

BOOK REVIEWS

James E. Crimmins, *Utilitarianism in the Early American Republic*

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In *Utilitarianism in the Early American Republic*, Crimmins provides a broad-ranging and insightful analysis of the dissemination and reception of utilitarian ideas in a crucial period in US history. Crimmins outlines the paucity of attention that has been paid to the spread and influence of utilitarianism on American soil, owing to the fact that its reception was hindered by the late arrival and unavailability of major treatises. His central argument is that the influence of utilitarianism in the US ought to be viewed through the pervasiveness of its language and its concepts and not merely through that of its works. The former paved the way for influence in the US of ‘utilitarian ideas in moral theory, legal philosophy, law education, political economy, and political reform, including their intersection with other doctrines’ such as natural law.

Crimmins’s work aims to ‘shed light on the potency of utilitarian ideas in public reasoning’, add ‘a substantive dimension’ to intellectual history in this era, and better contextualise the ‘genesis and development of American liberalism’. Many American liberals ‘adopted the psychological and moral vocabulary of utilitarianism’ in order ‘to justify their positions and policies’. Crimmins aims to correct the views of Dewey, King and Macias. Regarding Dewey, Crimmins argues ‘that Bentham’s ideas infiltrated American political thought much earlier ... and generated a coterie of followers long before the pragmatists’ appropriated him. King, whose focus was Bentham’s jurisprudence, failed to appreciate how widely Bentham’s works influenced a range of other subjects. And Macias, according to Crimmins, neglected to see how his analysis skirted the ‘theoretical dimensions of utilitarianism’.

In the first chapter, ‘Natural Rights and the Language of Utility’, Crimmins describes how, despite the aversion towards utilitarianism in the US, and perceived theoretical incompatibilities between appeals to utility versus natural law, one can nevertheless see ‘an unquestionable utilitarian tendency’ in reasoning and rhetoric. The political thought and policy recommendations of Jefferson, Adams, Mason, Madison, Hamilton, says Crimmins, show them employing utilitarian terminology and attempting to reconcile it with their other ideological ‘commitments’. For instance, Jefferson includes the ‘pursuit of Happiness’ as a basic right in the *Declaration of Independence*’s preamble and appeals to happiness and/or general welfare later in the text. Similar appeals can be found in Mason’s *Virginia Declaration of Rights*, and in *The Federalist Papers*. As Crimmins explains, however, these figures were by no means adherents of utilitarianism. They were primarily devotees of ‘natural law, Epicureanism, civic humanism, and the moral sense doctrine’ rather than of

utilitarianism proper. Furthermore, according to Crimmins, though ‘Bentham lies at the centre of the trans-Atlantic transmission of utilitarian ideas to nineteenth-century America’, Godwin remained unpopular, Austin was ignored and attention to Mill came much later. Bentham had the most significant impact but only with the slow and sporadic circulation of his works and ideas.

Crimmins’s fourth chapter, ‘David Hoffman and Law Education’, discusses the educational career of Hoffman, the first scholar to introduce utilitarian ideas into the US legal academy and whose ‘elaborate scheme of instruction’ at the University of Maryland contained ‘A Course of Legal Study’ that required reading Beccaria, Paley and Bentham. Thanks to Hoffman’s influence according to Crimmins, such instruction became standard fare by the 1820s at American universities such as Harvard and the University of Virginia and continued to be used widely into the mid-nineteenth century. Crimmins appreciates the differences between Hoffman’s ideas and those of Bentham. Though both were committed to educating students about good laws and promulgating them, they differed on how best to ensure that people’s interests were promoted in law and about the desirability of the English common law model. In the next chapter, ‘Edward Livingston: Penal Law and Codification’, Crimmins turns his attention to Livingston, who devised codified penal laws for Louisiana and insisted upon the benefits of their being ‘written and rational’. Never before had anyone put before a state legislature a code of penal law that was so comprehensive. Livingston’s recommendations were later published in 1825 as *A System of Penal Law*. Crimmins reminds us that Livingston’s intentions were utilitarian and Benthamic, stating, for instance, that he advocated a ‘simple system’, requiring each party to a dispute to state clearly the ‘complaint and the grounds of defence’. Livingston believed that a simplified mode of procedure would reduce superfluous litigation and advocated legislative supremacy over ‘judge-made law’. The 1825 published reforms, Crimmins explains, did not parallel what Bentham advocated despite many similarities and despite the fact that Bentham had been impressed by Livingston’s 1822 ‘Preliminary Report’. Given the scarcity of utilitarian literature in the US in this period, it is all the more surprising that Livingston ‘preferred to base his prescriptions squarely on the dictates of utility’ especially since Bentham and Livingston did not correspond before mid-1829 when Livingston sent Bentham draft parts of the 1828 improved version of his code, writing that it remained incomplete until he had ‘ingested’ Bentham’s *Rationale of Judicial Evidence*.

In his sixth chapter, ‘The Death Penalty Debate’, and seventh, ‘Moral and Political Thought of Thomas Cooper’, Crimmins examines the use of utilitarian arguments surrounding capital punishment and describes Cooper’s life and thought, which, Crimmins claims, have been omitted from histories of utilitarianism due to his advocacy of slavery. Regarding the death penalty, Crimmins states that debate about it in the early republic ‘illustrates the complexity and plasticity of the relationship between rights and utility’. Besides Bentham, Crimmins often mentions Beccaria here, particularly because he inspired Turnbull, Livingston and Rantoul. These death penalty debates represent, for Crimmins, a ‘dialectical dance between rights and utility’. Regarding Cooper, Crimmins disagrees with King’s claims that ‘Cooper’s Benthamism was not very great’, amounting ‘to little more than a half-hearted commendation’ of a handful of moderate propositions, and that his ‘Benthamism was no more than “a tool to rid himself of his earlier natural-rights ideas” which ... became “a stumbling block in his conversion to the cause of slavery”’. What King overlooks, says Crimmins, is that it was not Benthamism as such that shaped Cooper’s thought and that he first encountered these ideas and integrated them into his thought before his emigration to the US


long prior to his flirtations with Bentham. One cannot disagree with Crimmins when he says that it is ‘difficult to fathom what experience triggered Cooper’s startling change of heart and mind’ when he ‘firmly pinned his colours’ to slavery and to racial pseudo-science. These two chapters show what Crimmins summarises in the ensuing ‘Epilogue’, namely how utilitarianism and its application can be enlisted in ways unpalatable to us now.

The text concludes with an epilogue concerning what the author calls the ‘Pragmatic Impulse’ in American philosophy, characterised by a ‘stress on the practical’, and a ‘climate of opinion that esteemed ... self-sufficiency, the entrepreneurial spirit and material acquisition’. Utilitarianism, says Crimmins, ‘was eminently suited to this ethos’. Utilitarianism was readily drawn upon to ‘legitimise its central preoccupations’. Utilitarians were used either as points of departure for the recommendations of many American thinkers or as a ‘means of sharpening and advancing’ their ideas. This cross-fertilization of utilitarianism with American pragmatism illustrates, for Crimmins, the substantive ways in which the ideas of utilitarianism’s ‘American fellow travellers’ affected it and suggests too that American liberalism cannot properly be considered without due attention paid to the relationship between utilitarianism and pragmatism. Overall, Crimmins’s work makes a valuable contribution to the history of utilitarian moral and political thought, and it provides excellent insight into its American origins and development as well as its successes and failings there.

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Catia Faria, *Animal Ethics in the Wild: Wild Animal Suffering and Intervention in Nature*

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Questions about animals have been mainstream in ethics since the 1970s and Peter Singer’s *Animal Liberation*. But, for decades, wild animal suffering was something of an embarrassment for animal ethicists. With only a few exceptions (Steve Sapontzis comes to mind), animal ethicists avoided talking about the harms that animals face in the wild. When it did come up, critics used it as a *reductio* of the pro-animal position. The animal liberationist, the critic pressed, was committed to absurd-sounding conclusions about protecting wild animals from their wild predators, feeding wild animals who went hungry, and providing healthcare for every wild animal on the planet.

Thought about in this way, it was the animal ethicist’s job to come up with an explanation of how the liberationist position commits us to, for example, veganism, while at the same time not committing us to meddling in ecosystems. But this framing is starting to sound old-fashioned. Through work from philosophers like Martha Nussbaum, Jeff McMahan, Oscar Horta, and Kyle Johannsen – plus organizations