

Twentieth Century Housewives & The Sexual Contract

Sharon Thompson, Cardiff University



MARRIED
WOMEN'S
ASSOCIATION

'The missing half of the story...' (p.1)

'Telling stories of all kinds is the major way that human beings have endeavoured to make sense of themselves and their social world'

Conjectural histories have rendered other accounts invisible

This is particularly true of stories of law, which can be viewed as conjectural histories because they present an orthodox view and often silence the sexual contract in law.

The Sexual *Contract*

CAROLE PATEMAN

The Sexual Contract helps further our understandings of feminist legal history

1. Makes us get to the root of why feminist legal history should be used to analyse the past
2. Enriches our understanding of the lived experiences of women in the marriage contract
3. Helps us understand *how* change comes about

1.

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A critical approach to legal history: 'any approach to the past that produces disturbances in the field - that inverts or scrambles familiar narratives of stasis, recovery or progress'

- R Gordon, 'The Arrival of Critical Historicism' (1997) 49 *Stanford Law Review* 1023, 1024.

Integrating 'the stories of women into the dominant history of the law [to] reconstruct the assumed contours of history'.

- F Batlan, 'Engendering Legal History' (2005) 30 *Law and Social Inquiry* 823.

'...questions the explanations that have previously been given for legal and social change. It may replace or supplement existing explanations'.

- R Sandberg, 'Women's Legal History: The Future of Legal History?' at https://www.academia.edu/29463081/Womens_Legal_History_The_Future_of_Legal_History



‘Sorabji's success in becoming the first woman to sit the Bachelor of Civil Law exams at Oxford in 1892 and then in representing an accused charged with murder in a British court in India in 1896 were formidable achievements that were widely publicized at the time all over the common law world. Yet, after her death in 1954, she seemed to disappear from history’.

- M. Mossman, ‘Gender and Professionalism in Law: The Challenge of (Women’s) Biography’ (2009) 27 *Windsor Yearbook of Access to Justice* 19, 22.



‘This was a woman whose contribution to the legal profession had been ignored or dismissed by the institutional histories because it was deemed *unimportant* and whose contribution to feminism had been overlooked and forgotten because her early death robbed her of the chance to be England’s first woman barrister...I am proud to have created, in the sense I have described, a heroine, someone for future legal campaigners to find, admire, perhaps; even to emulate, in the face of women’s continued struggles for justice and equality’.

- R Auchmuty, ‘Recovering Lost Lives: Researching Women in Legal History’ (2015) 42 *Journal of Law and Society* 34.



‘The missing half of the story...’ (p.1)

- Work of Married Women’s Association often not acknowledged in family law history
- The sexual contract can help explain why the Married Women’s Association has been written out of history and the Association’s success (or lack thereof)

‘Our objects are to promote legislation to create a legal equal financial partnership in marriage ...’



Meeting of Married Women's Association

Married Women's Association leaflet

What is Equal Financial Partnership in Marriage?

The Married Women's Association claims that the present legal status of married women is unjust.

We believe that all income and earnings of husband and wife, should be pooled, and after the expenses of home and family have been paid, the remainder should be equally shared. Each spouse should legally hold their own property and/or savings. The matrimonial home should be equally owned by husband and wife.

An Enactment of Parliament of this nature would give equality of status to all, and raise marriage to its rightful dignity in human relationships.

The Association would be pleased to hear from anyone interested.

87 Redington Road, Hampstead, London, N.W.3

Telephone: 01-435 2281

MARRIED WOMEN'S ASSOCIATION (Non-Party)

To promote recognition of a wife as a legal equal financial partner in marriage.

This Association has been in existence over thirty years and can claim to have influenced public opinion and legislation towards improving the rights and status of Married Women in the home.

2.

The Sexual Contract
enriches our understanding
of the lived experiences of
women in the marriage
contract

20th century housewives or 'wage slaves' ...

'Only during the last fifty years in Britain has a wife become the sole servant in the family.'

'...the marriage contract and a wife's subordination as (kind of) labourer, cannot be understood in the absence of the sexual contract and the patriarchal construction of 'men' and 'women' and the 'private' and 'public' spheres.'

20th century housewives or 'wage slaves' ...

'...to list the tasks of a housewife only tells us so much. This list cannot explain why exactly the same services can be bought in the market, or why a particular task is performed without pay by the wife, yet she would get paid for providing the service if she worked, for example...for a firm of contract cleaners.'

'A wife obtains her means of support...from her husband, and also the means to perform her tasks. She is dependent on the benevolence of her husband and can only endeavour to obtain a 'good master.'

Housekeeping savings

Blackwell v Blackwell [1943] 2 All ER 579

‘Mrs Blackwell after sixteen years of unremitting toil on behalf of her family was not entitled to a penny for her services. She was a pathetic little figure in her basement room when I visited her in London ... She was helpless and hopeless, a victim of a legal system which still in the twentieth century treats the wife as a chattel of her husband.’

Edith Summerskill, *A Woman's World* (Heinemann 1967) 145.

Under-fed husbands

‘If a wife has a right to the money she can save from her housekeeping allowance, she might let her husband go short of food while she builds up a banking account. She might serve him up corned beef instead of roast beef for dinner.’

Goddard LJ: *Blackwell v Blackwell* [1943]

‘The temptation will be to feed her husband – if it was on herrings I would not mind it – on lentils, chips or some other ghastly concoction which can be obtained in a tin for sixpence and turned out with no trouble at all; not to go to the market and buy good solid food, and the temptation to collar half of what is left over will be great.’

Lord Boothby: *Times* (1963)

‘economists...have assumed that husbands are always benevolent...’

Carole Pateman: *The Sexual Contract* (1988)

3.

The Sexual Contract helps us understand *how* change comes about



Helena Normanton

The wife's 'personal work in running the home must be counted as the contribution equivalent to the sum the husband would otherwise have to pay for such services'.



Juanita Frances

Wives should be entitled to share equally in husband's property, because she should be an equal financial partner with the husband.



The Sexual Contract p131

'...the employment contract presupposes the marriage contract...The sturdy figure of the 'worker', the artisan, in clean overalls, with a bag of tools and a lunch-box, is always accompanied by the ghostly figure of his wife.'

Married Women Assocn
DURRANT'S PRESS CUTTINGS

29-39, Mount Pleasant, London, W.C.1.

Telephone: CENTRAL 3149 (Two Lines).

Courier and Advertiser
Dundee.

Cutting from issue dated..... *2 - APR*

Women fall out over divorce evidence

Mrs Helena Normanton, Q.C., in a letter read to a London meeting of the Married Women's Association yesterday, resigned as president.

She had already withdrawn the memorandum of evidence which she had drawn up for the association for consideration by the Royal Commission on marriage and divorce.

Her announcement was followed by the resignations of Mrs Doreen Gorsky, chairman; Lady Helen Nutting, vice-chairman; and Mrs Evelyn Hamilton, hon. treasurer. A number of members of the association had objected to the memorandum.

Miss Juanita Frances, founder of the association, said Mrs Normanton's report weakened the position of the married women, for it laid down that the husband should still be regarded as economic head of the household.

In a statement on their resignations, Lady Nutting, Mrs Gorsky and Mrs Hamilton said, "We wish to be free to work for legal and economic reforms which will give to married women a status of equal citizenship in the community."

Following the meeting, Lady Helen Nutting, Mrs Gorsky and Mrs Hamilton stated that a council of married women was coming into being, in which they would accept parallel offices to those they had held in the association.



ROYAL COMMISSION ON Marriage and Divorce

REPORT 1951-1955

*Presented to Parliament by Command of Her Majesty
March 1956*

LONDON
HER MAJESTY'S STATIONERY OFFICE
1956

PRICE 11s 6d NET

Cmd. 9672

Married Women Assocn

DURRANT'S PRESS CUTTINGS

29-39, Mount Pleasant, London, W.C.1.

Telephone: CENTRAL 3149 (Two Lines).

North Western Evening Mail
Abbey Road, Barrow-in-Furness.

Cutting from issue dated..... *28 FEB 1952*

NOT IN FAVOUR

Sparks are beginning to fly, I understand, over the controversial report of Mrs. Helena Normanton, Q.C., which the Married Women's Association has sent to the Royal Commission on Marriage and Divorce. Not all members of the Association are in agreement with its context.

Miss Juanita Frances, who founded the association in 1938, is one of them. She tells me she does not want her name to be associated with the report.

"For 14 years we have been fighting for 100 per cent equal partnership in marriage," she said. "This report diverges from that aim."

One conflicting point, I gather, is on wives' allowances. The report recommends that a reasonable amount of the family income must be made for the wife's allowance.

The association, in the past has pressed for an equal division between husband and wife, of the remainder of the income after payments for home maintenance.

- Women's Disabilities Bill 1952
- Royal Commission on Marriage and Divorce 1956
- Married Women's Savings Bill 1963
- Married Women's Property Act 1964



Dr Edith Summerskill

ELIZABETH II



1964 CHAPTER 19

An Act to amend the law relating to rights of property as between husband and wife. [25th March 1964]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. If any question arises as to the right of a husband or wife to money derived from any allowance made by the husband for the expenses of the matrimonial home or for similar purposes, or to any property acquired out of such money, the money or property shall, in the absence of any agreement between them to the contrary, be treated as belonging to the husband and the wife in equal shares. Money and property derived from housekeeping allowance.

2.—(1) This Act may be cited as the Married Women's Property Act 1964. Short title and extent.

(2) This Act does not extend to Northern Ireland.

Married Women's Association memo

Baroness Sankershill's Private Members Bill

on

Housekeeping savings was passed in the House of Lords

in December, 1963.

It was shepherded through the House of Commons

by Mr. Douglas Houghton, M.P. for Sowerby.

The Bill is named

The Married Women's Property Act, 1963

and received the Royal Assent on April 14th 1964.

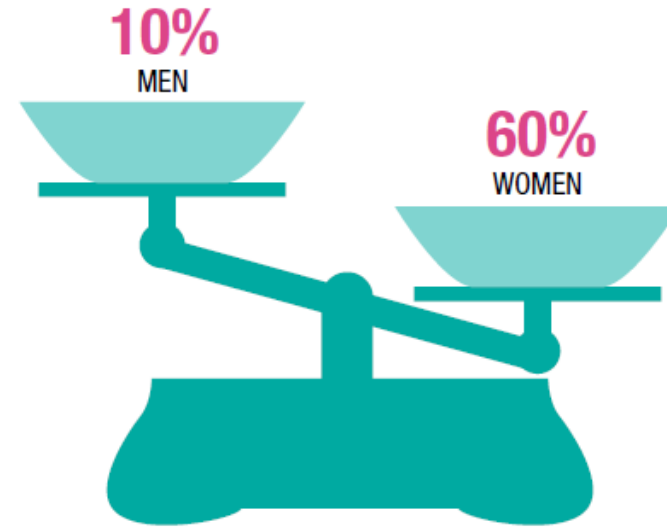
The marriage contract today...

Household work

Yet, as in the early 1990s, women still undertake a disproportionate amount of unpaid labour within the home and are much more likely to view their contribution as being unfair.



Women report spending an average of 13 hours on **housework** and 23 hours on **caring for family members** each week; the equivalent figures for men are 8 hours and 10 hours.



Both sexes view their relative contributions as unfair; 60% of women report doing more than their **fair share** (compared with just 10% of men), while 37% of men report doing less than their fair share (compared with just 6% of women).

J Scott and E Clery, 'Gender Roles: An incomplete revolution?' in A Park et al (eds) *British Social Attitudes 30* (NatCen, 2013) p 115.

The marriage contract today...

Fisher & Low:

‘The stark conclusion is that men’s household income increases by about 23 per cent on divorce once we control for household size, whereas women’s household income falls by about 31 per cent. There is partial recovery for women, but this recovery is driven by repartnering: the average effect of repartnering is to restore income to pre-divorce levels after nine years. Those who do not repartner ... the long term economic consequences of divorce are serious’.

in ‘Who wins, who loses, and who recovers from divorce?’ J Miles and R Probert (eds.) *Sharing Lives, Dividing Assets* (Hart 2009) 254.

The sexual contract and feminist legal history

Studying the Married Women's Association's lack of success through the lens of the sexual contract helps us see why things are still unequal now

Marriage has changed but the sexual contract is still an important aspect of it

The 'missing half of the story' identified by Pateman needs to be told, as without looking at this we cannot appreciate the law's story of how marriage has changed

MARRIED WOMEN'S ASSOCIATION

HOME

ABOUT THE PROJECT

THE LAW

THE MEMBERS

THE CAMPAIGNS

PODCAST

LINKS

CONTACT



Marriedwomensassociation.co.uk