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# An “Ingenious Moralists”: Bernard Mandeville as a Precursor of Bentham

Ryu Susato\* 

Keio University

\*Corresponding author. Email [susato@keio.jp](mailto:susato@keio.jp)

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## Abstract

This article argues that Bernard Mandeville’s ideas were more likely to have influenced Jeremy Bentham’s writings than previously believed. The conventional interpretation of Mandeville as a forerunner of the Hayekian “theory of spontaneous order” has obscured Mandeville and Bentham’s shared emphasis on legal and interventionist solutions for the issues of prostitution and prisoners. This influence is evinced by focusing on some of Mandeville’s minor works, which anticipated some of Bentham’s arguments. It is unlikely that Bentham directly knew of Mandeville’s minor works, but his reformist and interventionist bent was consistent and discernible in the *Fable*, which Jeremy Bentham read in his youth.

## 1. Introduction

In recent times, scholars of utilitarianism have activated their research of its origins afresh,<sup>1</sup> but the name of Bernard Mandeville has hardly been mentioned in recent literature on utilitarianism or Bentham. This is primarily because Mandeville’s claims in the *Fable of the Bees* have either been considered among the most important contributions to libertarian tradition or they have been interpreted, together, as a forerunner of Smithean economic liberalism. Nevertheless, several of Mandeville’s minor works strikingly anticipated some of Bentham’s arguments. The purpose of this article is to shine a light on the reformist aspects in Mandeville’s thought by comparing his relatively minor works more closely to the works of Bentham. We here focus mainly on Mandeville’s *A Modest Defence of Publick Stews* (first published in 1724; *Publick Stews*, hereafter) and *An Enquiry into the Causes of the Frequent Executions at Tyburn* (1725; *Tyburn*, hereafter). In the former, Mandeville advocated establishing public houses of prostitution in an attempt at ameliorating prostitutes’ working conditions. In the latter, he proposed not only some new methods of public execution, but also improvements in the treatment of prisoners through his own design proposal for prisons. Such interventionist approaches in these works might be considered to contradict his well-known appeal

<sup>1</sup>Getty L. Lustila, ‘John Gay and the Birth of Utilitarianism’, *Utilitas* 30.1 (2018), pp. 86–106; Matthias Hoesch, ‘From Theory to Practice: Bentham’s Reception of Helvétius’, *Utilitas* 30.3 (2018), pp. 294–315.

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to “Private Vices, Publick Benefits,” the famous – or even notorious – subtitle of his *Fable*. Nevertheless, Mandeville’s appeal to “public benefits” or “national happiness” has been consistent throughout his works, and this can be best characterized as a “Benthamite” *avant la lettre*. I will not claim that these two works of Mandeville directly influenced Bentham, but rather that some of the basic ideas in the *Fable* that are consistent with these minor works are likely to have influenced the latter than previously believed.

The first section of this article will survey the relationship of Mandeville to utilitarian tradition in the secondary literature. Certainly, Mandeville has often been mentioned as a precursor of utilitarianism in a general but somewhat vague sense,<sup>2</sup> while scholars have rather contrasted Mandeville, as a proponent of “natural identity of interests,” with Bentham, who allegedly proposed the “artificial identity of interests.”<sup>3</sup> Friedrich von Hayek and other historians of economic ideas have generally followed this interpretation, which may have hindered us from noticing some significant commonalities between Mandeville and Bentham.

The second and third sections will investigate Mandeville’s two pamphlets, which will be discussed in reference to Bentham’s similar arguments. In the *Publick Stews* and *Tyburn*, Mandeville shows an interventionist face and proposes some improvement plans *à la* Bentham. Although some scholars judge Mandeville’s proposal of public brothels as simply satiric,<sup>4</sup> references to Bentham’s similar ideas might serve to inform our view and therefore deem the former a forward-looking and serious, though premature and provocative, proposal. In the last section, we will demonstrate that Mandeville’s thoughts should be characterized less as those of a satirist than as those of a Benthamite reformer, who proposed his own provocative plans that seemed extreme or even unrealistic to his contemporaries. These arguments will enable us to indicate that the reformist bent in Mandeville’s ideas would have attracted Bentham’s interest. As we will argue in conclusion, this claim contradicts neither the development of Mandeville’s conjectural historical arguments in his later writings nor its possible influence over Hume and other Scottish thinkers.

## 2. Mandeville as utilitarian?

The name of Mandeville has often been recorded in the history of economic ideas as an early proponent of the theory of “spontaneous order.” This interpretation was first clearly proposed by Hayek. In one of his articles, “Dr. Bernard Mandeville,”<sup>5</sup> Hayek evaluates Mandeville’s contribution to the theory of spontaneous order, which would be inherited by such Scottish Enlightenment thinkers as David Hume, Adam Ferguson, and Adam Smith. Since then, many Mandeville scholars have followed in Hayek’s steps.<sup>6</sup> Mikko Tolonen, one of the most recent and prominent Mandeville scholars, seems to consolidate this tendency by focusing on the development of Mandeville’s

<sup>2</sup>See F. B. Kaye, Introduction to *The Fable of the Bees or Private Vices, Publick Benefits*, with a commentary by F. B. Kaye, 2 vols. (Indianapolis, 1988), vol. 1, pp. xvii–cxlvi; Irwin Primer (ed.), *Mandeville Studies: New Explorations in the Art and Thought of Dr. Bernard Mandeville (1670–1733)* (The Hague, 1975).

<sup>3</sup>Elie Halévy, *The Growth of Philosophic Radicalism*, trans. by Mary Morris, with a preface by A. D. Lindsay (London, 1934, Rep. Boston, 1955), pp. 15–16. See also pp. 33 and 90.

<sup>4</sup>Irwin Primer (ed.), *Bernard Mandeville’s “A Modest Defence of Publick Stews”: Prostitution and Its Discontents in Early Georgian England* (New York, 2006), pp. 23–24.

<sup>5</sup>F. A. Hayek, “Dr. Bernard Mandeville”, *New Studies in Philosophy, Politics, Economics and the History of Ideas* (London, 1978), pp. 249–66.

<sup>6</sup>For example, see M. M. Goldsmith, *Private Vices, Public Benefits: Bernard Mandeville’s Social and Political Thought* (Cambridge, 1985).

thought after the *Fable of the Bees, Part II* and emphasizing its possible influence on Hume.<sup>7</sup> This interpretation seems to have led these scholars to hardly take note of, or rather to underestimate, some significant inconsistencies in Mandeville's own claims – namely, his acknowledgement of the role of politicians or statesmen.

The same might be said of scholars on Bentham and utilitarianism. Elie Halévy contrasts Bentham and Helvétius's assumptions of “artificial identity of interests” with Mandeville's “natural” one<sup>8</sup> – a distinction that Hayek was to quote later. Still, Halévy's interpretation, as well as Hayek's, is based on Mandeville's dictum *Private Vices, Publick Benefits*, which is understood as a prototype of the Smithean “invisible hand.”

Certainly, more than a few Mandeville scholars have mentioned him as a kind of utilitarian,<sup>9</sup> but they have done so in a haphazard way, that is, without making any serious comparison between him and Bentham.<sup>10</sup> F. B. Kaye, the editor of the critical edition of the *Fable of the Bees* (including the *Part II*), actually defines Mandeville as “a prime mover in the development of modern utilitarianism” and even states, “practically, if not always theoretically, he was a utilitarian.”<sup>11</sup> At the same time, however, Kaye admits that his choice of the term “utilitarianism” has “been used in a somewhat special sense”:

I use the term ‘utilitarian’ in a looser sense than that in which specialists in philosophy ordinarily employ it ... [M]y non-technical use of the term parallels the condition of ethical thought in Mandeville's day, when utilitarian theory had not yet taken to itself the more specific connotation it now has, but corresponded simply to an ethics whose moral touchstone was results and not abstract principle.<sup>12</sup>

Despite Kaye's frequent suggestions of Mandeville as a utilitarian, the doyen editor of the *Fable* seems to undermine this point that is so worthy of more serious consideration. One of the most important exceptions on this point in the Mandeville literature is the article by Jimena Hurtado, who emphasizes “the continuity between Mandeville and Bentham [la continuidad entre Mandeville y Bentham]” in her detailed discussions, although she does not investigate any other work by Mandeville than the *Fable* (including *Part II*) and *Letter to Dion*.<sup>13</sup>

The situation has almost been the same among Bentham scholars. Just to name a few, Dinwiddie's concise *Bentham*, Paul J. Kelly's *Utilitarianism and Distributive*

<sup>7</sup>Mikko Tolonen, *Mandeville and Hume: Anatomists of Civil Society* (Oxford, 2013), esp. pp. 45–49, 65–102.

<sup>8</sup>Halévy, *The Growth of Philosophic Radicalism*, pp. 15–16. See also pp. 33 and 90.

<sup>9</sup>For example, see J. C. Maxwell, ‘Ethics and Politics in Mandeville’, *Philosophy* 26.98 (1951), pp. 242–52, at 246–7; Hector Monro, *The Ambivalence of Bernard Mandeville* (Oxford, 1975), esp. p. 238–49.

<sup>10</sup>Primer's *Mandeville Studies* contains no mention of Bentham's name; Monro identifies Mandeville's moral theory as the “closest to utilitarianism,” although Monro mentions Bentham only once in *The Ambivalence* (p. 269).

<sup>11</sup>Kaye, Introduction, vol. 1, pp. xvii–cxlvi, p. cxxxii, and p. lxi. Tolonen criticizes Kaye's editorial policy that combines the *Fable* and *Part II* as a package, and emphasizes the divergence between the two works (*Mandeville and Hume*, pp. 103–46).

<sup>12</sup>Kaye, Introduction, p. xlvi–xliv, footnote 1.

<sup>13</sup>Much earlier than his monumental commentary to the *Fable*, Kaye had linked Mandeville and Bentham more directly, though in passing (Kaye, ‘The Influence of Bernard Mandeville’, *Studies in Philology* 19.1 (1922), pp. 83–108, at 102. (See also footnote 59).

*Justice*, and Schofield's *Utility and Democracy: The Political Thought of Jeremy Bentham*, though all are undoubtedly excellent studies of Bentham, make no mention of Mandeville's name.<sup>14</sup>

The presence of Mandeville's thought in Bentham, however, should be taken more seriously. It is known that Bentham favorably mentions Mandeville as one of the "ingenious moralists" in a footnote to *An Introduction to the Principles of Morals and Legislation*.<sup>15</sup> Another mention of Mandeville made by Bentham appears in one of the excerpts from the latter's commonplace book written when he was 26–27 years old:

The paradox of Hobbes and Mandeville (at which divines affect to be so much scandalized) were of service: they contained many original and bold truths, mixed with an alloy of falsehood, which succeeding writers, profiting by that share of light which these had cast upon the subject, have been enabled to separate.<sup>16</sup>

In fact, some Mandeville scholars have not overlooked these rather passing comments.<sup>17</sup> At the same time, these commentators (including Hurtado) have tended to claim that the *Fable* had exerted an indirect influence over Bentham through late eighteenth-century thinkers like Helvétius, Hume, and Smith.<sup>18</sup> This is because the fame of the *Fable* was eclipsed or his arguments became banal when Bentham was intellectually active.<sup>19</sup>

However, Mandeville's *Fable* was one of Bentham's intellectual nourishments during his youth. When Bentham was a child, he regularly spent a few months every year at Browning Hill, the house that belonged to his uncle. "At Browning Hill," Bentham recalls, "was the refuse of the stock of my great-uncle Woodward. There was ... 'Mandeville's Fable of the Bees,' ... Taken altogether, there was a pretty good supply for the three months of each year which I was there."<sup>20</sup> Together with John Locke's *An Essay Concerning Human Understanding*, Matthew Tindal's *Christianity as Old as the Creation*, and other historical writings, Bentham read the *Fable*, if not Mandeville's other or later writings, with interest. As John Bowring properly points out, "the impression made on Bentham's mind by the books he read in his childhood,

<sup>14</sup>John R. Dinwiddy, *Bentham* (Oxford, 1989); Paul J. Kelly, *Utilitarianism and Distributive Justice: Jeremy Bentham and the Civil Law* (Oxford, 1990); Philip Schofield, *Utility and Democracy: The Political Thought of Jeremy Bentham* (Oxford, 2006).

<sup>15</sup>Bentham, *Introduction*, p. 102, footnote g.

<sup>16</sup>Bentham, 'Memoirs of Jeremy Bentham; including Autobiographical Conversations and Correspondence by John Bowring', in *The Works of Jeremy Bentham, Now First Collected; Under the Superintendence of his Executor, John Bowring*, 11 vols, ed. by John Bowring (Edinburgh and London, 1838–43), vol. 10, p. 73.

<sup>17</sup>Jimena Hurtado, "Vicios privados, beneficios públicos" o la diestra administración del legislador utilitarista', *Lecturas de Economía* 61 (2004), pp. 71–99, pp. 76–77; Paulette Carrive, *Benard Mandeville: passions, vices, vertus* (Paris, 1980), p. 123; Carrive, *La philosophie des passions chez Bernard Mandeville*, 2 vols (Paris, 1983), vol. 1, pp. 71, 95–96.

<sup>18</sup>Hurtado, "Vicios privados, beneficios públicos", pp. 77–82.

<sup>19</sup>"the vogue of the *Fable* in England was greatest from 1723 to about 1755. From then until about 1835 it retained its celebrity, but had apparently ceased to be an active sensation" (Kaye, Introduction, p. cxvii, fn. 5). See also Hurtado, "Vicios privados, beneficios públicos", pp. 71–99, 76–82.

<sup>20</sup>Bentham, *Memoirs*, vol. 10, p. 22.

was lasting.”<sup>21</sup> Even if the *Fable* was considered to be outdated in Bentham’s time, it is likely that he was much more familiar with this work than many of his contemporaries.

So, what impression did Mandeville leave on Bentham? One of Mandeville’s ideas that would have most attracted Bentham was the former’s consistent focus on the role of politicians and legislators. Mandeville supported the artificial conformation between private desires and public benefit in a very similar way to Bentham in the *Fable*, and more expressly in his more minor works, *Publick Stews* and *Tyburn*. It is unlikely that Bentham had direct knowledge of the latter two works, but such reformist and interventionist aspects were also discernible in the *Fable*. A detailed analysis of these relatively minor works of Mandeville, therefore, might be helpful in elucidating another possible aspect of his influence over Bentham.

### 3. Mandeville’s *Publick Stews* with reference to Bentham

Mandeville published the *Fable of the Bees* in 1714 for the first time, but it did not cause a commotion. In 1723 he added to this quatrain two essays, *An Essay on Charity and Charity-Schools* and *Search into the Nature of Society*, which suddenly stirred public controversy, and the expanded edition of the *Fable* was ultimately banned in the Middlesex Grand Jury. Just a year later, Mandeville published *A Modest Defence of Publick Stews* under the pseudonym “Phil-Porney.” Mandeville’s authorship of this work has been rarely, if ever, doubted since its publication, despite no decisive evidence having been found.<sup>22</sup> This is because Mandeville had already hinted at basically the same claims in the Remark (H.) of the *Fable*.<sup>23</sup>

Mandeville sarcastically dedicated his *Publick Stews* to the Society for the Reformation of Manners. This Protestant-minded Society was founded in 1691 and aimed to suppress immorality and lewdness as typified by brothels and prostitutes.<sup>24</sup> Mandeville provocatively argues that “what better could we expect from your carting of bawds, than that the great Leviathan of leachery [lechery], for want of these tubs to play with, should, with one whisk of his tail, overset the vessel of modesty.”<sup>25</sup> Therefore, the Society’s activities to reform prostitutes and to close brothels would be self-defeating. This reflects his view in the *Fable* on the paradoxical complicity between modesty and immodesty: “that Virtuous Women, unknowingly, should be instrumental in promoting the Advantage of Prostitutes” and “that Incontinence should be made serviceable to the Preservation of Chastity.”<sup>26</sup>

<sup>21</sup>Bentham, *Memoirs*, vol. 10, p. 21.

<sup>22</sup>For the discussions on Mandeville’s authorship of this work, see Primer (ed.), *Bernard Mandeville’s “A Modest Defence of Publick Stews”*, pp. 109–111.

<sup>23</sup>Mandeville, *Fable*, I, 94–100; see also Primer (ed.), *Bernard Mandeville’s “A Modest Defence of Publick Stews”*, pp. 4, 11. For more on Mandeville’s *Publick Stews*, see Richard I. Cook, “The Great Leviathan of Lechery”: Mandeville’s Modest Defence of Public Stews’ (1724), in Primer (ed.), *Mandeville Studies*, pp. 22–33; Emily C. Nacol, ‘The Beehive and the Stew: Prostitution and the Politics of Risk in Bernard Mandeville’s Political Thought’, *Polity* 47.1 (2015), pp. 61–83.

<sup>24</sup>Thomas A. Horn (1978) *The Social Thought of Bernard Mandeville: Virtue and Commerce in Early Eighteenth Century England* (New York, 1978), ch. 1.

<sup>25</sup>Mandeville, *A Modest Defence of Publick Stews: or an Essay upon Whoring* (London, 1724), pp. ii–iii. Daniel Defoe, Mandeville’s contemporary, also published a pamphlet on the same subject two years later (*Some Considerations upon Street-Walkers*, London, 1726). Defoe’s solution to the issue of prevalent prostitution, such as more facility of divorce and tax exemption for encouragement of marriage, however, is much less provocative than Mandeville’s.

<sup>26</sup>Mandeville, *Fable*, vol. 1, pp. 94–95. Mandeville develops his view of women’s chastity in *An Enquiry into the Origin of Honour, and the Usefulness of Christianity in War* (London, 1732), pp. 53–61.

The Dutch-born physician deems human desires, including sexual desire, as natural and insuppressible, which had been emphasized in the *Fable* as well.<sup>27</sup> However, Mandeville argues in *Publick Stews* that the status quo that gave a loose reign to “private whoring,” including adultery, failed to benefit society as a whole through the spread of sexually transmitted diseases, bastardy, and its subsequent child abandonment, all of which was thinning the population. What we can do for these natural desires is neither to restrain them “too violently” nor to “break in and overflow the neighbouring enclosures” like “a stream diverted out of its proper channel.”<sup>28</sup> In a word, Mandeville opines, do not try to stop the flow but just *canalize* it. His analogy of a river for human desires would later be developed further among Scottish Enlightenment thinkers, including Hume.<sup>29</sup> What Mandeville proposes here is the establishment of public brothels. According to Mandeville, the “publick whoring,” then, “is neither criminal in itself, nor so detrimental to the society, as private whoring.” His aim here is not only to minimize private prostitution but also “to turn the general stream of lewdness into this common channel” such as the public stews.<sup>30</sup>

Then, Mandeville proposes to establish one hundred public brothels in London, to each of which twenty sex workers would be allocated, and one “matron,” a female superintendent, would supervise them. These twenty women would be divided into six groups according to “their beauty, or other qualifications”: and the “price” would vary among these classes from half a crown to a guinea.<sup>31</sup> One of his innovations is his attempt to ameliorate the work environment of sex workers, especially “in point of health.” Along with the establishment of these public brothels, Mandeville prescribes placing “a very large house set apart for an infirmary, and provision made for two able physicians, and four surgeons at least.”<sup>32</sup> He also proposes that a licensed sex worker “will have an apartment allotted her in the infirmary when [she] ... will be obliged to take care of her child; by which means a considerable numbers of infants will be reared up, that otherwise might probably have perish’d.”<sup>33</sup> These proposals *from above* expressly demonstrate what Hayek critically labels as the “constructivist” approach to social reforms. In order to motivate these prostitutes not to conceal venereal disease, which is necessary for preventing its epidemic, Mandeville suggests that, if they confess their possible suffering, women would be qualified to receive immediate medical treatment in the infirmary “at the publick charge”; however, if these sufferings are hidden and detected later, the affected must be banned from the brothels. Interestingly, Mandeville converts “three claps” to “one pox” here.<sup>34</sup>

Mandeville made sometimes a biased, male-dominated, assertion that most prostitutes are lewd from birth.<sup>35</sup> Because of this allegation, he believes, the public brothels could be more secure and appropriate working places for them, while giving no considerations

<sup>27</sup>Mandeville, *Fable*, vol. 1, 142–46; Harold J. Cook, ‘Bernard Mandeville and the Therapy of “the Clever Politician”’, *Journal of the History of Ideas* 60.1 (1999), pp. 110–18.

<sup>28</sup>Mandeville, *Publick Stews*, p. 7.

<sup>29</sup>A. O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before Its Triumph* (Princeton, NJ, 1977).

<sup>30</sup>Mandeville, *Publick Stews*, pp. 8 and 12.

<sup>31</sup>Mandeville, *Publick Stews*, p. 13.

<sup>32</sup>Mandeville, *Publick Stews*, pp. 13–14.

<sup>33</sup>Mandeville, *Publick Stews*, pp. 26–27.

<sup>34</sup>Mandeville, *Publick Stews*, pp. 14–15.

<sup>35</sup>Louis Schneider, *Paradox and Society: The Work of Bernard Mandeville*, editorial forward by Jay Weinstein (New Brunswick and Oxford, 1987), pp. 41–45.

about the possibility that these prostitutes might be forced to provide sex for work. However, there is another aspect of his ideas that seems to be ahead of his time – he strongly dismisses the (current and) then-rampant discrimination against the prostitutes:

There is, one year with another, a certain number of young women who arrive gradually, step by step, at the highest degree of impudence and lewdness. ... [I]f their lewdness cannot supply their wants, they must have recourse to methods more criminal, such as *lying, cheating, open theft*, &c. Not that these are the necessary concomitants of lewdness ... but the treatment such women meet with in the world, is the occasion of it.<sup>36</sup>

Mandeville here reverses the causality between the rate of crime committed by sex workers and the discrimination that they experience in the world. While the former has been alleged to be the cause of the latter, Mandeville claims that the opposite is true. If the social cognition of public brothels can reduce unprovoked discrimination against prostitution and prostitutes, therefore, “they will have more inducements to honesty than any other profession whatsoever.”<sup>37</sup> In spite of his employment of extreme and explicit language that couches his proposals in satire, Mandeville ultimately aims to change our consciousness about prostitution through his own proposals.

These details reveal Mandeville’s affinity with Bentham’s utility calculus and his pet criticism against natural laws. Throughout this pamphlet, Mandeville repeatedly claims that “the good of mankind is my only aim”<sup>38</sup> or that “the chief design of this treatise is to promote the general Welfare and Happiness of Mankind.”<sup>39</sup> Obviously, Mandeville’s claim for public benefits is not deduced from Bentham-like strict calculus of pleasure or pain. Nevertheless, the former often reckons cost-benefit analyses in particular cases. This attitude had already been discerned in the *Fable*: “it is Wisdom in all Governments to bear with lesser Inconveniences to prevent greater.”<sup>40</sup> Additionally, criticisms against natural law and the adherence to legal positivism that permeate Bentham’s works can also be found in Mandeville’s pamphlet: “however some people may pretend, that unlawful enjoyment is contrary to the Law of *Nature*; this is certain, that Nature never fails to furnish us largely with this passion, tho’ she is often sparing to bestow upon us such a portion of reason and reflection as is necessary to curb it.”<sup>41</sup>

Mandeville then proposes that legislators prescribe the appropriate penalty in the light of secular and empirical views of human nature: “it is likewise as certain, that young men will gratify these desires, unless the legislature can affix such a penalty to

<sup>36</sup>Mandeville, *Publick Stews*, pp. 16–17.

<sup>37</sup>Mandeville, *Publick Stews*, p. 18.

<sup>38</sup>Mandeville, *Publick Stews*, Preface [4].

<sup>39</sup>Mandeville, *Publick Stews*, p. 1.

<sup>40</sup>Mandeville, *Fable*, vol. 1, p. 95.

<sup>41</sup>Mandeville, *Publick Stews*, p. 7. When Mandeville mentions the idea of “the law of nature,” he simply signifies our direct or indirect tendency to preserve ourselves as well as the human species (*Fable*, vol. 1, p. 200; see also p. 73). Otherwise, he contrasted the immutability of animals’ behaviors fixed by “the laws of nature” and the mutability and variety of human contrivances (*Fable*, vol. 2, p. 187). As for the natural laws defined as universal moral or legal codes, Mandeville left rather pejorative comments on “philosophers” who engaged in their discourses about “the Laws of Nature” (*Fable*, vol. 2, p. 198). In *Free Thoughts on Religion*, this concept was used only once, although it is casual and poor in substance (Mandeville, *Free Thoughts on Religion, The Church & National Happiness* [first published in 1720], ed. by Irwin Primer (New Brunswick and London, 2001), p. 173).

the commission of the fact, that the apprehension of the penalty may give their minds more uneasiness, than refraining from the gratification.”<sup>42</sup> Mandeville’s understanding of appropriate penalties also preempts Bentham’s argument of sixty years later, as we will see in more detail below. Bentham makes an intensive appeal to establishing a just proportion between punishment and offence in *An Introduction to the Principles of Morals and Legislation* (1789). According to Bentham, an inappropriately light sentence against a crime has no deterrent effect toward further criminality, which consequently tends to increase the unhappiness of society as a whole. On the other hand, an extremely heavy penalty will cause unnecessary suffering to the convict, which also increases the amount of general unhappiness.<sup>43</sup> Mandeville, as well as Bentham, therefore, maintains that the fears caused by a certain future penalty must be appropriate so as to discourage the possible satisfaction of would-be criminals.

However, Mandeville in the *Publick Stews* does not propose to toughen the laws against prostitution, but rather he attempts to change our consciousness of its unrighteousness in consideration of natural human desires. Based on his understanding of human nature, neither the whipping of prostitutes nor the punishment for adultery was effective or should be legal. Another pioneer in opposing discrimination against prostitutes was Jeremy Bentham. In his *Traité de législation civile et pénale* (1802), published posthumously in English as the *Principles of the Civil Code* (1838), Bentham strongly opposes the legal ban of prostitution because it has rather increased the social discrimination against prostitution and prostitutes: “what is the effect of these laws [against prostitution]? It is to increase the corruption of which these unhappy women are accused.” Through his usual calculus, Bentham maintains that “[t]he toleration of this evil is useful in some respects in great towns: its prohibition is useless; it has even particular inconveniences.” Bentham then quotes as an example a historical anecdote in which a queen of Hungary attempted to extirpate prostitution from the country. As a consequence, he argues, “Corruption extended itself in private and public life: the conjugal bed was violated; ... adultery gained all that was lost by prostitution.”<sup>44</sup> Bentham, probably without noticing Mandeville’s detailed discussions in the *Publick Stews*, follows the same line of argument as the latter’s paradoxical claim that “[i]ncontinence should be made serviceable to the Preservation of Chastity” in the *Fable*.

Finally Bentham even concludes the chapter by proposing the foundation of annuities for prostitutes: “It would be desirable to institute annuities, commencing at a certain age: these annuities should be adapted to this sad condition, in which the period of harvest is necessarily short, but in which there are sometimes considerable profits.”<sup>45</sup> Although Bentham is so ingenious and positive in his regard for sexual equality as to propose temporary marriage as an alternative to prostitution,<sup>46</sup> it is worthwhile to note that the *Publick Stews* actually anticipated Bentham’s very proposal:

<sup>42</sup>Mandeville, *Publick Stews*, p. 53; see also Mandeville, *Fable*, vol. 2, p. 271.

<sup>43</sup>Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, in *The Collected Works of Jeremy Bentham*, ed. by J. H. Burns and H. L. A. Hart (Oxford, 1996), ch. 14.

<sup>44</sup>I used Bentham, *Principles of the Civil Code* (1838), in *The Works of Bentham*, vol. 1, ed. by Bowring, pp. 545–46. Mandeville gave a similar historical example of the pope Sixtus V in *Publick Stews*, p. 8.

<sup>45</sup>Bentham, *Principles*, p. 546. See also Bentham’s censures against his contemporary situation of prostitutes in his unpublished manuscript “Sextus” (composed in 1814) in *Of Sexual Irregularities, And Other Writings on Sexual Morality*, ed. by Philip Schofield, Catherine Pease-Watkin and Michael Quinn, in *The Collected Works of Jeremy Bentham* (Oxford, 2014), pp. 47–115, at 100.

<sup>46</sup>Mary Sokol, ‘Jeremy Bentham on Love and Marriage: A Utilitarian Proposal for Short-Term Marriage’, *The Journal of Legal History* 30.1 (2009), pp. 1–21, at 12–16. On the contrary, Mandeville proposes later in



For if the first class pays but forty shillings yearly, and the rest in proportion, it will amount to above ten thousand pounds a year, which will not only pay the commissioners['] salaries, surgeons['] chests, and other contingencies, but likewise establish a good fund for the maintenance of bastard-orphans and superannuated courtjezans.<sup>47</sup>

Some scholars have suspected Mandeville's seriousness with this proposal. For example, Irwin Primer argues, "The project is suspect, it has affinities with utopian planning, and Mandeville generally disapproved of utopian schemes."<sup>48</sup> Primer seems to suggest that the aim of Mandeville is to lead, through his favorite paradoxical argumentation, the public's attention to the serious situation in which prostitutes were placed, while his proposition of public brothels should not be taken seriously. Before reconsidering this issue, our attention should be turned to another, lesser-known, pamphlet in which Mandeville revealed his own name.

#### 4. Mandeville's *Tyburn* with reference to Bentham

Another important but relatively less well-known pamphlet by Mandeville is *An Enquiry into the Causes of the Frequent Execution at Tyburn, &c* (1725), which was published just a year after the publication of the *Publick Stews*. The unabridged title includes "and a proposal for some regulations concerning felons in prison, and the good effect to be expected from them." As this full title suggests, Mandeville has been concerned about the ineffectiveness of the legal systems of the time because they did not decrease the numbers of felony crimes. In the *Fable*, Mandeville had already focused on the importance of the legal system and its rigid execution: "The *Meum* and *Tuum* must be secur'd, Crimes punish'd, and all other Laws concerning the Administration of Justice, wisely contriv'd and strictly executed."<sup>49</sup> In *Tyburn*, Mandeville showed a strong interest in legal issues and lawmaking. Although he was not a legal expert, Mandeville quoted Edward Coke's *Institutes of the Lawes of England* (first published in 1628–44), and Matthew Hale's *Pleas of the Crown, or a Methodical Summary of the Principal Matters Relating to that Subject* (1678),<sup>50</sup> to explain the punishment against "theftbote." This was the illegal activity in which victims of theft recovered their stolen goods by paying money directly to thieves or to the receivers of stolen goods (with the victim's promise not to accuse the latter).

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*Publick Stews* "an Act for encouraging the Importation of foreign Women" to fill a possible vacancy for domestic prostitutes, which, he claims, "deserves a serious Debate" (p. 65, italics original).

<sup>47</sup>Mandeville, *Publick Stews*, p. 14. Italics added.

<sup>48</sup>Primer (ed.), *Bernard Mandeville's 'A Modest Defence of Publick Stews'*, pp. 23–24.

<sup>49</sup>Mandeville, *Fable*, vol. 1, p. 116; see also vol. 1, pp. 273–74. In the *Origin of Honour*, Mandeville also delineates the history of "the Laws of Honour" made by the Court of Honour to prevent dueling in France (pp. 64–72).

<sup>50</sup>Mandeville, *Tyburn*, p. 7. This book should not be confused with the same author's monumental *History of the Pleas of the Crown* (first published in Latin as *Historia placitorum coronae* in 1736). The former is more perfunctory than the latter. A naïve dichotomy between legal positivism (like Hobbes) and common law tradition (like Hale) is misleading here. In his criticism of Hobbes, Hale claims that the ever-changing social needs and conveniences of the people could be better protected and promoted by common law rather than by the authoritative will of a particular sovereign. On this point, see D. E. C. Yale, 'Hobbes and Hale on Law, Legislation and the Sovereign', *Cambridge Law Journal* 31.1 (1972), pp. 121–56, at 128.

This crime was one of the challenges to be addressed, for Mandeville, because the legislature imposed a severe punishment on those who were found to have committed theftbote, while common people preferred making the secret deal with robbers or dealers of stolen goods to abiding by the law against theftbote, without foreseeing any aggregate adverse influence of their conduct. From the viewpoint of public security, Mandeville highly evaluates the law that “makes it felony, knowingly to buy stolen goods” and that “renders the right of it inalienable from the injured owner, who seizes his goods in what hands soever he finds them.”<sup>51</sup>

Despite the common image of Mandeville as a pioneer of the theory of “unintended consequences,” he has also observed the unintended “bad” consequences. Mandeville encourages his readers to reconsider the aggregate consequences of this particular process of redeeming stolen goods: “this year twelve shop-books are stole[n], that are all recover’d from two of three guineas a-piece got for them, and no body punish’d. You may expect that next year you will have forty or fifty stole[n] and in a few years nothing will be more common.” On the other hand, if nobody redeems their stolen goods, “[t]he consequence, in all probability, would be, that the next year you would hardly have ten shop-books stole[n].”<sup>52</sup> It is important to note, but has been overlooked in previous scholarship, that Mandeville here considers such aggregate effects of personal conduct as a fallacy of composition.<sup>53</sup> At the same time, Mandeville understands that this appeal has no immediate effects for preventing the frequency of executions.

What Mandeville details are public executions and prison reform plans. Seemingly, there are some fundamental differences on this issue between Bentham and Mandeville’s opinions, some of which seem to arise from their intellectual and historical contexts. First, Bentham, who was influenced by Cesare Beccaria,<sup>54</sup> essentially opposed capital punishment (mainly because of the impossibility of compensation in the case of misjudgment), while Mandeville had no serious doubt about it. Second, Tyburn, a notorious place of public execution in London, was closed in 1783, although public punishment was continued at the Newgate prison until 1868. The closing of the execution ground at Tyburn and the subsequent abolition of the march of prisoners sentenced to death much changed the nature and scale of punishment as a public spectacle.

Despite these differences, there were still many commonalities between the two reformers. The most significant point is that Mandeville, in a surprisingly similar way to Bentham, stresses the cost-effectiveness of public punishment:

these executions are little better than barbarity, and sporting away the lives of the indigent vulgar, if those valuable sacrifices we are obliged to make to the publick safety, are render’d insignificant. If no remedy can be found for these evils, it would be better that malefactors should be put to death in private; for our publick executions are become decoys, that draw in the necessitous, and in effect, as cruel as frequent pardons.<sup>55</sup>

<sup>51</sup>Mandeville, *An Enquiry into the Causes of the Frequent Execution at Tyburn ...* (London, 1725), p. 11.

<sup>52</sup>Mandeville, *Tyburn*, p. x.

<sup>53</sup>Schneider finds the pioneering discussions of “the paradox of thrift” in Mandeville’s economic thought (*Paradox and Society*, pp. 113–15), though not mentioning the *Tyburn*.

<sup>54</sup>H. L. A. Hart’s, ‘Bentham and Beccaria’, *Essays on Bentham: Studies in Jurisprudence and Political Theory* (Oxford, 1982), pp. 40–52; Anthony J. Draper, ‘Cesare Beccaria’s Influence on English Discussions of Punishment, 1764–1789’, *History of European Ideas* 26.3 (2000), pp. 177–99.

<sup>55</sup>Mandeville, *Tyburn*, pp. 36–37. Mandeville elsewhere repeats the same point by taking a favorable view of the plea-bargaining that a felon shall be “pardon’d and dismiss’d with a Reward in Money” by informing

This quote is evocative of Bentham's claim "[u]pon the principle of utility, if [punishment] ought at all to be admitted, it ought only to be admitted in as far as it promises to exclude some greater evil."<sup>56</sup> Mandeville's criterion is the possibility of crime deterrent effect, as Bentham was to affirm in terms of "general prevention."<sup>57</sup> Although Bentham is basically opposed to the *abuse* of capital punishment, he concedes that "it is exemplary, producing a more lively impression than any other mode of punishment."<sup>58</sup> To impress the mob through horrible public executions, Bentham even recommends them as a necessity. In the same vein as Mandeville, Bentham was highly dissatisfied with the contemporary mode of punishments, including capital ones: "Humanity consists in the appearance of cruelty. ... Render, therefore, your punishments exemplary; give to the ceremonies which accompany them a mournful pomp."<sup>59</sup>

Another important commonality between Mandeville and Bentham lies in their serious consideration about the fact that some condemned criminals have no fear of death or capital punishment. In the *Principles*, Bentham argues as follows:

When one observes the courage or brutal insensibility, when in the very act of being turned off, of the greater part of the malefactors that are executed at Newgate, it is impossible not to feel persuaded that they have been accustomed to consider this mode of ending their days as being to them a natural death.<sup>60</sup>

The issue seems to be of greater importance for Mandeville. This is because he has been worried about the effects of "self-liking," which is deeply rooted in every human being. This "self-liking," to put it simply, pride, was originally derived, but is distinct from, "self-love" or self-preservation. Mandeville has elaborated in the *Fable of the Bees, Part II* that a human being, an enormous dollop of pride, can often overcome the fear of death when his/her honor is at stake. This "self-liking," manipulated properly, has fraudulent but useful effects in bolstering the warlike spirit of soldiers who have no hesitation to wage a fearlessly courageous battle against their enemies (Mandeville develops this theme further in the *Origin of Honour*). At the same time, however, heinous criminals are also the *enfants terribles* of this "self-liking." They attempt to avoid any possible damages against their own reputation for intrepidity at any costs, according to Mandeville. This is one of the reasons why the public punishments of his day were ineffective or rather had a contrary effect: "The Terror of Death inwardly excruciates [a common Villain]; But his Fear of shewing this, of being called a Coward, and laugh'd at by his Companions, has some Command over his outward Appearance."<sup>61</sup>

In terms of other differences between Mandeville and Bentham, their essence is basically the same – general prevention. What matters for Mandeville here is what Bentham argues is "the secondary mischief" in the *Introduction* – a tendency to further

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"two or more of his Accomplices": "It is the business of all Law-givers to watch over the Publick Welfare, and, in order to procure that, to submit to any Inconveniency, any Evil, to prevent a much greater, if it is impossible to avoid that greater Evil at a cheaper Rate" (Mandeville, *A Letter to Dion*, pp. 42–43).

<sup>56</sup>Bentham, *Introduction*, p. 158.

<sup>57</sup>Bentham, *Principles*, pp. 365–580, 396, 444–5.

<sup>58</sup>Bentham, *Principles*, p. 445.

<sup>59</sup>Bentham, *Principles*, pp. 549–50.

<sup>60</sup>Bentham, *Principles*, p. 447, note.

<sup>61</sup>Mandeville, *Tyburn*, p. 34.

future crimes.<sup>62</sup> Certainly, Bentham rather prefers the “perpetual imprisonment, accompanied with hard labor and occasional solitary confinement,” believing that it is more effective than the death penalty,<sup>63</sup> while Mandeville did confidently support capital punishment. However, the latter did not support it *per se*, because what matters most for him is the “never-ceasing Watchfulness in a Government against the first Approaches of Dishonesty.” “For it is not the Death of those poor Souls that is chiefly aim’d at in Executions,” Mandeville continues, “but the Terror we would have it strike in others of the same loose Principles.”<sup>64</sup> In the same vein, Bentham conditionally endorses capital punishment (as well as public execution) because of “the effects it produces *in terrorem*.”

For this ultimate end, both Bentham and Mandeville launched their prison reform plans. The aim of Bentham’s *Panopticon* is not only to reduce the staff cost, but also to make effective the way to reform these criminals. For Mandeville too, the sheer penitence of prisoners can be expected to change the scenes of public execution at Tyburn. As Bentham was to do, Mandeville opposed the idea that these prisoners could converse with each other “for nothing but the utmost corruption can be expected from a company of forty or fifty people in a prison.”<sup>65</sup> Here Mandeville proposes a new-model prison to maximize the possibility of criminals’ conversion:

It would not be a very great expence (where chimneys, convenient windows, order, and beauty would be out of question:) to *build an hundred small rooms*, perhaps, of twelve foot square, that would be strong, beyond the possibility of being forced by a naked hands ... Thus, we might secure prisoners, without galling them with irons, before we are sure that they deserve to be punish’d at all.<sup>66</sup>

While criticizing the reality that contemporary prisons allowed criminals to drink alcohol and “substantial” foods, Mandeville also prescribes only bread and water for prisoners. This “low Diet,” Mandeville claims, will help a felon to “dwell upon his wretched Self, and behold the Prospect of a future State so near, so certainly to come” without distraction. He also proposes to improve the condition of the “Ordinary” (prison chaplains) by providing them with better salaries.<sup>67</sup> Seeing the now regretful and depressed attitudes of “Rogues” who have been sentenced to death, Mandeville maintains, is likely to discourage the spectators of public executions from committing further crimes. It “would render these Tragedies more solemn, and, at the same time, make room for Spectators of a better Sort, and lesser Sinners, on whom, in all Probability, they would have a more desirable Effect.”<sup>68</sup>

To call Mandeville’s reform plan for prisons a prototype of Bentham’s *Panopticon* might be an exaggeration, because Mandeville did not heed the most important feature

<sup>62</sup>Bentham, *Introduction*, ch. 12, esp. pp. 144–47.

<sup>63</sup>Bentham, *Principles*, p. 450.

<sup>64</sup>Mandeville, *Tyburn*, p. 36.

<sup>65</sup>Mandeville, *Tyburn*, p. 16.

<sup>66</sup>Mandeville, *Tyburn*, pp. 37–38. Janet Semple refers to Mandeville’s *Tyburn* as one of the important precursors of Bentham’s prison reform (*Bentham’s Prison: A Study of the Panopticon Penitentiary* (Oxford and New York, 1993), pp. 64–66), but she does not mention Mandeville’s proposal for prison reform.

<sup>67</sup>Mandeville, *Tyburn*, p. 19.

<sup>68</sup>Mandeville, *Tyburn*, pp. 40–42.

of Bentham's panopticon in which prisoners would either always be watched or would believe they were being watched. Moreover, Mandeville, unlike Bentham, does not place a special emphasis on the economic efficiency of prison management. However, it can be safely said that Mandeville's reformist policy on prisons was basically headed in a direction similar to that of Bentham. Both aim to be more efficient, secure, and encouraging of prisoners' repentance. While emphasizing "the vast Use such Executions would be of, to compass Happiness both here and hereafter," Mandeville concludes the chapter dealing with his reform plan for prisons by asserting that, even as far as worldly happiness goes, "one of [the new-type executions] would be more serviceable to the Peace and Security of this immense City, than a thousand of those are now so frequent among us."<sup>69</sup>

Finally, Mandeville's other shocking proposal should also be examined in reference to Bentham's thoughts – anatomy. Although Bentham's writings are not so telling on this issue, he gave direction in his will to dissect his own body for the further development of medical sciences and to preserve its parts as an "Auto-Icon." Three days after Bentham's death, Thomas Southwood Smith, a friend of Bentham and a Benthamite himself, publicly dissected Bentham's body at the Webb Street School of Anatomy in London. Smith also published *The Use of the Dead on the Living* (1827), and then contributed to the enactment of the 1832 Anatomy Act.

Over a hundred years before the publication of Smith's book, stronger and more general outrage against the dissecting of human bodies might reasonably have been expected. In the *Tyburn*, however, Mandeville criticized the "superstitious Reverence of the Vulgar for a Corpse, even of a Malefactor, and the strong Aversion they have against dissecting them, are prejudicial to the Publick,"<sup>70</sup> proposing the effective utilization of the executed bodies. In order to "encourage the Improvement of Physick and Surgery," from which "[t]he Knowledge of Anatomy is inseparable," Mandeville even suggests that the "Skeletons" and other remains from executed bodies "should be preserved for the Instruction of Students." The Dutch-born physician cited an example of his native country, the Netherlands, where the legislature demanded executed bodies be provided for medical anatomy, and glanced at the general complaints of the short supply in Britain.<sup>71</sup> Mandeville attempts to justify his own proposal by highlighting the necessity of "restitution" – the body donation of malefactors is the last requital that they can do for the compensation of their past knavery.<sup>72</sup> While observing the bare sexual appetite of humans in *Publick Stews*, Mandeville in *Tyburn* proposes the need for *efficient* use of cadavers in a very similar way, but much earlier than Bentham.

<sup>69</sup>Mandeville, *Tyburn*, p. 46.

<sup>70</sup>Mandeville, *Tyburn*, p. 26.

<sup>71</sup>In England, the dissections of criminals' corpses had been allowed since the sixteenth century, although with strict regulations. On this point, see Thomas R. Forbes, 'Note on the Procurement of Bodies for Dissection at the Royal College of Physicians of London in 1694 and 1710', *Journal of the History of Medicine and Allied Sciences*, 29.3 (1974), pp. 332–34, and Susan C. Lawrence, *Charitable Knowledge: Hospital Pupils and Practitioners in Eighteenth-Century London* (Cambridge: 1996), pp. 82–85.

<sup>72</sup>Later in *Tyburn*, Mandeville recommends enacting a law that "every Year a certain number of dead Bodies, not under six, should be allowed to Physicians and Surgeons, for Anatomical Uses, not to be made choice of till after Death, in such a Manner, that no Felon could be sure this would not be his Lot" (Mandeville, *Tyburn*, p. 40).

## 5. Mandeville as a Benthamite reformer

Ultimately, we return to the question that was raised in [section 1](#) – was Mandeville a theorist of spontaneous order or utilitarianism? This is probably a question *mal posée* – not because the question is anachronistic, but rather because utilitarians do not necessarily renounce the theory of unintended consequences as *an* explanation for the origins of social institutions. As Tolonen elucidates, Mandeville elaborates his accounts of the origins of various social institutions after the publication of the *Fable*. Nevertheless, this does not contradict Mandeville’s continued appeal to “the dexterous management of the skillful Politician”<sup>73</sup> up to his last work, *A Letter to Dion*.<sup>74</sup> The dichotomy between the “natural” and “artificial” identification of interests might be a useful interpretative framework in intellectual history, but oversimplification must be avoided: Mandeville could be influential over Hume as well as Bentham. This is simply because later thinkers could read predecessors’ writings and interpret them in different or even opposite ways.

Being confronted with some pressing issues, as we have seen, Mandeville in *Publick Stews* and *Tyburn* is far from a naïve precursor of libertarians, and he shows us his paternalist or even interventionist face. Such paternalism in Mandeville’s thought can also be found in the *Fable* and has not been completely ignored,<sup>75</sup> but rather it has often been interpreted as “mercantilist” in the history of economic thought. Keynes highly evaluated Mandeville’s focus on the consumption propensity, which should be properly stimulated under the leadership of government.<sup>76</sup> Jacob Viner asserts: “Mandeville was a convinced adherent of the prevailing mercantilism of his time.”<sup>77</sup> Neither laissez-faire nor mercantilist historians of economic thought have paid sufficient attention to Mandeville’s *Publick Stews* and *Tyburn*,<sup>78</sup> which did not directly discuss economic issues but rather legal ones, which are among Bentham’s favorite topics.

Clearly, this does not mean that Bentham had extensive and direct knowledge of Mandeville’s works beyond the *Fable*. Mandeville published *Publick Stews* pseudonymously, and a minor pamphlet such as *Tyburn* was likely to have been overlooked a

<sup>73</sup>Mandeville, *Fable*, vol. 1, 369.

<sup>74</sup>“This shews the Usefulness of such a Law [the plea-bargaining], and at the same time the Wisdom of the Politician, by whose skilful Management the Private Vices of the Worst of Men are made to turn to a Publick Benefit” (Mandeville, *A Letter to Dion, occasion’d by his Book call’d Alciphron, or the Minute Philosopher, by the Author of the Fable of the Bees* (London, 1732), p. 45; italics added). Acknowledging “the very ‘mature’ Mandeville,” Schneider claims “‘Politician’ [used in Mandeville’s later works] is to be understood also in a more ordinary sense ... Here, obviously, direct active intervention by actual ‘politicians’ is meant” (*Paradox and Society*, p. 120).

<sup>75</sup>“Il est vrai que lorsque Mandeville met l’accent sur l’astuce des gouvernements, il est plus proche de la thèse de «l’harmonie artificielle des intérêts» qu’on peut trouver chez Helvetius [sic] et Bentham” (Carrive, *Bernard Mandeville*, vol. 1, p. 126).

<sup>76</sup>John Maynard Keynes, *The General Theory of Employment, Interest and Money* (1936). In *The Collected Works of John Maynard Keynes*, vol. 7 (Cambridge, 1978), pp. 359–62. See also Cook, ‘The Great Leviathan of Lechery’, pp. 359–63.

<sup>77</sup>Jacob Viner, ‘Introduction to Bernard Mandeville, *A Letter to Dion* (1732)’, *The Long View and the Short: Studies in Economic Theory and Policy* (Glencoe, IL, 1958 [1953]), pp. 332–42, p. 341. Elmslie focuses on Mandeville’s *Publick Stews* as one of the precursors of public economics (Bruce Elmslie, ‘*Public Stews* and the Genesis of Public Economics’, *Oxford Economic Papers* 68.1 (2016), pp. 1–15), but he does not deal with the relationship between Mandeville’s paternalism in *Publick Stews* and his libertarianism in the *Fable*.

<sup>78</sup>See, for example, Nathan Rosenberg, ‘Mandeville and Laissez-Faire’, *Journal of the History of Ideas* 24.2 (1963), pp. 183–96; Salim Rashid, ‘Mandeville’s Fable: Laissez-faire or Libertinism?’, *Eighteenth-Century Studies* 18.3 (1985), pp. 313–30.

hundred years later. Parts of his rudimentary ideas later expounded in these minor pamphlets, however, had already been partially alluded to in the *Fable*.

It is also true that Mandeville has neither directly wrestled with the codification nor urged his contemporaries to legislative reforms. Over the sixty years prior to Bentham, however, it might have been more appropriate for a reform-spirited thinker to galvanize public opinion through provocative and sensational claims. Mandeville's satirical style has been exaggerated so as to eclipse his radically reformist spirit,<sup>79</sup> which could not be accepted as such in the first half of the eighteenth century. By the first half of the nineteenth century, although Bentham's ideas were still counted as eccentric, the political situation and popular opinion had gradually changed and allowed for such radical thinking.

Seen from the framework of a "Benthamite" rather than a mercantilist, the seemingly contradictory claims in Mandeville can be sufficiently understood, if not completely solved. They involve the coexistence of libertarian and paternalist within one intellect, and both were similarly integral to Mandeville and Bentham. Both thinkers are willing to respect individuals' free decisions and preferences in economic and *amoral* activities (for example, see Bentham's *Defence of Usury*).<sup>80</sup> While their contemporaries deemed some activities *immoral* or even illegal, both philosophers pleaded not for the tightening of regulations, but for the change in our cultural mindset, although only in cases that produce no real harm to society. On the other hand, both were quite certain regarding the need to hold a tighter rein on some issues concerning public health, crimes, and punishment, and they had no hesitation to be either paternalist or interventionist in order to prevent further secondary mischief.<sup>81</sup> Some excessive claims in Bentham might have contributed to our vulgar and strongly rooted image of utilitarianism – a philosophy insufficiently sensitive to individual rights. However, if the gist of Bentham's claims was in his reformism upholding the banner of the greatest happiness for the greatest number, the same can and should be applied to Mandeville.<sup>82</sup>

<sup>79</sup>Schneider finds "a half-hidden reformist bent" in Mandeville (*Paradox and Society*, p. 185).

<sup>80</sup>Crucially, Carrive compares Bentham's including "intoxication" in one of the "Cases unmet for punishment" and Mandeville's "atténuation à l'interventionnisme" on the issue of prostitution (Carrive, *Mandeville*, p. 566), though not directly comparing the two on the issue of prostitution. In the *Defence of Usury*, Bentham even criticized Smith's support of the legal interest rate as contradicting the latter's general tenets of economic freedom (*Defence of Usury: Shewing the Impolicy of the Present Legal Restraints on the Terms of Pecuniary Bargains ...*, in *The Collected Works of Jeremy Bentham: Writings on Political Economy*, ed. by Michael Quinn, 2 vols (London and Oxford, 2016), vol. 1, pp. 43–163).

<sup>81</sup>Mandeville's realistic utilitarian frame of mind permeates his writings. In order to justify his proposal to import prostitutes from foreign countries in the case of domestic excess demand for them, Mandeville proposes a hypothetical case: If a quarantined ship was sunk and the crews who are known to be infected by a lethal contagious disease swam to the shore, the government justly orders them to be shot in order to prevent further spreading the disease (Mandeville, *Publick Stews*, pp. 68–69). On this point, see Monro, *The Ambivalence of Bernard Mandeville*, p. 83.

<sup>82</sup>I would like to express my gratitude to the two anonymous reviewers at *Utilitas* for their detailed and constructive comments on this article. I also thank all the participants in the 2017 Symposium of the Keio Economic Society, where I read an early draft of this article. This article is a result of a 2018 research grant from the Keio Economic Society. My gratitude is extended to Hiroaki Itai for his valuable comments and bibliographical information on Bentham studies.