

## Interview with Carole Pateman.

Entrevista con Carole Pateman.

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*Professor Pateman, many thanks for agreeing to this interview.*

In the current volume, our Journal *Anacronismo e Irrupción* focuses on the duality between Equality and Inequality and we think your work opens innovative ways to analyze these concepts. Probably because you have gone beyond them.

As you have said, you have been working on the theories of original contract in the early modernity, not because they could be described as theories of *unjust* contracts, contracts that could be “corrected”, but because they are about the creation (and prevalence) of the modern state and structures of power, including sex and racial power. In this sense, your work could be seen –not only, but also- as a critic to the current development in the area, which has turned political philosophy into moral philosophy.

If I could underline the main theses of your work, I would say that you examined how a “civil society” (in the terms of the early modernity) or the modern state was created, based on the political fiction of the original contract. You stated that this contract is simultaneously social, sexual (fraternal, in your amazing reading of Freud) and racial and explored the three interwoven dimensions mostly in the books *The Problem of Political Obligation. A Critical Analysis of Liberal Theory* (1979), *The Sexual Contract* (1988) and *Contract and Domination* (2007), written with Charles Mills. This three dimensional contract created a whole patriarchal society, formally divided in two mutually dependant spheres, the public sphere, with a well-known history, and

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the private sphere, with a most “mysterious” history. You privileged the concept of “whole modern patriarchal society”, historically created in seventeenth century, which includes capitalism as a component of an unique and global system, and tried to combine the theorization of capitalism and patriarchy.

According to your view, in modern societies, contract is not only an original political fiction. There is contract, as you say, “all the way long”, because authority in these societies is legitimized in contracts and the three most important modern institutions – employment, marriage and citizen- are legally sustained in them. But the innovative, polemic and -I think- political challenging thesis of your work is that you deconstructed consent as illusion: in other words, contract is the specific modern form which justifies and creates subjugation, presented as a free choice of individuals. You based this statement in the concept of “property in the person”, which was introduced in your seminal book, *The Sexual Contract*, and which helps us understand why modern women, under this criteria, are non-individuals. Let us start here.

*1) How can you define this concept of property in the person and why are women non-individuals?*

**C. Pateman:** Before I turn to property in the person, I would like to emphasize that I was writing *The Sexual Contract* during the 1980s (it was published in 1988), during a period when rapid social change began to gather pace. In 2013 the world is very different in some significant respects. My argument about marriage is largely concerned with its traditional form in Anglo-American countries, which meant that a husband had legal powers over his wife. By the 1980s, the remaining conjugal powers, together with lingering exclusions of women and wives from civil and political rights, were being undermined and eliminated. But, for example, no one then mentioned gay marriage. Just as importantly, from our vantage point today we can see that the 1980s were also a period when the rise of neo-liberalism was well underway,

but the doctrine had not yet attained the power it has had since - and continues to have now, despite deregulated finance capital having brought about the economic crash in 2008.

I should also emphasize that my argument is about voluntary entry into contracts which create the relations that structure major institutions of the state. It thus differs from the arguments that focus on the problem of coercion into contracts. In my first reading of the classic contract theorists in *The Problem of Political Obligation* I had not yet grasped the importance of the idea of property in the person; the book is about the social contract. The conventional view is that the social contract *is* the original contract. But I now see the social contract as only one of the three components (social, sexual, racial) of the original contract. That is to say, my argument about political obligation is about the relation between citizens and the government of the modern state, not about the government of women by men, or the government of non-white by whites. I argued that stories about social contracts and the move from the state of nature into civil society (the modern state) are about the alienation by individuals of their (natural) right of self-government to a representative, or body of representatives. One way that this transfer can be conceptualized is that individuals alienate part of the property in their persons, i.e. their right to self-government. The idea of property in the person depends upon a particular view of an "individual" as consisting of a collection of pieces of property in the person, such as capacities, rights, services or organs, over which the individual has right of disposition. It is the individual who decides whether a particular piece of property in the person should be e.g., sold, rented out, or alienated.

The idea of ownership of property in the person is hardly new; it can be found in Locke. But as far as I recall, it was while I was thinking about the employment contract when I was writing *The Sexual Contract* that I began to appreciate its full political force.<sup>†</sup> I was trying to work out how it was that the consequences of

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<sup>†</sup> I have written about property in the person more recently in "Self- Ownership and Property in the Person: Democratization and a Tale of Two Concepts", *Journal of Political Philosophy*, 10, 1, 2002 , p. 20-53.

voluntary entry into what is widely seen as the quintessentially free contract, the employment contract, are so rarely remarked upon. The consequence is that a worker, a juridically free individual, is transformed into a subordinate, subject to the commands of an employer who can unilaterally end the contract by sacking the worker. I came to the conclusion that it was only if the individual was seen in the rather curious manner of owner of property in the person, that I could make sense of the employment contract and its consequences. I was then able to gain a new understanding of some other contracts.

The institution of employment is conventionally seen as embodying free labor and standing as the antithesis to slavery (today, it is also seen as essential to democracy). This perception implicitly depends upon the idea of property in the person. When workers enter an employment contract they are not, it is held, selling themselves but contracting out their labor power or services, i.e., a piece of the property they own in their persons, which can be done without detriment to the workers themselves. However, property in the person is a political fiction. If their services are to be "employed" by their boss, workers have to appear at the workplace and they are directed in what they are to do and how they are to do it. "Services" are not detachable from the worker, who has to draw upon talents, knowledge and experience in order for the property to be useful to the employer. Thus it is the worker, not the abstraction "a piece of property in the person", who becomes a subordinate. But the political fiction that what is traded in the labor market is a piece of property (labor power and services) not people, enables the relationship constituted by the employment contract to be seen as a free relation. Similarly, it is claimed that the prostitute contracts for use of a service by the client – a piece of the property she owns in her person that she is voluntarily contracting out – not use of herself and her body. For women to be said to contract out property they own in their person means that they are "individuals". The classic theorists of an original contract were writing long before labor markets were consolidated, and long before women began to win the

civil and political rights that characterize juridically free and equal "individuals". In these theories (except for that of Hobbes) women are seen by nature as lacking in the capacities required to become individuals or to enter contracts. But, as I emphasized in *The Sexual Contract*, their position is paradoxical. If men are to be husbands, women must also be deemed capable of entering one contract, the marriage contract. In the traditional marriage contract, once a woman exercised that capacity and said "I do", she was not able to exercise it again. Her husband then represented her in the public world of the practice of contract. But in 2013 in the Anglo-American countries, as in many others, women are now juridically free and equal "individuals", able not only to make choices and to enter contracts (about property in the person as well as many other types of contracts) but encouraged to do so. The deregulated and privatized economy depends upon it.

Nevertheless, socially and politically, the long legacy of women's formal second-class status as citizens lingers on, together with many long standing problems; for example, despite the advances of recent years, men still dominate the authoritative positions in politics, the judiciary, higher education, and the economy. Women still earn less than men, are more likely to be poor than men, and sexual violence continues unabated (and often with impunity) notwithstanding the legal changes since the 1980s and the publicity that violence against women receives today. Moreover, as neo-liberalism has spread and become the dominant ideology, enforced by both international bodies and many state governments, so contract has assumed a new importance and been extended into many new areas of social life. Labor markets have been established globally, and everything, from genetic materials and genetically modified animals and seeds, to municipal water supplies and other public services and assets, are seen as, properly, private property and so subject to contract. This is an enormous change, the implications of which receive less attention than they should; among other things, it means that the idea of property in the person, though still largely unacknowledged, is more significant than ever.

- 2) The concept of property in the person enables you to analyze two aspects of modern theories of original contract (and of modern societies in general): the first of them, which I would discuss first, is that these societies –far from being an opposite state of the original “state of nature”- are based on a regulative conception of nature, which contribute to include women and non-white as subordinated subjects, as “naturally inferior” subjects. Because women (and non-white) can be subjugated by nature, the basic principle of modern societies, that all men are born equal and free to each other, remain untouched. *How was the argument based on a natural (bodily) difference - constructed as political subjugation-, have been used in modern political theory?*

Considering your decision to concentrate your theory on the body of women, in using sex and not mostly gender, in feminist theory: *what conception of feminine body are you thinking about to be political relevant in the struggle against patriarchy?*

**C. Pateman:** The general answer to your question is that the assumption, that women and non-whites naturally lacked the capacities required to participate as free and equal individuals within the public institutions of the new modern state, was incorporated into political theory in two different ways. In the case of non-whites it was generally taken for granted that they lacked the attributes required of a "civilized" people. Some theorists were very open about this, including those conventionally seen as the upholders of individual autonomy and moral equality (such as Kant in what he had to say about Africans). Theorists spent time drawing up hierarchies of races and deciding which were open to education and guidance and might – one (far off) day – be able to take their place alongside whites. There were some theorists who questioned the assumption; there is, for example, an instructive exchange between Thomas Carlyle (“Occasional Discourse on the Nigger Question”) and John Stuart Mill (“On the Negro Question”) on these questions.

In the case of women the assumption was embedded in the division between public and private. Women’s natural characteristics were held to fit them for tasks in the

private sphere of marriage, family and the household. This division, as I discussed in a number of my writings, was taken for granted by political theorists (and political scientist more generally) who saw their subject matter as excluding this private sphere which was held to be irrelevant to politics. It was not until feminist scholars started investigating political theory in the 1970s that it began to become clear that public and private were inextricably interrelated. A fundamental premise of feminist political theory is that it is not possible to understand political life without understanding the connections between the structure of the private sphere, and the characteristics attributed to its inhabitants, and the structure of the economy and the state ("the public"); or to put this in different terminology, to understand the connections between the marriage contract, the employment contract and the social contract. How far this premise has now been accepted in political theory and political science, I leave you to judge.

- 3) Other line of reasoning I think the introduction of the concept of property in the person enables you to develop and which is a challenging point of your work -and in particular for Latin America- is the concept of "civil slavery". Civil slavery and contract are not exclusive, as you pointed out, and relations of permanent subjugation are created through contract. The term has been extensively used by journalism in Argentina in the last time, to describe mostly two cases: Bolivian migrant workers in the textile industry, and the kidnapping of women, to use or sell them as prostitutes in the country or abroad ("trata de blancas"). Both cases, obviously, and a large part of the Latin-American economy, are not regulated by contract. But the inclusion of this concept in your work is nonetheless challenging, because at least in the case of migrant workers, the terrifying work conditions are usually explained by the terms of what you have called the "paradoxes of slavery". ***How do you describe civil slavery and why do you think it is possible that "some or many contracts create relationships that bear uncomfortable resemblances to a slave contract", as you wrote in The Sexual Contract?***



**C. Pateman:** I am pleased that you asked about my conception of "civil slavery". Few of the commentators on my book discuss it, or discuss my related conception of "civil subordination". I developed the idea of civil slavery from my reading of the classic theorists of an original contract and contemporary contract theory, in both of which, I was surprised to find, there are stories about the origin of slavery in an agreement or contract. The central point of all the stories is that, in a condition of inequality, slavery is to the advantage of everyone.

In the classic stories, it was argued that if those with fewest or no resources agreed to work for life for those with most resources, in return for their subsistence (security/protection), then both parties, the poor and the rich, benefit. In the work of the contemporary philosophers I called contractarians (usually called libertarians in the USA) you can find a similar, but significantly different, modern argument, relevant not to hypothetical origins, but to a modern constitutional state with formal juridical equality and freedom. In particular, individuals in such a state enjoy freedom of contract in the labor market, so the case might arise where an individual (presumably poor) finds it advantageous to enter into an employment contract not just for a few months or a few years but for an entire lifetime (to gain a lifetime's "protection" or "security"). It is this arrangement that I called civil slavery; a formally juridically free and equal individual voluntarily enters an employment contract that has the consequence that he or she is a subordinate for life. The traditional marriage contract, of course, also takes this form, although for most of its history women were denied civil and political equality with men, one major reason why the traditional marriage contract is such a peculiar contract. Employment contracts, on the other hand, last for a much shorter period - one of the major features held to distinguish employment from slavery - and individuals commonly enter more than one of them during their (working) lifetime. My argument is that employment is an example of what I called civil subordination.



I am intrigued to learn that journalists in Argentina have been using the term civil slavery. However, the two examples that you mention are not the kind of arrangement that I called civil slavery. I do not know the details of the employment of migrant workers in the textile industry in Argentina, but I would expect that they could be dismissed at will rather than have a lifetime's employment. And the kidnap of women is very far removed from voluntary entry into a contract. Rather than civil slavery as I conceptualized it, these two examples are of circumstances that are closer to servitude and to actual slavery based on brute force. I am answering your questions after the appalling tragedy in April this year in the textile industry in Bangladesh (by no means the first factory disaster, but the worst). Over a thousand workers died in the collapse of a shoddily constructed building (with added illegal floors) in which several textile factories making garments for Western companies were located. It has been reported that although signs had appeared of an imminent collapse, the textile workers were coerced back to their machines with the threat that they would lose a month's pay if they did not comply. Textile factory owners are able to employ workers, who are predominantly female, for pitifully low pay and in the most dreadful conditions thanks to the complicity of Western clothing companies who demand that their suppliers produce at ever lower costs, together with consumers who demand very cheap, disposable items of clothing, and the fact that corruption is widespread in Bangladesh, all of which is compounded by economic dogmas of free trade.

The prevailing economic doctrine holds that the global construction of labor markets generates free relations. My argument in *The Sexual Contract* took that claim about free relations as it stands in order to show why and how that piece of economic and political theory does not stand up to critical scrutiny. In the real world, many millions of men and women still labor in fields and factories in conditions that bear a very close resemblance to slavery and involuntary servitude.

- 4) I found amazing your analysis of motherhood, to be read in *The Sexual Contract* (and in particular, in your reading of Hobbes) and in the article “Equality, difference, subordination: the politics of motherhood and women’s citizenship” (1992), republished 2011 in *Carole Pateman. Democracy, feminism, welfare*. You wrote in the article, that childbirth and motherhood have symbolized the natural capacities that set women apart from politics and citizenship, but also that motherhood has been constructed as a political status, as a mechanism through women have been incorporated. As you stated there, women were not excluded from political life, but included different, as subordinates, as “women”, and their political duty derives notably from this difference, from motherhood. ***How is motherhood to be understood (an experienced, in some cases) from the perspective of women, in order to undermine it as a mechanism of inclusion/exclusion?***

**C. Pateman:** My writing on motherhood has also been neglected. But, as I noted in my reply to critics of *The Sexual Contract* (chapter 7 in *Contract and Domination*), I have been accused, on the one hand, of neglecting mothers and children and, on the other hand, of seeing women in essentialist terms as mothers. In addition to the essay that you mention in your question, I have considered the interconnections between the racial and sexual contracts in chapter 5, “Race, Sex and Indifference”, of *Contract and Domination*. Perhaps I may write more about the politics of motherhood at some point.

Mothers were given most prominence in political theory in the seventeenth century in Hobbes’ portrayal of the state of nature as a condition where the sexes are equal, there are no matrimonial laws, and paternity is uncertain. He thus sees mothers as “lords”, with absolute power of life or death over their infants. (He fails, however, to explain how women who are so powerful become subordinate to their husbands when civil society, including the institution of marriage, is created). Other theorists of an original contract – and most of their successors – merely assumed that by nature women lacked the capacities required to participate in political life in the modern state.

Women's long exclusion from civil and political rights and public institutions has led to the widespread assumption that the problem about women's citizenship is largely that of exclusion, an exclusion that in the global North now lies in the past. But this is to miss a large part of the reason why difficulties about women's citizenship and participation in public life are so intractable. As I emphasized in the essay to which you refer, women were both excluded and included on the basis of the very same capacities, capacities symbolized by motherhood. Women may have achieved the formal, juridical rights of citizens – but they never cease to be "women". Unlike employment, motherhood has never been seen as a contribution to citizenship. There are a series of paradoxes that surround women's inclusion in the modern state, and motherhood lies at their heart. On one hand, it symbolizes women's identification with nature (even Simone de Beauvoir called childbirth an animal function); on the other hand, motherhood is necessary if there is to be another generation of citizens and, notwithstanding all the rhetoric about the role of fathers today, it is mothers who still play the biggest part in the early rearing and education of children.

In the past six or seven decades most political theorists have had little or nothing to say about motherhood, despite the fact that during the same period states have paid a good deal of attention not just to the quantity but also the "quality" of their populations. There are often eugenic demands for only the "fittest" to reproduce, or cries heard that certain ethnic groups are reproducing too abundantly – but all the arguments and controversies over "populations" depend upon women having babies. Most rich countries have long-standing public policies and programs that support pregnancy, childbirth and child-rearing, which indicate that motherhood has political as well as private significance. However, in the United States it is insisted that motherhood is a quintessentially private matter and the country lacks the nationwide policies familiar elsewhere; there is no national health insurance even for children, and maternity leave and child-care are mostly dependent on arrangements of employers or parents. On the other hand, reproductive health services for girls and women are extremely controversial – access is being taken away over large areas of the country – and politicians are frequently judged by their opinion about abortion

(during the 2012 presidential election a few Republican candidates even attacked contraception). While men have unfettered access to widely advertised corrective medicines for their "erectile dysfunction" (as impotence is now rather quaintly known), women are to be forced into childbearing.

In the rich countries today conditions for motherhood are hugely improved from the past (best in the Nordic countries), but matters are very different in many poor countries. Very high maternal death rates have only begun to receive proper international attention in the last few years. The general indifference for so long to the sacrifice of women's lives in childbearing is one indication of the wide gap between the sentimentality that frequently surrounds motherhood and its realities. During the past three decades as public provision and benefits have been decreased and the price of basic foodstuffs have increased, the burdens on poor mothers everywhere have become a great deal heavier. During both civil and domestic conflict, violence is frequently directed at pregnant women and mothers and their children. In the US women in some prisons still give birth in shackles - a practice used as torture under the Junta in Argentina, before the mothers were disposed of and the babies given to military and other "suitable" families.

You ask how the paradox of motherhood can be resolved and conditions improved. For women to be actual, not merely formal, equals to men, for their freedom and security to be upheld, for them to enjoy full standing as citizens so that their citizenship is of equal worth to that of men, requires major social, economic and political changes. I can see no easy answers. Part of the problem lies in the time and resources required for social reproduction and care for all individuals - a basic social necessity. If a society is to flourish and continue, the next generation of citizens has to be brought into being, reared, and kept healthy, existing generations have to be nourished, educated, housed, and receive medical services, to be exposed to cultural life, and the sick, disabled and the elderly must be cared for. This is a collective task, part of the web of interdependencies in which we are all enmeshed. But the power of current economic dogmas means that both time and resources for these vital tasks, to which motherhood is central, is shrinking. Well-off mothers in rich countries, and

women from the elites in poorer ones, can avoid some of the problems by, for example, employing other women to care for their children. But the nannies have often emigrated from poor countries where they have left their own children, so the problem is merely shifted from country to country.

The shrinking of resources can be seen at present most vividly in the austerity (a.k.a. structural adjustment) now being imposed on various European countries, in particular in Greece where public services are being decimated, a large proportion of the population thrown into poverty, and public assets put into private hands. Dealing with poverty can be time-consuming, and men and women are also being robbed of time by the speeding up of work, deteriorating conditions in workplaces, and growing expectations that employees should be "on call" at all times through electronic devices. At present, resources that should be allocated to improving public services, institutions and benefits – improving people's lives - are being diverted away to the rich and the speculations of finance capital. Whether urgently needed alternative economic policies can be enacted remains to be seen.

- 5) You include in your theorization of feminism several concepts which refer to the use of violence, conquest and colonization. Concepts as “permanent subjugation”, “slave”, “servant”, or “right of husbandry” (as you call one variant of the argument of *terra nullius* in your amazing analysis of “The Settler Contract”), are present in the theorists of the original contract, and you focused on them to examine how contract and subjugation are counterparts. I found extremely sincere, for example, how Pufendorf gave the same reasons for a “just war” against a women, than the Spaniards gave, at the same time, for carry it against Amerindians. Some feminist activists in Latin-America, such as Rita Segato and Marcela Lagarde, based on the assumption of Catharine MacKinnon that for the gender there are not peaceful times, describe the crescent “domestic” violence against women as a war, and struggle to include the categorization of “femicide” (*feminicidio*) in national and international juridical codes. ***What could you say about it?***

**C. Pateman:** I have briefly mentioned violence against women already in my answers. This is a major global problem; in no country do women enjoy genuine security of the person. Despite, for example, heightened public awareness of the violence, the naming of "domestic violence", numerous legal reforms, the recognition that rape is used as a weapon of war, and UN conferences and the work of numerous NGOs, women continue to be injured, violated and killed on a depressingly regular basis. Outside of conflict zones, Ciudad Juarez (just across the border from El Paso, Texas) and home to maquiladoras, can represent the extreme examples. Hundreds of young women have been tortured and killed over the past 20 years in the town, many of them employees in the maquiladoras, while it appears that government and law enforcement agencies remain indifferent. The universal problem of violence against women has extremely deep roots in, for example, cultural conceptions of masculinity, femininity and masculine privilege, contemporary commercialized, sexualized societies, and a world awash in weaponry. Let me repeat a sentence I wrote in my essay "Race, Sex and Indifference" (*Contract and Domination*, p. 162): "No emergency or 'war on terror' has ever been declared because of the scale of violence against women".

***Thank you very much, Professor Pateman!***