



# *Property, Women and Politics*

*Subjects or Objects?*

**Donna Dickenson**

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# Introduction

Why the title *Property, Women and Politics: Subjects or Objects*? The subtitle clearly harkens back to one of Simone de Beauvoir's dualisms, the one which I think has best withstood the test of time and the interrogation of contemporary feminist writers who justifiably suspect all dualisms.<sup>1</sup> In *The Second Sex* Beauvoir writes,

Now what marks the specificity of woman's situation is that while she, like any other human being, is an autonomous freedom, she discovers and chooses herself in a world where men force her to assume herself as the Other: they claim to fix her as an object and to doom her to immanence, since her transcendence is to be perpetually transcended by another essential and sovereign consciousness.<sup>2</sup>

The notion of woman as object has worked its way into popular thought: the outcry against women as mere sexual objects in advertising, for example, uses Beauvoir's terminology. But in this book I want to do something different from what prevails in popular speech at the end of the century, something more akin to what Beauvoir originally had in mind, I think.

In *The Second Sex* Beauvoir offers three uses of the subject/object distinction. First, there is the 'despotic subject', who views others as an object: the position corresponding to what Beauvoir calls 'male sovereignty'. In this dualistic formulation, the sovereign existence of a subject requires the presence of an object. To apply this split to property-holding, men's status as property-holders would require the objectification or commodification of women: as sexual objects in pornography, for example, or as wives who could be 'owned' (communally or privately).

As the legal theorist Carol Rose points out, there has been far more feminist interest in women as objects of property than as its subjects.<sup>3</sup> Yet this is implicitly to accept the sovereignty of the male despotic subject, I think. Why should feminists be content to accept that women can have no other relation to property than as its *objects*? In political theory and jurisprudence, property is generally linked to being a *subject*. Through gaining property, or more often through developing the sorts of virtues associated with careful husbandry – and I use the gendered term advisedly – individuals are frequently said to become moral and political agents.

Both nineteenth-century and second-wave feminists made good polemical use of the notion of women as objects, and it was strategically important that they did. But ultimately, I think, viewing women's relationship to property purely in the passive leads down a political and theoretical cul-de-sac. If we are to regard women as anything other than eternal victims, and property as something which can help women as well as harm them, we need to go beyond the simplistic categorization of women as mere objects of property-holding. And we *will* want to view property-holding as something which can help as well as harm women if we are interested in enhancing women's status as subjects, I shall argue. This is not to say that cases in which women really *are* objects will be ignored in this book; only that I do not want to prejudge the case by assuming that the relationship will necessarily be that simple. This is where we as feminists have gone wrong: in assuming too readily that women *are* objects of property, and that this is the only sort of relationship to property which we *can* have. Although most canonical theories of property are guilty of excluding the experience and condition of women, thereby ruling out full subjecthood for them, I will argue that the relationship between holding property and becoming a subject is not sex-specific.

However, I do not deny that women and their services *have* sometimes been regarded as (at least potentially) men's property. Honoré's classic list of entitlements and duties generated by ownership suggests so, when applied to women.<sup>4</sup> The owner of object X has (1) a right to its possession; (2) a right to its use; (3) a right to its management, that is, determining the way in which others can use it; (4) a right to the income that can be derived from its use by others; (5) a right to its capital value; (6) a right to security against its being taken by others; (7) a right to transmit it to others by gift or bequest; (8) a permanent right to these other rights, without any limit or term; (9) a duty to refrain from using X in a way that harms others, or liability for harm caused by X. All these terms have been satisfied in one legal system or another by men's rights in marriage. Right 1 entails a right to the wife's company and right 2 to conjugal rights; these, along with rights 3, 4, 6, 8, and 9, were all afforded to husbands under the doctrine of coverture, which will be detailed in chapter 3. Right 5 implies wife sale, not

part of coverture, but formerly an established folk custom in rural England.<sup>5</sup> Right 7 is well known in many African cultures, which expect a widow to marry a husband's brother, and was also extant in ancient Athens. Women can certainly be property by Honoré's criteria, I agree, although I am also sympathetic to Catharine MacKinnon's cynicism:

Women's sexuality is, socially, a thing to be stolen, sold, bought, bartered, or exchanged by others. But women never own or possess it, and men never treat it, in law or in life, with the solicitude with which they treat property. To be property would be an improvement.<sup>6</sup>

Clearly being an object excludes being a subject, an active agent, a full person. As the contemporary French feminist philosopher Michèle le Dœuff writes, 'To be only when one belongs to someone is not to be, but to have the status of a perceptible quality, like sweetness according to Plato: "To be sweet, but sweet to no one, is impossible."'<sup>7</sup> But if women are not always mere objects, yet are not full subjects either, what sort of subjects can they be? Beauvoir's second type of subject, the 'extinguished' subject, offers a grim answer. Women who are extinguished subjects are completely lost in identification with men; when they speak of women, it is as 'they' rather than 'we'. Despite my long fascination with George Sand, for example, I would class her as one of these when she writes,

With very few exceptions, I do not long endure the company of women. Not that I feel them inferior to me in intelligence: I consume so few of them in the habitual commerce of my life, that everyone has more of them around than I. But women, generally speaking, are nervous, anxious beings who, my resistance notwithstanding, communicate their eternal disquiet to me apropos of everything. I begin by listening to them with regret, then I let myself be caught up in a natural interest for what they are saying, only to perceive that there was really nothing to get worked up about in their puerile agitations. . . . I thus like men better than women, and I say so without malice.<sup>8</sup>

One reason why women might become 'extinguished subjects' again has to do with property. As Beauvoir writes, 'Woman does not claim the status of subject because she lacks the concrete means to do so.'<sup>9</sup> By 'concrete means' Beauvoir intends property, but not just property: she means all sorts of specific disabilities and barriers – of political or civil rights, of sufficient training, even of the right kind of clothes for activity rather than passive decorum.

To 'claim the status of subject' might entail developing the sort of mutual consciousness which typifies Beauvoir's third class of subjects, 'minority subjects'. Regarded as 'other' by dominant subjects of the first type, minority subjects none the less have enough sense of common identity to say 'we' of themselves rather than 'they', as extinguished subjects do. But can women be 'minority subjects'? After all, we are not a minority. If so,

how can we claim this third sort of subjecthood, which relies neither on oppressing others nor on extinguishing the sense of self?

Beauvoir famously asserts that one *becomes* either a woman or a subject, rather than being *born* one. Successors to Beauvoir have problematized the entire category of subject, as does Catharine MacKinnon when she writes: 'Having been objectified as sexual beings while stigmatized as ruled by subjective passions, women reject the distinction between knowing subject and known object.'<sup>10</sup> Other sources of feminist disquiet with the notion of a unified subject have included postmodernist and deconstructionist writing, together with critique from black and lesbian feminists. While acknowledging the theoretical productivity and importance of this critique in chapter 6, I nevertheless maintain the practical value and philosophical possibility of being a subject, together with the epistemological openness of woman as subject: 'feminism . . . looks to the woman as the object of study in order to become the subject of herself.'<sup>11</sup>

In *Property, Women and Politics: Subjects or Objects?* I want to suggest that property is not peripheral but central to women's subjectivity. I shall be using property in a broad sense in making this argument, to include income as well as wealth, and what is commonly termed 'property in the body', as well as in material goods. But I shall also contest some common discourses about property, including 'property in the body' – although that might seem the one concept about property which *is* congenial to feminism. Instead, I will argue that property in the *person* is the more useful notion, and the more correct interpretation of the original usage in Locke. But my interpretation will still have a great deal to say about women and their bodies: I apply my reconstructed model of contract and property to case studies on gamete donation, contract motherhood, and sale of fetal tissue in chapter 7.

The first claim in this book, to recapitulate the argument thus far, concerns property and the status of subject. I argue that women's subjectivity is rightly a principal concern in feminist theory, but that we have ignored the important connections made in much 'malestream' political theory between becoming a subject and the developmental aspects of property. Where property is seen as a positive *good* – a view which predates Thatcherism, having its roots in Aristotle – it is a double deprivation if women are propertyless. When women are blocked from controlling their own income, holding property, or gaining custody of their children,<sup>12</sup> and these things are not merely permitted to men but extolled, women are not just being denied something neutral, but something of active benefit. More strictly, it is not *having* goods that conduces towards the virtues in Aristotle and towards self-sufficient autonomy in the liberal theorists; it is *being* the sort of person who has them.<sup>13</sup> That person is active, rational, full of foresight, responsible, free – and fully human. We may or may not want to

accept that view of personhood, but it is older and richer than Thatcherism.

Socialist feminisms, which *could* have something to say about property, have often tended to be atheoretical or even antitheoretical, in so far as they conceive of feminist theory as an impractical and implicitly conservative theory of difference.<sup>14</sup> 'Although the significance of property is a commonplace in class analysis, and basic to a materialist interpretation of social phenomena, little systematic attention has been directed to this factor in the analysis of women's position.'<sup>15</sup> On the other hand, masculinist socialism is notorious for leaving women out. In chapter 5, however, I argue that the Marxist concept of alienation and the domestic mode of production, a concept developed by the Marxist feminist Christine Delphy, *do* have something specific to say about women's propertylessness in both rich and poor countries.

Standpoint feminist philosophy has gone some distance towards claiming the status of subject as knower for woman, but it has been more interested in the *epistemological* ramifications of man as subject/knower, woman as object/categorized. Feminist political theory has dealt more extensively with concepts such as political participation, citizenship and authority than with property, as if that idea had been tainted by triumphalist right-wing politics.<sup>16</sup> But why should the devil get all the good tunes?

As a particularly concrete concept in applied political theory, property has also been of little interest to psychoanalytical feminisms of the French sort or to psychological feminisms of the American variety. The dominance in Europe of linguistic or psychoanalytical feminists, such as Luce Irigaray and Hélène Cixous, has coincided with the influence in America of object relations, psychological and maternal feminisms, leaving little space for practical legal and political concepts.<sup>17</sup> (Second-wave feminism did focus on women's property and poverty in its early stages, but this concern is now much more pronounced in economic development and social policy literature than in feminist theory.) When French linguistic feminism does deal with property, it tends to be simultaneously hostile and utopian – assuming that women have been merely the objects of exchange, and that there can be nothing in production or exchange for them. For example, Luce Irigaray writes:

*But what if these 'commodities' refused to go to 'market'? What if they maintained another kind of commerce, among themselves? Exchanges without identifiable terms, without accounts, without ends . . . Use and exchange would be indistinguishable. The greatest value would be at the same time the least kept in reserve. Nature's resources would be expended without depletion, exchanged without labour, freely given, exempt from masculine transactions: enjoyment without a fee, well-being without pain, pleasure without possessions. As for all the strategies and savings, the appropriations tantamount to theft and rape, the laborious accumulation of capital, how ironic all that would be.*<sup>18</sup>



Of course it is entirely credible that feminist theory should find property an alien concept, given canonical political theory's exclusion of women from the nexus between self-development, political rights and property-holding. That women *have* been excluded is my second claim in this introduction, and I explore it further in close analysis of Aristotle, Locke, Hegel, Marx and Engels in chapters 2 through 5. If women have at times been construed as property, men are indisputably 'the lords and owners of their faces'.<sup>19</sup> Hence, particularly in liberal thought, it is only men who, having a property in their own persons, can contract to form civil society and government. Feminist theorists such as Carole Pateman have astutely remarked on the deliberate subordination of women in liberal theory, whose resurgence in politics must make us particularly alert to how, as Pateman says, 'the whole package is marketed under the name of freedom.'<sup>20</sup>

On the other hand, property has been less contentious than the political participation to which, in the liberal tradition, it gives rise. Gains in economic rights have often been achieved more easily than claims for equal political participation. The nineteenth-century women's movement, particularly in the United States, deliberately prioritized property reform over suffrage. In Europe the various married and divorced women's property acts precede the vote by periods of up to a hundred years. Historically, both some of the greatest abuses of women and the greatest initial progress for women have been in the arena of property law. Generations of feminists, and even not-so-feminists, like Sand, have regarded property reform as *the* crucial reform for women. Before we rest on our laurels, having finally achieved equal rights under the tax laws at the late date of 1990 in Britain, we should think very hard about whether property questions are any less pressing at the end of the twentieth century than at the century's start, when Virginia Woolf asked in *A Room of One's Own*, 'Why are women so poor?'

This brings us to the third claim introduced here, at the start of *Property, Women and Politics*, that there is a dialectical relationship between women's propertylessness and their lesser status as subjects. Women, now and in the past, have typically held less property than men, and sometimes no property at all. *It is because they are propertyless that they are not construed as political subjects; it is because they are not accorded the status of subject that they hold little or no property.*

Women are still poor. Feminist theory's neglect of property flies in the face of economic and political reality for a great number of women. Property remains as important as ever, if not more so, to those increasingly deprived of it, and those in turn are disproportionately female; for example, the worsening situation for divorced women in the West has been documented by Lenore Weitzman,<sup>21</sup> Mavis MacLean<sup>22</sup> and Jan Pahl.<sup>23</sup> Just as the Church rejected the right to profits made from non-productive labour

through usury, so have courts and legislatures been loath to recognize women's rights to wages for the allegedly non-productive labour of housework, to divorce settlements giving the non-working wife a share in the husband's pension entitlements, or to 'palimony' based on an unmarried female partner's contribution to the maintenance of a household or business. The feminization of poverty in the West and in the Third World alike radically undermines women's political participation and contrasts with the dominance of contractual, market-orientated models of ethics, social life and economics. There is now a hollow ring to those few left-of-centre perspectives which did try to provide alternative formulations of property – for example, Charles Reich's blithely 1960s-style contention that government benefits can be interpreted as a new type of property to which we all have a rightful and enduring claim.<sup>24</sup> New forms of common male property rights in women – pornography in particular – also continue to trouble the relationship between women and property.

As Alan Ryan puts it, 'Moderate property leads to moderate ambitions leads to moderate politics.'<sup>25</sup> Ryan believes that when we assert property rights, we are really after security rather than property itself. There is a theoretical basis for this claim not only in Locke, but also in the rather modern (though also classical) view that job security and moderate property enhance autonomy, create fulfilment, give interest in civic life and produce freedom. In a property-minded age dominated by rights rhetoric in politics and the reality of job insecurity, will women's relationship with property become even more troubled?

In the face of these practical urgencies, many theoretical feminisms have too readily accepted – rather than challenged – the truism in 'malestream' theory that property is an idea whose time has passed. On the one hand, property has been reduced by mainstream jurisprudence to the notion of a series of obligations between persons, rather than a thing in itself; on the other, property rights have long been presented in more left-wing perspectives as artificial constructs.<sup>26</sup> Carol Rose rightly points out that this theoretical neglect in mainstream theory sits oddly with the political resurgence of neoliberal models of property, for good or ill: the break-up of the old command economies, interest in tradable environmental rights as a possible solution for pollution, and the apparent demise of Keynesianism.<sup>27</sup>

The troubled relationship between women and property is explored at greater length in the practical sections of this book. The third claim introduced here – that women have held and continue to hold less property than men – is considered through *praxis* pertaining at the time of each of the grand theories whose exclusion of women is the subject of my second claim. At the end of each chapter on a canonical theorist, I set forth evidence of the particular property regime obtaining when he wrote – showing that

women tended to hold less property, or to hold it in ways that did not threaten male subjectivity. *Property, Women and Politics* thus considers the difficult relationship between women and property from a novel viewpoint: synthesizing 'malestream' political theory from liberal and non-liberal traditions, feminist theory, history, anthropology and practical social policy.

My view about property rights parallels that of Catharine MacKinnon on free speech. When either is used as a defence of privilege, it is suspect. This was the way property rights *were* presented in the US under Ronald Reagan and in Britain under Margaret Thatcher, and the way the First Amendment to the US Constitution was used by the pornography industry in the Indianapolis regulation case brought by MacKinnon and Andrea Dworkin.<sup>28</sup> But when rights in free speech or property are an agenda for the dispossessed,<sup>29</sup> it is a very different matter. As Le Dœuff says, the notion of rights, whether in speech or property, 'can be effective when used polemically, in so far as it protests against limitations or privileges. When this intention is lost, the notion may become vague and prove incapable of challenging scandalous phenomena. It loses its critical power.'<sup>30</sup> It is not rights theory itself which is necessarily to blame, but the political use to which it is put. Liberal theory is not the unmitigated evil for women which some feminist theorists have accused it of being; but neither is it anything like a sufficient analysis in itself. We can extract something of benefit from liberalism, I think, but somewhat against its will. And it is important that we do so. My fourth and final claim in this introduction is that we *can* and *should* develop a theory of property which is liberating for women. That new understanding will build on canonical theory, but it will also be crucially different. In a project as large as this, some business will inevitably remain unfinished. I do not claim to provide a fully mature feminist theory of property, although in chapter 7 I try to give as precise a prediction as possible of what such a theory would look like, and how it would bear on practical ethics.

Feminists have asked, 'Are there some philosophies which are more appropriate than others to thinking about women's liberation?'<sup>31</sup> Existentialism, for example, rests on a voluntarism which says little of women's embeddedness in relationships.<sup>32</sup> Rights theories have come in for the same critique. Although Aristotelian virtue ethics is having a revival,<sup>33</sup> I have argued elsewhere that feminists must condemn a system in which the ill-chance of being born female limited women to a single, confining virtue: *sophrosyne* or self-restraint.<sup>34</sup>

In asking 'Are there some theories of property which are more appropriate than others to thinking about women's liberation?' I proceed from a prior question, 'To what extent are the various canonical theories involving property particularist in ignoring women's property situation?' To explore these two central questions, in each of the first five chapters I follow the



strategy which is writ large in chapter 1. There I measure an avowedly universalist, gender-neutral contemporary theory of property against its own standards. Has the theory attained 'universality' only by omitting the experience of half of humanity? If women counted, would the theory still work? How does the theory measure up to the anthropological reality of women's actual property rights? The first chapter sets the scene by showing that gender blindness in relation to women and property is not merely historical; but it does have historical roots, which the next four chapters will trace. Chapters 2 through 5 do not give an uninterrupted linear history of women and property, but a series of snapshots at particularly crucial stages of development, so to speak.

In chapter 1, 'Property, particularism and moral persons', I examine an influential recent general theory of property, by the legal theorist Stephen Munzer, which relies on crucial psychological assumptions about motivation and agency in the acquisition of property. I test the empirical basis of these presuppositions against women's experience in other cultures and other periods in our own culture. Feminist anthropological, psychological and historical accounts allow us to begin piecing together a theory of property which is more genuinely general than Munzer's. Chapter 1 ends with three conclusions: (1) a general theory of property need not be incompatible with a feminist emphasis on lived experience; (2) the construction of property as sets of relations rather than things, which is the accepted model in most jurisprudence and political theory, may also be compatible with a feminist emphasis on relatedness; (3) a motivational, developmental account of property as intertwined with personhood and agency could also be attractive to feminist theory.

The next four chapters use the same method of comparing a key theory of property against women's experience, but with a more specific focus. Each opens with the treatment of a crucial concept about property in a canonical male theorist; identifies crucially gender-blind rather than gender-neutral anomalies in the theory when measured against the reality for women; and examines alternative formulations by contemporary feminist theorists. Again, I do not claim to give a linear history of canonical or feminist political theory, any more than I can tell the entire story of women and property in a book of this length. What I have tried to do is to select canonical theorists – Aristotle, Locke, Hegel, Marx and Engels – who privilege *praxis*, who view property not as an adjunct or addendum, but as central to what it means to be human. If women have lesser property entitlements in those theories, it implies that they cannot be fully human.

In chapter 2, 'Origins, narratives and households', I begin with the grandfather of universalist theories, Aristotle, whose exhaustive works include all human knowledge and yet somehow exclude half of humanity. I argue that while Aristotle did not conceive of women merely as objects of