Scholars generally accept Jeremy Bentham as a legal reformer and as the patriarch of English Utilitarianism, but few associate him (except parenthetically) with women’s rights. Yet despite this lack of awareness on the part of scholars, more than a decade before Mary Wollstonecraft founded English feminism with the publication of her *Vindication of the Rights of Women* (1792), Bentham had pointed out the virtual slavery of women in many nations. Bentham’s concern for women went far beyond a statement for the simple end to this slavery. He argued for an almost total emancipation—for a political freedom that would allow women to vote and to participate as equals in the legislative and executive branches of government. He argued for a personal freedom that would allow women to obtain a divorce and demanded some adjustment of the double standard in sexual matters. Of even more significance, Bentham’s influence, attitudes, and words helped shape the mind and thought of John Stuart Mill. In the twentieth century, the Victorian Mill continues to be revered by women’s rightists for his efforts on their behalf—especially for his essay, *On the Subjection of Women* (1869).

Bentham’s first defense of women came in his *Introduction to the Principles of Morals and Legislation* where he attacks as an imbecility the practice of some nations that relegate women because of their supposedly inferior minds to the status that men endure only when infants or insane.\(^1\) Although this was his first public statement on women, Bentham credits a woman’s terrible legal entanglement with starting him on his work as a reformer. Bentham recalls that in 1759 he read the memoirs of a celebrated courtesan of the time, Teresa Constantia Philips. As the eleven year old Bentham mused over her trials with the courts, “the Daemon of Chicane appeared ... in all his hideousness” to him, and he immediately “vowed war against him.”\(^2\) His success in this endeavor is best described by Sir Leslie Stephen: “... if anyone doubts Bentham’s services, I will only suggest to him to compare Bentham with any of his British contemporaries, and to ask where he can find anything at all comparable to his attempt to bring light and order into a chaotic infusion of compromise and prejudice.”\(^3\)

In spite of the credit given to Mme Philips, women, as such, played a minor role in Bentham’s life. He never married although he wanted to on at least two occasions, once when he was young and his father objected, and later, in 1805, when the young lady refused. Contrary to Stephen’s conclusion that Bentham “was not only never in love but it looks as if he never even talked to any woman


except his cook or housemaid,”⁴ Bentham entertained and corresponded with a number of women throughout his life. But, in spite of these associations, Bentham, the pragmatist extraordinaire, viewed women and their rights in the abstract.

Like his utilitarian forerunner, Helvetius, Bentham was a feminist.⁵ His attitude toward women was actually another natural application of his own greatest happiness principle. Again and again in discussing various topics from suffrage to the Spanish Constitution, Bentham comments that he could see no reason why the female sex had less claim to happiness than the male; indeed, perhaps woman’s claim to happiness was better than man’s.

Bentham in his enthusiasm for women’s rights even goes so far as to reprimand his mentor, Helvetius, and the customs Helvetius supported. In his “Rationale and Reward” he attacks the practice in “certain barbarous or half-civilized nations” of rewarding warriors with the favors of women. To his dismay, Bentham knew that “Helvetius appears to smile with approbation at this mode of exciting bravery.” He attempts to partially excuse him by adding, “It was perhaps Montesquieu that led him into this error.” But he returns to attack them both who, although great humanitarians, good husbands and fathers, eloquent in denouncing slavery, still condoned and even approved a law that degraded and virtually “supposed the slavery of the best half of the species.”⁶

Bentham particularly deplored the position women held during his lifetime. His attitude fits perfectly into his philosophy that detested vague, meaningless phrases such as those that men used to defend and explain their treatment of women as little better than slaves. As an example of such stupidity, Bentham recalls Aristotle’s reason for dividing “mankind into two distinct species, that of freemen, and that of slaves. Certain men were born to be slaves, and ought to be slaves—why? Because they are so.”⁷

An even longer, more specific example is found in the Introduction to his “Plan of Parliamentary Reform.” After a long argument for women’s suffrage, he asks himself, what is the use of making such observations. His answer is succinct: to show that the question should be considered rationally as it merited rather than scornfully. He follows this with an illustration of the second attitude. In a lengthy note he quotes from Charles Fox, in 1797, concerning the means of increasing the number of independent voters: “. . . I hope gentlemen will not smile if I endeavour to illustrate my position by referring to the example of the other sex. In all the theories and projects of the most absurd speculation, it has never been suggested that it would be advisable to extend the elective suffrage to the female sex . . . why but because, by the law of nations and perhaps also by the law of nature, that sex is dependent on ours. . . .” Bentham explicitly attacks the meaning of the italicized words pointing out that the “law of nations” is “a law which does not exist.” He particularly attacks the “perhaps” as “a peremptory exclusion, by which one-half of the species is excluded from that security for a regard to their interests, which in the case of the

⁴Ibid., 233.
⁵Élie Halévy, The Growth of Philosophic Radicalism (Boston, 1966), 20 has a brief discussion.
⁶Bentham, Works, II, 197.
⁷Bentham, Introduction, 268n.
other half is pronounced indisputable. Ground of this exclusion—or at least a principle part of that ground—a *perhaps.*” The law of nature he calls “another non-entity.”

Did Bentham then advocate women’s suffrage? In his Parliamentary Reform plan he contends that a suffrage that ignored fully one-half of the population would be reasonably expected under a Mahometan government, but under a Christian one? Then he lists those considerations—designed, of course, by Bentham and reflecting his views—for voting: universal-interest-comprehension principle, the quality of appropriate probity, and appropriate intellectual aptitude. He concludes that “these guides to decision, if they apply not with propriety to both sexes, it seems not easy to say with what propriety they can be applicable to either.” Hence as David Baumgardt points out, there exists for Bentham no theoretical reason whatsoever for excluding women from participation in the constitutive or even the legislative or executive powers of the state.

But, sadly, when Bentham himself, comes to the final test he equivocates. In 1827 the first volume of his *Constitutional Code*, his magnum opus, appeared. In structuring his representative democracy, he discusses the suffrage and asks the obvious question: “Why exclude the whole female sex from all participation in the constitutive power?” and answers: “Because the prepossession against their admission is at present too general, and too intense, to afford any chance in favour of a proposal for their admission.”

He does not say it is wrong, but that the time is not right. Bentham, the eminently practical, backs away from any firm support for giving women the right to vote. He bases his reluctance to grant women’s suffrage, not, however, on the lack of capacity at the ballot box, but on the condition that men oppose such action too vehemently for it to succeed. It was a pernicious weakness of the society with men in control that prevented women from being allowed to exercise their just suffrage. Accepting this as a *fait accompli*, Bentham, nevertheless, continues to give his philosophical adherence to the principle with a long discussion of why they should have it, saying at one point, “As easily can a female give a piece of card to be put in a box as a male.”

Bentham moves then to the possible involvement of women in the government itself. The reason for excluding women seems to him a fairly simple matter: “The reciprocal seduction that would ensue in the case of a mixture of sexes in the composition of a legislative or executive body, seems a conclusive reason against admitting the weaker sex into a share in those branches of power: it would lead to nothing but confusion and ridicule.”

Yet, Bentham points out that while England refuses to give even the smallest share of the constitutive power to women, it had given its supreme power to a woman. And the English experience had shown, “the decision is more in favour of the female sex than of the male. In intellectual aptitude, Elizabeth of England showed herself in an uncontestable degree superior to her immediate successor, and even to the nearest of her male and adult pre-

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successors.” If Queen Anne was pronounced weak, she was no more so than her
two male successors. If Mary Tudor executed for religion, so, too, did Lord
Chief Justice Hale, “the hero of English lawyers,” for witchcraft. Bentham
continues his argument by claiming, “In no two male reigns was England as
prosperous as in the two female reigns of Elizabeth and Anne.” Not only has
England been ruled by women, but Russia has had four female monarchs;
Austria, one; Sweden, one; Portugal, one; and France has had numerous female
regents. Bentham closes this reasoning with the illustration of the Directory of
the East India Company where “females have an equal share with males.” This
sub-legislature governs absolutely the sixty million subjects in British India. So
he concludes, “while gnats are strained at, camels are swallowed.”

Bentham turned from this bit of dialectic and asked: “Can practical good in
any form be mentioned as likely to be produced from the admitting the female
sex into a participation of the supreme constitutive power? Yes, the affording
increased probability of the adoption of legislative arrangements, placing sexual
intercourse upon a footing less disadvantageous than the present to the weaker
sex.” Bentham added, however, that there existed at that time no political state
where he would recommend that women be admitted into full participation in
government because their participation would jeopardize progress along other
lines.

Bentham had applied this same test much earlier when he decided that
women should not be allowed to sit in the gallery and simply observe a legis-
lative body in action. In “An Essay on Political Tactics,” he declared that
women by their mere presence would add new force to the seductive powers of
elegance and ridicule. Men would resort to “imprudent resolutions and ex-
treme measures” merely to please the opposite sex, as passion replaced reason.
He concluded by recalling that the English had experimented with the idea, but
abandoned it because “too much was sacrificed to vanity and wit.”

Women, then, are excluded from their political rights not because their in-
tellects are inferior or abilities are lacking, but rather because men lack the
maturity to work seriously and effectively with women in their midst. Bentham
evidently believed that men associate women so much with their sexual role
that they would, like proud peacocks, dissipate their energies in preening and
posturing in order to please the opposite sex.

While Bentham’s advocacy of women’s political rights was more theoretical
than actual, his record on women’s sexual and marital rights is perhaps a shade
better. According to Bentham, the legal problems of marriage had led him to
his life’s work, and he spent much time and thought examining marriage
contracts and applying his principles to them. In his “Principles of the Civil
Code,” which Dumont first edited, Bentham admits that marriage for life is
“the most natural marriage” and would have come into existence without the
necessity of laws creating it. Although this arrangement is the ideal, the irrevo-
cability of the marriage contract at times becomes “cruel and absurd.” “To live
under the constant authority of a man that one detests, is already a species of

12Ibid., 108–09.
13Ibid., 109.
14Ibid., II, 327.
slavery: to be constrained to receive his embraces, is a misery too great to be tolerated even in slavery itself." Bentham then attacks the objections to divorce. To the argument that allowing divorces will encourage both partners to cast their eyes about for new mates while still married to each other, Bentham counters with the comment that this exists under the present arrangement in the form of a new mistress, a new lover. He disagrees that the availability of an easy divorce will weaken marital ties by arguing that the "care, attention, complaisance, will be continued in the married state; and that which was done only to obtain love, will be done to preserve it." The possibility of divorce would likewise prevent those marriages that occur because of "the avarice and cupidity of their relations." No longer would the possibility of obtaining property be sufficient to create a marriage. Instead, "the real suitability upon which happiness reposesthe relations of age, education and taste—would then enter into the calculation of prudence." To the objections that divorces would lead to a lack of concern, particularly in monetary matters and general bad management, Bentham replies, "the facility of divorce tends rather to prevent than to give birth to prodigality." He contends that legislators must strive to set rules that prevent the stronger mate from mistreating the weaker. This achieved, "Gross and brutal methods being forbidden, there remain only gentle methods of engaging her to a separation." The most obvious of questions concerning divorce Bentham leaves to the last. What will the children do if their parents are divorced? His answer is simple; they should do "that which they would have done if death had dissolved it." Under his plan, boys would live with their fathers, girls with their mothers. He further contends that they will fare better, particularly in their education, than they would have with all the domestic strife and quarrels if no divorce was allowed. He concludes: "If, then, the interest of the children were a sufficient reason for prohibiting second marriages in case of divorce, it is still stronger reason for prohibiting them in case of death."

Bentham also attacks the practice of allowing legal separations. These, he says, are based on "the ascetic principle, the enemy of pleasure." He denounces separations because they supposedly grant equality when actually they create inequality. "Opinion allows great liberty to the stronger sex, but imposes great restraint upon the weaker one." Bentham then not only recognizes but also condemns the double standard.

In his "Principles of Penal Law," Bentham again advocates "divorces under suitable restrictions," because "In place of a marriage broken in point of fact, and subsisting only in appearance, divorce naturally leads to a real marriage." But separation condemns persons "to the privation of celibacy," or leads them "to form illicit connections." Further proof of his support for divorce may be found in his provision in his Constitutional Code for local registrars to keep records of divorces as well as of marriages.

Bentham's recognition of the double standard is found also in a curious document called "Sextus" written in 1817. Supposedly this was to be a part of his work, Not Paul but Jesus, an attempt on Bentham's part to show the error of the Church in following the teachings of Paul rather than Jesus. He particu-

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15Ibid., I, 353-55. 16Ibid., 544. 17Ibid., IX, 629.
larly attacked Paul’s emphasis on asceticism which is by nature opposed to the principle of utility. While his concern in this work is not for women’s rights in particular, he does discuss the inhibitions placed on the non-marital sexuality of both sexes by the asceticism of Christianity. Women, he admits, are much more liable to condemnation for fornication than men. He concludes that “when viewed in an unprejudiced point of view, and by the standard of utility, sexual gratification in those modes, against which popular antipathy is apt to rage with greatest fury, will be seen not to belong to the department of morality,” no more than tobacco does.

Nor does the religion of Jesus condemn any mode of sexual gratification. There are “no marks of disapprobation or aversion shewn by him towards them anywhere.” Instead, argues Bentham, the Apostle Paul, not Jesus, instituted the asceticism that condemns them. Why? Bentham, the Utilitarian, explains, “Sensual pursuits are, all of them, natural rivals to the religious pursuit, in which he was using his endeavours to take the lead. . . . In this same view, even marriage was incidentally discountenanced by him. (I Cor. 7:2)’’

More than two decades before writing this, Bentham had shown a particular concern for the unwed mother and illegitimate children when he attempted to apply his Panopticon ideas to solve their problems. Bentham had dedicated most of his efforts during the 1790s to his Panopticon scheme which was to be a “mill to grind rogues honest, and idle men industrious.”19 The Panopticon was basically an architectural design for a prison which needed fewer guards because of the increased observation made possible by its unique plan. Entranced by this particular idea, Bentham wrote, “morals reformed, health preserved, industry invigorated, instruction diffused, public burdens lightened, economy seated as it were upon a rock, the Gordian Knot of the poor laws not cut but untied, all by a simple idea in architecture.”20 Casting about for all possible applications for the Panopticon, between July and November of 1794, he outlined plans for a Sotimion and Nothotrophium. The Sotimion, a Bentham coined word probably derived from the Latin Soter meaning a savior, deliverer, preserver, a giver of health and happiness, was subtitled an establishment for the preservation of female delicacy and reputation. The Nothotrophium is evidently from the Latin Nothus meaning spurious, not genuine, illegitimate, bastard, born out of wedlock but of a known father and was subtitled an asylum for the innocent offspring of clandestine love.

This fragmentary outline illustrates the breadth of Bentham’s interest and

18Bentham Manuscripts, University College Library, University of London (hereafter UCL), 106-266-67. I wish here to express my thanks to the authorities of University College Library for permission to consult these manuscripts, and particularly to Mrs. J. Percival for her aid and assistance. Not Paul, but Jesus, by Gamaliel Smith, Esq., was published in London (1823) by John Hunt. Supposedly it was put together by Francis Place for Bentham and published under the pseudonym, Gamaliel Smith; the document, “Sextus,” was not, however, included in the published work.

19Bentham, Works, X, 226.

his concern for detail. Plans for the Sotimion were to be circulated after "the Panopticon Estate was secured."21 Even then he did not expect it to become an immediate reality; instead the concrete plans would spur people to subscribe the necessary funds for its creation. Bentham is somewhat vague about how persons are admitted to this house, except that they are to pay a deposit, and "none are to be received who are not reported pregnant—that it may not be employed by men as a receptacle of past mistakes. But will not the £100 or £50 advance for the child answer that problem sufficiently?" Women would hear of the institution through advertisements in Town and Country Magazine. They would come to preserve their delicacy, and "the pleasantness of the place and the character of the manager would give this establishment an advantage over the advertising private ones." Those who could not afford to pay any deposit would evidently be admitted and would attend the foundlings and wash clothes for the rich ones. The money paid in was to be used for further developments, in particular a foundling hospital. Envisioning illegitimate children who achieve greatness, Bentham proposed that a paper sealed might contain the names of both mother and father to be opened if "the child turned out anything extraordinary."22

Most of these six and one-half double sheets Bentham devotes to technical detail such as the design of chairs and other furniture, the canal, flower pots, the public house, walks, balconies, suites, etc. Bentham does list, however, the exercises to be available to the Sotimion's residents; among them are Russian Roundabout; vis-à-vis swing; up and down; rowing, paddling, punting, and sailing. Woman's work includes needle work, millinery, ironing, and making pickles and preserves from garden produce. For amusements, there are cards, music played by the Panopticon prison band, circulation library, etc. One interesting item for entertainment of the populace, was fountains of beer, punch, and wine operated by compressed air; in the resident's coffee room perhaps a fountain of lemonade or rosewater.23

Bentham carefully planned to protect the privacy of the Sotimion's inhabitants. Visitors were required to send their names in a sealed envelope to the person they wanted to see. He also devised a plan so that the resident might see the visitor without being seen to be sure that the person was not an impostor. When the time arrived that one's condition might be termed "indelicate," the resident was confined for relaxation and amusement to the Coffee Room which was open only to residents. The residents controlled the Coffee Room and could black-ball any member with three black-balls. They could, finally, if they

21In 1794, Parliament agreed to underwrite Bentham's Panopticon prison plan, and he immediately set out to locate the proper site. But the final warrant for the money to finance the project never came. Bentham was crushed blaming George III's personal animosity for the failure of his scheme. Later Parliament did award him £23,000 for compensation. Stephen, I, 202-05.


23Ibid., 100–06.
desired, expel a member by a majority vote and determine how much of their deposit would be refunded.24

Bentham’s ideas for his Sotimion illustrate his desire to apply his basic idea—the Panopticon—to solving social problems. While his primary concern might not have been for women, the fact remains that he sketched this plan decades before others attempted to provide some reputable assistance to such women.

Perhaps the most significant contribution of Bentham to the women’s movement was his influence on John Stuart Mill. Mill, although he had known Bentham intimately since early childhood, was not allowed to read Bentham’s works until 1821 when he returned from an extended visit with Bentham’s brother, Sir Samuel, and Lady Bentham in France. This was to be the test to see if the experiment of his education had succeeded. Would he after all become a proponent of Benthamism? In his Autobiography Mill describes the impact that reading Dumont’s edition of Bentham’s Traité de Legislation had on him. When he finished the last volume, he “had become a different being” for Bentham’s principle of utility became “the keystone which held together the detached and fragmentary component parts of my knowledge and beliefs.” Now his ideas had unity; he had “a creed, a doctrine, a philosophy, . . . a religion,” and perhaps most importantly, he “had a grand conception . . . of changes to be effected in the condition of mankind through that doctrine.”25

John Stuart Mill is considered by many as the patron saint of the women’s movement. Many of the die-hards of the present women’s groups try to tie Mill’s interest in women and their position in society solely to his attachment to Harriet Taylor.26 But can this really be true? Was it not Bentham’s influence that led Mill to his initial interest in the condition of women? Six years before he met Harriet Mill, he bitterly attacked the male chauvinist attitude of the Edinburgh Review. In the second issue of the Westminster Review, Mill lambasted the Edinburgh publication for its failure to denounce the morality that views helplessness of both mind and body as the most admired attribute of women, the morality that requires women to remain as virtual slaves and drudges of their husbands if they wish to be considered feminine. This journal, Mill charged, never spoke out against such prejudice. Even though on occasion it praised such women as Madame de Staël and Maria Edgeworth, it had surreptitiously supported this morality when it printed the comment: “Shakespeare

24Ibid.
26In her introduction to Fawcett’s edition of Mill’s On the Subjection of Women (Greenwich, 1971), Susan Brownmiller writes, “In a neat bit of literary detective work . . . Dr. Alice S. Rossi makes a strong case for Mrs. Taylor as the ‘idea person’ behind Mill’s convictions on equality for women, a tribute that Mill himself acknowledged but that has generally been considered as being nothing more than gallantry” (10). Actually Dr. Rossi discusses “Mill’s explicit denial that his views on the relations between the sexes had been adopted or learnt from Harriet.” Mill maintains, according to Dr. Rossi, that women’s rights was one of his earliest interests and that it was because of this common interest that he and Harriet Taylor became friends. (John Stuart Mill and Harriet Taylor Mill, “Essay on Sex Equality” [Chicago, 1971], 20–21.)
BENTHAM AND WOMEN'S RIGHTS

had expressed the very perfection of the feminine character, existing only for others, and leaning for support on the strength of its affections.”

Mill was barely eighteen when he wrote this; he was still very much under the influence of Bentham, for the above was written just three years after his introduction to Benthamic thought. John’s ideas about women may have come from Bentham and not from his father who was then less interested. In his Autobiography John himself bears this out with his description of the differences between the two Mills’ views on women’s suffrage. While the father argued in his Essay on Government that women should be excluded from the suffrage because their interests were the same as their husbands, John, the son, believed “that the interest of women is included in that of men exactly as much and no more, as the interest of subjects is included in that of kings; and that every reason which exists for giving the suffrage to anybody, demands that it should not be withheld from women. This was also the general opinion of the younger proselytes: and it is pleasant to be able to say that Mr. Bentham, on this important point, was wholly on our side.” Mill thus took issue with the Essay on Government, accepted Bentham’s view of women, and gratefully acknowledged Bentham’s support.

It is apparent that John Stuart Mill, in his ideas about women, was simply “arguing from Bentham’s formula that every human being, whether man or woman, . . . was the only proper judge of his own interests.” And Mill continued to apply Bentham’s principle to the cause of women as the century wore on. In 1830 he met his ideal and idealized woman, Harriet Taylor. From her, Mill and the woman’s rights movement gained momentum—but it was from the mind, thoughts, and writings of Jeremy Bentham that Mill’s first interests in the status of women were born.

What then can be said for Bentham and women’s rights? The evidence seems to prove that he was a defender of the rights of women even when this was not a popular exercise. He admitted and discussed the vast inequities of the laws regarding women and argued against these laws. He was offended by statements that denigrated women—statements such as the one in the statute book of Pays des Vaud which says “the testimony of two women or girls shall be equal and neither more nor less than equal to that of a man”; to this Bentham added—the law is “more humiliating for the legislator than for the sex which was the object of it.” He applied his greatest happiness principle to women and concluded that their claim to this happiness was equal to (or perhaps greater than) that of the male sex. He viewed women as having interests—particularly marital and sexual—of which they were the best judge. He asked that they have a voice in government and recognized their intellectual capabilities as
well as their unequal status. Yet he hesitated to push for implementing changes in their position because he felt that men lacked the maturity to deal with women in any other than their sexual roles. But the story does not end here. Stephen says that Bentham's "principle occupation" in the last decades of his life "was to provide political philosophy for radical reformers." Thus, while he himself stopped short of demanding radical changes in the status of women, he furnished the philosophy that inspired John Stuart Mill to take up the gauntlet for the cause of women in the Victorian era. Playing the role of the gadfly, Jeremy Bentham wrote, discussed, and argued. In his day the time was not yet ripe—but he caused another generation to seek for women an end to the inequities he so eloquently described.

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