

Excerpts from the *Staats-Lexikon*: “Relations between the Sexes” (1845–48)

Abstract

Though postulating fundamental differences between the sexes, the author of the following *Staats-Lexikon* entry on “Relations between the Sexes” advocates some degree of legal equality between men and women. Nonetheless, the author emphasizes that men, described as vigorous and rational, are better suited to work in public and participate in political life, whereas women, characterized as passive, emotional, and family-oriented, should only enter into public life as charity workers, petitioners, and spectators of parliamentary proceedings.

Source

Relations between the sexes, women, their legal and political position in society, benefits of the law and legal guardians [*Geschlechtsbeistände*] for women, women’s associations, and transgressions with respect to relations between the sexes. – I. Unquestionably the most general and most important relationship of human society, and the most difficult for any legal and political theory, is that between the sexes. This mysterious, basic relationship is the ever-new vital source for all of society, for the physical and moral education or miseducation of the members of society in each new generation. It must be defined justly and wisely, it must be morally pure and healthy if society itself is to be or remain such. If the oriental empires – and especially the Mohammedan ones – had been excellent in every other respect, their enslavement of women and their polygamy would have never permitted a lasting higher culture and development, never true freedom within them, nor will they allow this in the future. Despotism is deeply and broadly rooted through these practices. Even if the magnificent powers of the Greeks, all their political wisdom and education, had been twice as great in every other respect: given their definition of relations between the sexes, which was at the very least a partial form of slavery, denied the rights of women, and ruled out a decent family life, they were never able to sustain the freedom and power of their states in the long term. Yet what is more difficult to define than this, the most important and most profound relationship of creation? Our modern Christian theory of the state, more perfect in natural law, no longer subordinates – as did Greek and Roman theory – humanity to the state, the human being to the citizen. Instead, it makes human rights the foundation of civic law, that is, it establishes the equality of the latter on the equality of the former. And yet nature herself established such manifold inequality between man and woman, such great differences in their life tasks and their powers, and also in their legal relationships. Where, then, do we find and draw the correct dividing line between these differences, one that does not harm either one of the sexes, one that does justice to both of them and to the common well-being of society?

All of history shows that in this case the voice of nature does not speak in a way readily understood by all, and that at least habit and human passion have falsified its voice through so many generations. It shows how the violence and lust for dominion by stronger men have oppressed weaker women, preserving throughout these same millennia a far greater legal inequality than the free, civilized nations now declare to be just and acceptable. At the same time, the kind of legal equalities most recently demanded – also by such intelligent men as Bentham, St. Simon, Fourier, and by revolutionary women like Harriet Martineau – strike many others as unreasonable and harmful to women themselves. Is it possible that these individual men and women are merely ahead of their time? Shall the further progress of civilization truly lead us to the point where we give up the subordination of woman to man, and thus also the solidity of the marital bond and true family life, and that in place of women’s femininity, chastity, and

modesty, we regard the equal, direct participation in our public electoral and parliamentary assemblies and in offices of the state, in fact in all male undertakings and struggles, including warfare, as their highest honor and good? Or should we instead praise the conditions of the ancients and follow Mr. Vollgraff in regarding our more estimable life as an obstacle to true freedom? Is not female royalty that is accepted among the most educated nations, this concession of the highest of all male political rights which has been found to hold no disadvantages, proof that until now only prejudice or despotism on the one side, debasement on the other side, have stood in the way of full legal equality? And finally, are the enemies of a free social system that is grounded in consent and contract, the likes of Haller and Bonald, truly right in asserting that this system invalidates itself by excluding the political participation and complete political equality of women? Of course, those ultra-democratic supporters of political equality use this view to support their theory. If one considers the degree to which familiarity with existing conditions, prejudices, and the interests of the stronger have here, as everywhere in despotic and aristocratic conditions, tainted the judgement of even the best scholars, the decision about these legal relationships will demand for this reason alone the most unbiased examination possible. All the more so since the great reforming drive today also addresses this relationship and often overlooks the proper conditions and limits. It would also be unseemly for us men, and in many ways disadvantageous, to leave even the appearance that the existing conditions continue merely through the despotism and selfishness of men. In any case, though, in the end only a definition that proceeds from the right reasons can give us – even if we could not grant full equality of rights – the proper kind and right measure of restrictions, eliminate unnecessary and hence unjust inequality, remove the doubts regarding the general theory of state, and guide legislation about transgressions with respect to relations between the sexes in the right way.

[...]

2) With the act of coition, with the creation of individual life, the man ends his immediate part in procreation. Moreover, his entire organization and life's activity prior to this procreation is not destined for and engaged in the purpose of procreation to nearly the same degree as is the case with the woman, in whom, as Burdach has said, "the goal of life is love, and all powers relate to the preservation of the species." The man therefore sees himself as freer and more dependent on other, external activity. Even after conception, woman's destiny consists primarily in the continuing preservation of the species through inner development, that is to say, in fostering and keeping within her maternal bosom the conceived child as part of her own life, bringing it to development through the harmony of her own life with that of the child, nourishing and caring for it also after birth, and sending only the individual who has matured to an independent life out into the world, where the man then introduces him to the world.

In a most peculiar way, all other differences in the organic structure and the organic life functions of the two sexes harmonize with this two-fold, central difference. Drawing on Burdach's evidence and detailed discussion, we shall highlight only a few main features by way of illustration.

While the direction toward individual creation and energetic external activity is paramount in the physical organization of the man, the direction toward inner improvement and preservation predominates in the female organization; a more active appropriation and bonding of matter against dissolution holds sway, as a result of which woman needs only a moderate, not very stimulating, mild, and easy diet, whereas man requires stronger secretions, stimuli, and renewals, more frequent and more vigorous breathing of fresh air, a more robust meat diet, spices, and spirituous liquors, and he cannot do without food to the same degree and for as long as woman. A larger portion of female organs and functions is directed toward the preservation of the species, and woman has a greater need for procreation than man; she suffers more from the unmarried state than he does. Blood is more easily created in the woman, cellular tissue and fat are more abundant and the external forms are therefore softer and gentler, while the excretions are smaller and, on the whole, life resists or preserves itself longer. – The female body is more delicate, the receptivity for stimuli is greater, the circulation of the

blood and the pulse are quicker. Development progresses earlier and all stages follow upon each other more rapidly. – While muscle power predominates in the man, in the woman it is nervous activity, and the muscles are thinner, less externally defined, softer, and weaker. The joints are more flexible, the tendons and ligaments more supple, movements are less powerful but – given the preponderance of the central organs and her mastery over them – lighter, more lively, and more graceful. The bones are thinner, the limbs more delicate, the voice is weaker but higher, more supple and pliable. Everywhere the inner, the central is more powerful in the female organism compared to the external, the peripheral. The sensory organs are accordingly smaller and more delicate, and – with a more sensitive receptivity – more suited to the reception of subtler impressions than to activity in wider circles.

Thus the entire physical nature of the two sexes does in fact already indicate that they are mutually complementary in accordance with the existing disposition. This nature designates the stronger, bolder, freer man as the creative founder, ruler, provider, and protector of the family and drives him out into outside life for external activity and creation, into the struggle by law and arms, to creative new production, to acquisition and defence. It designates the weaker, more dependent, shyer female as the protégée of the man, consigns her to the quieter house, to pregnancy, birth, feeding, and care, to the physical and humane development and upbringing of children, to the domestic feeding and care of the man and the domestic family, to the preservation of the man's acquisition, the management of the household, and the preservation of the sacred flames of the domestic hearth.

V. Nature, however, as well as the existing disposition, has also established physical or mental and moral peculiarities of the different sexes that are entirely in accord with the above-mentioned chief physical differences regarding procreation, and with the peculiar direction of the shared life's tasks described above and sanctified by Christian laws.

The following characteristics are predominant among these intellectual peculiarities or within emotional life:

1) In the man, this more active direction towards the new, free generation of individual life, towards free external creation, founding, and giving, towards freer self-activity; in the woman, by contrast, the more passive direction towards more dependent reception and the preservation and maintenance of the species and the internal, shaping activity to that end. Predominant in the man is the creative spirit, reason, with its separation, reflection, and abstraction, its penetration, creative connections, and new outward creation; in the woman, receptive disposition, emotion easily excited by stimuli, reception through the direct perception of things in their wholeness, and inwardness. When it comes to creative philosophical or poetic power, to deep and thorough science, even the most extraordinary of female writers could not surpass the average ones among men. Burdach (p. 176) says: "While woman moves with ease and skill in life, in art, and sometimes even in science, she lacks independent creative activity, originality, and genius. Religion, too, is in her more the object of emotion than intellectual study. Thus her morality is based more in natural feeling, and with such harmony within herself she also demands a greater concordance between external appearance and her inner being, has a greater liking for form, namely the light, delicate, graceful form. She thus strives for recognition not so much of strength and accomplishment as of kindness, in which the intellectual manifests itself in pleasant forms. The more active virtues befit the man, the more passive ones the woman, as a result of which the relationship between the two sexes expresses itself in the contrast between creation and preservation, acquisitiveness and thrift, moderation and frugality, justice and leniency, firmness and obedience, courage and submission, steadfastness and patience."

2) What predominates in man is that freer, more expansive activity in the external world, in woman the greater restriction to procreation, to family, to the house. Burdach puts it into these powerful words (p. 475): "The entire meaning of woman is focused on the family relations and the relationship between the sexes, and fulfilling the duties of these relationships alone constitutes her worth. Woman gives herself

over completely to love and makes it the goal of her life, while the man asserts his independence in it and pursues other purposes. Thus woman not only unites the members of the family, she is in general more tuned to sympathy, and the predominant, general good will is also connected with a higher degree of religious sentiment.” In the intellectual realm, as well, woman shows a lesser grasp of what is more distant and deeper, though she has an all the more vivid, receptive feeling and eye for what is closer, unique. And in connection with that easier excitability, with the delicacy of feeling, and with the sense for immediate perception, woman also exceeds man in the delicate, sure tact of judgement and conduct, and in the sure and healthy understanding and judgement – even if she is unaware of the reasons – of people and life circumstances, which are not retarded by laborious inferences, not misled by brooding, and lead directly to the correct result.

3) But the chief physical and moral differences described above, in conjunction with the different purposes mentioned, also establish a new, primary moral distinction. Those male peculiarities – greater male strength and freedom, the predominance of reason and of creation, allied only too closely with destruction, and the male life purpose of the resolute protection and guidance of the family, the acquisition of property, and the political and armed struggle to that end – establish in him greater boldness, male courage – both physical and offensive – and the natural and often necessary concomitants of that same, male passion, wrath, legal obstinacy, impatience, an indomitable will and resoluteness, the rougher exterior, and a certain masculine hardness and severity. But the fairest form of all his virtues remains male honor. By contrast, in the same natural way the peculiarities of woman establish her greater weakness and softness, the preponderance of sensibility and emotion, and the sense of preservation, in conjunction with her need for protection and destiny for domestic life, female shyness and chaste modesty, softness and gentleness, the greater capacity and ability for patience and yielding and, if necessary, the courage – an often admirable moral courage – to endure, though at any rate more the courage of enthusiastic excitedness than of cold male resoluteness, and, finally, the milder, captivating form and manner of female grace – the most beautiful form of all female virtues. [...]

VI. There is now hardly any need for a special demonstration that such being the differences between the sexes, such being the nature and destiny of their union, a complete equality of woman with man in familial and in public rights and obligations, in the direct exercise of the same, runs counter to human destiny and happiness and would destroy a dignified family life, that in the process women would renounce their high destiny in the domestic sphere and in the education of the next generation, the ornament and dignity of women, true femininity and their loveliest happiness, and would expose themselves to the gravest dangers.

It is undoubtedly clear, first, that a lasting, dignified, and peaceful marital and familial life would be impossible with such unwomanly viragos, who do not recognize the man as the head of the family and want to assert, next to and against him, direct rights of voting and decision-making over joint social matters, and who want to exercise the same warlike military service. Never can a society – and most definitely not a society about the most important conditions of life – endure in which participants always wish to stand side by side with equal votes, with no decision-making in cases of differences of opinions about communal matters. That is why the Romans were right in declaring a mere society as dissolvable at will by every member at any time and over any difference of opinion. But are a true Christian marriage and family and family education of children still compatible with this? Because they are not, the Saint-Simonians allowed women to engage in arbitrary unions with strange men and to dissolve marriages as desired, though of course they could not escape the penal laws that protect the order of our families and our state. And so the two extremes come full circle. Those theories which, indifferent toward the rights of women, abuse them despotically as an instrument for men and their society, had to give up the noblest gift for men and the state, domestic or family life and an ethical family upbringing of children. Those theories which, in their one-sided pursuit of an abstract rule of equality, overlook the laws and boundaries of nature and claim more rights for women than they could even want according to these

laws and boundaries, [and] likewise destroy this, the holiest, most solid foundation of human and civic virtue and happiness.

Moreover, it is also a truth that is grounded just as deeply in nature and confirmed by experience that woman everywhere has no more effective title to man's highest respect and love, to his protection, sacrifice, and forbearance, than through her female weakness, her female love, devotion, and gentleness. Should weaker women be so foolish as to venture into unnatural and unwomanly battles with the stronger men – think of everything they will wager and lose!

[...]

And thus legislation does justice to women if it only retains the principle that they have the same sacred human dignity and not least the same shared, highest human destiny, and for that reason also the same shared rights, unless, because of the special powers and tasks of the female sex and for their welfare and that of the state, certain restrictions of this equality are recognized as necessary and just in accordance with this free, constitutional conception of society.

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XII. With regard to political rights, however, the only preferential treatment of women that follows from the above principles is that they remain exempt from all military and public service and, conversely, the restriction that they may have no direct, active part in the decisive votes on public matters and in the contentious debates leading up to them, and may not hold any public offices. Only these things are generally excluded to preserve marital and family life and true womanliness and a woman's destiny in life. All else, the general law may readily leave to customs, the permitted guidance of fathers and husbands, and to women's discretion and sense of propriety, depending on their special circumstances, and, finally, to free public opinion. And it must do so, because every general restriction of legal equality that is not absolutely necessary is unjust and can be explained only as the result of the old, barbaric oppression of women. However, complete exclusion of women from all participation in public affairs would have a most deleterious effect on families and the state, on child rearing, on men and on women themselves. Woman, as the faithful life companion of man, as the educator of his sons, should also share in all his higher interests. Above all, men and women shall be intimately united in a lively, patriotic spirit of community. Women shall work on behalf of this spirit in raising and educating their children. Their social circles and those of the families shall never be deprived of the nobility of the higher, nobler human tendencies, and the husband and the Fatherland shall never be deprived of the benevolent influences of the insights, experiences, feelings, and impulses of noble, able women. Among all civilized peoples during their best periods, this influence was immeasurably effective and salutary. May it continue to be so. Away, then, with all legal restrictions on women with respect to writing and reading, listening to and observing public issues, attending meetings of the chambers of deputies, public courts, and lectures, exercising the rights of petition and the press, exerting every legal influence on public opinion, public mores and honor, and, finally, exercising the free right to establish women's associations for permitted charitable, public purposes.

XIII. Women's associations, especially, can work in a dignified and benevolent way to inspire the noblest enthusiasm, to relieve suffering, to satisfy the most important needs, and to improve women themselves and public sentiments. All this has been so evident to everyone since the great wars of liberation and the founding of women's associations at that time and since for so many purposes, especially popular education and the so-called infant-schools, such diverse associations and often established with the participation of noble princesses, that one only need mention it. Women's associations are one of the noblest and most praiseworthy manifestations – indeed, inventions – of our time.

XIV. Recently a powerful speaker in the American Congress defended women's right of petition and

especially its appropriateness in specific instances. The debate took place on the occasion of a petition of women in favor of the abolition of slavery, the most abominable of all institutions in human societies. With what legal and Christian principle would one exclude Christian women – who after all played such a dignified and important role also in the first Christian congregations, and are the most natural representatives of religious sentiment and humane kindness – from the right of petitioning for the abolition of such an un-Christian and pernicious corrupting stain on their Fatherland?

XV. In Baden, the admission of women to the spectators' galleries of both houses of parliament has now proved to be entirely harmless and salutary for more than twenty years. Never have I heard mention of even the smallest drawback. And the participation of women has most definitely had a visibly beneficial effect on a dignified, proper tone, and an excellent effect on a lively and dignified public opinion – the soul of all free constitutions. Women – precisely because they do not participate directly in the passionate battles, do not compete for distinctions and offices, and because the free expression of their opinion is thus not tainted by passion and the lower motives of fear and interests, like that of so many men – women, with their subtle and direct sense and tact for what is dignified, with their quick eye especially for male worthiness and unworthiness, have at all times given their approval to what is honorable and right, to the extent that they participated in public opinion. And from participation in public life they have surely also brought back to their domestic and social circles and entertainment, and above all to their maternal tasks of child-rearing, uplifting knowledge and sentiments and higher levels of understanding.

XVI. Unmarried and widowed women who are independent may also exercise public rights that are tied to specific real property or ownership of wealth and do not consist of direct participation in votes and discussions in public assemblies of men and in the holding of public offices, but do include voting rights exercised by proxies, just as they may head up commercial and business establishments. English and French laws have examples of both these things.

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Source: Carl von Rotteck and Carl Welcker, eds., *Das Staats-Lexikon: Encyclopädie der sämtlichen Staatswissenschaften für alle Stände*, 2nd ed., rev. and enl. Altona: Verlag von Johann Friedrich Hammerich, 1845-48, vol. 5, pp. 654-56, 660-62, 665, 670, 672-73.

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