

## Introduction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

property, he did deny them full subjecthood. To put the matter in more modern terms, women's labour is not seen as adding value; but why not? Here my focus is on household economic production in a preindustrial society, and the practice against which I compare the theory is that of Greek property and marriage laws. The Athenian property regime was harsher for women than that of other Greek states, it will emerge. It is unfortunate for women than the classical political theory developed in Athens reflects a particularly misogynist property system. Perhaps this helps to explain why classical and subsequent accounts have considered that women had nothing to do with property – and those subsequent models have included feminist ones. The connection between virtue, subjectivity, civic membership and property is clearly elucidated by the example of Aristotle and Athens. This chapter demonstrates the need to distrust ahistorical essentialism and the corresponding need for narrative, drawing on the linkages between property, societal constructions and narratives suggested by Carol Rose.

Chapter 3, 'Contract, marriage and property in the person', moves on from Aristotle to Locke, and from the preindustrial household to early capitalist marriage. In an extensive critical discussion of Carole Pateman's *The Sexual Contract* – which carries over into other chapters but is primarily concentrated here – I examine the relationship between property in the person, humanity and political participation. I conclude that what is wrong with the 'sexual contract' is not that it is a contract, but that it is sexual. Jeremy Waldron's distinction between property in the body and property in the person turns out to be crucial here, and I return to it when I attempt in chapter 7 to sketch a reconstructed theory of property. My aim in this chapter is to strengthen the feminist challenge by making it more sophisticated, not to give further ammunition to already well-munitioned neoliberals. But I shall also be arguing that feminists have been too quick to dismiss two concepts central to liberal thought on property: contract and property in the person. Women *can* use both, I assert, to claim the status of subject.

This chapter also tells the particular story about marriage and contract that we have inherited from the Anglo-American legal doctrine of coverture, which applied to married women with particular ferocity in Locke's time. Once again, our prevailing narratives about women and property turn out to reflect a property regime which was unusually punitive for women. I argue that even feminist accounts of contract and property under liberalism, especially Pateman's, need to break free from that historical conditioning.

In chapter 3 I will be content to prove the *negative* claim that contract is *not* itself inimical to women's interests, in the context of liberal contractarianism. Contractual relations do not have to be unequal and

oppressive, although many feminists have thought them so. Chapter 4, 'Property and moral self-development', advances the argument further by positing *positive* benefits in contract for women, developing a style of thinking suggested by a feminist analysis of Hegel. The justification offered for contract by Hegel turns out to centre on self-development and agency, also crucial to Hegel's broader justification of property. Although Hegel does not extend the full benefits of either contract or property to *women's* self-development, I shall begin to formulate ways of doing so in chapter 4, and chapter 7 will take that analysis further, when I come to reconstruct property.

The Lockean view of property as a special right is contrasted in chapter 4 with the general, developmental right to property found in Hegel. Hegel's model of property might be attractive to many feminists: it is consistent with an emphasis on forging a new subjectivity, with property not as instrumental to other goods but as a part of identity formation. But Hegel does not site women within developing modernity; they remain confined to their archaic role, when all else in modernity is change. Nor does Hegel see that the problem of poverty in early capitalist society, and in particular the massive rise in prostitution which I detail, makes women's confinement to the traditional private sphere deeply problematic.

In addition, this formulation incorporates a view of *contract* as a moral experience, a bond between myself and other owners – which, I argue, radically challenges Pateman's critique, suggesting that contract can be enabling and empowering. In chapter 3 I asserted that property and contract are not necessarily oppressive for women. Chapter 4 advances a stronger argument: that property and contract are actually *liberating* when construed as *developmental* rather than instrumental, and in terms of *general* rather than special rights.

Hegel can be interpreted as deepening the meaning of contract, to encompass mutual recognition, but restricting the breadth of its application. His attack on the notion of marriage as a contract, which he terms a 'shameful' idea, is consistent with a non-liberal view that society is not contract all the way down. This notion is particularist in Hegel, and the inadequacy of his understanding of women and modernity is illustrated by my discussion of prostitution and industrialization. Chapter 4 thus contributes several important building blocks to my reconstructed model of property:

- 1 The vision that 'everyone must have property' as a general right because property is instrumental to identity development, as a first stage;
- 2 The insistence that contract, the second stage of identity development, *is* only a stage, and not the template for all social relations (not for marriage, for example);

- 3 The recognition of experiential and relational ethical models which is implicit in Hegel's thought;
- 4 The importance of embodiment in self-development;
- 5 The possibility of respecting the agency of the propertyless~~ness~~ which is afforded by the master-servant parallel. A Hegelian analysis helps us see how women make sense of their 'no-property' worlds.

In examining the Hegelian developmental model of property-holding, chapter 4 asks whether only *private* property can satisfy the needs of an active moral agent. If not, it appears that what we require is not property in itself, but that which produces property: labour, of which property is merely the congealed remains, in a Marxist view. Is it labour or property which makes the subject something other than object? Marx answers that it is labour, *praxis*, productive work which transforms the material world to fit human needs; but he none the less relies crucially on the Lockean assumption of property in the person. Feminists have contested this assumption: is it salvageable for women? And are other relevant Marxist notions, particularly alienation and reproduction, helpful in understanding how women have made sense of their 'no-property worlds'? Chapter 5, 'Labour, alienation and reproduction', draws on the work of Marx, Engels, Catharine MacKinnon and Christine Delphy in examining these and related questions.

Women are neither simple *objects* of property-holding, nor are they unqualified *subjects* whose property-holding may suffer under rectifiable practical handicaps. A materialist analysis might offer a less static and more activist possibility, if it could categorize different sites of oppression, rather than a simple dichotomy of victims and oppressors; and a materialist feminist position might also avoid the relativistic multiple essentialisms of cultural feminism.<sup>35</sup> In particular, it seems possible that the Marxist concept of alienation gets at some of this strangeness, allowing women to be agents rather than mere objects, but impaired subjects. I ask whether we can transform the notion of alienation to fit women's typical *propertylessness in their labour*, even though the Marxist interpretation of the concept relies crucially on *ownership* of property in one's labour, and even though it is applied strictly to 'productive' rather than reproductive labour in Marx. Women's propertylessness in their labour is illustrated in empirical material from sub-Saharan Africa.

These first five chapters primarily *deconstruct* and contest the concept of property, by drawing out the inadequacies of canonical treatments of it. Because much mainstream theory continues to move resolutely away from feminisms and to ignore the insights of feminist deconstruction of the canon, we need to go on insisting that the basic concepts of political theory should count women in. (This is never the same as adding them on.)

Property, I have argued throughout, is an extremely suitable case for the deconstructionist treatment in both mainstream and feminist theory, although the related concepts of contract, rationality and subjectivity have been better explored.

The first five chapters, together with this introduction, lay the foundations for a *reconstructed* theory of property.<sup>36</sup> This they do by salvaging neglected insights and concepts in canonical theorists which could, if sensitively reconstituted, elucidate women's property situation. Although property and contract have been almost entirely the province of mainstream rather than feminist theorists, it is none the less inadequate to concentrate solely on the canon. We want a view of property which will also allow women to figure as something *other than objects*, but we have not yet fully established what kinds of *subjects* they will be. That is the concern of chapter 6, 'Another sort of subject?' Here is where feminist analyses of subjectivity play their part, in questioning the notion of the unified subject, as do Judith Butler and Luce Irigaray. In an extended discussion of Irigaray's work, I ask whether a theory of property needs a more polymorphous notion of the subject than mainstream theory generally assumes. This pluralistic notion of property is actually rather similar to the notion of the subject as a profusion of past experiences and events. What is actually the mainstream legal notion of property, as bundles of relations, is far more compatible with recent feminisms' deconstruction of the subject than most feminist theory realizes. The chapter also examines recent feminist deconstruction and reconstruction of practical reason, concluding in favour of a non-instrumental model of rationality.

However, I have not chosen to accept Irigaray's doubts about the impossibility of any woman ever becoming a subject, since she is either 'subjecting herself to objectivization in discourse – by being "female"' or else 're-objectivizing her own self whenever she claims to identify herself "as" a masculine subject'.<sup>37</sup> Nor do I accept that the category 'woman' is unusable – despite the arguments to the contrary of some deconstructionist feminists such as Christine Sylvester<sup>38</sup>, who will only use the word 'woman' in inverted commas. In Jane Smiley's novel *Moo*, an African-American woman professor of English muses on how the category of 'literature' has been deconstructed out of existence, just at the time when it was about to be taken over by formerly subservient groups such as women and African-Americans. That, she reckons, is no coincidence.

Chapter 7, 'Reconstructing property', extends and yet transcends the first five, attempting a reconstruction of property in a way that will work for women. The characteristics of a woman-friendly model developed in chapters 1 through 6 do not constitute a full-fledged theory of property; I have never pretended that they would. At best they are the foundations of the edifice. But even in the absence of a fully gestated theory, they may lead

to some compelling and unexpected applications. The purpose of this chapter is to explore four such possible applications, drawn from medical ethics and family policy:

- 1 The sale and/or donation of gametes in *in vitro* fertilization (IVF) and other reproductive technologies;
- 2 Contract motherhood, frequently known as paid surrogacy;
- 3 The sale and use of fetal tissue (which also entails a brief discussion of abortion);
- 4 The marriage 'contract'.

My guiding hypothesis throughout the book is so simple as to be open to accusations of cliché: that the relationship between women and property is always different from that which holds for men. Yet obvious though it is, this difference has been ignored in conventional theory. This means that supposedly general and universalist conventional theories are nothing of the kind. They are particularist and, specifically, masculinist. It takes a feminist analysis to get the other half of humanity noticed, and to make the theories whole. It is therefore feminist theory which is genuinely universal.<sup>39</sup>

This has further important implications. If conventional masculinist theory is not universal, it cannot be made so merely by adding the odd mention of women's situation, or by kowtowing at the end of an introduction, 'Everything that is said applies to men *and* women'.<sup>40</sup> The bedrock notions of what it means to hold property, and of why holding private property is part of being a public person, are undermined by asking what it means for women's labour not to be considered as producing wealth, and for women not to be admitted to public life. There is something gravely wrong with the fundamental categories and modes of masculinist thought about property, I argue. But it is only by starting with the conventional theory that we can see why an unconventional one is necessary.

In beginning each of chapters 2 through 5 in the apparently conventional way, by looking at the 'great men' associated with each topic, I might lay myself open to criticism. Can the relationship between women and property be examined through the lens of received theories and canonical philosophers? As Michèle le Dœuff writes,

when I feel the difficulty of grasping, and then of conceptualizing the 'woman question', the question of women both in general and in philosophy, I have to conclude that this question cannot be integrated into our received frameworks of thinking, be it everyday thinking or that developed by philosophy. Such considerations lead me to wonder if all thinking might not be built on the rejection of a certain number of realities, of which that is one.<sup>41</sup>

Yet Le Dœuff perseveres. With any degree of sensitivity to the Woman Question at all, it is easy to be put off by what she calls 'stupid utterances made about women by people who, in principle, have no right to stupidity'<sup>42</sup>—canonical philosophers. But she urges her readers to transcend their righteous annoyance: what a philosopher has to say about women unlocks the key to his entire enterprise. 'Far from giving way to disgust, women should know that the sexism of philosophical discourse offers them a hold on that discourse and that they can re-examine it in a way which has never been done before.'<sup>43</sup>

Besides, I would argue, what philosophers have to say about women and property underlies jurisprudence and law about property rights, and everyday beliefs about why women's rights are less than genuine. It is only by problematizing property theories, through asking whether they count women, that we can, as Le Dœuff says, 'bring to light what is at stake in these utterances, by showing that they are pertinent at a level different from the one at which they appear to have meaning'.<sup>44</sup>

Although this is the sort of claim which brings the pillars of the academic temple crashing down on one's head, my project tries to do for gender what Marx attempted for class. I aim at a historical as well as a philosophical inquiry into the division between those who own property, particularly in the body, and those who sell body-rights and the fruits of their labour. In this book I will try to link materialist and idealist feminisms, anthropology and jurisprudence, empirical social science and political theory. I realize that there is a fair amount of hubris involved in all this. I can only hope that my readers will be as deeply challenged and fascinated by these large questions as I am, and that they will be charitable towards loose ends and unfinished business.