

Jeremy Bentham on Physical Disability: A Problem for Whom?

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Abstract: This paper examines Bentham's provision for indigent people with disabilities, to reveal the discourse within which he constructs the problem of disability. Bentham's analysis reifies and institutionalizes such people, but also demonstrates insight into the social nature of "disability," in a way that anticipates both the strengths and weaknesses of the social model of disability.

Key Words: Bentham, Sex, Hierarchy

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Introduction

This paper discusses Bentham's proposal for creating "appropriate establishments" for the indigent poor with disabilities to investigate the discourse within which he constructs the problem of disability. In the first section, the presumptions underlying Bentham's poor plan will be examined in the light of two modern discussions of disability, both of which connect the concept with the development of market societies, in which the primary distributive system is governed by the sale of labour. Bentham's employment of a deficit model of disability, derived from a "scientific," physiological basis in impairment, was typical of the individualized model of disability developed in the Enlightenment by the emerging science of medicine. In the next section, Bentham's plans for appropriate establishments will be examined, and a tension within his view of disability identified. On the one hand, the recognition that all human beings began life in a condition of abject dependency on others allowed Bentham to anticipate the central insight of the social model of disability, in seeing that the life prospects of people with impairments could be enhanced or diminished by the way in which society reacted to their impairment. On the other, Bentham's commitment to a deficit understanding of impairment was allied to his conviction of the central role of individual responsibility for individual subsistence in the creation of wealth. This conviction prevented him from recognizing the full implications of his "social model" insight for the individualized and medical model to which he, for the most part, subscribed. In the final section, it is argued that Bentham's treatment of sex in his appropriate establishments is free from the infantilization that has blighted institutional provision. However, his discussion is anchored in an implicit ranking of disabilities according to their economic productivity that is shared with some presentations of the social model.

Capitalism, Individualism, and Disability as Competitive Disadvantage

Mike Oliver draws a causal connection between the rise of capitalism, with its individualistic construction of the world, and the development of both the "individual and tragic view of disability," and the medicalization of disability, upon which depends the view that "the social dimensions of disability and handicap arise as a direct consequence of individual impairments" (1990, pp. 3, 7). The construction of the individualized notion of disability

buttresses capitalism economically by constructing “disabled people” as part of the reserve pool of labour, and ideologically by imposing inferior status on them (Oliver, 1990). The asylums or workhouses in which people with disabilities were incarcerated after the Poor Law Amendment Act of 1834 stood “as visible monuments to the fate of others who might no longer choose to subjugate themselves to the disciplinary requirements of the new work system” (Oliver, 1990, p. 86).

The causal connection asserted by Oliver between the historical development of capitalist political economy and the emergence of the concept of disability has been contested, on the basis that disability presents other economic systems, characterized by different distributive rules, with similar challenges (Kohrman, 2005). However, as Deborah Stone argues, the twin features of compulsory able-bodiedness in a work-based system of distribution and officially-validated incapacity as the criterion of entry to a needs-based system are found in all modern societies, whether nominally capitalist or socialist. Together these twin features constitute the solution of the distributive dilemma that arises from capital accumulation, whether public or private (Stone, 1985). Stone discusses the way in which the medicalization of disability promised to reinforce the work-based system by providing “objective” criteria that acted as a passport to the needs-based system. Says Stone: “Clinical medicine, then, offered a model of illness that gave legitimacy to claims for social aid, and it offered a method of validation that would render administration of the category [of disability] feasible” (1985, p. 91).

Bentham’s Poor Plan and Disability

These analyses seem strikingly applicable to the poor law writings of Jeremy Bentham, the English philosopher, jurist, and celebrated proponent of utilitarianism, who, between 1796 and 1798, analyzed the crisis in English poor-relief and proposed a detailed scheme for its reform. Fundamental to Bentham’s analysis was the distinction between poverty (defined as “the state of everyone who, in order to obtain subsistence, is forced to have recourse to labour”) and indigence (“the state of him who, being destitute of property ... is at the same time either unable to labour, or unable even for labour, to procure the supply of which he happens thus to be in want”; 2001, p. 3). For Bentham, the production of both the matter of subsistence and—by the accumulation of surplus productivity—the matter of abundance, or wealth, depended on the “natural” connection between the investment of labour by individuals and the acquisition of individual subsistence. As labour was the source of wealth, so was poverty of labour. A central role of security of property was to encourage industry, while unconditional relief for any but those entirely lacking ability to labour threatened to destroy industry. Bentham asserted the importance of the connection between enjoyment of the fruits of labour and readiness to invest labour (2010, p. 195). Conversely, he repeatedly argued that the supply of subsistence without labour constituted a bounty upon idleness (2001, pp. 51, 56, 149, 171). In short, Bentham was an unapologetic advocate of economic competition between individuals as the motor of increasing wealth, while the energy driving the motor was derived from individual responsibility for individual subsistence. For those without property, the sale of labour power was the only option: “Property, bounty or labour—there are no other sources of existence” (Bentham, 2010, p. 67). In Stone’s terminology, the creation of all resources, both those consumed in the way of subsistence and those that constituted the social surplus, depended on the efficient functioning of the work-based system.

Bentham remained committed throughout his career to public provision for the relief of indigence on two grounds. Even where indigence was the result of an agent's irresponsibility, the pain of death outweighed the pain of taxation to fund its prevention. Further, abolishing relief would undermine the security of all, by encouraging those abandoned to their fate to resort to violence (Bentham, 2001, p. 10). However, the state was justified in imposing conditions upon the relief it supplied. First, since the aim of relief was to prevent avoidable starvation, its extent should be limited to the "necessaries of life." Any other arrangement invited the instrumentally rational who preferred comfortable idleness to labour, to down tools and be maintained at the expense of others, "till at last there would be nobody left to labour at all, for any body" (Bentham, 2001, p. 38–9). Second, only where the ability to labour was utterly non-existent could there be such a thing as a free lunch. Since the independent poor were obliged to work in order to subsist, the indigent could have no objection to the condition of working to the extent of their ability in return for relief. Third, since home relief was incompatible with the efficient extraction of labour and was frankly too comfortable an option, the indigent were to be obliged to enter large-scale houses of industry and to remain there until the expense of their relief had been recovered. Clearly, if the marketable ability of the indigent was insufficient to make such a return, they could be confined for the remainder of their lives, while the long-term presence of the aged and infirm in workhouses deterred the rest of the population from seeking to join them, "in repelling from the establishment unfounded claims" (Bentham, 2010, p. 27).

In relation to disability, Oliver argues that the ideology of individualism constructs the disabled individual as a necessary antithesis of the able-bodied individual. The idea of disability as individual pathology is parasitic on the idea of able-bodiedness, which itself is indebted for existence to the rise of capitalism and wage labour (1990). Stone notes the manner in which medically-certified admission to an officially recognized category of disability legitimizes exemption from the work based system (1985). Precisely because aversion to labour was a natural human characteristic, policy-makers feared that such exemptions were likely to prove irresistible to many, hence the insistence on official investigation and certification of disability on empirically demonstrable grounds.

Bentham too believed that instrumental rationality was likely to produce attempts to simulate or fabricate physical impairments and thereby secure subsistence without labour. His general response was to extend the boundary of the work-based system. In his plan, receipt of relief provided no exemption from the obligation to labour, except with reference to the tiny minority utterly incapable of work. He proposed a fourfold division of human agents with regard to ability to generate subsistence through labour, ranging from "utter inability" to "extra ability," that is, capacity to generate a surplus in excess of the amount required to keep body and soul together. He argued that the fact that massive surpluses had been generated over the course of history implied strongly that "*extra-ability* is the *natural* and *general* state of man: and that even *simply adequate* ability, much more *inadequate* ability and *utter* inability, form but so many exceptions to the general rule" (2001, pp. 5–6). Utter inability was in fact almost never encountered:

"Not one in a hundred is absolutely incapable of all employment. Not the motion of a finger—not a step—not a wink—not a whisper—but might be turned to account, in the way of profit, in a system of such magnitude. A bed-ridden person, if he can see and converse,

may be fit for inspection; or though blind, if he can sit up in the bed, may knit, spin, &c. &c.” (Bentham, 2010, p. 518)

Further, since he eschewed the attempt to demarcate between the deserving and the undeserving poor, Bentham was not obliged to distinguish those who would not work from those who could not work, and thus continually to redefine capacity to work, to prevent the burdening of services with the incurable or the lazy (Lawrence, 1996; De Renzi, 2004; Stone, 1985). In his discourse, almost everybody could work, and almost everybody would be obliged to work.

Bentham undertook an exhaustive analysis of the causes of indigence; the fruit of which was the “Table of Cases Calling for Relief” (2010, between pp. 476 and 477). He made an initial distinction between causes external to the individual (unemployment, loss of property) and causes internal to the individual (insanity, physical disability, illness, childbirth, infancy, old age). Bentham’s view of disability was explicitly that of a deficit with regard to the ability to secure subsistence through labour, and this deficit approach is encapsulated in his label “Imperfect hands” for the category consisting of the deaf and mute, the deaf, the blind, and “cripples.” Individuals suffering from disease, the habitually drunk, and the elderly also faced a decline in ability and were grouped in the category “Feeble hands.” The chronically ill, whose ability varied with the severity of their condition, or who, like those suffering from epilepsy, were faced with unpredictable episodes of acute vulnerability, were categorised as “Sick and Well hands.” Finally, those suffering particular impairments, such as hernias, that rendered them unfit for a limited range of work though leaving ability intact across an extensive range were allocated to the category “Tender hands.” The division of the indigent into categories of “hands” reveals a mercantilist focus with maximizing national wealth through expanding the number of productive labourers (Andrews, 1991). As Bentham himself explained: “The word *Hands* is chosen, as bearing reference to *Employment*, serving thereby to point the attention to the consideration of the *Employments*, to which the persons thus characterized may respectively be competent or incompetent” (2010, between pp. 476 and 477).

The deficit approach is also evident in the book *An Introduction to the Principles of Morals and Legislation*: “By bodily imperfection may be understood that condition which a person is in, who either stands distinguished by any remarkable deformity, or wants any of those parts or faculties, which the ordinary run of persons of the same sex or age is furnished with” (Bentham, 1996, p. 55). Expressing a view that remains prevalent (Hunt, 1966), Bentham viewed all such people as victims of misfortune, in that they lacked capacities possessed by “normal” human beings. Indigence resulting from disability was thus an individual rather than a social problem, its cause being impairment of normal function. Individuals with impairments typically faced competitive disadvantages in securing employment and subsistence. Loss of strength or stamina, periods of complete inability, and sensory impairments could each reduce an individual’s earning potential and render them dependent on others, and ultimately the state, for their survival.

This deficit approach is reflected in the World Health Organization definitions of impairment: “any loss or abnormality of psychological, physiological, or anatomical structure and function,” and disability: “any restriction or lack (resulting from impairment) of ability to perform an activity in the manner or within the range considered normal for a human being” (World Health Organization, 1980). These definitions likewise identify impairment with deficit

and locate the cause of the disability in that deficit, without regard to the social aspect of disability, constituted by the physical, cultural, and political environment that confronts persons with impairment in their efforts to live a life (Oliver, 1990; Abberley, 1998). In this regard, it is significant that Bentham's fourfold division of degrees of ability with regard to labour entails, as its obverse, a fourfold hierarchy of degrees of disability, based upon differences in the productivity of marketable labour, themselves derived in part from differences in functional impairment. As will be argued in the next section, Bentham's recognition that differences in functionality issue from the interaction between the internal fact of bodily impairment and the range of external circumstances constituting the physical and cultural context within which those impairments manifest makes him all too conscious of the socially mediated nature of disability.

For the present, however, the central point is that for Bentham the claim to relief and the obligation to enter the industry house arose not from disability, but from indigence. People with impairments fortunate enough to possess either marketable abilities or families possessed of extra-ability or existing property would never apply for relief and thus never become dependent: "Domestic connections and a permanent source of employment may place a man, though labouring under this affliction [i.e. epilepsy], above the need of public charity: the want of either requisite may expose him to it" (Bentham, 2010, p. 28). Bentham did believe that impairment implied lack or loss of capacity (and that such lack or loss might issue in indigence), whilst provision for indigence, in a context where the sale of labour power provided the main source of income, required a deterrent character. However, he had no desire to confine, segregate, and institutionalize people with disabilities simply because they were people with disabilities.

Oliver notes that capitalism, by its incompatibility with home-working, swept away mechanisms of informal care and undermined "many previously acceptable social roles, such as begging or 'village idiot'" (1990, p. 86). Bentham would have rejected the notion that either begging or village idiocy were acceptable social roles. He knew that people with physical impairments often became beggars: "the idle part find in their respective infirmities, a qualification for exercising ... the profession of a beggar; a profession, which in such a country ... may be set down as much superior in point of profit to the vulgar herd of labouring occupations" (2010, p. 26). Under Bentham's scheme, all beggars, whether they have a physical impairment or not, would be obliged to enter the industry house and to work. His defence of coercion was uncompromising. First, begging destroyed the connection between investment of labour and acquisition of subsistence and thereby undermined the motivation to labour. Introducing Bentham's conditions of relief without coercive measures to eradicate begging would multiply the population of mendicants exponentially. Second, Bentham believed that extended idleness was itself immoral and contrary to the long term interests of the idle: "The habit of industry is a source of plenty and happiness. The habit of idleness in one who has property is a cause of uneasiness, and, in one who has no property, of indigence and wretchedness" (2001, p. 45). In this he echoes a connection between disciplined industry and good morals found in the writings of several theorists of punishment, and which has been traced back to Thomas More's *Utopia* (1965): "Utility was the guiding principle in their ideal societies. Every author considered idleness as the supreme vice, and begging was to be combated through employment plans and repressive measures" (Spierenburg, 1996, p. 21). The habit of idleness was at the root of both indigence and criminality, while the message from the materialist and associationist psychology of Hartley and Helvetius was that habits could be reformed: "The

overwhelming corrupting influence in the lives of the poor that tempted them into crime was idleness; and the cure for idleness was work” (Semple, 1993, p. 155).

Bentham was a typical enlightenment thinker. He believed that the amelioration of human affairs depended upon the replacement of prejudice with reason. He also believed that whole swathes of human activity, previously considered to be outside the sphere of governmental action, would benefit from subjection to public policy founded on rational, empirical knowledge, the result of inductive inferences from quantifiable data, accumulated through repeatable observation and experiment (Rose, 1994; Jenner, 2004).

In his poor law writings, Bentham lamented the lack of statistical data upon which to base firm conclusions (2010) and promised that the National Charity Company would generate invaluable quantitative data on a host of subjects, from meteorology to epidemiology, from the healthiest diet to the healthiest age to commence sexual activity. The industry houses were to be centres both for the collation of data and for experiment, laboratories offering unexampled opportunities for the expansion of useful knowledge: “Observation and experiment compose the basis of all knowledge. ...The institution of the proposed Company would afford the first opportunity ever presented to mankind, of enriching the treasury of useful knowledge by contributions furnished on a national scale” (2010, p. 624). The paupers upon whom such experimentation was to be performed were indeed objectified, but Bentham did envisage imposing ethical restraints to protect the health and safety of the subjects (2001; see also Bentham, n.d., UC cliii. 337).

From a contemporary perspective, the notion that the human sciences could give rise to unproblematically objective knowledge may seem somewhat naive. Foucault demonstrated that medical knowledge was not simply lying about, waiting to be “discovered,” but was constructed, in a Faustian exchange between the medical profession and the state. In defining health, medicine functioned as an extraordinarily powerful normalizing discourse:

“Medicine must no longer be confined to a body of techniques for curing ills and of the knowledge that they require; it will also embrace a knowledge of *healthy man*, that is, a study of *non-sick man* and a definition of the *model man*. In the ordering of human existence it assumes a normative posture, which authorizes it not only to distribute advice as to healthy life, but also to dictate the standards for physical and moral relations of the individual and of the society in which he lives.” (1973, p. 34)

It is as part of this normalizing discourse that disability becomes medicalized and located as a problem with the physical functioning of people with disabilities. Deviance is departure from the normal, and people with disability who do so depart, whether they wish to or no, while such departure is typically characterized as unfortunate, useless, and sick (Hunt, 1966, p. 146). Stone details the manner in which the political role of medicine in the definition of disability has been contested within the medical profession itself, thereby providing an illustration of the impact on the content of particular bodies of knowledge, of the political and cultural context within which they develop (1985). However, with the hindsight lent by two hundred years of medical hegemony and the critique thereof, it seems that the strategic importance of medical knowledge and its promise of effective definition and treatment of problems proved simply irresistible to policy-makers (Rose, 1994; Jones, 1996; Risse, 1996).

“Appropriate Establishments”: Elements of the Social Model?

Bentham proposed that provision for indigent persons who were insane (including persons who would currently be described as having learning disabilities), deaf and dumb, or blind should be made in specific industry houses called “appropriate establishments.” With regard to persons with other physical impairments, he concluded that they “may require something of particularity in respect of employment and attendance, but not any separation in point of place.” (2010, p. 166) The reason concerned the division of labour and the manner in which manufacturing processes could be broken down into separate operations, some of which could be adapted to their remaining faculties: “The convenience of the business would therefore require a mixture of workmen, the partly disabled with the undiseased.” (2010, p. 166) One final category of hands might require an appropriate establishment, not because of any benefit to them, but because of their fellows’ reaction to the impairment, namely “persons labouring under a degree of bodily deformity too striking to admit of their [being] left to mix with society at large.” (2010, p. 153) Here, Bentham’s concern is utterly unrelated to any hierarchy of impairment based on productivity, since there is no necessary correlation between unsightliness and ability to labour. If there is a hierarchy at work, it is rather the binary opposition between those with unsightly impairments and the “ordinary run of persons,” and it is the sensitivities of the latter that Bentham is concerned to protect. He also suggested that persons with unsightly impairments be accommodated in establishments for the blind, who would suffer no inconvenience from exposure to “deformity or disease particularly loathsome or offensive to the sight” (2010, p. 26).

Bentham listed the reasons for appropriate establishments as follows:

1. Appropriate Education.
2. Appropriate [medical] Attendance.
3. Appropriate instruction in regard to Employment.
4. Exercise of appropriate employment, when instructed in it.
5. Religious instruction and exercise. (2010, p. 154)

One reason for gathering indigent people with disabilities in appropriate establishments was that everybody benefited: the patients, from expert medical attention, the doctors, from opportunities for learning in “a school for philosophical and medical science” (2010, p. 161), and the public, from the dissemination of such learning. Bentham did have faith in the objectivity of medicine and in the motives of medical men. In his industry houses, medicine trumped economics when the two collided.

Central to the justification of appropriate establishments was the assertion that “Rare and particular cases excepted, the remnants of ability possessed by persons labouring under ... modifications of bodily imperfections are capable of being as profitably employ’d as the entire stock of ability possessed by individuals at large” (2010, p. 26). People with sensory impairments required assistance in developing their capacities, in addition to that required by the able-bodied. In small parish workhouses, the provision of such assistance would be ruinously expensive, and few parishes could purchase the necessary equipment and expertise in medicine, education, or employment-training, for the benefit of the handful of recipients that the parish would supply. In a national system of large-scale regional centres, the necessary assistance could

be given to two thousand people with impairments in each appropriate establishment by a small (and therefore relatively cheap) staff of specialist doctors and teachers.

Bentham recognized that all human beings were born into a state of helpless dependence, and that all would perish without external assistance. People with physical impairments were likely to require additional assistance to enable them to function, so that the level of their disability would depend on the reaction of others to the impairment. That reaction could be enabling or disabling, as Bentham noted with reference to the deaf and dumb:

“These are either idiots or of sound mind, destitute of or endowed with intelligence, according to the species and degree of care that has been bestowed upon them at an early part of life. A deaf and dumb person left a prey to his infirmities, treated with no other care than what is bestowed upon the common run of the children of the poor, remains all his life a wretched idiot, a being scarce human, consuming the labour of others, and altogether incapable of paying for it by any exertion of his own: the same person, brought up in a manner adapted to his deficiencies, may be rendered as valuable a member of society in every sense, the economical one not excepted, as if no such infirmity had fallen to his share.

A thousand persons labouring under this species of infirmity would, by the help of a suitable education, for which able professors are not wanting, be just as capable of earning their own maintenance ... as any other thousand persons that could be named.” (2010, p. 161)

Bentham made the same point with reference to the blind (2010, p. 163) and was explicit that the goal of investing resources in development of capacities of people with physical impairments was to facilitate their independence: “here they would be fitted, according to their several measures of ability in other respects, for obtaining employ on a footing of independence” (2010, p. 164).

In all this there was explicit recognition of the social aspect of disability and anticipation of the insights of the social model of disability, which “makes a clear distinction between impairment and disability: the former refers to biological characteristics of the body and the mind, and the latter to society’s failure to address the needs of disabled people.” (Barnes, 1998, p. 78) It is true that Bentham’s attempts to utilize the economies of scale offered by the National Charity Company to provide suitable education and training to persons with physical impairments were all supply-side measures, aimed at making “disabled people suitable for work” (Oliver, 1990, p. 86). Thus these measures did not attempt to challenge the barriers, whether in terms of the organization of work, or of cultural beliefs or prejudices, that might depress the demand for such labour. However, within Bentham’s rationale for appropriate establishments is to be found a statement of the central insight of the social model of disability.

It should be noted that Bentham’s analysis shares in the alleged weaknesses of the social model, insofar as that model retains a focus on removable obstacles to productivity presented by the material structuring of the world in which people with impairments attempt to function. The social model has been criticized precisely for containing its own hierarchies of disability, derived, like Bentham’s, from a materialist ontology. Such an ontology overlooks hierarchies, for

instance of gender or ethnicity, that have very real consequences on individual lives both inside and outside the productive, public sphere (Morris, 1996; Tregaskis, 2002; Vernon, 1996, 1999).

Jo Wolff distinguishes between the medical and social models of disability by the imperatives to which they give rise (2002). The medical model commands “Change the individual,” typically by medical intervention or provision of artificial aids, whereas the social demands “Change the world,” for instance by legislative requirements for equal access to buildings and transport systems. There are at least two reasons for Bentham’s failure to develop his insight into the social nature of disability. First, Bentham’s political economy, with its central tenet of individual responsibility for individual subsistence and its understanding that the production of the social surplus depended on incentives to labour, of itself stifles the development of the social model, at least insofar as that model bears implications for redistribution of scarce resources. Bentham would be very wary about any model that might produce a claim for compensatory expenditure on grounds of the injustice of the disadvantages arising from impairment and or disability. Equality of well-being is for him an illusory and dangerous goal, while the social surplus was simply neither large nor robust enough to finance, for instance, the nullification of all such disadvantages (Bentham, 1838).

Second, whilst Bentham understood that the effects of impairment could be exacerbated or mitigated by the context in which people with impairments functioned, he would, I think, assert the existence of an irreducible, biologically verifiable element in the notion of impairment. Bentham might well have agreed that disability was a social construct, but he saw individual impairment as a natural fact. Again, Bentham shares in the alleged weaknesses of the social model, which has itself has been criticized on the basis of its binary division between disability and impairment. This division “de-medicalises disability, but simultaneously leaves the impaired body in the exclusive jurisdiction of medical hermeneutics” (Hughes & Patterson, 1997, p. 330). Further, repeated attempts to transcend the “impairment/disability divide” from a sociological or anthropological perspective, and to reclaim the body from biology (Shakespeare & Watson, 1997, 2002) have themselves been dismissed (as, presumably, would Bentham’s entire intellectual enterprise) as “mechanistic and mired in reductionism” (Hughes, 2007, p. 682).

There are significant ironies in the presence of the central insight of the social model in Bentham’s poor law proposals. First, one motive for the provision of appropriate establishments was the possibility of profit from the previously unexploited capacity for labour of people with disabilities. Second, Bentham believed the provision of appropriate establishments to be affordable in part because of the profits derivable from the labour of an expanding population of apprentices, indentured to the National Charity Company until the age of twenty-one. These apprentices combined low maintenance costs with high productivity. Productive labour was to commence at four years of age, when maintenance costs were trifling, and reached its maximum return well before the age of liberation. Specific assistance to people with disabilities was possible partly thanks to cross-subsidy from the profits arising from the quite explicit exploitation of child labour (Bentham, 2001).

Sexuality and Disability in Bentham’s Industry Houses

There has been significant criticism of the still prevalent myth that “disability and sexuality are incompatible” (Shakespeare, Gillespie-Sells, & Davies, 1996, p. 9; see also

Shuttleworth, 2004). This oppressive attitude has had powerful effects in residential institutions for people with disabilities in terms of the infantilization of residents as childlike, asexual beings: “This failure to prioritize matters which are highly significant to most adults, including most disabled adults, reflects a failure to consider disabled people as fully human” (Shakespeare et al., 1996, p. 87). Conversely, the history of sexual abuse of vulnerable people with disabilities in such settings, by staff and other residents, provides a salutary warning about the problems of closed, uninspected institutions (Shakespeare et al., 1996).

With regard to the danger of abuse, it should be pointed out that the management of the panopticon industry houses was designed to be as transparent as possible, while the size of each house would make it a centre of public attention and interest (Bentham 2010). Bentham believed that sexual abuse in his industry houses would be impossible and included “security against seduction” in his enumeration of “pauper comforts” (2010, p. 657). With regard to infantilization, Bentham would surely have agreed with Shakespeare on the centrality of emotional and sexual intimacy to human happiness. In discussion of the pauper apprentices, he advocated the early commencement of sexual relations and the availability of marriage, limited only by cautions regarding the necessity of a degree of emotional maturity, and the possible effects on physical health. His rationale was simply that an early start meant a longer period during which sexual intimacy might be enjoyed: “every portion of time, which ... might have been passed in the social state, and yet is suffered to pass away in celibacy, is so much lost to happiness” (2010, p. 653–4n.).

If Bentham’s view on the centrality of intimacy was enlightened, his assumptions about the sexual partners of the indigent with disabilities were less so. In short, he was guilty of assuming that their field of available partners was made up of other people with disabilities. As he wrote with reference to the deaf and dumb:

“In such an establishment each individual might at a proper age find a companion of the opposite sex to share with it the burden of the infirmities common to both: and the comforts of matrimony may thus fall to the share [of] many a contented being, who ... in the cottage in which he might have been put to board at parish expence, would have dragged out a miserable and solitary existence, shunned as a monster, and scarcely regarded as belonging to the society of men.” (2010, p. 162)

In so far as the deaf and dumb in an appropriate establishment are segregated from the rest of the indigent population, Bentham might argue that the field of potential partners was necessarily limited to people with the same impairment. However, it seems likely that he shared the still prevalent assumption that people with disabilities were more comfortable “sticking with their own kind” (Shakespeare et al., 1996, p. 92). Thus Bentham commented with regard to the deaf and dumb, “persons of this description are very convenient company for one another, and but indifferent company for others” (2010, p. 160), and saw their “being educated or associated with persons of the opposite sex, partakers of the same infirmity” (2010, p. 645), as an efficient cause of opening to them of the possibility of matrimony.

Hierarchies of Pain and Productivity: Sex, Procreation, and Self-Maintenance

Discussion of sex raises the issue of eugenics directly. Since the concept was not developed until long after Bentham's death, we lack direct evidence for his attitude to either eugenics in theory or to the large-scale compulsory sterilization of people with a range of physical and intellectual impairments to which it led in practice. It does seem clear that Bentham's appropriate establishments, like all his industry houses, would be scenes of significant reproductive sexual activity. While it would be disingenuous not to point out that the offspring of all apprentice unions would be indentured to the Company until the age of twenty-one, thus increasing its supply of profitable apprentices, Bentham clearly did not view physical impairment as a bar to sexual activity. In enumerating the pauper comforts available to the indigent with significant physical impairments, that is those who require appropriate establishments, he refers specifically to "Facility in regard to obtaining the comforts of matrimony." (2010, p. 653) Bentham went on to argue that the education received would have the effect of allowing the marriage to remain economically viable on the couple's departure from the house.

Nevertheless, the issue of sex poses questions to Bentham's view that impairment, insofar as it constituted loss of capacity, was an harm, that is a cause of pain or loss of pleasure. The individual with an impairment could reasonably be expected to wish to be without it, that is, to be possessed of relatively greater capacities. This is to say that impairment is, of itself, something undesirable. Abberley describes the view that "impaired modes of being are undesirable," as "eugenicist," and "in essence, genocidal" (1998, p. 84). But, of itself, the view that impairment is undesirable entails nothing with regard to the treatment of people with impairments. In just the same way, the view that greater capacity—physical, intellectual, or moral—is more desirable than less does not entail a desire to terminate the lives of human beings who experience a relative lack of such capacity.

Some advocates of the social model of disability, recognizing that physical impairments can lead to enduring pain, agree that bodily impairment is very often a negative experience, regardless of society's response to it: "it would be ... wrong to ignore the issue of impairment, and the desire of many disabled people to avoid the pain and discomfort which it brings" (Shakespeare et al., 1996, p. 185). Bentham discussed bodily imperfection as one of twenty-four primary circumstances influencing sensibility, that is, facts relating to individuals that operate to enhance or diminish the pleasure or pain consequent on good or bad experiences (1996). Such circumstances include physical properties (for instance health and strength), psychological properties (for instance intellectual powers and bent of inclinations), and external facts (for instance pecuniary circumstances). In relation to each such circumstance, human agents are distributed along a continuum, while the condition of any individual occupying a position below the median in that particular distribution can be described in terms of a deficit, or impairment, in relation to the statistical norm. Bentham refers directly to the statistical norm in defining people with bodily imperfections as wanting "any of those parts or faculties, which the ordinary run of persons of the same sex or age is furnished with" (1996, p. 55). For instance, I think that my life would go better with a functioning pancreas, and I could certainly do without the herniated lumbar disc. Both these impairments have a negative impact on my capacities, but neither would imply, for Bentham, any denial of my claim to have my pains and pleasures taken into account in framing rules governing interaction with my fellows. Physical impairment thus constitutes, for Bentham, one of an extensive, multi-dimensional range of circumstances that impact on

individual well-being. What, he might ask, is gained by denying that impairment entails loss of capacity?

Abberley correctly cautions that an irreducible core of people with severe impairments will remain unemployed and therefore economically non-contributing, despite all possible efforts to extend economic opportunities to people with disabilities (1998). The view, which infects Marxist and Capitalist theories, together with early versions of the social model, that human beings are defined by their labour, both devalues and questions the full humanity of those incapable of labour. For his part, Bentham would have believed that *ceteris paribus*, a society in which there were no incidence of physical impairment, would be a better, that is happier, society, liable to contain more pleasure and less pain than one in which such incidence was common. However, his reaction to the existence of such impairments was not to propose the elimination of their possessors, on the basis of their imperfection in relation to some ideal standard of humanity. Instead, he first asserted a right to unconditional relief at public expense on the part of those with impairments severe enough to destroy completely their ability to generate value through labour (a right founded precisely in that inability). He then attempted to facilitate the development of the skills, and thereby the value of the labour, of those people with impairments who retained such abilities.

Bentham does not, however, address the issue of whether to encourage or allow procreative sex between two individuals whose offspring is very unlikely ever to earn its own maintenance. He frankly admits that, “Justice and Humanity out of the question” (that is, “in point of unfeeling economy”) it would be better for the National Charity Company if every child destined to die before making a return in profitable labour “should perish the instant of its birth.” (Bentham, 2010, p. 449) Elsewhere he argues both that accurately identifying such children would require superhuman foresight, and that killing such loss-makers would be ruled out by the transparency of the management: the public would not endorse infanticide (2010, p. 117). He also takes great pains to make the remuneration of nurses in the industry houses dependent upon reducing the rate of mortality amongst the children (2010, pp. 116-18, 516-18).

On the one hand, given the right assistance, Bentham viewed many physical impairments as no obstacle to self-maintenance. On the other—to apply his thought to an anachronistic scenario in which genetic screening indicates that a developing foetus has an incurable impairment that will prevent any possibility of self-maintenance—while he would argue that, for the opulent, any decision regarding termination remained the prerogative of the parents, he might well advise them that a termination was the best, that is, pain minimizing, option. His rationale would be grounded on the inability of the foetus, or indeed the neo-natal infant, to suffer pain from the disappointment of expectations:

“It possesses not as yet any such faculty as that of reflection: it has no anticipation of the future: it has no recollection of the past: scarcely can it be said to be possessed of so much as the faculty of consciousness. Of life it may, with unerring certainty, be deprived without any sense of suffering: for before it can have had time to suffer, all sensation is at an end.” (Bentham, n.d., UC lxxiv. 137)

In accordance with this view, given a choice regarding the prevention of the conception of a foetus likely to experience a life of disproportionate suffering and certain to be able neither

to maintain itself nor to contribute to their profit, the National Charity Company would surely embrace a strategy of prevention. By parallel reasoning, the company might well reach the same conclusion in relation to a similarly circumstanced foetus after conception, and indeed in relation to a similarly circumstanced new-born infant. It would be likely, that is to say, to endorse both termination and neo-natal infanticide in such cases, with the caveat that such a policy should not be pursued if it would outrage public opinion. It remains true that Bentham has no desire to remove people with impairments from the public domain simply on the basis of those impairments. However, there is a threshold, defined in part by a likelihood of acute and prolonged pain, and in part by a lack of capacity for productive labour, below which he would be driven to assert the legitimacy of preventing conception, of aborting foetuses, and indeed of killing infants with severe impairments. In this regard, Bentham would endorse the position of Singer (1994; see also Kuhse & Singer, 1985) and rely in part on the same argument, namely that it is an error to confuse neo-natal infants with persons.

However, given his view that “unprolific sensuality ought not to be esteemed vice” (Bentham, n.d., UC lxxiv. 124), Bentham would argue that the pleasure of sex was logically entirely separable from the production of children, while birth control rendered the separation wholly practicable. In his view, sexual intimacy might well be central to well-being, but parenthood was not. Under the National Charity Company, a eugenicist hierarchy among the dependent poor would be likely to emerge, in that indigent people with a high risk of passing on genetic impairments severe enough to issue in the inability of their children to contribute economically might well be coercively prevented from procreating. It should be noted that Bentham would view the denial of the possibility of parenthood as a much lesser pain than the denial of sexual intimacy: “*After birth, in how high a degree soever, the child is an object of love, before birth, to indigent parents, the same child could scarcely have been an object of desire*” (1983, p. 113).

Conclusion: An Individual or a Social Problem?

In reading Bentham’s poor law writings, there are moments when it seems as if Bentham had made a positive effort to demonstrate the close connections between the development of capitalism and the medical model of disability. The insistence on individual responsibility for individual subsistence, the fourfold division of ability, the notion of imperfect hands, and the privileging of medicine in the industry house all show Bentham individualizing disability and making it a medical issue. The problem began with individual impairment, from which indigence often followed. However, at no stage did Bentham advocate the segregation and confinement of people with physical impairments simply on the basis of their impairment. Indigence, not disability, was his criterion for admission to the poor house.

The study of his provision of appropriate establishments provides a different perspective on Bentham’s attitude to disability. Here, there are anticipations of the social model of disability and attempts to provide a social response to impairment that might compensate for the barriers operative in the able-bodied, free market world. However, Bentham’s thought was both too individualistic and too biologically essentialist to permit either a fully-fledged articulation of the social model or an anticipation of the critiques to which that model has given rise. To his great credit, he believed that the National Charity Company possessed the resources to provide necessary training and assistance to those with physical disabilities, so that imperfect hands

could be rendered profitable. In addition, he was refreshingly frank about sex, neither infantilizing nor asexualizing people with physical impairments. However, it remains the case that like the social model whose central insight he anticipated, he presumed a hierarchy of disability according to productivity which itself remains problematic.

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