Introduction

The given research paper will discuss the critique of the Declaration of the Rights issued during the French Revolution by Jeremy Bentham and Olimpe de Gouges. Approved by the National Assembly of France in August 1789 Declaration of the Rights of Man and of the Citizen irritated and inspired many to criticize it. Both males and females tried to find fallacies in its articles in order to show its inconsistency. However, the points of criticism for males and females were different. In the given research paper I will try to compare the criticism of the Declaration by Olimpe de Gouges and Jeremy Bentham and point out to differences in their criticism.

The structure of the research paper is the following. In the first chapter I will focus on the critique of Bentham and will discuss his main points of criticism of the Declaration. The second chapter will deal with the Declaration of the Rights of Woman and of the Citizen written by Olimpe de Gouges. Concluding remarks will be given in the third chapter.

I argue in my paper that the basis for criticism for a male and a female is different. While male’s critique is more concerned with the logic of the thought in the Declaration and its meaning, female’s one deals with the criticism of the Declaration from the viewpoint of a female whose rights were ignored or neglected. Female’s critique does not intend to go deep into the sense of words and does not try to find erroneous beliefs in it. On the contrary by recognizing the rights of a man it demands these rights to be transferred onto a woman.
Critique of the Declaration of Rights of Man and of the Citizen

Fallacies by Jeremy Bentham

Criticizing the Declaration of Rights Bentham speaks about the use of improper word that could mean nothing in a novel or a play, but which can bring to the “national calamity” (Bentham, 1981, p. 49) if they are improperly used in laws. The critique of Bentham is found in the book “Nonsense upon Stilts” and it points out firstly to the theoretical errors of the Declaration and secondly to the mischiefs it has in practice. I consider it is relevant to mention here that criticizing the articles of the Declaration Bentham states his own arguments which will be discussed in details later in the chapter.

Disagreeing with the first article of the Declaration which states that all men are born free Bentham argues that all men are born in subjection. The subjection is perceived by him as the subjection of a helpless child to his more mature parents. Moreover, this subjection continues for many years. Another argument against the statement found in the first Article of the Declaration is that not all men are free because there are slaves. And free people acknowledge the existence of slaves by some other laws, so-called “human laws” which at the same time contradict the “laws of nature” (Bentham, 1981, p. 50).

The statement of the Declaration that all men remain equal in rights is not left ignored by Bentham either. He insists that the conclusion which can be done of this statement is that “the apprentice can be equal in rights to his master” (Bentham, 1981, p. 51). Comparing guard and ward, wife and husband, idiot and mentally normal person, Bentham demonstrates the falsehood of the statement.

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1 Declaration of the Rights of Man and of the Citizen approved by the National Assembly of France, August 26, 1789, Article I.
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On my part I see the point of Jeremy Bentham and the fallacies he wanted to highlight. However, I think that Declaration of Rights intended to eliminate any subjection of a person to a person and tried to set up equality for all. What Bentham wants to argue against is the play of the words, as I see it.

The second Article arouses no less confusion according to Bentham. Contemplating about such things as “rights anterior to the establishment of government” and “natural rights” which contradict to legal rights he concludes that all these expressions are merely figurative and the attempt to give them literary meaning leads to “the extremity of the mischief” (Bentham, 1981, p.52).

He argues that origin of the governments is not a contract but habit. Government according to Bentham can be formed by force or by individuals who have been emancipated (which is less likely to happen). Hence the contract comes from the government and not vice versa. He insists that absence of specifying any particular right among imprescriptible rights “excites and keeps up a spirit of resistance to all laws” (Bentham, 1981, p. 54). He also argues that rights such as liberty, property, security and resistance to oppression must have some bounds. These bounds should be written in laws, but it would be self-contradictory, because “these rights are in the same breath in which their existence is declared” (Bentham, 1981, p.56). This would lead to inconsistency with the declared object of the Declaration.

Discussing each right specified in the Article 2, Bentham states that all laws creative of liberty are at the same time “abrogative of liberty “ (Bentham, 1981, p.56).

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2 Declaration of the Rights of Man and of the Citizen aproved by the National Assembly of France, August 26, 1789, Article II, Sentence 2
Critique of the Declaration of Rights of Man and of the Citizen

Contemplating about property right he concludes that this article acknowledges that no man can be deprived of his proprietary rights. However, it is not true in reality. Security right he concludes authorizes corresponding bodies to execute any suspected person. Resistance to oppression he considers gives to much freedom to a man in interpretation of oppression by an individual.

I tend to agree with the conclusions of Bentham, but I would say that contemplating about the rights mentioned in the Declaration he sometimes exaggerates the point. All the situations he speaks about do not usually happen in real life and no person tried to make them true. However, I consider it to be interesting to observe how an individual would require the protection of his rights referring to the Declaration of Rights.

Discussing the Article 10 of the Declaration Bentham gives examples illustrating “the ground, degree and limits of the liberty” (Bentham, 1981, p.64) of an individual, which may seem to be proper on the part of the government. Moreover these examples show the absurdity and danger which government would make if they attempted to tie up the hands of the succeeding governments (ibid.).

Article 16 seems to infuriate Bentham because it states that “Every society in which the warrant of rights is not assured nor the separation of powers determined, has no constitution” (Declaration of Rights of Man and of the Citizen, Art XVI). Disagreeing with this statement Bentham argues that French government depends only upon obedience or better to say habit of obedience, whereas in Britain this is the matter of confidence and trust to government and the King. In this I consider that Bentham was a bit insulted by this Article because there is no constitution in England.
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To sum up the critique of Jeremy Bentham I would like to say that it is the design of the Constitution that he attacked. According to Bentham there is the use of improper words that makes the Declaration of the Rights contradictory and inconsistent. Running over the articles of the Declaration he tried to find fallacies and show the absence of logic in its provisions. He concludes that this Declaration is the “trash that the French nation had produced” (Benthham, 1981, p.66).

De Gouges’s Declaration

This chapter intends to speak about the Declaration of Rights of Woman drafted by Olimpe de Gouges. My initial plan was to compare the critique of the Declaration written by a male and a female. As I saw it at the beginning Olimpe de Gouges’s critique of the 1789 Declaration took the form of the declaration for women’s rights.

However in the course of writing I saw that female’s writing is not a critique of the Declaration of Rights of Man. It is rather the response to the fact that women did not get anything from the French Revolution. This is the attempt of a feminist to contest the set definitions about a female. Nevertheless I consider it relevant to discuss the Declaration of Rights of Woman written by de Gouges because this is a kind of masterpiece in the honor of a woman.

The Declaration of the Rights of Woman was written in 1791, just two years after the Declaration of Rights of Man was adopted. It is full of claims to equality to deny the stereotypes attached to women. For the most part the articles of the Declaration parallel those of the Declaration of the Rights of Man and Citizen. In many of the articles she invokes both males and females. Yet in her Declaration de Gouge did not assume all the postulates of 1789.
Let’s for example look at the Article 11. She speaks here about the “gender relations with respect to maternity, paternity and sexuality” (Bock, p.49). Contrary to the idea which existed in society of that time that maternity is the reason to exclude women from their rights, Olimpe de Gouges in this article states that namely motherhood gives the right to a women for citizenship. “Female citizen not despite but because of their sex” (Bock, p.50). She insisted that without the right to speak women were powerless to oblige men to fulfil their parental duties.

In the appendix to the Declaration she also touches upon such issue as social contract. She recommends replacing the marriage contract by the social contract between a man and a woman. She calls these unions “voluntary unions” which can end up on mutual consent. Besides she argues for the children’s right to choose between father’s and mother’s name and claims that children born out of wedlock should have right for inheritance. By this recommendation she counters the notion of fixed social hierarchy.

I think it would be wrong on my part not to mention de Gouges’s statement about the reconciliation of legislative and executive branches of power. She compares them to a “man and a woman who ought to be united”. By this she tried to deny any opposition between public and private, political and domestic.

Because of the specific recommendations the Declaration of Rights of Women in contrast to the 1789 Declaration seemed to “lack seriousness and generalizability” (Scott, p. 110). De Gouges’s statement about sexuality, rights and equality for both men and women referred to legitimation. This allowed her to interpret the meaning of the ground for argument about rights for men (Bock, 2002)

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3 *Declaration of the Rights of Woman and Citizen*, Olimpe de Gouges.
Critique of the Declaration of Rights of Man and of the Citizen

Summarizing all said above I would like to say that the Declaration of the Rights of Woman is the critique of the existing stereotypes about women. However, this critique intends to extend the rights of man on to woman.

Conclusion

The research paper discussed two works written in response to the Declaration of the Rights of a Man and of the Citizen. One of them was written by a male, the second by a female. If I am allowed to assume that both of the works are critiques to the 1789 Declaration and each of them is the representation of purely male and purely female writing, then I might conclude that the basis for the male and female criticism is different.

As I have demonstrated Bentham’s critique is more concerned with the design of the Declaration and intends to challenge the use of improper words. Pointing to the fallacies of the Declaration Bentham attempts to illustrate its inconsistency in theory as well as in practical application. However, in his critique Bentham does not question the use of the word “man”.

Contrary to him Olimpe de Gouges does not try to question the use of the words and their meaning in the Declaration. Logical fallacies and erroneous notions is not what interests her in the Declaration. What she is concerned with is acknowledging the same rights to women.

This research paper was an attempt to compare the critiques of the 1789 Declaration. However, in the course of the paper I understood that hardly any similarity could be found in both critiques. Nevertheless the attempt can not be considered a failure. The conclusion made out of the research paper is that male’s and female’s criticism have nothing in common.
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Bibliography:


*Declaration of the Rights of Man and of the Citizen*, 1789

Olimpe de Gouges, *Declaration of the Rights of Woman and of the Female Citizen*, 1791