

- Dependence and Exploitation in Work and Marriage*, ed. D. L. Barker and S. Allen, (Longmans, London, 1976). (On purity, see also Ortner's suggestive sketch 'The Virgin and the State', *Feminist Studies*, 8 (1978), pp. 19–36.)
- 32 Montesquieu, letter 64, p. 131.
- 33 Rousseau, *Emile*, pp. 357–8.
- 34 Victorian arguments about women's lack of sexual feeling, while oppressive, could also be used to women's advantage. There is an excellent discussion of this area in N. F. Cott, 'Passionlessness: an Interpretation of Victorian Sexual Ideology, 1790–1850', *Signs*, 4 (1978), pp. 219–36.
- 35 Rousseau, *La Nouvelle Héloïse*, pt 3, letter 30, pp. 261–2.
- 36 Rawls, p. 468. The discussion here draws generally on secs. 70–2.
- 37 *Ibid.*, p. 512.
- 38 The phrase is taken from B. Clark and H. Gintis, 'Rawlsian Justice and Economic Systems', *Philosophy and Public Affairs*, 4 (1978), pp. 302–25. This essay forms part of the 'left' critique of Rawls which, so far, has largely ignored the sexual (in contrast to the class) dimension of subordination and its relevance for justice.
- 39 See M. Poster, *Critical Theory of the Family* (Pluto Press, London, 1978), chap. 1 (though women are relegated to a footnote); and 'Freud's Concept of the Family', *Telos*, 30 (1976), pp. 93–115.

2

The Fraternal Social Contract

The sons form a conspiracy to overthrow the despot, and in the end substitute a social contract with equal rights for all . . . Liberty means equality among the brothers (sons) . . . Locke suggests that the fraternity is formed not by birth but by election, by contract . . . Rousseau would say it is based on will.

Norman O. Brown, *Love's Body*

The stories of the origins of civil society found in the classic social contract theories of the seventeenth and eighteenth centuries have been repeated many times. More recently, John Rawls and his followers have given new lease of life to the story of the contract that generates political right. But in all the telling of the tales, and in the discussion and argument about the social contract, we are told only half the story. Political theorists present the familiar account of the creation of civil society as a universal realm that (at least potentially) includes everyone and of the origins of political right in the sense of the authority of government in the liberal state, or Rousseau's participatory polity. But this is not the 'original' political right. There is silence about the part of the story which reveals that the social contract is a fraternal pact that constitutes civil society as a patriarchal or masculine order. To uncover the latter, it is necessary to begin to tell the repressed story of the genesis of patriarchal political right which men exercise over women.

Most discussions of contract theory accept uncritically the claim that the stories successfully show why the authority of the state is legitimate; but the critical failure to recognize the social contract as fraternal pact is of a different kind. Only half the story appears in commentaries on the classic texts or in contemporary Rawlsian arguments, because modern

political theory is so thoroughly patriarchal that one aspect of its origins lies outside the analytical reach of most theorists. Political theorists argue about the individual, and take it for granted that their subject matter concerns the public world, without investigating the way in which the 'individual', 'civil society' and 'the public' have been constituted as patriarchal categories in opposition to womanly nature and the 'private' sphere. The civil body politic created through the fraternal social contract is fashioned after only one of the two bodies of humankind.

The patriarchal character of civil society is quite explicit in the classic texts – if they are read from a feminist perspective. In this chapter, I can draw attention to only a few of the implications of such a reading and to some of most obvious omissions in standard discussions of contract theory.¹ For instance, civil society is public society, but it is not usually appreciated that feminist arguments refer to a different sense of the separation of 'public' and 'private' from that typically found in discussions of civil society.

The meaning of 'civil society' in the contract stories, and as I am using it here, is constituted through the 'original' separation and opposition between the modern, public – civil – world and the modern, private or conjugal and familial sphere: that is, in the new social world created through contract, everything that lies beyond the domestic (private) sphere is public, or 'civil', society. Feminists are concerned with *this* division. In contrast, most discussions of civil society and such formulations as 'public' regulation versus 'private' enterprise presuppose that the politically relevant separation between public and private is drawn *within* 'civil society' as constructed in the social contract stories. That is to say, 'civil society' has come to be used in a meaning closer to that of Hegel, the social contract theorists' greatest critic, who contrasts the universal, public state with the market, classes and corporations of private, civil society.

Hegel, of course, presents a threefold division between family, civil society, state – but the separation between the family and the rest of social life is invariably 'forgotten' in arguments about civil society. The shift in meaning of 'civil', 'public' and 'private' goes unnoticed because the 'original' creation of civil society through the social contract is a patriarchal construction which is also a separation of the sexes. Political theorists have repressed this part of the story from their theoretical consciousness – though it is implicit in the assumption that civil life requires a natural foundation – and thus liberals and (non-feminist) radicals alike deal only with the liberal understanding of civil society, in which 'civil' life becomes private in opposition to the public state.

Perhaps the most striking feature of accounts of the contract story is the lack of attention paid to fraternity, when liberty and equality are so

much discussed. One reason for the neglect is that most discussions pass over the insights about fraternity found in Freud's versions of the contract story. Fraternity is central to socialism, and nineteenth- and twentieth-century liberalism, as a recent study has shown, relies heavily on fraternity as a crucial bond integrating individual and community. However, discussions of fraternity do not touch upon the constitution of the 'individual' through the patriarchal separation of private and public, nor upon how the division within the (masculine) 'individual' includes an opposition between fraternity and reason. Fraternity comes to the fore in liberals' attempts to formulate a more sociologically adequate account of the individual than is found in the abstract conceptions of classic liberal contract theory. But for feminists explicit recourse to liberal or socialist fraternal bonds merely exposes the patriarchal character of ostensibly universal categories and calls attention to the fundamental problem of whether and how women could be fully incorporated into a patriarchal civil world.

A feminist reading of the contract stories is also important for another reason. The contemporary feminist movement has brought the idea of patriarchy into popular and academic currency, but confusion abounds about its meaning and implications and recently some feminists have argued that the term is best avoided. 'Patriarchy' is, to my knowledge, the only term with which to capture the specificities of the subjection and oppression of *women* and to distinguish this from other forms of domination. If we abandon the concept of patriarchy, the problem of the subjection of women and sexual domination will again vanish from view within individualist and class theories. The crucial question, therefore, is the sense in which it can be said that our own society is patriarchal.

Two popular feminist claims about patriarchy add to the confusion. The first is that the literal meaning of 'patriarchy', rule by fathers, is still relevant. To insist that patriarchy is nothing more than paternal rule is itself a patriarchal interpretation, as an examination of the classic texts reveals. The second claim is that patriarchy is a timeless, human universal, which obviously rules out the possibility that men's domination of women takes different forms in different historical periods and cultures. More precisely, neither claim about patriarchy can acknowledge that our own momentous transition from the traditional to the modern world – a transition which the contract stories encapsulate theoretically – involved a change from a traditional (paternal) form of patriarchy to a new *specifically modern* (or fraternal) form: patriarchal civil society.

Few of the participants in recent feminist debates about patriarchy seem aware of the significance of patriarchal political theory in the classic sense: that is, the patriarchalism of Sir Robert Filmer and other less well-known writers of three centuries ago. Nor have they taken account of the

reveals. Filmer's apparently straightforward statements obscure the foundation of patriarchal right. Paternal power is not the origin of political right. The genesis of political power lies in Adam's conjugal or sex right, not in his fatherhood. Adam's political title is granted *before* he becomes a father. Sons, as Filmer caustically reminds Hobbes, do not spring up like mushrooms. If Adam was to be a father, Eve had to become a mother and if Eve was to be a mother, then Adam must have sexual access to her body. In other words, sexual or conjugal right must *necessarily precede* the right of fatherhood.

Filmer makes it clear that Adam's political right is originally established in his right as a husband over Eve: 'God gave to Adam . . . the dominion over the woman', and 'God ordained Adam to rule over his wife, and her desires were to be subject to his'.¹¹ However, sexual or conjugal right then fades from view in Filmer's writings. After proclaiming that Adam's first dominion or political right is over a woman, not another man (son), Filmer then subsumes conjugal right under the power of fatherhood. Eve and her desires are subject to Adam but, Filmer continues, 'here we have the original grant of government, and the fountain of all power placed in the Father of all mankind'. Recall that in the Bible story in the Book of Genesis, Eve is created only after Adam and the animals have been placed on earth. Moreover, she is not created *ab initio* but *from* Adam, who is thus in a sense her parent. Filmer is able to treat all political right as the right of a father because the patriarchal father has the creative powers of both a mother and a father. He is not just one of two parents; he is *the* parent.

The patriarchal image of political fathers (here in Locke's words) is that of 'nursing Fathers tender and careful of the publick weale'.¹² The patriarchal story is about the procreative power of a father who is complete in himself. His procreative power both gives and nurtures physical life and creates and maintains political right. Filmer is able to dismiss Adam's power over Eve so easily because, in the story, women are procreatively and politically irrelevant. The reason Adam has dominion over 'the woman' is, according to Filmer (here following a very ancient notion), that 'the man . . . is the nobler and principal agent in generation'.¹³ Women are merely empty vessels for the exercise of the father's sexual and procreative power. The original political right which God gives to Adam is, so to speak, the right to fill the empty vessel.

There is therefore no question to be asked, or error to be corrected, about women's natural freedom. Filmer invokes women merely to highlight the folly of the doctrine of the natural liberty of sons. The contract theorists' argument about natural freedom entails that 'there can be no superior power'. The full absurdity of that conclusion is revealed for Filmer in its corollary that 'women, especially virgins, [would] by

birth have as much natural freedom as any other, and therefore ought not to lose their liberty without their own consent'.¹⁴

Filmer could present the natural freedom of women as the *reductio ad absurdum* of the contract argument because there was no controversy between the patriarchalists and contract theorists about women's subjection. The contract theorists' aim was theoretical paritide, not the overthrow of the sexual right of men and husbands. Both sides agreed, first, that women (wives), unlike sons, were born and remained naturally subject to men (husbands); and, second, that the right of men over women was *not political*. Locke, for example, concurred with Filmer's view that a wife's subjection has a 'Foundation in Nature'. The husband is naturally 'the abler and the stronger', so he must rule over his wife.¹⁵ Rousseau, the vehement critic of the fraudulent liberal social contract that brings into being a corrupt civil society of inequality and domination, is no less insistent that women must be 'subjected either to a man or to the judgements of men and they are never permitted to put themselves above these judgements'. When a woman becomes a wife, she acknowledges her husband as 'a master for the whole of life'.¹⁶

The contract theorists' 'victory' hinged on the separation of paternal from political power, so they could not, like Filmer, subsume sexual under paternal – that is, political – rule. Instead, the social contract story hides original political right by proclaiming sexual or conjugal right as *natural*. Men's dominion over women is held to follow from the respective natures of the sexes, and Rousseau spells out this claim in detail in Book V of *Emile*. Locke has no quarrel with Filmer about the *legitimacy* of sexual, patriarchal right; rather, he insists that it is not political. Eve's subordination.

can be no other Subjection than what every Wife owes her Husband, . . . Adam [s] . . . can only be a Conjugal Power, not Political, the Power that every Husband hath to order the things of private Concernment in his Family, as Proprietor of the Goods and Land there, and to have his Will take place before that of his wife in all things of their common Concernment.¹⁷

Both sides in the seventeenth-century controversy – unlike contemporary political theorists – were well aware that the new doctrine of natural freedom and equality had subversive implications for *all* relationships of power and subordination. The patriarchalists claimed that the doctrine was so absurd that the problems it raised of justifying, say, the power of a husband over his wife were immediately shown to be figments of the contract theorists' disordered imaginations. But if the contract theorists were content with conjugal patriarchy, the individualist language of their

attack on paternal right meant that they had (as Sir Robert Filmer argued) opened the thin ends of numerous revolutionary wedges, including a feminist wedge. Women almost at once seized on the contradiction of an 'individualism' and a 'universalism' which insisted that women were born into subjection and that their subjection was natural and politically irrelevant. By the end of the seventeenth century, for example, Mary Astell was asking: 'If all Men are born Free, how is it that all Women are born Slaves?'¹⁸

The difficulty for the contract theorists was that given their premises, an answer to the question was impossible. Logically, there is no reason why a free and equal female individual should always (contract to) subordinate herself to another free and equal (male) individual upon marriage. The difficulty, however, was easily overcome. Political theorists, whether liberal or socialist, absorbed masculine right into their theories and 'forgot' the story of the origin of patriarchal power. Natural subjection was seen in terms of paternal power and three centuries of feminist criticism – whether written by women whose names never appear in political theory textbooks, by the cooperative or utopian socialists, or by the otherwise acceptable philosopher, John Stuart Mill – was suppressed and ignored.

The standard view that the rise of social contract theory and the development of civil society was also a defeat for patriarchy has meant that some vital questions about the construction of the civil body politic have never been asked. One problem about the social contract that has received some attention is the question of exactly who makes the agreement. Many commentators talk uncritically of 'individuals' sealing the pact, but Schochet, for example, points out that in the seventeenth century it was taken for granted that fathers of families entered the social contract.

When I first began to think about these matters from a feminist perspective, I assumed that the social contract was a patriarchal contract because it was made by fathers whose agreement was taken to bind their families. Certainly, 'individuals', in the universal sense in which the category is usually used to mean anyone and everyone, do not make the social contract. Women have no part in it: as natural subjects they lack the requisite capacities and abilities. The 'individuals' of the stories are *men*, but they do not act as fathers. After all, the stories tell of the defeat of the father's political power. Men no longer have a political place as fathers. But fathers are also husbands – Locke's friend Tyrrell wrote that wives were 'concluded by their Husbands'¹⁹ – and, from yet another viewpoint, the participants in the social contract are sons or brothers. The contract is made by brothers, or a *fraternity*. It is no accident that fraternity appears historically hand in hand with liberty and equality, nor that it means exactly what it says: brotherhood.

If 'patriarchy' is all too often interpreted literally, 'fraternity' is usually treated as if its literal meaning had no relevance today and as if the terms in the revolutionary slogan, 'Liberty, Equality, Fraternity', unquestionably applied to us all, not only to men joined by fraternal bonds. Bernard Crick has recently pointed out that fraternity has been relatively little analysed, even though, he says, 'fraternity with liberty is humanity's greatest dream'.²⁰ When it is mentioned, fraternity is usually presented as an expression of community; it is seen as 'at bottom, a certain type of social co-operation . . . a relation between a group of equals for the utmost mutual help and aid'.²¹ Or as Crick argues, addressing his fellow socialists, fraternity is an ethic and social practice that 'goes with simplicity, lack of ostentation, friendliness, helpfulness, kindness, openness, lack of restraint between individuals in everyday life and a willingness to work together in common tasks'.²² The general acceptance that 'fraternity' is no more than a way of talking about the bonds of community illustrates how deeply patriarchal conceptions structure our political theory and practice. Feminists have long appreciated the extent to which socialist solidarity and community has meant that women are little more than auxiliaries to the comrades and that women's political demands must wait until after the revolution. But the problems women have in finding a language in which to make their demands is illustrated by the final words of Simone de Beauvoir's *The Second Sex*, where she states that 'men and women [must] unequivocally affirm their brotherhood'.²³

The fact that the social contract is not an agreement between individuals, fathers or husbands, but a fraternal pact, becomes particularly clear in Freud's versions of the social contract story. Freud's account of the murder of the primal father by his sons is not usually considered in discussions of the social contract. Yet, as Brown states, 'the battle of books re-enacts Freud's primal crime'.²⁴ And Rieff treats Freud's myth of the parricide as a version of the social contract, to be considered as part of the same tradition as the theories of Hobbes, Locke or Rousseau.²⁵ The best warrant of all is available for this interpretation. In *Moses and Monotheism* Freud refers to the pact made by the brothers after their dreadful deed as 'a sort of social contract'.²⁶

But, it could be objected, Freud's myth is about the origins of society itself. Freud claims – and this is taken at face value by Juliet Mitchell's *Psychoanalysis and Feminism*, which has been very influential among feminists – that the parricide ushers in 'civilization': that is, human society. However, the classic social contract theorists are also sometimes read in the same way; the passage from 'the state of nature' can be seen as the transition from nature or savagery to the first human social order. In neither case is there good reason to accept a universal reading that identifies 'civilization' or 'civil society' with society itself. When the form

of the laws instituted by the brothers is examined, it is clear that the stories are about the origin of a culturally and historically specific form of social life. The close connection between 'civil society' and 'civilization' is suggested too by the fact that the term 'civilization' came into general use only towards the end of the eighteenth century, 'to express a particular stage of European history, sometimes the final or ultimate stage'.²⁷ 'Civilization' expressed the 'sense of modernity: an achieved condition of refinement and order'.²⁸

In her interpretation of Freud, Mitchell claims that the 'law of the father' is established after the parricide. On the contrary: the law of the father, the absolute rule of one father-king, holds sway before his murder. The crucial point about the contract is that it takes place after the death of the father and abolishes his arbitrary right. Instead, the brothers (sons), prompted by remorse for their dreadful deed, by love and hatred and by a desire to prevent parricide in future, establish their *own* law. They establish justice, 'the first "right" or "law"' – or civil society. The law, or arbitrary will, of the father is overthrown by the combined action of the brothers, who then place mutual restrictions on themselves, establishing an equality which, Freud states, 'saved the organization which had made them strong'.³⁰ A contract between free and equal brothers replaces the 'law of the father' with public rules which bind all equally. As Locke makes clear, the rule of one man (father) is incompatible with civil society, which requires an impartial, impersonal set of rules promulgated by a collective body of men who stand to the law and each other as free equals, as a fraternity.

At this point the objection might be raised that even if brothers enter the contract, they cease to be brothers once the pact is concluded. In the act of contracting they constitute themselves as equal, civil 'individuals' and thus cast off familial and, hence, fraternal ties. The fundamental distinction between the traditional patriarchy of the father and modern patriarchy is precisely that the latter is created in separation from, and opposition to, the familial sphere.

However, it does not follow that all ascriptive ties are therefore abandoned and that the term 'fraternal' ceases to be appropriate. Brown claims that there is an 'inner contradiction' in the trilogy of liberty, equality, fraternity: 'without a father there can be no sons or brothers'.³¹ However, as recent accounts of fraternity make clear, the concept covers much more than bonds of kinship. 'Individuals' can be part of a fraternity or a brotherhood – a 'community' – even though they are not brothers (sons of a father or kin). The father is dead and the participants in civil society have left kinship behind them, but as civil individuals they still share an ascriptive bond – a bond *as men*.

Freud's story of the parricide is important because he makes explicit

what the classic tales of theoretical murder leave obscure: the motive for the brothers' collective act is not merely to claim their natural liberty and right of self-government, but *to gain access to women*. In the classic theorists' state of nature the 'family' already exists and men's conjugal right is deemed a natural right.³² Freud's primal father, his *patria potestas*, keeps all the women of the horde for himself. The parricide eliminates the father's political right, and also his *exclusive* sexual right. The brothers inherit his patriarchal, masculine right and share the women among themselves. No man can be a primal father ever again, but by setting up rules that give all men equal access to women (compare their equality before the laws of the state) they exercise the 'original' political right of dominion over women that was once the prerogative of the father.

Freud writes of the brothers' 'renunciation of the passionately desired mothers and sisters of the horde'.³³ This is misleading. The fraternity do not renounce the women, but each gives up the desire to put himself in the place of the father. As part of the fraternal social contract the brothers institute what Freud calls the law of exogamy or kinship. In historically specific terms, the brothers create the modern system of marriage law and family and establish the modern order of conjugal or sexual right. The 'natural foundation' of civil society has been brought into being through the fraternal social contract.

The separation of 'paternal' from political rule, or the family from the public sphere, is also the separation of women from men through the subjection of women to men. The brothers establish their own law and their own form of sexual or conjugal dominion. The fraternal social contract creates a new, modern patriarchal order that is presented as divided into two spheres: civil society or the universal sphere of freedom, equality, individualism, reason, contract and impartial law – the realm of men or 'individuals'; and the private world of particularity, natural subjection, ties of blood, emotion, love and sexual passion – the world of women, in which men also rule.

In short, the contract constitutes patriarchal civil society and the modern, ascriptive rule of men over women. Ascription and contract are usually seen as standing at opposite poles, but the social contract is sexually ascriptive in both form (it is made by brothers) and content (the patriarchal right of a fraternity is established). Civil individuals have a fraternal bond because, *as men*, they share a common interest in upholding the contract which legitimizes their masculine patriarchal right and allows them to gain material and psychological benefit from women's subjection.

One important question raised by the contract stories is exactly how the 'foundation in nature', which upholds the subjection of women, should be characterized. Locke tells us that the strength and ability of the

man (husband) is the natural basis of the wife's subordination: a view which becomes absorbed into patriarchal liberalism, but also opens the way for liberal feminism. Feminists began to criticize the argument from strength long ago,³⁴ and although the claim is still heard today, historically it has become less and less plausible to rely on strength as the criterion for masculine political right. Contemporary liberal feminists, following the lead of much earlier writers like Mary Astell and Mary Wollstonecraft, have attacked the alleged lesser ability and capacity of women as an artifact of defective education, as a matter of deliberate social contrivance, not a fact of nature.

The difficulty for the liberal feminist argument is that education cannot be equal while men and women remain differentially positioned within their 'separate spheres', but the patriarchal division between the private family and public civil society is a central structural principle of liberalism. Moreover, the problem runs deeper than a liberal perspective suggests. Liberal feminism assumes that the relevant political problem is to show that women possess the capacities men possess and can do what men can do. However, this also assumes that there is no political significance to the fact that women have one natural ability which men lack: women, but not men, are able to give birth.

Now, it may be claimed that this provides no 'foundation in nature' for women's subjection because birth (unlike child-rearing) is ultimately irrelevant to the development of the capacities of civil beings. The difficulty with this argument is that it, too, ignores the story of the 'origin' of patriarchal political right, and thus the importance of birth for patriarchal civil society. The ability to give birth, both actually and metaphorically, is central to patriarchal theory.

Filmer's argument shows that Adam's right of domination over Eve is the right to become a father: a right to demand sexual access to Eve's body and to insist that she give birth. Eve's procreative, creative capacity is then denied and appropriated by *men* as the ability to give *political birth*, to be the 'originators' of a new form of political order. Adam and the participants in the fraternal social contract gain an amazing patriarchal ability and become the 'principal agents' in political generation. Moreover, in patriarchal argument birth also symbolizes and encapsulates all the reasons why it has been claimed that women must be bodily removed from civil society.³⁵

Some of the murky depths become clearer in the stories told by Rousseau and Freud. Women, they insist, are unable to transcend their bodily natures in the manner required of 'individuals' who are to participate in civil life and uphold the universal laws of civil society. The female body, subject to uncontrollable natural processes and passions, deprives women of the reason and moral character which can be educated

for civil society. (In another chapter I began to explore one aspect of this perception of women and its corollary, that we pose a permanent threat to civil life.³⁶)

Rousseau's solution is that the sexes must be segregated to the greatest possible extent, even in domestic life. Significantly, in *Emile* Rousseau allows the tutor to give only one direct command, in which he sends *Emile* away from Sophie for an extended period to learn about politics and citizenship before he is permitted to claim her body as a husband. Freud offers no solution but states explicitly that from the 'beginning' – from the original paricide in which women are at stake, and which is endlessly reproduced through the Oedipus complex – women continue to have 'a hostile attitude towards' civil society.³⁷ Or, as Mitchell interprets Freud, a woman 'cannot receive the "touch" of the law, her submission to it must be in establishing herself as its opposite.'³⁸

Women are 'opposite' to and outside the fraternal social contract and its civil law in two senses. First, they are 'originally', necessarily, excluded from an agreement through which the brothers inherit their legacy of patriarchal sex right and legitimize their claim over women's bodies and ability to give birth. Second, the civil law encapsulates all that women lack. The civil law stems from a reasoned agreement that it is to the rational mutual advantage of the participants to the contract to constrain their interactions and desires through a law equally applicable to all. Women's passions render them incapable of making such a reasoned agreement or of upholding it if made. In other words, the patriarchal claim that there is a 'foundation in nature' for women's subjection to men is a claim that women's bodies must be governed by men's reason. The separation of civil society from the familial sphere is also a division between men's reason and women's bodies.

Feminist scholars are now showing how, from ancient times, political life has been conceptualized in opposition to the mundane world of necessity, the body, the sexual passions and birth: in short, in opposition to women and the disorders and creativity they symbolize.³⁹ In Filmer's classic patriarchalism the father is both mother and father and creates political right through his fatherhood, but Filmer's account is only one version of a long Western tradition in which the creation of political life has been seen as a masculine act of birth: as a male replica of the ability which only women possess.

The fraternal social contract is a specifically modern reformulation of this patriarchal tradition. The father is dead, but the brothers appropriate the ability specific to women; they, too, can generate new political life and political right. The social contract is the point of origin, or birth, of civil society, and simultaneously its separation from the (private) sphere of real birth and the disorder of women. The brothers give birth to an

artificial body, the body politic of civil society; they create Hobbes's 'Artificial Man, we call a Commonwealth,' or Rousseau's 'artificial and collective body', or the 'one Body' of Locke's 'Body Politick'.

The 'birth' of the civil body politic, however, is an act of reason; there is no analogue to a bodily act of procreation. The social contract, as we are all taught, is not an actual event. The natural paternal body of Filmer's patriarchy is metaphorically put to death by the contract theorists, but the 'artificial' body that replaces it is a construct of the mind, not the creation of a political community by real people. Whereas the birth of a human child can produce a new male or female, the creation of civil society produces a social body fashioned after the image of only one of the two bodies of humankind. Or, more exactly, the civil body politic is fashioned after the image of the male 'individual' who is constituted through the separation of civil society from women. This individual has some singular – and largely unrecognized – aspects precisely because his defining characteristics are thrown into relief only through the contrast with the womanly nature that has been excluded from civil society.

The abstract character of the individual in liberal contract theory has been criticized from the left ever since Rousseau's initial attack. But because the critiques invariably pass silently over the separation of male reason from female body in the original creation of the civil individual, one of his most notable features has also silently been incorporated by the critics. The 'individual' is disembodied. For three centuries the figure of the individual has been presented as universal, as the embodiment of all, but it is only because he is disembodied that the 'individual' can appear universal. Like the new body politic he, too, is 'artificial': he is nothing more than a 'man of reason'.⁴⁰

In the most recent rewriting of the liberal contract story, *A Theory of Justice*, Rawls claims that his parties in their original position know none of the essential facts about themselves. Thus it might seem that Rawls's parties are truly universal and that the original choices include a choice between the two bodies (sexes) of humankind. The fact that Rawls ignores this possibility, and writes that the parties can be seen as heads of families,⁴¹ shows how deeply entrenched are patriarchal assumptions about the proper characteristics of the 'individual'. Moreover, the attributes of the parties and their original position illustrate the fact that Rawls stands at the logical conclusion of the fraternal contract tradition. The original position and its choices are explicitly hypothetical (logical) and the parties are nothing more than disembodied entities of reason; otherwise they could not help but know the natural facts about themselves, inseparable from their bodies, such as the facts of sex, age and colour.⁴²

Ironically, the disembodiment necessary to maintain the political

fiction of the universal civil individual poses profound problems for fraternity. For individualist liberals the problems are part of their wider difficulties over the self, and involve an opposition within the individual between fraternity and reason. The opposition between reason and fraternity is an opposition between the public and the private. But this is not the patriarchal opposition between 'private' and 'public', between family (women) and civil society (men); instead, the relevant division between public and private is the other opposition to which I referred earlier: the opposition located within 'civil society' as I am using the term.⁴³ For liberals relying on a social view of the self or for socialist critics of liberalism the problems arise because in the 1980s an emphasis on fraternity begins to reveal the patriarchal character of their theories. 'To preserve universality, *'the individual'* must be abstracted even from his masculinity and fraternity, so that the individual has no body and, hence, no sex.

The creation of the 'individual' presupposes the division of rational civil order from the disorder of womanly nature. It might thus seem that the civil individual and the body politic made in his image would be unified. Indeed, they are so presented in liberal theory, but its critics from Rousseau onward argue that the individual and civil society are inherently divided, one from the other and within themselves. The individual is torn between *bourgeois* and *citoyen*, or between *Homo economicus* and *Homo civitas*, and civil society is divided between private interest and the public universal interest, or between 'civil' society and state. The point about such critiques, however, is exactly that they are concerned with extrafamilial social life and with the individual as an inhabitant of the public world.

The liberal opposition between private and public (like the patriarchal opposition between the sexes) appears in a variety of guises: for example, society, economy and freedom stand against state, public and coercion. Liberals see these dualities as posing important problems of freedom, since the private sphere of civil society must be protected from the coercive intrusions of the state, and they now spend a good deal of time and effort trying to sort out where the dividing line plausibly can be drawn. Their critics, on the other hand, argue that the opposition between private and public poses an insoluble problem; that it is an unbridgeable structural fissure at the centre of liberalism. I agree with the critics; but the criticism does not go far enough because it takes no account of the 'original' patriarchal division and thus leaves the critics' own conception of the 'individual' and 'civil society' untouched.

In *Knowledge and Politics*, Robert Unger presents a comprehensive discussion and critique of the liberal dichotomies, but even his analysis of

the division between fact and theory, values and rules, desire and reason, ignores the fact that it also represents the opposition between the sexes. The 'self' is implicitly taken to be masculine. The reference to 'men' must be taken literally when he writes: 'The dichotomy of the public and private life is still another corollary of the separation of understanding and desire . . . When reasoning [men] belong to a public world . . . When desiring, however, men are private beings.'⁴⁴ In Unger's account, the 'desire' and associated disorder represented by women and their private world has been 'forgotten'. The 'self' has become that of the male individual in civil society, an individual torn between the claims of public interest ('reason') and private or subjective interest ('desire'). The opposition between women, bodies, passion, and men, reason, rational advantage, is repressed and replaced by the dichotomy between the individual's private interest and the claims of the public interest or universal law.

In this form, the dichotomy is also expressed as an opposition between the fraternity and reason of civil individuals. The only ties between the individuals of liberal contract theory are those of self-interest. The individual is, as it were, a collection of pieces of property that can, through rational calculation of the mind, be made the subject of contract. The individual thus enters into only certain kinds of relationship and this limitation gives rise to another familiar difficulty within liberal theory: that of presenting a coherent conception of citizenship or the political. The liberal individual's political bonds with other citizens are merely another expression of the pursuit of self-interest; *Homo civis* is absorbed into, or is nothing more than one face of, the 'private' *Homo economicus*. However, this view of the individual as citizen – as public or civil individual – systematically undermines one of the most significant expressions of fraternity.

Liberal individuals interact in a benign public world. They compete one with the other, but the competition is regulated and the rules are fair; the only coercion required is to enforce the rules. Hence the division between private and public as an opposition between society and state is often presented as between freedom and coercion. Currently this position is associated with the New Right, but in the past *le doux commerce* could be offered as the antithesis of violence and the idealist liberals, claiming to have reconciled the oppositions, could assert that will, not force, is the basis of the state.

On the other hand, it is also clear that the individual can be required to protect his protection (as Hobbes put it) by something more than mere obedience to the law. He may have to surrender his body in defence of the state. Indeed, this has always been seen as the ultimate act of loyalty and allegiance, the truly exemplary act of citizenship. However, it is also

an act which will never be to the rational advantage of a liberal individual, as Hobbes's logical working out of radical individualism reveals. In the clash between private and public interest, the private claim always has the rational advantage. It is not in the individual's self-interest to be a soldier; thus reason is torn apart from the fraternity on which citizenship, in the last analysis, depends. Of all the male clubs and associations, it is in the military and on the battlefield that fraternity finds its most complete expression.

The opposition between the figure of the soldier and the figure of the individual, or between fraternity and reason, is unique to liberal civil society. In many respects the fraternal contract story transforms ancient patriarchal themes into a specifically modern theory, but the conception of a liberal individual breaks with older traditions in which citizenship has involved a distinctive form of activity and has also been closely tied to the bearing of arms. Feminist scholars are now showing that from ancient times there has been an integral connection between the warrior and conceptions of self-identity, sexuality and masculinity, which have all been bound up with citizenship. The peculiarity of the liberal individual is that although he is male he is also defined – unlike either his predecessors in the traditional world or the 'individuals' that appear in social-liberal and socialist theory – in opposition to the political and the masculine passions that underlie the defence of the state by arms.

Although our consciousness is informed by the liberal individual's image, and many of our social practices and institutions presuppose that we are motivated by self-interest (the contemporary preoccupation with freeriders is no accident), the state has never relied on rational self-interest as the basis for socio-political order. Nor did most classic theorists, except Hobbes, have the courage of their theoretical convictions on this point. Hobbes's conclusion that Leviathan's sword was the only alternative to an inherently insecure 'artificial' ground for order was rejected in favour of such devices as natural law, sympathy, benevolence or hidden hands – and socialists have appealed to solidarity, comradeship and community or, in a word, to *fraternity*. Historically, obedience and loyalty to the state have been fostered by appeals not to individual rational advantage but to ascriptive, psychological bonds, especially to nationalism, patriotism and fraternity. These are ties of a much more full-blooded character than, for example, Rawls's sense of justice and, most importantly, they appeal directly to the masculine self's sense of identity. However, the real and ideological basis for the motivating force of self-interest means that it is hard to eliminate the opposition between fraternity and reason.

When some liberals over the past century attempted to develop an adequately social and developmental conception of individuality, one that restored the affective ties of community that had been stripped away in

liberal contract theory, they also turned to the idea of fraternity. In the eyes of these liberals, Gaus states, fraternity is the 'most powerful of communal bonds'.⁴⁵ The ideal of fraternity provides the 'pre-eminent conception of communal bonds in modern liberal theory', so that Dewey, for example, wrote of a 'fraternally associated public', and Rawls sees his difference principle as a 'natural meaning of fraternity'.⁴⁶

The explicit use of 'fraternity' in both social-liberal and socialist attempts to reintegrate the civil individual and the community (or to reintegrate the liberal division between private and public) means that the patriarchal character of civil society begins to come to the surface. Moreover, the masculine attributes of the individual begin to be exposed. The universalism of the category of the 'individual' can be maintained only as long as the abstraction from the body is maintained. 'The individual' is a fiction: individuals have one of two bodies, masculine or feminine. But how can the feminine body become part of a (liberal or socialist) fraternal body politic?

Citizenship has now been extended formally to women, raising the substantive problem of how we can become civil 'individuals' made in the masculine image. The importance, in practice, of the intimate connection between masculinity, citizenship and bearing arms became explicit when women, taking the universalism of the principles of civil society at face value, demanded to be enfranchised. The 'jewel' in the armoury of the anti-suffragists was the argument from physical force.⁴⁷ Women, it was claimed, were naturally unable and unwilling to bear arms or use violence, so that if they became citizens, the state would inevitably be fatally weakened.

Now that women are enfranchised (and are even prime ministers) the same patriarchal view of citizenship is still found. In the British House of Commons in 1981, in a debate on the Nationality Bill, Enoch Powell argued that a woman should not pass on her citizenship to her child because 'nationality, in the last resort, is tested by fighting. A man's nation is the nation for which he will fight.' The difference between men and women, which must be expressed in citizenship, is that between 'fighting on the one hand and the creation and preservation of life on the other'.⁴⁸ It is true that women are now included as members of the armed forces but they are still excluded from combat units, which exemplify fraternities in action.⁴⁹

'Men are born free': the rejection of (masculine) natural subjection generated the revolutionary claim that will, not force, is the basis of the state. One of the major successes of the fraternal contract story is the way it has helped to obscure coercion and violence in civil society and the manner in which 'will' is determined within relations of domination and

subjection. Critics of contract theory have said a good deal about the inequality of parties to contracts and exploitation, but less about the consequences of contract and subordination. Only rarely have they discussed how contract gives the appearance of freedom to sexually ascriptive domination and subjection. Contract also hides the figure of the armed man in the shadows behind the civil individual. Foucault has counterposed a 'military dream' of a society against the original contract (what is presented as the original pact in the familiar stories), but the two are not so far apart as they may seem.

Foucault writes that the military dream looked, 'not to the state of nature, but to the meticulously subordinated cogs of a machine, not to the primal social contract, but to permanent coercions, not to fundamental rights, but to indefinitely progressive forms of training, not to the general will but to automatic docility'.⁵⁰ Automatic docility and the disciplines of the body portrayed by Foucault are part of the consequences of the fraternal social contract. Foucault states that 'the development and generalization of disciplinary mechanisms constituted the other, dark side' of the development of a 'formally egalitarian juridical framework'. However, it is less that the disciplines 'distort the contractual link systematically'⁵¹ than that discipline in civil society, *which is also patriarchal discipline*, is typically established through contract. The forms of subjection specific to civil society are, as Foucault emphasizes, developed by the complicity of subordinates as well as by force – complicity made all the easier (as, importantly, is resistance) when consciousness is informed by patriarchal forms of liberty and equality. For example, when 'individuals' have a free choice of marriage partner, publicly recognized by a free contract, it is made harder to acknowledge that the marriage contract is a political fiction which ceremonially recognizes the patriarchal subjection of a wife and the masculine privileges of a husband.⁵²

The modern discipline of the body is aided by political theory that has already separated reason from the body and the reason of men from the bodies of women. Foucault ignores the significant fact that the 'military dream' is a dream of men, whereas the fraternal social contract is also a dream of women. But the women's dream cannot be fulfilled, although the ostensibly universal categories of the contract make it always enticing. The history of liberal feminism is the history of attempts to generalize liberal liberties and rights to the whole adult population; but liberal feminism does not, and cannot, come to grips with the deeper problems of *how* women are to take an equal place in the patriarchal civil order.

Now that the feminist struggle has reached the point where women are almost formal civil equals, the opposition is highlighted between equality made after a male image and the real social position of women as *women*.

Women have never, of course, been excluded entirely from civil life – the two spheres of the modern civil order are not separate in reality – but our inclusion has been singular. In a world presented as conventional, contractual and universal, women's civil position is ascriptive, defined by the natural particularity of being women; patriarchal subordination is socially and legally upheld throughout civil life, in production and citizenship as well as in the family. Thus to explore the subjection of women is also to explore the fraternity of men. Recent feminist research has begun to uncover – despite the important divisions between men of different classes and races (and associations and clubs where fraternity is given explicit expression are usually so divided) – how men, *as men*, maintain the power and privileges of their patriarchal right throughout the whole of socio-political life.

The fraternal social contract story shows that the categories and practices of civil society cannot simply be universalized to women. The social contract is a modern patriarchal pact that establishes men's sex right over women, and the civil individual has been constructed in opposition to women and all that our bodies symbolize, so how can we become full members of civil society or parties to the fraternal contract?

The contradictory answer is that women in civil society must disavow our bodies and act as part of the brotherhood – but since we are never regarded as other than women, we must simultaneously continue to affirm the patriarchal conception of femininity, or patriarchal subjection.⁵³ The peculiar relation between civil society and women and our bodies is illustrated by the fact that few legal jurisdictions have abolished the right of a husband to use his wife's body against her will, that coercive sexual relations ('sexual harassment') are part of everyday working life; that women's bodies are sold in the capitalist market;⁵⁴ that women, until 1934 in the USA and 1948 in Britain, lost their citizenship if they married foreigners; that only in 1983 did all British women citizens win the right to pass on their citizenship to their husbands and so enable them to live in Britain;⁵⁵ and that welfare policies still do not fully recognize women's status as individuals.

The theoretical and social transformation required if women and men are to be full members of a free, properly democratic (or properly 'civilized') society is as far-reaching as can be imagined. The meaning of 'civil society' (in both senses discussed here) has been constructed through the exclusion of women and all that we symbolize. To 'rediscover' a patriarchal conception of civil society will do little to challenge men's patriarchal right. To create a properly democratic society, which includes women as full citizens, it is necessary to deconstruct and reassemble our understanding of the body politic. This task extends from the dismantling of the patriarchal separation of private and public, to a transformation of

our individuality and sexual identities as feminine and masculine beings. These identities now stand opposed, part of the multi-faceted expression of the patriarchal dichotomy between reason and desire. The most profound and complex problem for political theory and practice is how the two bodies of humankind and feminine and masculine individuality can be fully incorporated into political life. How can the present of a patriarchal domination, opposition and duality be transformed into a future of autonomous, democratic differentiation?

The traditional patriarchy of the fathers was long ago transformed into the fraternal, modern patriarchy of civil society. Perhaps there is hope, since these observations could be written only under the shadow of the owl of Minerva's wings. Alternatively, perhaps the time for optimism is past; feminism may have re-emerged at a point in the crisis of patriarchy in which the figure of the armed man – now armed not with the sword but with plastic bullets, cluster bombs, chemical, biological and nuclear weapons – has totally obliterated the figure of the civil individual. Perhaps, as Mary O'Brien suggests, 'the brotherhood have gone quite mad and lost control of their creations in some cosmic sorcerers' apprenticeship.'⁵⁶

NOTES

- 1 A more extensive and detailed feminist reading of the contract stories, and of their significance for the marriage contract and other contracts, such as that between prostitute and client, is presented in my book, *The Sexual Contract* (Polity Press, Cambridge, 1988: Stanford University Press, Stanford, 1988).
- 2 Z. Eisenstein, *The Radical Future of Liberal Feminism*, (Longman, New York, 1981), chap. 3, but Eisenstein develops her argument in a different direction from my own; J. Elshtrain, *Public Man, Private Woman: Women in Social and Political Thought* (Princeton University Press, Princeton, 1981), chap. 3. More recently, see L. Nicholson, *Gender and History: The Limits of Social Theory in the Age of the Family* (Columbia University Press, New York, 1986).
- 3 G. Schochet, *Patriarchalism in Political Thought: The Authoritarian Family and Political Speculation and Attitudes Especially in Seventeenth Century England* (Basil Blackwell, Oxford, 1975).
- 4 This brief summary highlights the essential points of conflict between the protagonists, and thus glosses over the differences among theorists on both sides. Hobbes, for instance, saw paternal and political rule as homologous, but rejected patriarchal claims about paternity.
- 5 Sir R. Filmer, *Patriarchia and Other Political Works*, ed. P. Laslett (Basil Blackwell, Oxford, 1949), p. 54.
- 6 *Ibid.*, p. 71.
- 7 *Ibid.*, p. 188.
- 8 *Ibid.*, pp. 71, 57, 194.

- 9 Ibid., p. 96.
- 10 Laslett, 'Introduction', *Patriarchia*, p. 28. Filmer writes (p. 256): 'where there are only father and sons, no sons can question the father for the death of their brother.'
- 11 Filmer, *Patriarchia*, pp. 241, 283.
- 12 J. Locke, *Two Treatises of Government*, ed. P. Laslett, 2nd ed., (Cambridge University Press, Cambridge, 1967), II, §110.
- 13 Filmer, *Patriarchia*, p. 245.
- 14 Ibid., p. 287.
- 15 Locke, *Two Treatises*, I, §47; II, §82.
- 16 J.-J. Rousseau, *Emile, or On Education*, tr. A. Bloom (Basic Books, New York, 1979), pp. 370, 404.
- 17 Locke, *Two Treatises*, I, §48.
- 18 M. Astell, *Some Reflections Upon Marriage* (Source Book Press, New York, 1970), p. 107 (from the 1730 ed., first published 1700). On analogies drawn between the marriage contract and social contract and powers of husbands and kings, see M. Shanley, 'Marriage Contract and Social Contract in Seventeenth Century English Political Thought', *Western Political Quarterly*, 32(1), 1979, pp. 79–91.
- 19 Cited by Schochet, *Patriarchalism in Political Thought*, p. 202. I have discussed liberty, equality and the social contract in *The Problem of Political Obligation*, 2nd ed. (Polity Press, Cambridge, 1985; University of California Press, Berkeley, CA, 1985).
- 20 B. Crick, *In Defence of Politics* 2nd ed. (Penguin Books, Harmondsworth, Middlesex, 1982), p. 228.
- 21 E. Hobsbawm, 'The Idea of Fraternity', *New Society*, November 1975, cited in M. Taylor, *Community, Anarchy and Liberty* (Cambridge University Press, Cambridge, 1982) p. 31.
- 22 Crick, *In Defence of Politics*, p. 233. Crick (p. 230) suggests that 'sisterhood' is 'in some ways truly a less ambiguous image of what I am trying to convey by "fraternity"'. Although he notes the relation between fraternity, the 'aggressive brothers' band' and 'stereotypes' of manliness, he argues that it is better to 'try to desex, even to feminize, old "fraternity"', rather than to pause to rewrite most languages; which exactly misses the point that language expresses and forms part of the patriarchal structure of our society ('language is a form of life').
- 23 S. de Beauvoir, *The Second Sex*, tr. H. M. Parshley (Penguin Books, New York, 1953), p. 732. But of course we must remember that de Beauvoir was writing without the support of the organized feminist movement. Today, feminists have devoted a good deal of attention to language – and have provided some fascinating accounts of how, in practice, fraternity has shaped the working class and the labour movement, so that the 'worker' is a man and a member of the 'men's movement'; see especially C. Cockburn, *Brothers: Male Dominance and Technological Change* (Pluto Press, London, 1983), also B. Campbell, *The Road to Wigan Pier Revisited: Poverty and Politics in the 80s*

- (Virago Books, London, 1984) ('The term "men's movement" is Beatrice Campbell's.')
- 24 N. O. Brown, *Love's Body* (Vintage Books, New York, 1966), p. 4. I am grateful to Peter Breiner for drawing my attention to Brown's interpretation in *Love's Body*. A similar point is made, though its implications for patriarchy are not pursued, by M. Hullung, 'Patriarchalism and Its Early Enemies', *Political Theory*, 2(1974), pp. 410–19. Hullung (p. 416) notes that there is no reason why the paricide 'cannot just as well be turned into a morality play on behalf of . . . democratic ideals' and that 'the assassins are "brothers" towards each other, and brothers are equal.'
- 25 P. Rieff, *Freud: The Mind of the Moralists* (Methuen, London, n.d.), chap. VII.
- 26 S. Freud, *Moses and Monotheism*, tr. K. Jones (Vintage Books, New York, 1939), p. 104.
- 27 S. Rothblatt, *Tradition and Change in English Liberal Education* (Faber & Faber, London, 1976), p. 18.
- 28 R. Williams, *Keywords: A Vocabulary of Culture and Society*, revised ed. (Oxford University Press, New York, 1985), p. 58. I am grateful to Ross Poole for drawing my attention to the emergence of 'civilization'.
- 29 S. Freud, *Civilization and its Discontents* (W. W. Norton & Co., New York, n.d.), p. 53.
- 30 S. Freud, *Totem and Taboo*, tr. A. Brill (Vintage Books, New York, n.d.), p. 186.
- 31 Brown, *Love's Body*, p. 5.
- 32 Again, Hobbes is an exception. There are no families in his radically individualist state of nature; women are as strong as men. However, he merely assumes that in civil society women will always enter a marriage contract that places them in subjection to their husbands.
- 33 S. Freud, *Moses and Monotheism*, p. 153.
- 34 For example, Mary Astell sarcastically remarks (*Reflections Upon Marriage*, p. 86) that if 'Strength of Mind goes along with Strength of Body, [then] 'tis only for some odd Accidents which Philosophers have not yet thought worthwhile to enquire into, that the Sturdiest Porter is not the wisest Man!' Or consider William Thompson, *Appeal of One Half of the Human Race, Women, Against the Pretensions of the Other Half, Men, to Retain them in Political, and Thence in Civil and Domestic, Slavery* (Source Book Press, New York, 1970; originally published 1825), p. 120: 'If strength be the superior title to happiness, let the knowledge and skill of man be employed in adding to the pleasurable sensations of horses, elephants, and all stronger animals. If strength be the title to happiness, let all such qualifications for voters as the capacity to read and write, or any indirect means to insure intellectual aptitude be abolished; and let the simple test for the exercise of political rights, both by men and women, be the capacity of carrying 300lbs weight.'

- 35 This helps to explain why we do not have 'a philosophy of birth'; see M. O'Brien, *The Politics of Reproduction* (Routledge & Kegan Paul, London, 1981), especially chap. 1.
- 36 See chap. 1.
- 37 S. Freud, *Psychoanalysis and Feminism* (Penguin Books, Harmondsworth, Middlesex, 1975), p. 405.
- 38 J. Mitchell, *Psychoanalysis and Feminism* (Penguin Books, Harmondsworth, Middlesex, 1975), p. 405.
- 39 See for example N. Harscock, *Money, Sex and Power: Towards a Feminist Historical Materialism* (Northeastern University Press, Boston, MA, 1983), chap. 8; O'Brien, *The Politics of Reproduction*, chaps. 3, 4; Elshain, *Public Man, Private Women*, chap. 1; H. Pitkin, *Fortune Is A Woman: Gender and Politics in the Thought of Niccolò Machiavelli* (University of California Press, Berkeley, CA, 1984).
- 40 For his history, see G. Lloyd, *The Man of Reason; 'Male' and 'Female' in Western Philosophy* (Methuen, London, 1984). On the Cartesian 'drama of partition', see S. Bordo. 'The Cartesian Masculinization of Thought', *Signs*, 11(3), (1986), pp. 439–56.
- 41 J. Rawls, *A Theory of Justice* (Harvard University Press, Cambridge, MA, 1971), p. 128.
- 42 It will probably be objected that one can look younger or older than one's real age, or be convinced that one is in the 'wrong' body, or 'pass' as white. However, these examples all depend on the knowledge of age, sexual and colour differences and the specific meaning given to them in different cultures. One cannot, say, be a transsexual without already being fully aware of what 'masculine' and 'feminine' involve and how these are integrally connected to bodies. That Rawls's arguments, despite his apparently sexually undifferentiated 'parties', presuppose a sexually differentiated morality is shown in D. Kearns, 'A Theory of Justice and Love: Rawls on the Family', *Politics*, 18(2), (1983), pp. 36–42.
- 43 This division between private and public is constituted in the second stage of the familiar story of the social contract (Locke's theory shows this clearly); see my book, *The Problem of Political Obligation*, chap. 4; and chap. 6 of the present book.
- 44 R. M. Unger, *Knowledge and Politics* (Free Press, New York, 1976), p. 45. Unger has little to say about women or the family, but his comments (like those on the division of labour) illustrate that his critique is not the 'total critique' at which he aims. He notes, for example, that the family 'draws men back into an association that competes with loyalties to all other groups' (p. 264) – but it 'draws back' only those who go into civil society.
- 45 G. F. Gaus, *The Modern Liberal Theory of Man* (Croom Helm, London, 1983), p. 90.
- 46 Gaus, *Modern Liberal Theory*, p. 94; he cites Dewey and Rawls on pp. 91 and 94.
- 47 The description comes from B. Harrison, *Separate Spheres: The Opposition to Women's Suffrage in Britain* (Holmes & Meier, New

- York, 1978), chap. 4. Women were once an essential part of armies, but by the First World War 'the once integral place of women in Western armies had faded from memory' (like so much else about women); see B. C. Hacker, 'Women and Military Institutions in Early Modern Europe: A Reconnaissance', *Signs*, 6(4), (1981), pp. 643–71 (the quotation is from p. 671).
- 48 Cited in *Rights*, 4(5), (1981), p. 4.
- 49 On women, the military and combat, see J. Stiehm, 'The Protected, The Protector, The Defender', *Women's Studies International Forum*, 5(1982), pp. 367–76; and 'Reflections on Women and Combat', Postscript to *Bring Me Men and Women: Mandated Change at the US Air Force Academy* (University of California Press, Berkeley, CA, 1981).
- 50 M. Foucault, *Discipline and Punish: The Birth of the Prison*, tr. A. Sheridan (Vintage Books, New York, 1979), p. 169.
- 51 Foucault, *Discipline and Punish*, pp. 222–3.
- 52 See C. Pateman, 'The Shame of the Marriage Contract', in J. Stiehm, ed., *Women's View of the Political World of Men* (Transnational Publishers, Dobbs Ferry, NY, 1984).
- 53 Mrs Thatcher provides a fascinating illustration. On the one hand she is 'the best man in the Cabinet', the victor of the Falklands War, accomplice of Reagan's state terrorism against Libya, and is photographed with weapons. On the other hand she talks to the press about 'feminine' matters (such as having her hair tinted), draws headlines like 'Four Years on and looking Ten Years Younger', and uses the language of good housekeeping to talk about cuts in social welfare spending (see A. Carter, 'Masochism for the Masses', *New Statesman*, 3 June 1983, pp. 8–10).
- 54 For a critique of a contractarian defence of prostitution, see my 'Defending Prostitution: Charges Against Ericsson', *Ethics*, 93 (1983), pp. 561–5, and *The Sexual Contract*, chap. 7.
- 55 The right is still hedged with immigration restrictions that make it hard for black British women to exercise it; for an account of the interaction of sex and race in British law, see Women, Immigration and Nationality Group, *Worlds Apart: Women Under Immigration and Nationality Law* (Pluto Press, London, 1985). For the USA, see V. Sapiro, 'Women, Citizenship and Nationality: Immigration and Naturalization Policies in the United States', *Politics and Society*, 13(1) (1984), pp. 1–26.
- 56 O'Brien, *The Politics of Reproduction*, p. 205.