concept of freedom, rather than having to be seen as invoking some peculiarly remote idea of freedom.

That is, Roosevelt is talking about freedom:

Freedom as a value demands that certain things be considered seriously *for that reason* (whether or not it is valued for any other reason as well). The notion of freedom as effective power to achieve what one *would* choose is an important part of the general idea of freedom.¹³

There is a third way of understanding freedom that is different from the two we have just considered, negative freedom and positive freedom. We can find this in Wilhelm von Humboldt's theory, especially in *The Sphere and Duties of Government*, which conceptualizes modern freedom as a manifestation and, at the same time, an expression of individuality, which means that freedom must lead to diversity and to variety in its forms.¹⁴ That diversity is positive. Nothing is more beautiful than the multiplicity of existence produced by the joint action of freedom and individuality. The multiplicity of existence constitutes the fullness of the human being, which is the person's vocation. It is the enthusiastic exaltation of individual freedom characteristic of romanticism, which Humboldt already anticipates:

The true end of Man (...), is the highest and most harmonious development of his powers to a complete and consistent whole. Freedom is the grand and indispensable condition which the possibility of such a development presupposes; but there is besides another essential, – intimately connected with freedom, it is true – a variety of situations. Even the most free and self-reliant of men is thwarted and hindered in his development by uniformity of position. But as it is evident, on the one hand, that such a diversity is a constant result of freedom, and on the other, that there is a species

of oppression which, without imposing restrictions on man himself, gives a peculiar impress of its own to surrounding circumstances; these two conditions, of freedom and variety of situation, may be regarded, in a certain sense, as one and the same.¹⁵

One might think that this development of the powers of the human being to which Humboldt refers is an idea close to the capacities of which Amartya Sen speaks. But there is a very notable difference – in Humboldt's insistence that the development of human power is possible only on the condition that state intervention in this field is reduced as much as possible. For Humboldt, state intervention could take place only at the expense of a huge, uniform impoverishment of the human:

(...) whatever kind of obstacles the state proposes to remove – in the name of social justice and equality of opportunity – intervention would always be unacceptable because, far from creating better conditions so that all individuals can make use of their freedom of choice, such a state in fact lowers for everybody the possibilities of a self-chosen, self-created life (...).

The dominant reason why the state is not to be entrusted with the task of creating conditions of fairness for all, is a strong dislike of all attempts to put general principles into practice by political and administrative means. And this aversion is characteristic of a liberal disposition for which diversity is the corollary of individual liberty.¹⁶

According to Humboldt's approach, then, freedom is the starting point of modern society, because it is integral to the very existence of the individual human subject, and is also the *sine qua non* requirement for the full development of human possibilities and potential, and that will lead to the multiplicity of human ways of living, in the same way that the free expansion of life has led to the variety of plant and animal species. Variety is wealth; uniformity is impoverishment. Public action, being unavoidably uniform, frustrates the humanizing action of freedom. The versions of freedom proposed by Berlin and Sen, while plausible, provide a slide of meaning towards a version of freedom that calls for state intervention, with coercive action that enforces social cooperation, instead of letting this cooperation be produced spontaneously, through voluntary agreements.

Humboldt returns us to the original meaning of freedom and allows us to understand why the freedom of religious beliefs and the manifestation of those beliefs through worship is valuable. Freedom is valuable

because it allows variety. Variety, in turn, is valuable because it is the only way to approach the truth, a truth that will show itself in that variety or, at least, that will separate us from error. Berlin and Sen's proposals on freedom, by broadening their scope, permit Roosevelt's Four Freedoms to be considered homogeneous. But they are not. To the extent that the first two freedoms of President Roosevelt do not rely on state intervention to produce the freedom of individuals, they are also a coherent expression of Humboldt's vision of freedom as a condition and incentive of individual self-development.¹⁷ Something different, however, happens with the last two freedoms of President Roosevelt, who thinks of them as correct expressions of freedom.

Roosevelt, faced with the two serious crises that shaped his mandate, was trying to find a way towards the establishment of a lasting world order. He speaks of the fact that these freedoms constitute human rights ('Freedom means the supremacy of human rights everywhere') and he insists every time that the Four Freedoms are explained that they were to be in force 'anywhere in the world'.¹⁸ Certainly, this recurring expression seeks a rhetorical effect, but it also affirms that isolationism was no longer possible in the world.

The durability and universality of the Four Freedoms became apparent when, in his State of the Union Address of 11 January 1944, Roosevelt announced a Second Bill of Rights.¹⁹ According to the president, the Bill of Rights had dealt only with 'political rights', which guaranteed life and liberty, but the text of the Declaration of Independence, passed in 1776, further stated that the purpose of governments (which was the only thing that would keep them in power against the right of the people to change or abolish them otherwise) was the guarantee of these rights to life and freedom, and also to one more thing:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness.

The history of happiness as a political objective goes back to the Platonic (or Socratic) concept of *eudaimonia*, and already in Aristotle this is presented not only as linked to the inner world (virtue and wisdom), but also to the possession of goods, whether immaterial (friendship) or material (wealth). In the context of the Declaration of Independence, the immediate antecedents of this idea are those natural rights enumerated by John Locke: life, liberty and goods. The pursuit of happiness would

replace property in the Lockean trio. All of this enables the notion of the 'pursuit of happiness' to be included (it is not a right to happiness, which would be something more definite). Moreover, that objective gives a material basis for the ends of government, as President Roosevelt does when he concretizes the objectives that the government must guarantee for the fulfilment of its duty to allow the pursuit of happiness in useful and remunerated work; a sufficient profit, also in the case of farmers; a free market, without unfair competition or monopolies; decent housing; the right to medical assistance and health; adequate social security, and good education.²⁰

The foundation for the rights set out in the Second Bill of Rights proposed in Roosevelt's 1944 speech is that the pursuit of happiness must be equal. And the scriptural authority for that can be found in the Declaration of Independence, which insisted that 'all men are created equal', and claimed the right to life, liberty and 'the right to "Pursuit of Happiness"'.

By 1944, the United States was already fully involved in the two great arenas of WWII, the Euro-African and the Pacific, and it represented the only world leadership that could rival the Soviet Union. This global role was to be strengthened through India being granted independence from the British Empire and the subsequent decolonization, first in the Muslim countries of North Africa and the Middle East, and later in the rest of Africa and Asia. With the Four Freedoms Speech and the subsequent Atlantic Charter, in which Roosevelt and British premier Winston Churchill agreed that the principles set out there would be the foundation of post-war world order, the Second Bill of Rights was also destined to have a planetary reach.

F. D. Roosevelt did not live to see the promised land of victory over the Axis, but his objectives for world peace were embodied in a series of institutions and norms, such as the institution of the United Nations, and the Universal Declaration of Human Rights (hereafter UDHR). The draft of this Declaration, which was approved by United Nations General Assembly Resolution 217 A (III) on 10 December 1948, was written by an international committee in which the French René Cassin and American Eleanor Roosevelt, widow of the president, played a leading role.²¹ They ensured that the formal and material features of the Universal Declaration would reflect the rights contained in the Declaration of Independence, the Constitution and the Bill of Rights, as well as in the French model of the Declaration of Rights of Man and the Citizen. Two further decisive components were the Four Freedoms and the consequent proposal of a Second Bill of Rights. Thus, while articles 1 to 21

of UDHR develop the content of the First Bill of Rights, those from 22 to 29 do so with the second. In this way, the Preamble to the Universal Declaration proclaims the aspiration to 'the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want'.²² The influence of this vision of two Bills of Rights would then be transferred to the two Covenants approved by the United Nations in 1966, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Preamble to the ICESCR states: 'Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights'.²³ The whole development of human rights, both at the level of international treaties and that of the constitutions of democratic countries, has subsequently followed this dual structure.

The traditional interpretation of this dual structure of human rights sees it as a reflection of the partition of the world after WWII into a Western and a communist bloc. But we may also understand the international development of human rights following WWII as intended to consolidate the social-democratic political-economic model as a distinctive product of American liberalism, though on the basis of other previous theoretical and practical developments.²⁴ F. A. Hayek was already able to argue in *The Road to Serfdom*, written in the Cambridge exile of the London School of Economics during WWII, that the rule of social-democracy was undisputed in Western political practice, dedicating his book 'To the socialists of all parties'.²⁵

II

One of the hallmarks of Jeremy Bentham's theory was his hostility to the notion of natural rights, which is what human rights were called in his time. He was against not only the idea itself, but equally the practical application that was made of it in the two great revolutionary moments of the eighteenth century, the American and the French revolutions. The basis of Bentham's hostility to the idea of natural rights was that they are grounded on a 'fantastic' or 'capricious' principle, the principle of sympathy and antipathy, which is the principle most opposed to utilitarianism.²⁶ The two other reasons why Bentham thought natural rights unacceptable were that they are 'anarchical fallacies' and 'nonsense upon

stilts'.²⁷ They are anarchical fallacies because they are lies elaborated for the purpose of deceiving; where that deceit produces, in addition, an anarchic effect. They are lies because, for Bentham, they only become rights when they are embodied in law.²⁸ 'Natural' rights, i.e. rights that would exist in nature, outside the law or before it, could not be such rights; hence the lie. Such lies as natural rights engender anarchy in society by seeming to make the validity of legal rules dependent on their conformity with these prior propositions. In extreme positions, as with the American and French revolutions, they can lead to the overthrow of government and to civil war. They are 'nonsense upon stilts' because they are fictional entities that are placed on a pedestal, so that everyone looks at them in amazement without wondering if there is any solid underpinning: 'Natural rights is simple nonsense: natural and imprescriptible rights, rhetorical nonsense, nonsense upon stilts'.²⁹ Bentham's criticism of the idea of natural rights marks the beginning of their decline in the field of law and politics. During the rest of the nineteenth century and the first half of the twentieth century, the idea of natural rights disappears from political and legal theory and practice until they were revived, under the name of 'human rights', in the Universal Declaration of 1948.³⁰

When Bentham developed his constitutional theory, in the *Constitutional Code*, he proposed replacing 'natural rights' with the expression 'securities against misrule', guarantees against bad government.³¹ If we were to apply Bentham's proposals to the Four Freedoms, they would be considered not, as President Roosevelt saw them, as a prior matter in respect of legislative action, but rather as the telos or consequence of that action. They would be a device implemented in the laws, and a result directed to prevent rulers from abusing their power by betraying the interests of the governed, interests that would be indirectly confirmed and protected by the content of those guarantees. Legislation would concern itself not with antecedent liberties or rights, which rulers must approve or that policies should promote, but with setting responsibilities, and imposing penalties in their case; and this, *ex post facto*, which is the normal way in which the law acts, as an instrument of political action that is orientated to freedom. From another point of view, using the concept of securities instead of the concept of freedoms, we have an indisputable concrete reference, rather than appealing to metaphysical notions (nature, reason), or to historical conceptions of metaphysical notions (nature of things), or to other contentious notions. Written, fixed and empirically verifiable texts are the sole basis for people's claims. In fact, over time, Bentham relaxed the initial rigidity of his stance and admitted the usefulness of a solemn political statement of objectives,

although he continued to insist that this should be expressed in guarantees rather than by rights. On the occasion of his attempt to promulgate the Constitution he had drafted for Tripoli, he even proposed that the Pasha address the people by stating that the Prophet Muhammad had in an apparition ordered him to carry out his political reforms.³²

Bentham's critique of natural rights was central to his theory, but to capture the difference between Bentham's and Roosevelt's proposals, it is more useful to focus on the development by the former of what he called secondary principles, or the subordinate ends of the civil law. As we have seen, Bentham's political-legal proposal is based not on principles or rights but on ends or teleology. The ruler is not to guarantee rights, but to achieve certain goals. We are thus brought into the field of what Burke had called 'needs'. The justification of the institution of the government of some people over others is, from this point of view, that it is necessary to satisfy human needs. For Bentham, the ruler and the law (which is the instrument and at the same time the creator of the ruler), if they are to be as they should be, must satisfy the needs of citizens (or subjects, as the case may be), enabling them to achieve happiness. Taking into account the variety of human aspirations, one must understand 'happiness' in an abstract, broad sense. For that very reason, the Declaration of Independence does not speak of the attainment of happiness, but of the pursuit of happiness. The question, then, is of what the ruler should do for the happiness of citizens.

For Bentham, he must act by means of law: by means of criminal law, to prevent or reduce violations of citizens' rights; by civil law, so that citizens get the goods to which they aspire (satisfy their needs). The main purpose of civil law, in this way, is happiness. The guide to happiness is found in the four secondary ends: subsistence, abundance, equality, security.³³

Bentham's secondary principles are set out in this way because, according to him, that is the logical order. The first duty of a government is to assure the existence of the essential goods for the life of the people, for one can hardly be happy without the very means of mere *subsistence*: food, shelter, clothing, etc. People are happier if they are not limited to having just what is strictly necessary, but instead have such goods in *abundance* and variety. By applying the principle of decreasing marginal utility, an optimal level of happiness is achieved, once the abundance of material goods is obtained, provided that these goods are distributed in conditions of *equality* among the population. Finally, when all this was achieved, Bentham thought that people would be happier if they could possess and dispose of all of those goods with *security*.

Although that is the logical order of secondary principles, according to Bentham, he thinks that it is necessary to take into account – for the ordering of these principles, in addition to logical-formal considerations – other factors of a pragmatic nature: mainly, what the ruler should do to achieve those ends. The collection and supply of the necessary goods to ensure the subsistence of the population (not to mention abundance) depends on the effort of the people in their production. Only by striving as much as possible to assure people of the enjoyment of the product of their efforts is there a way to obtain what is necessary and convenient for life. The Hobbesian background of Bentham's theory arises powerfully in this theme.

For Bentham, freedom and security are deeply and reciprocally involved. You are free only to the extent that the fear of being extorted by anyone stronger than you is absent. Where there is no security, there is no freedom, only the law of the strongest. Even a tyrant is preferable to misrule. In a situation of anarchy, everybody is subjected to a maximal despotism, more fearsome than any tyranny. In fact, government is necessarily exercised by restricting freedom. To speak of 'freedom' as the end of government is to use misleading language. It is better to make clear that the end of government and law is security, rather than freedom. Freedom for Bentham is nothing more than a 'branch' of security, a goal subordinated to it.

Security acts both in the political sphere, in a broad sense, by the elimination of violence, and also in the specifically legal meaning of the guaranty of expectations. Bentham talks of the frustration of expectations as a great evil that would subtract from any act all the good that is expected from it. Moreover, a frustrated rational expectation would mean not only the loss of the expected good but would bring the added harm of a frustrated hope. He speaks in this sense of the 'disappointment-preventing principle'. In legal theory, this set of considerations traditionally receives the denomination of 'legal certainty'. In Bentham's theory, it is the second great set of reasons that supports the thesis of the understanding of freedom as well-understood security.

It should be remembered that this security encompassing freedom occupies the last place in Bentham's logical ordering of what he calls secondary principles to the primary principle of the greatest happiness. It is Bentham himself who clarifies that, if pragmatic considerations were taken into account, this order of priority must be altered so as to obtain the end of the greatest happiness. Without security, the production of goods in such a quantity as to ensure subsistence could not be expected, let alone abundance, thus security becomes the first of the secondary principles:

Security was associated with having enough subsistence for the present and future and was even associated with equality in so far as a more equal society was also more likely to respect the rules of property and protect individuals from harm. But security was particularly related to law and to that law that protected the individual's person and property from attack by others and by government itself. The enforcement of the law via the courts achieved the former and a system of representative democracy (based on the secret ballot, frequent elections, and numerous checks on the abuse of power) provided security against the latter.³⁴

The other secondary principles – subsistence, abundance and equality – should be considered exactly in this order and insofar as they do not interfere with the achievement of security; otherwise, inconsistency would be the result: subsistence or equality must be obtained without sacrificing security, because this is the unique basis of them. In any event, in no circumstances should these secondary purposes be understood as rights other than legal rights; not even as moral rights:

But why did Bentham still deny from this perspective that a moral right to security could exist? He did so because society cannot reconcile disparate claims to various rights from the point of view of the individual. The whole point of the utility principle is to provide an external standard with which individual claims can be reconciled. Absolute claims to rights prevent this very reconciliation.³⁵

III

Few things might seem so opposed as President Roosevelt's Four Freedoms and Bentham's secondary principles. But, after careful consideration, there are numerous coincidences that must be emphasized. The starting point in both is a reflection on the reciprocal entailment of freedom and security. In the case of Bentham, general, indeterminate freedom is a branch of security; in that of Roosevelt, the essential freedom is freedom of religion and freedom of expression, corresponding with the American tradition. Bentham and Roosevelt both warn that equality in the pursuit of happiness could not be guaranteed even if, as Tocqueville pointed out, equality is a central value in democratic society.³⁶ As a means to happiness (perhaps as happiness itself), Roosevelt's 'freedom' from fear and necessity and Bentham's security that allows subsistence

and abundance are essentially the same. Finally, both are trying to define the lines of action to be followed by rulers around the world.

Talking now of differences, we must point out the conceptual and logical rigour of Bentham contrasted with the imprecision and rhetoric of Roosevelt's use of the term 'freedoms', as already mentioned, which makes it difficult to know precisely where he is situated and the consequences of achieving or failing the objectives. Are these rights moral, political or legal? Above all, are the Four Freedoms principles or starting points for political action where non-compliance would cancel the legitimacy of the process? In the case of Bentham's principles, in spite of the name, these are aims and objectives that must be calculated by the effectiveness of the measures adopted, without leaving sharp disqualifications except in extreme cases. It is an appeal to rationality, to complex analysis, to pondering. In the case of the Four Freedoms, the speech is strict, without chiaroscuro. It is true that the times of the Great Depression and, later, of WWII, were enormously difficult. But the times in which Jeremy Bentham lived were also not easy, although there was a clear horizon and confidence in progress. Still, in 1944, or in 1948, when the UDHR was approved, the future was uncertain.

The great difference between the two interventions is undoubtedly the recipe to remedy the shortcomings and to meet people's needs. The remedy is wealth, of course. The question is where that wealth comes from and how it can be increased and made more available. For Roosevelt, and the social-democratic tendency he advocated, there were two major phases about wealth to take into account, phases that are mutually independent: their production and distribution. Both require governing decisions on the part of authority. And that is what Roosevelt did; he established a centralized political direction of the economy, of production and of distribution of wealth. It seemed to be the best idea at a time of serious crisis. But it was an emergency solution, which soon ran out. The formula that was put to work to reverse the Great Depression was running low when the even more serious crisis of war fuelled a new start-up of the productive energies of the United States and also of many countries not directly involved in the conflict. Before this last answer to the crisis was exhausted, the peace model was advocated, although it would reveal itself as a precarious peace.

For peace, Bentham's proposal seems to be better adapted: if we think that everyone is the best judge of his/her own interests and that the production of wealth is not watertight with respect to distribution, then freedom and security mark the secure path to wealth and to the remedy for necessity.

In the post-WWII world, we have been encumbered with a political rhetoric about rights and freedom that is rarely capable of addressing the ordering of priorities and the distribution of aid and support in regions less wealthy than the West. But in thinking about those priorities, and in taking seriously the obstacles that exist to the realization of happiness in the world, we might find Bentham a more useful tool, even if we fly under the flag of the rhetoric of human rights formulated as ambiguously as Roosevelt did.

Notes

1. I am grateful for the comments and suggestions of the attendees at the Symposium on Happiness in Political and Moral Thought, organized by Professor Georgios Varouxakis at UCL, in October 2017; especially those of Professor Ellen Kennedy, of the University of Pennsylvania, who also told me about Ursula Vogel's article, which I will quote later. As always, I have discussed this paper with Professor Jiménez-Sánchez, from the University of Granada. Finally, I have included all the many accurate corrections made by Professor Mark Philp, from Warwick University, for whose efforts I am sincerely grateful.
2. In a certain sense, we can say that the United States is constitutively isolationist inasmuch as the colonizing mentality of the Pilgrim Fathers was based on the vision of a land of unlimited promise, for the always possible expansion that allowed the conquest of the West. Subsequently, the Monroe Doctrine (1823) extended the possible limits of the United States to continental scale. Finally, the *Hawley-Smoot Tariff Act* (19 U.S.C., 4, 1930) legislatively set commercial isolationism against the rest of the world.
3. In fact, the New Deal left practically no trace in the Constitution of the United States itself – Akhil R. Amar, *America's Constitution. A Biography* (New York: Random House, 2006), 475: 'The only textual amendment to be ratified under Franklin Delano Roosevelt was the Twenty-first, repealing Prohibition' (628, n. 8).
4. Franklin D. Roosevelt, 'Message to Congress – The State of the Union' (speech file 1353A), 6 January 1941, in *Master Speech File, 1898–1945*, Franklin D. Roosevelt, Box 58, Franklin, in Franklin Delano Roosevelt Library and Museum, 20. <http://www.fdrlibrary.marist.edu/archives/collections/franklin/index.php?p=collections/findingaid&id=582> (accessed 14.06.2018).
5. Roosevelt, 'Message to Congress', 20.
6. Roosevelt, 'Message to Congress', 20.
7. Roosevelt, 'Message to Congress', 20.
8. Edmund Burke, *Reflections on the Revolution in France*, in *Select Works of Edmund Burke*, a new imprint of the Payne Edition, foreword and biographical note by Francis Canavan (Indianapolis: Liberty Fund, 1999), Vol. 2, 152.
9. A. Hamilton, J. Madison and J. Jay, *The Federalist*, in *The Federalist, with Letters of 'Brutus'*, ed. T. Ball, Cambridge Texts in the History of Political Thought (Cambridge: Cambridge University Press, 2003), No. 85.
10. Amartya Sen, *Inequality Reexamined* (Oxford: Clarendon Press, 1992), 40.
11. Roosevelt, 'Message to Congress', 21.
12. Roosevelt, 'Message to Congress', 21.
13. Sen, *Inequality Reexamined*, 68–9.
14. Wilhelm von Humboldt, *The Sphere and Duties of Government*, trans. J. Coulthard (London: John Chapman, 1854). http://oll.libertyfund.org/titles/589#lf0053_head_002 (accessed 15.06.2018).
15. Humboldt, *Sphere and Duties of Government*, 11.
16. Ursula Vogel, 'Liberty Is Beautiful: Von Humboldt's Gift to Liberalism', *History of Political Thought*, III/1 (1982): 99.
17. Vogel, 'Liberty Is Beautiful', 81.
18. Roosevelt, 'Message to Congress', 21.

19. Roger Daniels, *Franklin D. Roosevelt: The War Years, 1939–1945* (Urbana, Chicago and Springfield: University of Illinois Press, 2016), 439ff.
20. Franklin D. Roosevelt, 'Radio Address to the Nation – Quoting State of the Union' (speech file 1502), 11 January 1944, in *Master Speech File, 1898–1945*, Franklin D. Roosevelt, Box 77, Franklin, in Franklin Delano Roosevelt Library and Museum, 19–20. http://www.fdrlibrary.marist.edu/_resources/images/msf/msfb0131 (accessed 17.06.2018).
21. M. G. Johnson, 'Internationalization of Human Rights', in *The Eleanor Roosevelt Encyclopedia*, eds. Maurine H. Beasley, Holly C. Shulman and Henry R. Beasley (Westport and London: Greenwood Press, 2000), 256–60.
22. United Nations, *Universal Declaration of Human Rights*, 1948. <http://www.un.org/en/universal-declaration-human-rights/> (accessed 16.6.2018).
23. ICESCR, *International Covenant on Economic, Social and Cultural Rights*, 1966. <https://www.un.org/ruleoflaw/files/International%20Covenant%20on%20Economic,%20Social%20and%20Cultural%20Rights.pdf> (accessed 23.09.2018).
24. 'Surviving for a generation, too, was the political order fashioned by Franklin Roosevelt. The New Deal itself, as a series of economic and social reform measures, lasted only from 1933 to 1938. But the larger New Deal system of politics lasted until at least until the late 1960s. Through those years the Democratic party was the majority party, and it broadly identified itself with a liberal agenda, if liberalism is defined in its modern sense as a faith in the benign capacity of government, an acceptance of a mixed economy, sympathy for a modest welfare state, and some sensitivity to labour and ethnic constituencies.' Michael J. Heale, *Franklin D. Roosevelt: The New Deal and War* (London & New York: Routledge, 1999), 77.
25. Friedrich A. Hayek, *The Road to Serfdom*, in *The Collected Works*, Vol. 2 (Chicago: University of Chicago Press, 2007), 7.
26. Frederick Rosen, 'Individual Sacrifice and the Greatest Happiness: Bentham on Utility and Rights', *Utilitas* 10/2 (1998): 132 and n. 10.
27. Manuel Escamilla-Castillo, *Bentham* (Barcelona: RBA, 2017), 93–117.
28. Jeremy Bentham, *Nonsense upon Stilts, or Pandora's Box Opened, or the French Declaration of Rights Prefixed to the Constitution of 1791 Laid Open and Exposed – with a Comparative Sketch of What Has Been Done on the Same Subject in the Constitution of 1795, and a Sample of Citizen Sieyès, in Rights, Representation and Reform. Nonsense upon Stilts and Other Writings on the French Revolution*, *The Collected Works of Jeremy Bentham*, eds. Philip Schofield, Catherine Pease-Watkin and Cyprian Blamires (Oxford: Clarendon Press, 2002), 229.
29. Bentham, *Nonsense upon Stilts*, 330.
30. William A. Edmundson, *An Introduction to Rights* (Cambridge: Cambridge University Press, 2004), 105ff.
31. John R. Dinwiddy, 'Bentham', in *Bentham. Selected Writings by John Dinwiddy*, ed. William L. Twining (Stanford: Stanford University Press, 2005), 71ff.
32. Philip Schofield, *Utility and Democracy. The Political Thought of Jeremy Bentham* (Oxford: Oxford University Press, 2006), 72.
33. Jeremy Bentham, *Principles of the Civil Code*, in *The Works of Jeremy Bentham*, ed. John Bowring, Vol. 1, 1843, Part I. <http://oll.libertyfund.org/titles/bentham-the-works-of-jeremy-bentham-vol-1> (accessed 22.09.2017).
34. Frederick Rosen, *Mill. Founders of Modern Political and Social Thought* (Oxford: Oxford University Press, 2013), 135.
35. Rosen, 'Individual Sacrifice and the Greatest Happiness', 137.
36. Alexis de Tocqueville, *Democracy in America* (London: Bradley, 1840), Vol. 2, Pt 2, Chap. 1.

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