EQUATION:

TOWARD A WORKING DEFINITION

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"Equality of rights under law shall not be denied or abridged by the United States on account of sex."

These simple words which make up the body of the proposed Twenty-Seventh Amendment have generated an enormous amount of controversy in the United States. At the heart of this controversy is the meaning of the word "equality." The concept of equality is certainly not new to Americans—much of our past political rhetoric would seem to indicate that such a principle underlies the whole structure of American society. However, in spite of such overwhelming evidence that equality is the "American way," our society has retained a double standard in applying this standard to American women. In this society "of the people, by the people, and for the people," women have consistently been and are excluded from the definition of human equality. Since this inconsistency cannot be justified in a society that places so much emphasis on egalitarian ideals, I perceive a vital need to examine this concept of equality and attempt a more just definition that truly includes all American people.

There is not doubt that equality is an old American principle. As Dye and Zigler's *Irony of Democracy* points out, equality is a basic tenet of the American political system: "A vital aspect of classic democracy is a belief in the equal-
An early political statement of this American principle is included in the Declaration of Independence:

We hold these truths to be self evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these, are life, liberty, and the pursuit of happiness.

Equality seemed to set early America apart from other countries according to Politics and Government in the United States:

Perhaps the most striking characteristic that the new country displayed is the American emphasis on equality. Alexis de Tocqueville, the famous young French aristocrat who set down his impressions of this country in the 1830's, singled out this atmosphere of egalitarianism: "Amongst the novel objects that attracted my attention during my stay in the United States," he wrote, "nothing struck me more forcibly than the general equality of condition among the people."

And Stephen Monsoma quotes a political scientist on the egalitarian ethic: "Men are equal in the one dimension that counts: each is a human being, infinitely precious because he is human. All else is irrelevant. . . ." Monsoma further explains the significance of this concept: "Inequalities such as those in wealth, education, and health are recognised by American society—but are considered irrelevant in terms of a person's true worth."

Clearly, the concept is not new one in American society. However, just as clearly, this principle is not applied to all Americans. The idea of equality breaks down when American women are involved. The justification given for the arbitrary omission of 51% of the population from the mainstream of society is usually based upon the assumed differences between the sexes—in spite of the fact that these are many physical
differences among men which have no bearing on their status as Monsoma noted earlier. These same political thinkers that envisioned the ideas which shaped our political system could only envision women in the roles which were consistent with their biological functions. Thus, when political philosophers discuss "human nature" they generally mean only male human nature, as Susan Okin notes:

\[ \ldots \text{all the rights and needs that political philosophers have considered humaness to entail have not been perceived as applicable to the female half of the human race. There has been a persuasive tendency in political philosophy to make allegedly general statements as if the human race were not divided into two sexes, and then either to ignore the female sex altogether, or to proceed to discuss it in terms far from consistent with the assertions that have been made about "man" and "humanity."} \]

These thinkers who can conceive revolutionary new political structures seem to lack vision where confronted with women's role. The role of women in the family usually remains that of a submissive partner whose purpose in life is only to give others pleasure. Okin notes such attitudes:

Those who have perceived the nuclear family as a natural and essential human institution... have defined woman's nature as what best accords with her sexual, procreative and childbearing functions within the family structure that each philosopher has either unquestionably accepted, or considered desirable.

Even in this country's early history this view of women is never questioned. In the 1830's Alexis de Tocqueville clearly documents this double standard in America:

Nor have the Americans ever supposed that one consequence of democratic principles is the subversion of marital power, or the confusion of the natural authorities in
families. They hold that every association must have a head in order to accomplish its object, and that the natural head of the conjugal association is man. They do not therefore deny him the right of directing his partner; and they maintain that in the smaller association of husband and wife, as well as in the great social community, the object of democracy is to regulate and legalize the powers which are necessary, not to subvert all power.

The arguments which are utilized to justify exclusion of women from the category of human beings are based upon the perception of women's "nature," as Susan Okin notes: "... the constricted role in which women have been placed has frequently been perceived as dictated not by convention or by men, but by their very nature." Not only is this female "nature" believed different from that of males but in addition the male is seen as the norm while the female is the "Other".* What makes this dichotomy especially absurd is the increasing evidence that, as Barbara Forisha in Sex Roles and Personal Awareness puts it, "This division of behaviors and attitudes into two separate categories—masculine and feminine—often exists more in belief than in actuality."  

An examination of the various research that has been done on the role culture plays as opposed to that of biology generally points to the conclusion that culture must play a

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*This concept initially was used by Simone de Beauvoir in *The Second Sex*. Recently other feminist writers have also used this idea in one way or another. A good example is Mary Daly's *Beyond God the Father*.
large role. Barbara Forisha examines the various studies and concludes that culture is an important determinant:

Obviously, there are physiological differences between males and females. But these differences are very subtle, and in some cases they are overridden by the sex in which an individual is reared. It is difficult to conclude that such differences provide evidence for differential behaviors between the sexes. Most particularly, they do not provide evidence for male dominance and male superiority over females.

Many of the earlier researchers drew conclusions which emphasize the role of biology in sex differences. However, not only are there recent studies which tend to make such conclusions suspect, but much of this research was carried out by males with a correspondingly male value orientation, as Forisha notes: "... the research has been carried out largely by men for a largely male audience. Thus research results have been interpreted in a framework that assumes the predominance of the male." Jessie Bernard also notes that the studies on sex differences were aimed at rationalizing the status quo especially the inferior position of women.

Some of the evidence is examined by Helen Lambert in "Biology and Equality" who sees many unanswered questions regarding the part biology plays in sex differences. Lambert notes that separating environmental factors from those that have a physiological base is an unrealistic goal. While the two sexes may differ on the average in many aspects of anatomy, body chemistry, and behavior there is overlap between
the sexes and many differences that exist cannot be found universally. In addition, the difference in total genetic material between male and female is only 2%. What is even more significant than the discussion of the data is Lambert's discussion of how relevant such studies should be in determining treatment of women. She spells out the prevalent viewpoint which the present sex roles as desirable because such roles are assumed to have their roots in human biology. Since sex roles as we know them come from cultural and environmental roots as well as biological differences, such an idea is dependent upon the maintenance of the status quo and the desirability of socialization which reinforces these differences. More importantly Ms. Lambert questions the crucial assumption of this position (and that of feminists who advocate abolition of all sex differences) that such differences among people justify social inequality.

Other evidence supporting the strong part played by culture in sex role determination are the cross-cultural studies by Margaret Mead. Mead examined three tribes in New Guinea and found great diversity in the sex roles. In one tribe both sexes had developed traits that were feminine by our standards; in another, both sexes had developed the equivalent of our masculine characteristics, and in the final tribe Mead found a reversal of the sex roles found in our culture. These findings led Mead to conclude:
Many, if not all, of the personality traits which we have called masculine or feminine are as lightly linked to sex as are the clothing, the manners, and the form of headdress that a society at a given period assigns to either sex. The evidence is overwhelming in favor of the strength of social conditioning.

In addition, Lemore Weitzman explains other findings in which sex roles are contrary to those in our culture—a society in which women were the great warriors and one in which men were considered the nurturant sex.

A very different type of study examined by Weitzman also emphasises the importance of culture. Several researchers followed the lives of babies that appeared to be one sex, however, were later found to be biologically the other sex. They found in virtually every case the sex role in which the child was reared was dominant. Both sexes followed a pattern of development typical for the sex in which the child was first identified as.

Since it is clear that these sex differences are not "natural" something is effectively keeping women in their "place." The way in which society achieves this is through controls on women—both implicit and explicit. In the explicit category are the types of control which obviously constrain women's behavior—particularly the legal realm. The other category—implicit—includes the less obvious psychological, social control mechanisms—particularly socialization.

The first type of constraint or the legal controls on women's behavior has made women's low status pretty clear. Women have been denied a
political voice until the early Twentieth Century and only recently have married women been considered persons separate from their husbands. There are a great many laws which restrain the behavior of women in ways in which male behavior is not affected. In addition, as Mary Bane explains, "... courts and lawmakers have been reluctant to recognize those rights of women that they think might jeopardize the stability of the family or the peace and harmony of the home."¹⁸

Clearly, while there have been many changes which have lessened the restrictions on women in the legal sphere, there is yet a long way to go in achieving legal equality between the sexes. Since the Supreme Court is generally considered the leader in changing legal precedents, a look at this Court's view of women is probably the most representative of the possibility for change in this area. In addition, the Supreme Court is the court set up specifically to uphold the individual's Constitutional rights.

The High Court has begun to change the way it looks at women. Ruth Bader Ginsburg notes in "Sex Equality and the Constitution" that jurists have traditionally upheld gender-based discrimination as beneficial to women: "Gallant jurists explained disparate treatment of the sexes in design and operation, discriminated in favor of females. ... such rules were said to place women on a pedestal."¹⁹ While sometimes in more recent times such classifications have been struck
down, the progress has been slow. The most hopeful sign came in 1973 in the *Frontiero v. Richardson* case\(^\text{20}\) when four members of the court put gender-based discrimination in the strictest category of review—the suspect classification. In this opinion the Court noted that sex is an unchangable characteristic determined by an "accident of birth" and that, the imposition of special disabilities upon the members of a particular sex because of their sex would seem to violate "the basic concept of our system that legal burdens should bear some relationship to individual responsibility."\(^{21}\) The Court recognized that many of the regulations which provide for differential treatment for females put them in an inferior legal position with no regard for actual capabilities of women.\(^{22}\) However, the hopeful changes that this case seemed to be signaling in the legal view of women have not materialized. The Court has not adopted the strictest review of gender discrimination cases but instead has created a new category for such cases—a middle tier. According to Ginsburg this tier means that gender classifications fail unless the legislative intent is an important one and the classification is substantially related to that legislative objective.\(^{23}\) Mary Eastwood summarizes the current situation in "Feminism and the Law":

> Although women still experience discrimination and do not yet have complete equality under the law, most sex discrimination is now illegal and court decisions of the past decade have had a significantly different orientation than those of the preceding century.\(^{24}\)
In addition, as earlier noted many discriminatory state laws dealing with women's position in the family still remain.

Because of the many uncertainties in the legal situation the passage of the Equal Rights Amendment would help clarify things. Such an addition to the Constitution would give the Courts a clear mandate for sexual equality. But whether or not the E.R.A. is passed, slowly the constraints have been lessened on women's behavior in the legal realm.

The implicit social controls are much more difficult to recognize and change. These include the socialization process and the whole patriarchal system which is set up to reward those women who fill traditional female roles. Changes in the legal constraints will have little effect if there are not also changes in the implicit controls, as William Chafe observes in *Women and Equality*:

> Despite the major changes accomplished through remedial legislation, many of the less obvious means of social control, such as the socialization process and psychological manipulation, remained intact. Statutes which outlawed economic discrimination or attempted to ensure equal opportunity could not eradicate the subtle cultural and social pressures to conform to one's "place."  

For example, Chafe cites a study of prospective career women which showed that an extremely effective way of discriminating against women is to exclude them from the "interpersonal and informal networks where the 'bright young men' are chosen."  

The socialization process is clearly very important in forming sex roles as we know them. This isn't really surprising in light of the fact that the socialization process begins
before the child really has any awareness of sexual identity.

As Lenore Weitzman explains, such socialization begins before the child has a motive for conforming to sex role standards:

... cultural assumptions about what is "natural" for a boy or a girl are so deeply ingrained that parents may treat their children differentially without even being aware of it... it appears at some level mothers so have sex role expectations, and these expectations are successfully communicated to very young babies. Thus parents encourage and reinforce sex-appropriate behavior, and little boys and little girls respond to parental encouragement and rewards.

The socialization process tends to mold female children into dependent, passive individuals who will look for fulfillment in life through others. As Jerome Kagan indicates most children seek acceptance of parents and peers and, thus, choose that behavior for which they will be rewarded. Since parents generally punish aggression in daughters and passivity in sons, the stage is set for appropriate sex role behavior. Weitzman describes the different reactions of the parents to male and female children:

The result, as Bardwick has noted, is that girls are not separated from their parents as sources of support and nurturance, and are they are therefore not forced to develop internal control and an independent sense of self. [citation omitted] Instead, the self that they value is one that emanates from the appraisals of others. Consequently girls develop a greater need for the approval of others than do boys.

Thus, the young girl is necessarily dependent on people and their acceptance to assess her "femininity." Clearly the socialization process not only includes the teaching of the
appopriate role models but gives rewards for the appropriate behavior.

In addition to the socialization process and rewards given to those who produce the appropriate behavior, there are other controls which are necessary for those who resist pressures to conform. Behavior which deviates from that acceptable for females may incur the wrath of society. Physical abuse and the definition of mentally ill are examples of other methods of convincing women of the necessity to conform. Violence against women certainly works to maintain the unequal power structure between the sexes in this society. Society insures that there is no way for a woman to effectively win by opposing male violence. As Diana Russell explains in the Introduction to Battered Wives, "...male violence against women, including the battering of wives, rape and femicide, is a natural consequence of woman's powerless position vis-à-vis men in patriarchal societies and the sexist values and attitudes that accompany this inequity."  

As for madness, the psychology profession has long been a part of convincing women that the definition of a mentally-healthy human being has no relationship to the perception of what is a mentally-healthy female. Dr. Weisstein spells out that psychology's definition of a normal woman differs little from the traditional definition:

A woman has an identity if she is attractive enough to obtain a man, and thus, a home; for this will allow her to set about her life's task of "joyful altruism and nurturance." A woman's true nature is that of a happy
As Phyllis Chesler makes clear in *Women and Madness*, women are often labeled as sick when they step outside the bounds of what is considered the appropriate behavior for women while males are generally given much more latitude to act outside the bounds of what is considered normal behavior for males. Clearly such controls are very effective at convincing women that their only chance of fulfillment in life is by serving a man and raising his children. As Simone de Beauvoir described in *The Second Sex*:

... woman is beguiled with a promise of security. She is led to believe that she does not need to create her future through her own actions in the present; her vocation, in the form of marriage and motherhood, will happen to her. If she accepts the feminine role of Other, she denies herself the opportunities of transcendence, but she also feels safe from its hazards. Her femininity is the mirage that she will be taken care of, not only economically but absolutely.

This role is not only keeping women from full human development, but, in addition, such a role is clearly contributing to the poor mental health of those women who accept the total female sex role. While a majority of American women claim to be happy with their marriage, studies have found that such women have the worst mental health of any group. Forisha cites one such study which found:

... more married women than single women were bothered by feelings of depression, did not feel happy most of the time, felt that they were about to go to pieces, and experienced other symptoms of heightened anxiety. ...
more married women. . . were reported to be passive, phobic, and depressed. . . . married women displayed more signs of emotional distress than did married men and, in general, more women than men felt inadequate and unable to adjust to the demands upon them.

A study done by the Department of Health, Education and Welfare found similar results. Although married people have lower rates of mental illness than single people, married women have much higher rates of mental illness than do married men.35

The paradox of why so many married women claim to be so happy with their roles is explained by Jessie Bernard:

Bernard. . . argues that married women may be confusing "adjustment" with happiness. . . . Women are aware that they are expected to be good wives and mothers and have been told that, if they fulfill these duties well, they will achieve a real sense of satisfaction. . . . women who are striving to be good wives and mothers can convince themselves that they are also reaping the rewards of such occupation. If a woman is not reaping any rewards from domestic life she is convinced that something is wrong with her, not with the role she is playing. If something is wrong with her, then she must just try harder. . . . and little by little she manages to convince herself that she is happy for, after all, isn't she supposed to be?35

Since such feelings of distress and self-questioning cannot be recognized or communicated they become expressed as anxiety, unfounded fears, emotional distress and mental impairment.36

This evidence does not show that women are mentally weaker than men as some would try to argue. Only married women have this high rate of mental problems. What is much more likely is that such feelings and problems seem to be "inherent in the role of housewife."37 A journalist who traded roles with
his wife for a year documents this fact. The journalist felt that the emotional problems that women (and men) have is a result of the situation in which they are placed, and that it is vital that we change the system that creates and supports this situation.\textsuperscript{38} Betty Friedan's \textit{Feminine Mystique} came up with these same results. Friedan found that women in the housewife role have more fatigue and illnesses with no physical cause that could be found.\textsuperscript{39}

Clearly something is wrong with such a role for women. Not only are women denied the basic human equality which our country insists that all Americans are guaranted, but women are denied even a choice of lifestyle since society works so hard to convince them that only by a subservient role can a female find any fulfillment in life. Such treatment of women is harmful not only to women but to society as well. Betty Friedan spells this out:

\ldots the fact that American women are kept from growing to their full human capacities. \ldots is taking a far greater toll on the physical and mental health of our country than any known disorder. Consider the high incidence of emotional breakdown of women in "role crises" of their twenties and thirties; the alcoholism and suicides in their forties and fifties; the housewives monopolization of all doctor's time. \ldots If we continue to produce millions of young mothers who stop their growth and education short of identity. \ldots we are committing \ldots genocide, starting with the mass burial of American women and ending with the progressive dehumanization of their sons and daughters.\textsuperscript{40}

Clearly, the reality of American life subverts the egalitarian ethic. On one hand, politicians and scholars insist
that the United States is the "land of equal opportunity" with a real concern for "human rights," while, on the other hand, these same politicians and scholars make it clear by their actions that in reality only male opportunity and rights concern them.* These same "idealists" continue to work for the exclusion of women from any powerful positions and to maintain the status quo of inequality between the sexes. It is truly hypocritical to continue to berate other countries for "human rights" violations when the U.S. is so obviously ignoring these standards. Clearly, we must work for a society which allows true human equality or appear hypocritical to the rest of the world—whom we have labored to convince of our egalitarian society.

In addition our political heritage makes it clear that if such inequalities continue, the people have the right "to alter or abolish the political system." As Stanley Benn explains, "In America the doctrine of equality was a denial that any authority imposed upon unwilling subjects could be legitimate on the grounds of law or prescription. . . ."41 The obligation of our society cannot become much clearer than

*Not long ago black males were also excluded, however, in my view this is not generally true now. The black struggle is not to be downplayed, but today white males (the power group) more readily identify with other males than with other women. Thus, the black demand for equality is much more readily accepted than that of women. For instance, while it is not generally acceptable to admit one is a racist, many will proudly boast of being a male chauvinist. The black movement has always been taken more seriously than the woman's movement. There are numerous examples which support this premise.
that.

Obviously, such a double standard can not continue in a society which places such an importance on the principle of equality. It is clearly arbitrary to deny an entire class of Americans equal opportunity on the basis of an assumed set of characteristics—particularly when those presumed characteristic can be shown to be neither universal nor immutable. For this society to live up to its political principles, every human being must be able to achieve a position according to that person's particular talents and abilities.

Whatever differences between the sexes that do exist which are truly biologically determined, such differences do not justify excluding women from the definition of human equality. Since that characteristic that is generally agreed to be the primary difference between members of the human species and those not is the ability to reason. Certainly, women just as men have this ability and, therefore, it is impossible to legitimately argue that women should not be accorded this "human right"—true equality.*

There is not doubt that this has been the norm in the

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*This exclusion has been justified in the past by the argument that women have less reasoning ability than men. Even if this is proven true (I highly suspect much of the difference is cultural) the quality of being human has never been based on the amount of reason that one possessed. Certainly if being human was determined by a quantitative measurement of ability to reason, both men and women would be in both the high ability and low ability to reason categories.
past and the present American society. An examination of the implicit and explicit controls of women's behavior illustrates this quite clearly. The claims that women are "put on a pedestal" and that women are actually valued more highly by our society than males simply do not when one take a hard look at the prevalence of the misogyny in our society.*

Richard Wasserstrom points out the paradox of the past treatment of women:

The ideology of sex... is complex and confusing. Women are both put on a pedestal and deemed not fully developed persons. They are idealized; their approval and admiration is sought; and at the same time regarded as less competent than men and less able to live fully developed, fully human lives.

The concept of equality that our society must be concerned with to insure equality for all is both a political and social ideal. Alison Jaggar describes this in "On Sexual Equality:"

... sexual equality does not mean that individuals of different sexes should be physically indistinguishable from each other (as misogynists sometimes pretend is the goal of women's liberation). It means rather that those of one sex, in virtue of their sex, should not be in a socially advantageous position vis-a-vis those of the other sex.

Just as the individual differences between men have no bearing on their human value so are the differences between men and women irrelevant in determining human status. As a society working for a definition of human equality that

*For an excellent discussion see Kate Millett's Sexual Politics (New York: Ballantine Books, 1970). An obvious example is women's economic position. The average salary for women is 59 percent of men's average salary.
includes women all humans must have the same status in both the political and social realms. Thus, no class of people will be arbitrarily relegated to a lower status on the basis of a set of assumed characteristics.

To get a clearer picture of exactly how such a society would function, the example set up by Richard Wasserstrom in "Racism, Sexism and Preferential Treatment" is instrumental. In a society in which one's gender has no importance in determining an individual's status, gender would function much as eye color does in our society. According to Wasserstrom there are three different levels of social arrangements. The first includes basic political rights and obligations. The second area is comprised of important non-governmental institutional benefits and burdens, while the third sphere is that of individual, social interaction. The political realm includes the right to vote and pay taxes. In the non-governmental benefits and duties category are such benefits as access to and employment in economic markets and the right to marry another if both so desire such a union and such duties as those acquired when getting married. The last area includes such matters as choice of friends and aesthetic preferences that one will cultivate and enjoy.

Clearly, in examining the first two areas, eye color has no bearing on the individual's rights. Neither political rights or non-governmental institutional benefits and burdens have
any relevance to what color a person's eyes are. Thus, in a sexually egalitarian society a person's gender would not have any relationship to the political rights and non-governmental benefits and duties that a person has as a citizen of the society. Members of the society would be chosen for a job strictly on the basis of individual characteristics and capabilities rather than ever being excluded from consideration because of a set of preconceived assumptions about that person's abilities based on that person's gender. Only in the third realm would any consideration of a person's gender have any relevance. Certainly individuals may choose their friends on the basis of eye color if they so desire. Clearly, such a society would have real equal opportunity since both men and women would be able to choose their roles in life.

Thus, as Alison Jaggar explains,

"... a sexually egalitarian society is one in which virtually no public recognition is given to the fact that there is a physiological sex difference between persons. This is not to say that the different reproductive function of each sex should be unacknowledged in such a society nor that there should be no physicians specializing in female and male complaints, etc. But this is to say that, except in this sort of context, the question of whether someone is female or male should have no significance."

In a society such as this women would still bear the children, however, the responsibility for raising that child would be the domain of both parents. Clearly in the social realm,
marriages in such a society will become much more equal. The partners will be true equals—economic and social. Certainly socialization patterns will have to change to encourage both boys and girls to develop a sense of self-importance and independence so that both can truly choose a lifestyle and role that best suits each individual's abilities and needs.

Only by working for a society that is sexually egalitarian will the United States ever come close to real regard for "human rights." In such a society one class of people can not control another on the basis of assumed characteristics. Neither sex will be more powerful than the other as a group and both males and females will fill positions of importance in society along with the less valued positions. There is no justification for legislating any kind of regulations which constrain or protect either sex in a true egalitarian society. A society such as this which truly works to include women in its definition of human equality is absolutely vital in the United States if we are to actually follow those ideals that are enshrined in our society's political heritage and rhetoric.
NOTES


4 Ibid.


6 Ibid.


8 Okin, p. 395.


10 Ibid., p. 56.

11 Ibid., p. 41.

12 Ibid., p. 74.


14 Ibid., p. 114.


16 Forisha, p. 63.
17 Ibid., pp. 155-6.


22 Ibid.

23 Ginsburg, p. 145.

24 Eastwood, p. 386.


26 Ibid., p. 105.


28 Ibid., p. 167.


30 Ibid.


34 Forisha, p. 214.

36 Ibid.
37 Ibid.
38 Ibid., p. 216.
40 Ibid., p. 351.
44 Wasserstrom, pp. 603-4.
45 Jaggar, p. 276.
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