Uncovering Hidden Forms of Oppression in Carole Pateman's *The Sexual Contract*

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Abstract – In 1988, Carole Pateman published *The Sexual Contract*. In this book, she aimed to uncover the repressed dimension of canonical theories of social contract by highlighting their obscured sexual dimension. Not only do contract theoreticians seek to authorise the government of the state over its citizens, but they also justify the "government of women by men within that state". In this essay, I review several challenging aspects of Pateman's work. In the first part, I describe the ontological assumptions regarding the notion of 'contract' that runs through *The Sexual Contract*. I argue that despite her explicit dismissal of contractual ways of thinking as intrinsically oppressive, Pateman implicitly reverted to them. In the second part of my essay, I contend that her unwitting adherence to a contractual 'metanarrative' causes Pateman to fail in properly addressing patriarchal power structures. By appealing to Michel Foucault's work, I maintain that Pateman drew on an outdated and politically impotent 'juridical model of power'. Although this model aptly captures repressive power mechanisms, it fails in articulating the localised ways in which techniques of power actually function.

1. Introduction

In 1988, Carole Pateman published *The Sexual Contract* – a highly influential book in which she criticised past and contemporary contract theoreticians through a feminist lens.[2] Although it is common to interpret Thomas Hobbes, John Locke, Jean-Jacques Rousseau, John Rawls, *et cetera*[3] as if they were articulating the notion of a *social* contract, Pateman argued that this obscures rather than clarifies their political theories. She contended that there is a *sexual* dimension to their thought which is left unexamined in this one-sided interpretation.

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2. Throughout this paper, I will make use of the 30th Anniversary edition of *The Sexual Contract*, first published in 2018. Henceforth, the book under discussion will be designated as '*SC*'.
3. "Et cetera" is commonly used to designate that *other similar things* are also considered to be included in the list. However, one should take heed in assuming that Baruch Spinoza is included in this list of canonical contract theoreticians as Pateman – quite surprisingly – never touches on Spinoza's theory of contract in *SC*.

According to her, these theoreticians not only sought to authorise the (*social*) government of the state over its citizens, but they also justified the (*sexual*) "government of women by men within that state" (*SC*: x).

In this essay, I review aspects of *SC* which I have found to be especially challenging and – to a certain extent – frustrating. Specifically, I discuss some fundamental problems regarding the conceptual framework underlying Pateman's analysis.[4] In the first part of my essay, I describe Pateman's assumptions regarding the ontology of the notion of 'contract' that runs through *SC*. I argue that despite her explicit dismissal of contractual ways of thinking as intrinsically oppressive, in the end she implicitly reverted to them. In the second part of my essay, I contend that Pateman's unwitting adherence to a contractual narrative causes her to fail in adequately addressing the nature of patriarchal power structures. By appealing to Michel Foucault's thought, I maintain that Pateman draws on an outdated and politically impotent model of power.

2. From Metaphor to Reality, from Reality to Ideology, and Back Again: Clarifying the Ontological Stakes of the *Sexual Contract*

A classic point of discussion in scholarship on social contract theory is determining what the precise ontological import of stories of original contracts is – that is, its existential commitments and assumptions. The *crux* of Hobbes', Locke's, Rousseau's, *et cetera* stories of contract is their reference to the 'state of nature': the pre-political condition in which actors decide that it is in their best interest to enter into a contract in which each individual agrees to obey the laws issued by a sovereign power (e.g. a monarch, liberal government, assemblage of people,…) in order to live a life of relative security. In other words, individuals agree to become *citizens*. Typically, scholars conceive of the narrative of the 'state of nature' and the contractual establishment of a sovereign power as either

> (a) a purely metaphorical and hermeneutic tool devised to understand the nature of contemporary Anglo-American political institutions, *or*
>
> (b) a historical and anthropological hypothesis concerning the origins of contemporary Anglo-American political life.[5]

4. By concentrating on fundamental issues, I eschew discussing some of the more specific problems arising from her intricate analysis of marriage, employment, prostitution, and surrogacy. Given the rather eclectic and unsystematic style of Pateman's writing, I believe this choice to be justified. As Pateman's response to them shows, most criticisms levelled against her book stem from a (not uncharitable) misunderstanding of her overall intent and basic concepts (Pateman 2013: 200-29).

By adopting a feminist perspective and adding a third interpretative option Pateman significantly alters the scope of these interpretative strategies. According to her, the narrative of the 'state of nature' and the consequent contractual agreement could (and *should*) also be understood as

> (c) an ideologically tainted discourse invoked by the male ruling class in order to construct and maintain patriarchal power structures (*SC*: 42).[6]

Throughout *SC*, Pateman drew on all three of these interpretative strategies to make sense of the ontological import of various contractual narratives in different authors. When discussing Immanuel Kant's theory of contract in chapter 3, for example, she stated that "Kant's view of the original contract *differs from that of the other classic contract theorists* [in the sense that] Kant does not offer a story about the origins of political right or suggest that, even hypothetically, an original agreement was once made" (*SC*: 42; my italics). This implies that she believes that other classic contract theorists *did* offer hypotheses about the origins of political life (interpretation (b)). In a passage from chapter 8, worth quoting in full, Pateman maintained that

> the story is (…) used by political theorists and, in more popular versions, by politicians, to represent social and political institutions to contemporary citizens and to represent citizens to themselves. Through the mirror of the original contract, citizens can see themselves as members of a society constituted by free relations. The political fiction reflects our political selves back to us – but who are 'we'? Only men (*SC*: 221).

Here, Pateman can be seen to assert that stories of contract are used by politicians as a discursive tool that reinforces patriarchal structures (interpretation (c)). In addition, she contends that these stories are a "political fiction" representing the supposed nature of contemporary Anglo-American social and political institutions (interpretation (a)).

In a rather vague reply to a critic, Pateman elaborated on the way in which her reading of classical contract theoreticians contributed to understanding and over-

5. I would like to thank Maarten Van Dyck for signalling these two interpretative strategies to me in one of his lectures on the history of philosophy at Ghent University during the academic year 2025-2026. For an excellent scholarly discussion of these interpretative strategies, see (Boucher and Kelly, 2003).

6. Although Pateman does not make use of the notion of 'ideology' herself, I believe that using it clarifies several aspects of *SC*. My understanding of ideology closely resembles Louis Althusser's description thereof in the first thesis of his "Ideology and Ideological State Apparatuses (Notes Towards an Investigation)": "Ideology represents the imaginary relationship of individuals to their real conditions of existence" (Althusser 2006: 109).

coming the unjust aspects of contemporary social and political institutions. Specifically, she claimed that her arguments in *SC* rest on the – unsubstantiated – "belief that the ideas embodied in the classic texts of political theory, including the stories of an original contract, have helped shape our major institutions" (Pateman 2013: 207). The main goal of *SC* had been to critically analyse "a tradition of political theory", rather than providing a "litany of her own opinions" (Pateman 2013: 229). As she later explained, this meant that her exegetical endeavours were accompanied by an explicitly *militant* dimension directed towards the resolution of contemporary political issues. To her, the importance of studying the texts of canonical contract theoreticians lies in an increased awareness of "how we got where we are" (Hirschmann and Wright 2012: 31; Pateman 2013: 202). Not only did she therefore aim to uncover the suppressed sexual premisses of several texts from the canon of political thought, but she also aimed to understand "what form of life has been supported by a particular narrative about the origins of a body politic". Ultimately, she sought to "move away from contract", both in theory and in practice (Pateman 2013: 202-03). As good as this may sound, I do not believe that Pateman succeeded in doing so – at least not in *SC*. Rather, she constructed a contractual *metanarrative* – a 'narrative about narratives' – in order to understand the "form of life" that had been sustained by canonical theories of contract. In the remainder of this section, I argue that Pateman's metanarrative draws on and adapts the triad of ontological assumptions discussed above. In the next section, I explain that her narrative unintentionally conceals and maintains numerous power structures and correlated forms of oppression.

Quoting Charles Mills in a reply to her critics, Pateman wrote that *SC's* aim had been to analyse "*the nonideal contract* (…) not to ratify it but to expose the inequities of the actual nonideal polity and help us see through the theories and moral justifications offered in defense of them" (Mills 1997: 5, quoted in Pateman 2013: 208; my italics). According to Pateman, classical contract theoreticians narrated the story of an *idealised* contract. Regardless of the question whether they considered the contractual story to be a hermeneutic tool (interpretation (a)) or a historical hypothesis (interpretation (b)), she believes that their stories were meant to represent past and present political institutions as the pinnacle of universal civil freedom and equality (SC: 8). The main function of their narratives was therefore ideological (interpretation (c)), as universal freedom and equality were – and, in the case of many contemporary Anglo-American polities, they still *are* – actually rather limited. In other words, these narratives upheld the false consciousness that enabled oppressive power structures to persist. Pateman, on the other hand, unearthed the iniquitous nature of past and present political institutions by representing them in a *nonidealised* manner. By acutely following through on the logic of classical stories of contract, Pateman succeeded in showing the contradictions enmeshed in them (Hirschmann and Wright 2012: 24). Most importantly, she

demonstrated that the idea of universal civil freedom and equality based on contractual foundations is factually misguided. Even more so, contractual associations involve the subjection of one of the contracting parties to the other, thus necessarily establishing *unfree* relations (*SC*: 230).

In Pateman's view, contractual stories therefore offer apt tools for understanding Anglo-American political reality *if and only if* we pursue them to their logical endpoint. That is, on the condition that we tell the story of how these narratives are essentially exclusionary and oppressive. If we tell the stories in this manner, they accurately depict the way in which past and contemporary Anglo-American societies are really contractually structured *and* characterised by iniquity (Puwar 2002: 124; *SC*: ix). In this respect, the original contractual stories played a double role. On the one hand, they were an *ex post facto* justification of the early modern and contemporary political and societal changes that brought about civil equality *between men* and the subjection of women *by men*. On the other hand, Pateman asserted that these narratives had an important performative function in that they decisively influenced the "construction of modern civil society" – that is, the ideology contained in these stories was enacted by political actors, thus further consolidating the modern patriarchal oppression of women that had already been set in motion (*SC*: 221). Today, the original version of the contractual story continues to operate in this twofold manner. Politicians still invoke these stories to justify present political circumstances – all of its iniquities included. This invocation has real effects in that it impedes women's political emancipation. To Pateman, this impediment is most apparent in the fact that women can freely enter contracts of marriage, employment, prostitution, and surrogacy. She deplores these contracts because they give the impression that women are 'legal persons' and thus possess the same civil rights as men. However, women are often excluded from full citizenship (Puwar 2002: 128). One example of that is the fact that, until very recently, women lacked the legal capacity to own property.[7]

Whilst commenting on them, Pateman thus construed a modified version of the canonical contractual narratives with distinct ontological underpinnings. This modification is best understood along the lines of the interpretative strategies discussed above. First of all, Pateman's metanarrative is meant to provide us with a hermeneutic tool that allows us to understand the nature of contemporary Anglo-American political institutions (interpretation (a)). Her narrative is suitable to perform this function, because it offers a veracious portrayal of the various (iniquitous) ways in which these institutions operate in reality (interpretation (b)).

7. In the case of Belgium, for example, the laws governing these property rights were only fully amended in the 1970s. According to recent research conducted by Statista and the World Bank "only 14 countries in the world offer full legal protections to women" (Buchholz 2023).

Finally, Pateman's metanarrative uncovers the way in which the original narratives perform an ideological function (interpretation (c)).

3. Breaching the Contract: The Failure of the Juridical Paradigm

Having described the various uses of the notion of 'contract' that run through *SC*, I now turn to criticising the transformative potential of Pateman's book. Particularly, I suggest that the metanarrative ensnared in *SC's* conceptual foundation contributes to the concealment and continuation of patriarchal power structures and oppression rather than their abolishment.

In the "Preface to the Thirtieth Anniversary Edition" of *SC*, Pateman reflected on the continuing relevance of her work for contemporary political theory. According to her, the mere fact that Polity Press – her publishing house – decided to reissue *SC* several decades after its first publication, testified to its enduring importance (*SC*: ix). In spite of the boldness of this claim, there are good reasons to question *SC's* contemporary relevance. Particularly, I believe that Pateman unwittingly adhered to an outdated and politically impotent model of power that was splendidly opposed by Foucault.[8] In an interview from 1977, Foucault enigmatically stated that "[w]e need to cut off the King's head: in political theory that has still to be done". In other words: we need to shift our attention away from – what he terms – "juridical" ways of conceptualising power and oppression (1981: 121). Although the 'juridical paradigm' aptly captures repressive power mechanisms, it fails in articulating more "positive" techniques of power and discipline (1981: 120). As I explain below, this means that it cannot account for the manifold ways in which power actually operates. Interestingly, in the first chapter of *SC*, Pateman almost literally anticipated this Foucauldian critique. In commenting on the first volume of Foucault's *History of Sexuality*, she noted that "Michel Foucault's influential studies might suggest that the story of the sexual contract will generate a view of power and domination that remains stuck in an old juridical formulation". On the same page, she countered this criticism by contending that "[t]he civil state and law and (patriarchal) discipline are not two forms of power but dimensions of the complex, multifaceted structure of domination in modern patriarchy" (*SC*: 16). Although I agree with this contention, I do not believe that it can be argued for on the basis of the assertions in *SC*.

In 1993, Nancy Fraser reviewed *SC* and highlighted some of its central problems. Most importantly, she pointed out that there are forms of oppression that "escape the conceptual grid" employed by Pateman, as they involve more "abstract

8. Most famously in, for example, (Foucault 2003). For a contextualising discussion of the historical influences on Foucault's discussion of power in these lectures, see (Elden 2023).

forms of social mediation and impersonal mechanisms of action coordination" (1993: 178). Specifically,

> [gender inequality is] being transformed by a shift from *dyadic* relations of mastery and subjection to more impersonal structural mechanisms that are lived through more fluid cultural forms. One consequence is the (re)production of subordination even as *women act increasingly as individuals* who are not under the direct command of individual men. Another is the creation of new forms of political resistance and cultural contestation (1993: 180; my italics).

Fraser finds fault with *SC*, because its conceptual framework cannot adequately capture the manifold ways in which patriarchal power structures operate today. Pateman's analysis was mainly geared towards critiquing the exclusionary nature of contractual narratives. She argued that Anglo-American societies were aptly represented by these narratives as they exclude women from being recognised as full citizen. Fraser, however, pointed out that, today, many Anglo-American political institutions have ordained anti-discrimination laws that formally ban, amongst others, the gender-based exclusion of women from civil life (Fraser 1993: 175). In terms of civil rights, then, women now find themselves in a similar legal position as men.

In the "Preface to the Thirtieth Anniversary Edition" of *SC*, Pateman pointed out this societal shift: "Now, however, women have gained the remaining civil and legal rights still lacking in the 1980s and are formally equal citizens". Despite these changes, Pateman notes, women are still confronted with oppressive power structures expressed in, for example, domestic violence, economic power imbalances, and sexual harassment in the workplace (*SC*: x-xi). Although I believe that a lot of necessary work remains to be done in order to achieve complete legal equality between men and women, I doubt whether further juridical emancipation will abolish patriarchal oppression in a satisfactory or decisive manner. Surprisingly, I am in agreement with Pateman on this point:

> If the spectre of slavery is ever, finally, to be laid to rest, political theory and practice has to move outside the structure of oppositions established through the story of the original contract. The move would not diminish the importance of juridical freedom as advocates of contract doctrine often assert (*SC*: 231).

Pateman acknowledged the "importance of juridical freedom", whilst also maintaining that true theoretical and practical emancipation requires that we move beyond the restrictive framework of contractual narrative. Later, she explained that this is required because contract is not "a neutral mechanism, waiting to be

filled by content". Rather, contract is inextricably tied up with a specific "relational and institutional context" (Pateman 2013: 206).[9] A criticism that has often been levelled against *SC*, however, is that it does not provide a robust alternative to the contractual social order it criticises. According to these critics, Pateman did "little more than gesturing toward a noncontractual social order" (Pateman 2013: 227). I would argue that Pateman's futile "gesturing" is due to the ontological misorientation of *SC's* conceptual framework. As Pateman presumed that her own metanarrative uncovered the hidden truth of past and present political institutions, it is hard to see how she could ever succeed in moving "outside the structure of oppositions established through the story of the original contract". If the political realm is essentially contractually structured, then how can we ever successfully *re*structure it?

Foucault's work on power offers a valuable alternative to Pateman's faulty framework. In metaphysical terms, Foucault reimagined relations of power in an *immanent* fashion.[10] In topological terms, he understood power to be a *non-dyadically* structured 'grid' on which every societal actor is located.[11] Starting from unique and asymmetrical 'coordinates' on this grid, each actor possesses the ability to "structure the possible field of action of others" in one way or another (Foucault 1982: 790). Contractual narratives are not descriptions of the political realm's hidden truth. Rather, they are a "technology" or stratagem employed by societal actors in order to establish and maintain a power equilibrium (Olssen 2021: 188). From a Foucauldian perspective, contractual narratives are thus best understood along the lines of interpretative strategy (c) – that is, as ideologically tainted discourses used to enforce and reinforce patriarchal power structures.[12] As mentioned throughout this paper, Pateman clearly acknowledged the ideological import of contractual narratives. Nonetheless, it is hard to see how this is ultimately conducive to the achievement of a non-patriarchal society. After all, in addition to recognising the ideological force of contractual narratives, Pateman also expressed the belief that contractual (meta)narratives describe essential aspects of past and present socio-political reality. As a consequence, non-contractual forms of oppression – such as the domestic violence, economic power imbalances,

9. This line of reasoning, however, is flawed. After all, if this context were to change for the better, contracts could very well be vehicles of emancipation.
10. As mentioned in fn.3, Pateman never mentioned Spinoza's theory of contract in *SC*, notwithstanding its canonical status. In the second half of the 20th century, many fascinating interpretations of Spinoza's political philosophy were put forward – not in the least in the French intellectual circles in which Foucault moved. In contrast to classical contract theoreticians, Spinoza was considered to have advanced a reconceptualisation of the social contract in terms of 'immanence'. See, for example, (Montag 1989: 100).
11. For a brilliant 'topological' reading of Foucault's work, see (Deleuze 1986: 34, 55-130).
12. I am aware of Foucault's overtly negative stance towards the concept of 'ideology'. Elaborating and explaining this stance, however, exceeds the intentions of my paper.

and sexual harassment referred to above – cannot be properly conceived or explained within her framework.

A great part of Foucault's work, on the other hand, was directed towards the historical articulation and conceptual elucidation of 'micro-power': power structures that are not characterised by grand repressive gestures such as confinement or the legally ordained exclusion from civil life, but by subtle mechanisms of manipulation and the impairment of the societal agency of certain individuals or groups of actors. Although relations of power have often taken on repressive dimensions throughout history, this is an entirely circumstantial fact (Macherey 2009: 94-95). The fact that repressive relations such as these can be encoded in contractual forms cannot, therefore, be extrapolated to the modelling of other forms of power. In her renowned book on *Caliban and the Witch*, Silvia Federici provided ample illustrations of the way in which women's bodies were subject to localised micro-mechanisms of power in early modern Europe – that is, the time during which theories of contract first emerged. For example, she demonstrated that "sexual hierarchies (…) are always at the service of a project of domination that can sustain itself only by dividing, on a continuously renewed basis, those it intends to rule" – e.g. by introducing misogyny into proletarian culture to avoid the large-scale formation of revolutionary masses (Federici 2021: ix).[13] Rather than the enforcement of laws, it was the mediation of cultural norms that succeeded in consolidating existing power structures.

4. Conclusion

In the first main section of this essay, I described the ontological commitments behind the notion of 'contract' that runs through *SC*. By adopting a feminist perspective, Pateman significantly altered the interpretative scope of classical scholarship on contract theory. Despite her explicit dismissal of contractual ways of thinking as intrinsically oppressive, Pateman inadvertently reverted to them by constructing a 'narrative about contractual narratives' – a metanarrative. Specifically, her narrative functioned as a hermeneutic tool that allows us to understand the nature of contemporary Anglo-American political institutions. It is suitable to perform this function, because it offers a veracious portrayal of the various iniquitous ways in which these institutions have operated in the past – and, in certain

13. I have chosen to cite an example from Federici's work, as she approvingly quoted Pateman's "thorough critique of 17th-century social contract theory" (293fn.66). Interestingly, Federici explicitly conceived her book as a critique of "Foucauldian analyses of the body" and as an argument "against the implausibility of the complicity and role-reversal that Foucault imagines to exist between victims and their persecutors" (7-9). Although a discussion of this claim lies beyond the scope of this paper, I believe that it rests on an oversimplified reading of Foucault's work.

cases, *still do*. Finally, Pateman's metanarrative uncovered the way in which the original contractual narratives perform an ideological function.

In the second main section of this essay, I criticised the conceptual framework underlying Pateman's metanarrative by arguing that it cannot properly address patriarchal power structures. Unwittingly, Pateman adhered to an outdated and politically impotent 'juridical' model of power that was opposed by Foucault. Although she had anticipated a Foucauldian critique in the preface to *SC*, she ultimately did not succeed in evading it. The problem with Pateman's framework is that it fails to articulate relations of power that are not characterised by repressive gestures such as the legally regulated exclusion of women from civil life. As Fraser noted in her review of *SC*, nowadays gender inequality is mostly experienced through "impersonal structural mechanisms" and "fluid cultural forms". Given that it has the capacity to articulate subtle mechanisms of manipulation and the impairment of the societal agency of certain individuals or groups of actors, Foucault's conception of micro-power is a valuable alternative to Pateman's faulty framework. After all, developing counterstrategies to oppressive power structures requires that one understand the stratagems that facilitate their conservation.

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