

GENEALOGY OF WOMEN'S PROPERTY RIGHTS AND POLITICAL THOUGHT: A FEMINIST CRITIQUE OF THEORETICIANS FROM THE ANCIENT WORLD THROUGH MODERN TIMES

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Abstract: The notions of property, possession, and rights are topics of very predominant debate in the history of political thought. The scholars who have discussed state, rights, citizenship, power, the authority have also discussed overtly or covertly property rights and ownership of women. In the works of ancient to modern political thinkers, we have found different thoughts on property rights. Based on it, we can analyze the position of women on this question in a particular epoch. This paper aims to understand the political thinkers on property ownership and inquire about their thoughts from a feminist perspective. Initially, this paper conceptualized the liberal idea of individual property rights that began with the natural rights theoreticians including Plato, Aristotle, Hegel, Locke, J.S Mill, et al. Later; it discussed the Marxist ideas on property rights of women that began with Marx and Engels. So, to inquire about the genealogy of women's property rights, we took the help of several research studies, books, journals, articles, etc., to develop this paper.

Introduction

Property rights are not static but deep-rooted in the chronological experiences of ancient to modern thinkers. Different philosophers have presented different thoughts on property rights, but no comprehensive work traces the genealogy of how women's property rights have been theorized. Here the researcher tries to develop a genealogy of women's property rights based on existing scholarship. On the one hand, the liberal idea of individual property rights began with the natural rights theoreticians like Aristotle, Plato, John Locke, and J.S Mill et al. Specially Lockean idea of individual property rights brought a new dimension to the advancement of Liberal thought. The liberal thinker John Locke formulated the idea that a person can own property through his actions and indicated that property ownership can be seen as an extension of natural rights (Halldenus, 2014) and later, the individualistic idea of property ownership was developed by John Stuart Mill in his book *Principles of Political Economy* (1848). Meanwhile, there is another idea with which the critique of Liberalism emerged within the intellectual debates. The idea of socialization of private property gets mileage with the writings of Karl Marx and Friedrich Engels, especially Engels's book *The Origin of the Family, Private Property and the State* (1884).

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I. Plato on Property Rights of Women

The scholarly discussion of property rights has received attention since the time of Plato and Aristotle. In fourteenth-century Athens, full citizenship and political rights were restricted to only the property owners, which means the non-propertyed male adults and women could not participate in public life; they were denied education and legal rights and were confined to homes. At that time, Plato took a radical stand and argued that women should have equal political rights as men and get the same education as men. In his work *Republic*, he argued for women's rights but never gave equal status to both sexes. Plato wanted women to be educated and taught about the art of war to protect Sparta and remain the 'guardian' class. Thus, he argued for the rulers to determine with whom they may have intercourse and how often. If women are not to be tested in political life, then it would be challenging to ensure which women should be permitted to bear children for the guardian class. In fact, in the Platonic state, childbearing was to be firmly under state control, and the traditional marriage system or nuclear families were absent among the members of the governing classes.

The Natural Rights thinker Plato's idea of property rights was egalitarian and can be called common property ownership. He emphasized community ownership of the property to establish a classless society which, to him, means a "Just Society." To him, the idea of individual property ownership creates the mind of lavishness, leading to tension or conflict within the society. So, to establish a 'Just Society' or to pursue "goodwill," he argued for community property ownership or a common land for all. If there is a common land for all, there will not be any conflict between the communities or individuals, and thus people can achieve "goodwill." Though the Platonic idea of common property ownership is idealistic, we must remember that in his idea of the "Guardian" class (dominant class), men tightly controlled women. As he argued, "Women and men have the same nature in respect to the guardianship of the state, save insofar as the one is weaker and the other is stronger" (cited in Smith D. Nicholas, 1983, 1). It appears that Plato did not argue for equal status of women; rather, he discussed the role of women in the state where women were morally inferior and under the control of their fathers and husbands.

II. Aristotle on Property Rights of Women

Plato's follower Aristotle was more malicious than Plato on women's rights. To Aristotle, women are morally inferior to men; therefore, granting women the same political rights as men is unreasonable. In his work *Politics*, Aristotle states, "as regards the sexes, the male is by nature superior and the female inferior, the male ruler and the female subject" (cited in the article of Smith D. Nicholas, 1983, 1). Aristotle argued that there is a natural division between men and women where men are considered natural rulers and women as naturally ruled. He did not consider women as fully human beings as they did not pursue any political activity as citizens in the Polis. He criticized Plato's idea of common property ownership. He argued for private property ownership, which would encourage people to look after their own doings rather than interfere in the affairs of others. Aristotle conceived that individual private property could improve the inherent virtue of liberty and morality. Therefore, he argued that sharing the benefit of

property ownership with others and the right to exclude self from the property both show the virtue of the moral order or “good virtue.” So, here we can argue that Aristotle, through his idea of State and Politics, excludes women from the regime of politics and does not consider women full citizens. To him, women are considered a commodity to provide sexual pleasure and to perform household work only. For instance, he argued that silence is the glory of women and that they are inferior to men for their biological differences; thus, they should remain silent and obey their husbands.

In this connection, Kay O’Pry argued that Spartan women had more education than men and could possess property and dispose of it. They could enjoy equal shares of their father’s property; thus, women possessed two-fifths of the land in the Spartan region. According to Kay O’Pry, in Sparta, women also received more legal rights concerning their property and inheritances.² Dana Jalbert also shared a parallel argument on Aristotle’s view on women and enslaved people. According to Jalbert, Aristotle does not associate the subjection of women with slavery; rather, he indicates important connections between the two. To him, Aristotle gives an overall impression of how to build a family with the voluntary cooperation of all its members; he silently indicates that power (male control) played a significant role in continuing the relationship between the sexes.³

It is now quite clear from the Aristotelian idea that inherent moral order or ‘good virtue’ differs from gender roles. Thus, there is an interconnection between “good virtue” and “good women,” where if a married woman gives up her property share for her brothers, husband, son, or in the name of any male inheritors, then she is considered as ‘good woman’ that she has good values or morality. In this connection, Feminist economist Bina Agarwal’s discussion is very much relevant. She argued that in the contemporary era, many women give up their property shares by force, by societal and marital pressure, sometimes under the threat of their life and dignity, but not by her “goodwill” or “virtue” in favor of her brothers to be a “good sister,” in favor of her sons to be a “good mother,” in favor of her husband to be a “good wife” in fact to be a “good woman.” So, in this regard, eliminating the self from the property may not be the symbol of goodwill or “virtue” always. In her book *A land of one’s Own* (Agarwal, 1994), she shows a correlation between land ownership and the socioeconomic empowerment of women. She argued that if women have landed property, they are likely to be more socio-economically empowered than those without landed property. They are also likely to participate more in the political decision-making process. So, from the time of Plato and Aristotle, property ownership and political participation were deeply embedded in power, which was essentially male-centric.

² For detail, please see O’Pry, Kay. (2012). Social and Political Roles of Women in Athens and Sparta. *Saber and Scroll: Vol. 1: Iss. 2, Article 3*. Available at <https://pa02217736.schoolwires.net/>

³ For detail please see Jalbert, Dana. (2008). Aristotle's Account of the Subjection of Women. *The Journal of Politics*, Vol. 70, No. 4 (Oct., 2008), pp. 929-941. Available at <https://www.jstor.org/stable/pdf/>

III. St. Thomas Aquinas and Hegel on Property Rights of Women

St. Thomas Aquinas and Hegel were in favor of individual property rights. According to St. Thomas Aquinas, community ownership of property encourages neither efficiency nor harmony in a society; it causes conflict within the community or in society. Thus he favored individual ownership to improve the spirituality of humans and protect the security of human lives. However, there are binary arguments and explanations for Aquinas' thought on the question of women. On the one hand, he has expressed derogatory opinions on women, saying that women are only the 'helper' and provide 'sexual pleasure' to men. Aquinas said that the relationship between man and woman is to make an actual society. According to him, they meet not only to extend the lineage but also for a conjoint domestic life, to make a just society. Men should direct the women, and they will perform according to the male directions for the betterment of society.

Aquinas' successor Hegel argued that property rights as crucial to the development of self. According to him, marriage and "civilized social life" is the foundation of an individual property. However, others must recognize that individual property, and an individual cannot possess any property until the members of the civil society recognize it. However, on the question of women, Hegel portrayed the relationship between men and women as animals and plants, i.e., food and eater. Women are the food, and men are the eater. He also considered that if women are in power to govern, the state will be in danger because their action is based on emotion rather than universality. Moreover, on the question of property, he argued in his thesis *Elements of the Philosophy of Right* that everyone must have property, but having property does not determine the idea of equality; rather depends on how much a person possesses it.

Thus, here the argument is that if an individual wants to possess property and it requires societal recognition, how will women be considered inferior to men and controlled by men to possess and get recognition of her property? Where all social order depends on male recognition, how can a woman develop her personality? Hegel was aware of establishing a protective legal system for societal recognition of individual property, but still, there are huge gaps between women's legitimate and actual property rights. In many societies, religious and customary laws deny women's rights to access property, and they are subjected to gender discrimination. In many societies, though women have a legitimate property right, the gender role, customs, and associated practices within and outside the family determine the actual control rather than the legal ownership of women over the property. Therefore, in the contemporary era, if we critically analyze the Hegelian idea of 'protective law' in connection with property rights thus, despite having property inheritance rights that protect the property rights of women, men occupy direct and indirect decision-making power regarding the cropping, mortgaging, selling, and distribution of land; and in such situations women play only the role of viewer or namesake consenters on property related issues.

IV. John Locke on Property Rights of Women

With the beginning of Protestantism and Enlightenment, the natural rights champion John Locke in his book *Second Treatise on Government* (1689), argued

about the boundaries of property rights. The natural right and liberal theoretician John Locke begins his argument that property right is a natural right and has been equally distributed in the state of nature. He also asserted that property rights could be achieved by mixing individual labor on the property, which can be an essential part of individual freedom. According to Locke, property initially goes to everyone in common in the State of Nature. All individuals are eligible to acquire some of the common property by their own labor. He was the first classical thinker who discussed more property rights than others. Locke's idea of property right suggests that when an individual contributes his or her labor, cultivates, or works on the land. An individual is entitled to achieve the ownership right of the land (Birdal, 41-45). In John Locke's writings, women's societal position was not the primary concern. However, Locke did not admit that the sexes had an equivalent ability to exercise their labor. He thought women were less capable of undertaking heavy physical work and 'stress of labor' than men. To him, if a married couple made a property of their "common labours" then the husband has no right to use it as he desired arbitrarily.

The Lockean idea of self-ownership may advantage the gender hierarchy perpetuating societal alienation. Therefore, since a propertyless individual does not even possess his own labor, then obviously, he/she does not hold the property right. Hence, in a gendered power structure where women are treated as vulnerable and physically weak, one wonders how they can possess their labor in the state of nature and, thereby, hold property rights. So, Locke's idea of labor theory is gendered in nature that excludes and devalues women's concerns.

V. John Stuart Mill on Property Rights of Women

John Stuart Mill was one of the most influential writers on women's rights of the 19th century, and he perceived private property as an institution through the eye of just and unjust. To him, when a person acquires private property by their own effort, it becomes just property. He also mentioned that a fair legal agreement and honesty make it just. On the other hand, to 'deprive anyone of his personal liberty, his property, or any other thing which belongs to him by law' is considered unjust to him. However, on the question of women's property rights, in his book *The Subjection of Women* (1869), Mill discussed women's property rights. He reflects on his idea of marriage, law, and customs in relation to women's property rights. Firstly, he argued for the unequal status of women in marriage contracts where the legal burden deprived women of property ownership and other economic activities. Interestingly, Mill does not consider inheritance property as just property. To him, if a person possesses any property through inheritance, then the possessor does not require any effort to acquire it, and it is an unequal distribution of private property. Thus, he was in favor of limited inheritance property rights for women. The rationality behind his argument is that in an unequal marriage contract, the women's inheritance property becomes men's property, and the woman loses control over it. Rather, he supported family earnings and common arrangements to support the family. Though Mill distances himself from contemporary liberal feminists, he is not totally against gender division of labor in the family. To him, men will earn for the family, and the wife will manage the domestic chores. Basically, he favored the contribution of the wife's labor to the family's income. Thus, Mill emphasized women's education

and legal reforms in the marriage system to revive women's dignity within the family. Thus, Mill says, "the power of earning is essential to the dignity of a woman, if she has no independent property" (Mill, 1869, 483). He also kept in mind that for earning, women needed freedom from marital slavery, and thus, he was in favor of reforming the unequal marriage contract established by Victorian law. In Victorian law, if the wife leaves her husband, she cannot take anything, not even the children. After marriage, only the father has legal rights over the children, not the mother. She must take her husband's approval to do any activities within the institution of marriage. Women become slaves and are considered the "property" of their husbands. So here, Mill contributed a different idea on the property where he considered women as a unit of 'property' within the patriarchy.

However, in this context, Susan Okin argued that through his idea, Mill accepted the traditional gender role and gender division of labor within the family, and he wants it to remain. As Susan Okin claims, "Mill never questioned or objected to the maintenance of traditional sex roles within the family, but expressly considered them to be suitable and desirable" (Okin, 1979, p. 237). He emphasized equality before the law to eliminate the subjugation of women. However, on the other hand, he has ignored the custom, traditions, and general feelings that make women more vulnerable within society. Therefore, the evolution of the women's movement made it clear that equal law and rights are not sufficient for the emancipation of women but rather to make an ultimate solution.

VI. Marxist Thought on Property Rights of Women

In the realm of Marxist Feminism, the path-breaking book by Friedrich Engels, *The Origin of the Family, Private Property and the State* (1884), portrays distinguished ideas. It shows how, historically, women have been alienated from property ownership with the changes in communities. According to Engels, in an egalitarian society, the division of work was simple and natural. Women had sexual freedom and were free to choose their sexual partners. Men were mere visitors in the household and could be asked to leave when the women did not wish them. Thus the control of household decisions exclusively rested with women. However, developing the idea of stable living, animal husbandry, and accumulating surplus food leads the communities to battle among themselves. Thus, society is divided into two sections: the conquerors and the conquered; according to Engels, it was "the first great division of society into two classes," that is, the dominant and dominators. Gradually, when war becomes society's common phenomenon to survive, the relationship between men and women also changes. Food and wealth gathering becomes a male activity, and thus women become dependent on men for food and survival. Domestic work and childbearing become the main priority of women. The communistic nature of childbearing and rearing changes, and thus the woman becomes a 'domestic slave'; she loses her significance in the communistic society.

The wealth accumulation or surplus food gathering creates a tendency among men to keep everything for themselves; thus, the idea of surplus accumulation advanced the idea of private property. For now, men included women in private property, land, animals, and enslaved people. They included women in the

context of private property to control the children who would bear their wealth in the name of inheritance. So only to get male successors, gradually, men started to control women's sexuality and considered it as their individual property. The role of women becomes only the bearer and rearer of men's successors. The socialization process shifted towards the male side, and slowly women lost control over their children. Over time, children were being socialized to recognize their inheritance from the father's side. Gradually, men and their property gained more importance, and men became the leaders of the group's life. Thus patriarchy emerged, and women were excluded from wealth or property ownership. In short, male dominance over economic resources reinforced the sexual authority of males over women, and that was the "world historic defeat of the female sex." Contemporary Marxist Feminist scholars have also argued that in the emergence of private property, men not only possess their control over property; they also try to keep it in their name through the male inheritors. Thus the preference for male children, sex selection, female infanticide & feticide, and violence against women in the household is the common phenomenon within patriarchal societies. Thus we can understand from the Marxist point of view that women's oppression in the patriarchal society is only for property relations and the necessity for male inheritors to transfer their property. Therefore, Marxist scholars argue for the socialization of private property to give labor value to domestic work to reorganize the household where the men are already in an advantageous position.

In contrast to the idea of socialization of private property, Virginia Held argued in her article *Property Rights and Interest* that property rights must exist for all citizens, not only to hold it but also to protest against the government if the government fails to provide basic facilities like food, shelter, employment, etc. Economic self-sufficiency secures citizens against the government and gives broader economic power, which supports the political rights of citizens, like the right to a fair trial and the right to speech—individual property rights save citizens from surrendering their liberty to the state.

Nivedita Menon, in her book *Seeing like a Feminist* (2012), argued that the legitimization of individual rights to the property is the considerable achievement of the Capitalist State for its economic transformation. The establishment of individual property rights under Hindu law is a strategy of the bourgeois to make land completely alienable from the state or community ownership because it makes it easier to pressure individual owners to sell the land on industrialist and capitalist demand (Menon, 2012, 29). Another argument reflects in the book of V. Geetha, where she emphasizes the historical decline of women's rights in households and property. The emergence of private property and the declination of women's rights from property ownership have been described as the world-historical defeat of the female sex. It also shows a deep link between the concept of "inheritance" or "lineage" and the emergence of private property. The emergence of private property recognized the disposition of women's control over households and property and made children identify their lineage or inheritance through their fathers only. Thus historically, men were given importance to control over property and lineage, and women became sex objects to produce the lineage or property protectors (Geetha, 2002).

Though the idea of individual freedom and liberty signifies the sovereignty of the individual body and mind, which is against the practice of slavery, the emergence of private property and its principle subjugated this morality in the

real world. We have shown earlier in the discussion of liberal thinkers how their ideas on individual property rights are gendered. The liberal concept of property denotes the idea of the commodity by the involvement of labor and self-ownership. However, the social character of property ownership emphasized the interest of the entire society and not individual ownership alone. The social concept of property fulfills the needs of all members of society. It seems that, according to the liberal idea of property ownership, if an individual does not put in his/her own labor, then he/she does not own the ownership of property. Moreover, in the liberal idea of “self-ownership,” the person also has the right to profit from the property equally when the person mixes his/her labor. By contrast, according to G.A Cohen, if a person is controlled by his master and he has no control over his mind and body; in this case, the master is allowed to make comprehensive use of the enslaved person’s labor for his own profit without any contribution of the master’s own labor. In this context, we argue that, if we look at the reality, we realize that in a patriarchal society, women are being controlled like “slaves” by their husbands or the male persons of the household; they are considered as her ‘de-facto master’ of her. Thus, when in a patriarchal society, men are the decision-makers overall activities of the household and women are presumed as “subordinate,” “physically less strong,” and excluded from the labor market for their gender identity, then how can they contribute their labor directly to the land to get the ownership right on it? Even women’s “invisible work” in the household does not count as “labor.” So the liberal philosophical understanding of property excluded women from its thought process, and it shows historically how women are being excluded from one of their basic property rights.

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