



Feminisms: The Evolution

Unspoken Feelings: Comparing the Feminism of Sibilla Aleramo's *Una donna* and the Social Battle of the Present-day Anorexic

Francesca Calamita: *Victoria University of Wellington*

Feminism in the Twenty-First Century: Does It Need (Re)branding?

Maria Morelli: *University of Leicester*

'[...] in all respects as if she were a *feme sole*': married women's long road to a legal existence Harriet L. Clements: *University of Kent*

The *Skepsi* team

Krista Bonello Rutter Giappone
Harriet Clements
Maureen Kincaid Speller
Kamilla Pawlikowska
Marco Piasentier
Alvise Sforza Tarabochia

Skepsi is an online research journal based in the School of European Culture and Languages at the University of Kent (SECL) and is entirely run by research students.

The aim of *Skepsi*'s editorial board is twofold: to honour the spirit of SECL by striving to take advantage of its unique position as a crossroads in academic studies in Europe and to become a forum for European postgraduate researchers and postdoctoral scholars by developing collective thinking processes in the context of academic research.

Our title, *Skepsi* — which comes from the Ancient Greek 'σκέψις [*skepsis*]' or 'enquiry' and the Modern Greek 'σχέψις [*sképsis*]' or 'thought' — symbolises our will to explore new areas and new methods in the traditional fields of academic research in the Humanities and Social Sciences. Originality and creativity in the approach of thought and of texts are crucial for us: to enhance and to promote these aspects will be our contribution to the tremendous range of existing academic publications.



The interdisciplinary online journal of European thought and theory in humanities and social sciences

Biannual publication, VOLUME 4, ISSUE 1, AUTUMN 2011

ISSN 1758-2679

<http://blogs.kent.ac.uk/skepsi>

skepsi@kent.ac.uk

Skepsi

School of European Culture and Languages
Cornwallis Building (North West)
University of Kent
Canterbury, Kent, CT2 7NF, UK

Acknowledgements

No issue would be possible without articles from authors, so no small thanks are due not only to those whose articles have been selected for publication but also to the others who submitted articles for consideration but were, on this occasion, disappointed. The contribution of the teams of volunteer peer reviewers, copy editors and proofreaders to the quality of the journal's content must also not be overlooked.

We also thank Csaba Markus for permission to use a reproduction of the painting *The Triumph of Venus* as the cover image and kindly providing us with a higher resolution image of it.

Finally and on a personal note, the Editorial Board must offer a big thank you for their contribution to *Skepsi* to three of its members who have retired since the last issue: Fabien Arribert-Narce and Wissia Fiorucci, both founder members, and also Melanie Foehn. We wish them well in the future.

Contents

Foreword	iv
Francesca Calamita: <i>Victoria University of Wellington</i> Unspoken Feelings: Comparing the Feminism of Sibilla Aleramo's <i>Una donna</i> and the Social Battle of the Present-day Anorexic	1
Maria Morelli: <i>University of Leicester</i> Feminism in the Twenty-First Century: Does It Need (Re)branding?	12
Harriet L. Clements: <i>University of Kent</i> '[...] in all respects as if she were a <i>feme sole</i>': married women's long road to a legal existence	26

Foreword

Previous issues of *Skepsi* have been dedicated to the proceedings of a recent conference; this time, the Editorial Board has, if you will, tossed a topic with no connection to a particular conference to the academic world at large and waited to see what the outcome would be. The theme it chose was ‘Feminisms: the Evolution’.

What articles, we wondered, would result? Would anyone take the long view and compare the feminisms of today’s activists with their mothers’ or even their grandmothers’, thus highlighting the phases through which the movement has passed since its inception? Would someone address the way today’s feminists are challenging the tendency to see the movement as an homogenous ‘one size fits all’, not recognising that it is now more appropriate to talk of ‘feminisms’ than ‘feminism’, so infinitely varied has the movement become? Yet again, an article might explore the ways in which contemporary feminists are contributing to our understanding of women’s needs and goals: have these evolved since the movement’s early days or have they remained constant, while society’s perception of them has changed — *tempora mutantur et nos mutamur in illis* or *plus ça change, plus c’est la même chose*?

Francesca Calamita presents an interesting reading of *Una donna*, the novel that introduced the early twentieth-century Italian Sibilla Aleramo to the public, in terms of a phenomenon that is probably considered to be typical of the late twentieth century: eating disorders in young women. Calamita argues that both today’s anorexics and bulimics and the anonymous protagonist of *Una donna* are using their bodies to express silently that which they cannot express in conventional language, a tactic that may have been used by women for centuries.

Maria Morelli takes a thoughtful look at the state of feminism today and comes to the conclusion that, gloomy headlines to the contrary in recent times notwithstanding, it is still very much alive and very much needed but should concentrate more on getting its message across and less on the superficialities of ‘branding’ or even ‘rebranding’ itself, as if it were a marketable commodity.

Finally Harriet Clements, going back to the doughty proto-feminists of the mid-nineteenth century and their long drawn-out campaign to make married women equal with their unmarried/widowed sisters in the eyes of the English legal system, reminds us that not only is perseverance needed to overturn social norms that have obtained for nearly a millennium but also that the part men have played in bringing reform to fruition must be ungrudgingly acknowledged.

The Editorial Board believes that the change of strategy has paid off and that this, the sixth issue of *Skepsi*, contains much that will both inform and entertain the reader.

Unspoken Feelings: Comparing the Feminism of Sibilla Aleramo's *Una donna* and the Social Battle of the Present-day Anorexic

Francesca Calamita

Victoria University of Wellington

The autobiographical novel *Una donna* (1906), which introduced Sibilla Aleramo (1876-1960) to the literary panorama of the early twentieth century, represents a watershed in Italian women's writing, in that it is the first to address a significant debate on the *questione femminile*.¹ Women's writing of the late nineteenth century had already discussed the social role of the middle-class wife and proposed a variety of models of femininity.² Aleramo, however, pushed the cultural boundaries of the period further by questioning, for the first time in Italian female narrative discourse, the relationship between women and motherhood and the cultural conventions of the time as regards a woman's obligation to marry and her behaviour during marriage. The novel, a first-person narrative, explicitly discusses the social role of bourgeois women of the time in its story of the unnamed young protagonist, who, in accordance with the social *mores* of the time, marries a man by whom she has been raped, a man who works for her father, a factory manager. To escape from the unhappiness of this unsuccessful marriage and the oppression she experiences at the hands of her husband, the Woman³ flouts convention by leaving him and abandoning her young son, the Woman's only child, born after an earlier pregnancy that ends in a miscarriage.

As Marina Zancan points out, one of the characteristics of Aleramo's narrative works is her anxiety about communicating her feelings to others (1988: 13). Indeed, in *Una donna*, the writer employs two distinct levels of communication by which to express her thoughts through the protagonist's actions: not only does the Woman speak with the conventional language of the words but also with the metaphorical language of the body. Furthermore, as

¹ In this article I will use the English translation of *Una donna* by Rosalind Delmar: see Bibliography. Antonia Arslan points out that the rule-breaking message of *Una donna* was already seen as a 'documento umano [*human document*]' and a 'bandiera di battaglia [*battle flag*]' by the audience of the early twentieth century (Arslan 1988: 164).

² I am referring in particular to three novels by Neera (1846-1918): *Teresa* (1886), *Lydia* (1887) and *L'indomani* (1889) where the author, through the stories of the three young protagonists, questions the female identity of the time and discusses the social meaning of the bourgeois marriage. For a view of the female social roles and their depiction in women's writings of the time see Arslan 1988. For an anthology of selected women's writings who question feminine identity in the nineteenth and early twenty century, see Morandini 1980.

³ As none of the characters in the novel has a name, I shall refer to them as 'the Woman', 'the Mother' etc.

Saveria Chemotti demonstrates, in Aleramo's *Una donna* the body works as a 'supporto essenziale e primario [essential and primary support]' for the Woman's words and thoughts (2003: 49). In particular, as I argue in this article, the second means of communication replaces the first when the protagonist cannot express her intimate voice in words. In this way, the language of the body becomes a unique link between the Woman and the other characters and allows the young woman to communicate her repressed emotions. According to Dacia Maraini (1995: 15), the language of the body emerges sometimes as a 'protesta prelinguistica [prelinguistic protest]' in women's writings, when the first level of communication, the spoken word, is forbidden by the social conventions of the era; this is exactly what the socially trapped protagonist of *Una donna* experiences. In this paper, I shall analyse significant narrative images of the Woman's unspoken feelings, focussing in particular on her relationship with her mother and referring to the episode of the rape and her unsuccessful marriage. I shall suggest some similarities between Aleramo's protagonist and the present-day anorexic and compare the behaviour of the Woman to that of the 'disobedient eater'. As I will explain later, feminist and sociological researchers have been reading anorexia as an outcome of women's position in patriarchal culture and the anorexic as a 'protester' at her social status. I will suggest that, although they come from different historical periods, the young protagonist of the novel and the present-day anorexic fight the same social battle on the *questione femminile* and they attempt to protest against their repressive conditions through the language of the body, which articulates what words cannot describe openly.

From a feminist and sociological point of view, Susie Orbach points out that in the development of eating disorders, the language of the body acquires a metaphorical meaning for the anorexic: it communicates 'what she is unable to tell us with words' (1993: 83). Furthermore, she argues, women's bodies work as a 'vehicle for a whole range of expressions that have no other medium' (1993: 28). In this figurative connotation, the second source of communication used by the young protagonist of *Una donna* and the anorexic is employed similarly: they are both unidiomatic expressions of a protest.

As I have already observed, despite their different cultural and historical contexts, the protagonist of *Una donna* and the present-day anorexic share a common battleground: the oppressive social role of being a woman. While the nineteenth-century woman was fighting against the cultural conventions of her time to achieve new political and social rights, such as working outside the household and gaining a higher education, the anorexic '[l]ike the hunger

striker, is in protest at her conditions' (Orbach 1993: 82-83). In the following passage, feminist sociologist Morag MacSween (1993:1) explains the relationship between womanhood, cultural milieu and eating disorders in the twentieth and twenty first centuries:

The anorexic 'boom' at precisely the time when feminism is again challenging the oppression of women, coupled with evidence that almost all anorexics are women, that anorexia has a strong middle-class bias and it is virtually unknown outside the developed West, suggest that the illness has some relationship to the social situation of middle-class women in modern Western culture.

Eating disorders are a complex answer to social pressures and the construction of female identity, whereby slimness and 'bird-like-eating' evoke the ideal characteristics of the contemporary girl (Orbach 1978: 163). Although slenderness was already regarded as an ideal of beauty among middle class women at the turn of the twentieth century, the ideal level of thinness is not comparable to current unachievable models. It is worth noting that at the end of the nineteenth century, Giuseppe Seppilli had already included in the development of eating disorders the pursuit of slimness, referring to it as a sign of 'civetteria [*coquetry*]' (Colella 2003: 255). Anorexia was officially identified as such in the second half of the nineteenth century, but many researchers link it to even more ancient times, going back to the Middle Ages.⁴

As I have already observed, eating disorders are commonly perceived as the quintessential outcome of our current era, especially because of their relation to thinness. However they also involve significant social factors, such as the role of middle class women, as the quotation by MacSween above exemplifies. In fact, the medieval fasting which was practiced by the so called 'anorexic saints', can, according to Rudolph Bell, be read as a complex response to the social and religious framework of the time: 'whether anorexia is holy or nervous depends on the culture in which a young woman strives to gain control of her life' (Bell 1985: 20). While it is commonly accepted that Charles Lasègue in 1873 and William Gull in 1874 identified anorexia (Gull and Lasègue 1998), it should be pointed out that an Italian physician, Giovanni Brugnoli, was also investigating the illness at the same time (Brugnoli 1875). While the emphasis on thinness plays a central role in the development of present-day anorexia, my analysis is not interested in comparing the levels of ideal slimness of the early twentieth century to the ones of the postmodern era but in the complex understanding of eating disorders as 'one of a range of 'solutions' to the irreconcilability of individuality and femininity' (MacSween 1993: 255).

⁴ See Bell 1985.

As Fabio Girelli Carasi suggests, hysteria, which was regarded as the emblematic disease of the nineteenth-century middle class woman, could be compared to the symptoms of Aleramo's autobiographical character. However, while hysteria shares with anorexia the communication of the deepest emotions through the body, the anorexic pushes herself further by 'defemini[sing] the body' (Orbach 1993: 7). As MacSween suggests, 'in the anorexic symptoms women try to synthesize contradictory elements in their social position through the creation of an "anorexic body"' (1993: 2). The nonconformity of Aleramo's Woman from her childhood on, her work at her father's business, as well as some physical details, such as her short hair, do not suggest what Orbach calls the 'feminine frailty' of the late nineteenth-century lady but, rather, recall the obstinate behaviour of the anorexic in pursuing her battle (1986: 7). As I will discuss later, some characteristics of the protagonist's behaviour are opposed to those of her mother, who better embodies the 'weakness' of the hysteric. Both women suffer from their submissive social conditions but while the protagonist of *Una donna* escapes from her marital subordination, her mother cannot. I am not suggesting that Aleramo's autobiographical character has an explicitly troubled relationship with food but that, in her novel, we can identify what I will refer to as an 'anorexic attitude' which resembles the social protest of the 'rebellious eater' in today's feminist understanding of anorexia.⁵

The emergence of the protagonist's masculine behaviour is highlighted right from the beginning of the novel. Her childhood is deeply influenced by her father, who allows her to grow up with more social freedom in comparison with other middle-class girls of the time, for instance by employing her in his factory:

I remember a photograph of myself taken a year later, when I started to work regularly in the factory office. I was wearing an odd assortment of clothes – a straight-cut jacket with lots of small pockets for my watch, pencil, and notebook, over a short skirt. My hair fell in curls over my forehead but had been cut short at the back, making me look like a young boy — at my father's suggestion I had sacrificed my glossy pigtailed with their golden gleams. (1980: 15)

Having grown up with the liberal ideas of her father, not only is the Woman allowed to visit the factory but also to work among lower class employees, and this in a historical period when a wealthy Italian woman's working outside the home was still seen as a cultural taboo.

⁵ In her discussion of Paola Masino's *Nascita e morte della massaia* (1945), Lucia Re analyses the relationship between the protagonist, her body and food. While the historical context differs from that of my research, Re suggests that Masino questions the feminine identity of the Fascist era through the action of the protagonist who refuses to accept her submissive social role and employs food and the body to protest (Re: 2005). The relationship with food and the body in *Nascita e morte della massaia* is also central to Enrico Cesaretti's analysis which focuses on the 'aesthetic/hermeneutical aspect' of the 'anorexic attitude' of the protagonist (Cesaretti 2007).

The ‘social concessions’ allowed by her father could have influenced her by establishing both her nonconforming behaviour and what she anticipated her future choices as regards family and motherhood would be. This is made clear, for example, when she compares her ambitions with those of a woman who comes to their house to help her mother with domestic tasks: ‘I assured her that *I would never marry*, that I would never be happy unless I could go on working, and that furthermore all girls should do the same as me, for marriage was a mistake — Father said so’ (1980: 29: original emphasis). The contemporary anorexic grows up in a society in which she may choose to pursue greater education and professional development opportunities but she is still expected to be a wife and mother, because she has been educated from her childhood on to believe that she still needs to take care of the family in fulfilment of her natural duty (Lawrence 1984: 51-55).⁶ Similarly, the young protagonist of *Una donna* grows up with her father’s liberal ideas but, as soon as she becomes a teenager, her personal experiences, such as her rape and her father’s infidelity, force her to realise the influence of patriarchal society in women’s lives. Both the present-day anorexic and the novel’s protagonist discover patriarchal societal expectations after having attempted to ‘access’ the male world, and feel trapped in their contradictory social conditions.⁷

The Woman’s parents are two contrasting characters, her father strong and powerful, her mother emotionally dependant on her husband. The Mother is strongly influenced by the social *mores* of the times while the Woman as a child, as we have seen, grows up with the masculine ideas of her father and does not want to pursue her female destiny. By comparing the two feminine figures, Aleramo explains the social evolution of Italian middle class women at the turn of the twentieth century and describes both the concrete possibility for women to change their social destiny and the difference between two generations. This point recalls a major theory on eating disorders by Kim Chernin (1986: 42), who suggests that the mother-daughter relationship is implicated in the development of anorexia:

It is worth considering the fact that for most women the new image of female development is not handed down by a mother. It is worth considering what it means to a woman putting food into her mouth that she must immediately fear this food will turn her into a woman whose life is without ambition, who married and had babies and feels so ashamed that she does not dare to

⁶ The development of anorexia is not limited to young women’s position in patriarchal society; other factors such as age, gender and sexuality are involved. For instance, in her latest study on the relationship between body and social context, Orbach makes numerous references to men’s social position in the postmodern era; furthermore, she makes reference to the increasing number of women suffering from eating disorders in non-western countries (Orbach 2009). In this article I have chosen to engage with feminist debate on anorexia, however other theories could have been considered, such as psychological and psychiatric explanations; my analysis is not interested in ‘psychoanalysing’ the young protagonist of *Una donna* but in the social relationship between the feminist understanding of eating disorders and the present-day *questione femminile*.

⁷ Orbach argues that ‘anorexia illuminates the difficulties of entry into a masculinist world’ (Orbach 1993:7).

leave her house. For a daughter whose mother's life has made this impression on her, the act of eating will be fraught with peril. With every bite she has to fear that she may become what her mother has been.

By not eating any food, a daughter tries to differentiate herself socially and physically from her mother and attempts to acquire a slim body as synonymous of freedom from patriarchal society. We should consider that despite being addressed to contemporary generations, Chernin's theory could also be applied to the social situation at turn of the twentieth-century; indeed, from the unification of Italy to the postmodern era, generations of middle-class women have progressively overtaken their mothers by accessing greater education and working outside the household. The young protagonist does not respect her mother's submissive behaviour and refers to her, with adjectives that recall her social position with compassion, as 'the unhappy [...]' and 'the unfortunate woman' (1980: 53-55). In fact, Chernin reveals that her patients often discuss their mothers with terminology that recalls that used by the protagonist of *Una donna*: '*shrunk, impoverished, exhausted, drained, depleted [...]*' (1993: 62: original emphasis).

In the novel, there are no images of nutrition with which to compare the eating habits of the young protagonist of *Una donna* to those of the present-day 'disobedient eater' as regards the mother-daughter relationship, however Chernin's explanation recalls the social gap between the protagonist and her mother. Indeed, the Woman, fascinated by a book about women's movement in England and Scandinavia, thinks about the word 'emancipation' and relates it to the maternal role: 'But a good mother must not be simply a victim of self-sacrifice, as mine had been: she must be *a woman*, a human individual' (1980: 113-14; original emphasis). In this passage, she freely admits to having overtaken her mother's social status, through her nonconforming choices; by interpreting her mother as 'a victim of self-sacrifice' she recalls the attitude of the contemporary 'rebellious eater' who tries to avoid conforming to her mother's social role through the metaphorical refusal of food. Both the protagonist of *Una donna* and the anorexic refuse to conform to their mothers' social status and attempt to overtake them through the construction of a disobedient 'anorexic attitude', as I have described it. It is pertinent to recall here the episode of the protagonist's miscarriage, which occurs as the Mother's condition deteriorates (suffering from depression, she is finally committed to a psychiatric clinic): the interruption of the pregnancy could be seen as a further attempt by the Woman to communicate her inner voice through her body. Ceasing to menstruate is one of the characteristics of the anorexic, and it is what Orbach (1993: 7) calls 'the explicit marker of her reproductive capacities'. Through the construction of a 'gender-

neutral body' the present-day anorexic discusses her canonical social duties (MacSween 1993: 2-4), which also includes motherhood; similarly, Aleramo's young protagonist experiences an analogous metaphorical situation through the miscarriage.⁸ In this interpretation, the Woman's body symbolically refuses to live in complete marital submission as her mother did; the detail of the miscarriage and the passage quoted above suggest that the young protagonist is not ready for maternal sacrifice.

The Mother's mental condition could be interpreted as that woman's attempt to rebel against her repressive social role and to express herself through her body her inner voice, just as her daughter does. There is a physically significant element about the Mother which exemplifies this suggestion: during her daughter's childhood, the Mother is an elegant and well-dressed woman, but in later life when confined in the clinic she becomes fat: 'She had put on even more weight since our last visit, and her tiny, delicate features, were by now almost submerged in her fleshy cheeks and chin' (1980: 85). On the one hand, this dichotomy in her physical appearance could be seen as the social fracture between the mother and the protagonist, the former's social failure and the latter's ability to advance, but, on the other hand, it could be read as a sign of the Mother's liberation: removed from the tyranny of her husband, she abandons the social conventions of the time, which also include the relationship with food and body. In this way, her corpulence could represent a symbol of her transgressing the strict rules of the household which had imposed on her the role of submissive wife and mother, ready to sacrifice herself for the family. According to the author of the well known best seller *Fat is a Feminist Issue*, a more rounded body allows women to mask their sexuality: 'Fatness took them out of the category of women and put them in the androgynous state of 'big girl'' (1978: 43). Orbach suggests that the compulsive eater unconsciously seeks 'to hide' herself through the creation of a fat body (1978: 42). Fatness desexualises her, just as thinness does in the construction of the anorexic body (1978: 169). As she points out, anorexia '*is the other side of the coin of compulsive eating*' and both choices express a complex response to the same social oppression (1978: 162; original emphases). In this sense, the Mother's overweight body legitimises her refusal of her social status and frees her from the cultural expectations of the time, especially from the 'natural' duty of wife and mother. The Woman's emotional crisis and the Mother's depression can therefore be read as two different resolutions to the same social battle for the construction of their feminine identities.

⁸ Chemotti (2003:52) draws attention to the important passage in which the Woman, having realized her Mother's condition, describes her own emotional and physical status as a 'savage rebellion' prior to experiencing a miscarriage (Aleramo 1980: 53).

Zancan, who has studied ‘la genesi e la storia [*the genesis and the story*]’ of the novel, has made an analysis the first drafts of *Una donna* (1998: 181-97); one passage in particular, which does not appear in the final version, links the physical appearance of the Woman as a young girl with the contemporary social role of women:

Il meccanismo del mio cervello si era quasi arrestato, benché non m'accorgessi che d'un po' di torpore, e continuassi a leggere qualcosa. Il mio fidanzato lodava i miei gusti letterari, incoraggiandomi però di preferenza a impraticarmi nelle faccende domestiche, il che facevo per convinzione di dovere ma naturalmente senza entusiasmo. Durante l'estate crebbi di statura e diventai molto snella. (194)

[*The mechanism of my brain would almost stop, although I would feel nothing more than a slight lethargy, and I would carry on reading something. Although my fiancé praised my literary tastes, he encouraged me improve myself preferably in the domestic arts, which I did out of a sense of duty but naturally without any enthusiasm. Over the summer I became taller and very thin. (My translation)*]

On the one hand, the extract could be seen as a normal description of the passage from childhood to adolescence — becoming taller is part of this process — but, on the other hand, if we consider her nonconforming behaviour and the ‘anorexic attitudes’ we have discussed so far, the detail of her weight loss could be read as her reaction to her fiancé’s encouragement to put aside her reading and be more involved in domestic work. In this, the body becomes emblematic of the rebellious personality of the Woman, who does not want to become an ‘angel of the house’ and would like to reach a level of economic and social independence through the work of journalist and writer. The depiction of a plumper body, typical of a maternal figure, would have been a sign of her having accepted her fiancé’s suggestion to spend time on domestic tasks; a slim body, on the other hand, symbolises her independence and her future social rebellion. As we have seen, the Woman and the Mother each acquire two opposite body shapes, both of which metaphorically suggest a complex resolution to the same oppressive social conditions. Although the passage quoted above was not included in the final version of the novel, they represent a significant detail for my analysis, in that they suggest an awareness of the symbolic value of body size on the part of Aleramo.

The Woman experiences numerous periods of sickness which resemble the symptoms of an emotional crisis. As Girelli Carasi points out, her ill-health is not only a result of her daily routine as wife and mother but something that recalls past events: ‘[a] reactivation of an earlier experience’, like the rape that took place in her father’s factory when she was a teenager. After having attempted suicide, the Woman identifies the episode of the rape as the origin of her ill-health:

How long had this crisis been building up inside me? Surely since the day the turbulent man I later married disrupted my life so brutally, leaving me vulnerable to corrosive influences which gradually wore me down, physically and mentally. But I had not been aware of the psychological crisis he had initiated until the last moment. (1980: 91)

Analysing feminist research on sexual violence, MacSween suggests that rape is ‘one expression of a sexual politics in which patriarchal power is played out’ (1993: 167). This social situation is precisely what the Woman as a teenager faces at the turn of the twentieth century through the violence against her; the ‘social meaning’ of the episode is experienced later by her as a young woman and influences her emotional life after her marriage. Indeed, it is while she is living with her husband that she experiences her emotional crisis:

As time went on I was taken over by a sort of lethargy. I seemed to need to do nothing except abandon myself completely to my surroundings. As a result my body submitted to my husband’s wishes although I found him physically more and more repugnant. I put this down to my exhaustion, my tiredness. [...] I prepared lunch and dinner myself, willing to do it though it gave me no pleasure. (1980:48)

It is notable that the Woman links her emotional conditions to sexuality and domestic chores. As an early twentieth century bride, she cannot refuse her conventional female responsibilities; however she takes no pleasure from food or sexuality. I suggest that in this figurative connotation, the passive attitude of the young protagonist symbolises a visible manifestation of her inner reaction to her oppressive conditions through her unreceptive behaviour as regards food and domestic chores.

‘Love, sacrifice yourself, and submit! [...] Was that every woman’s destiny?’ (1980: 55) the young protagonist asks herself, trying to articulate a solution. Anorexia as a complex answer to women’s social role addresses a similar question on womanhood. Indeed, Aleramo’s feminism and the social battle of the anorexic draw a significant link between the first wave of feminism and the present-day *questione femminile*. As we have seen, despite their different social contexts, they share a similar desire: to dispute the received female identity of the time. The body and food metaphorically represent the woman as a mother and caregiver for the family and they are synonymous of her natural disposition to take care of others’ needs. But significantly the body and food are also the same instruments employed by the contemporary anorexic to protest. Questioning her social role, Aleramo’s Woman uses her body with a similar ‘disobedient attitude’. In her childhood, she was introduced to the ‘male world’ by her father; after his adultery and the episode of the rape, however she begins to realise the patriarchal influence on the female social role of the time. As we have seen, the anorexic grows up in a society where various choices in the construction of female identity are offered to women; however, western cultures are still ambivalent about these roles. Using

a second, corporeal means of communication, allow both Aleramo's protagonist and the present-day anorexic to speak about their deepest feelings. MacSween points out that her sociological research on eating disorders does not seek to establish why one woman becomes a feminist and another anorexic but rather discusses 'the political meaning of anorexia as one engagement with the dilemmas of patriarchy' (1993: 255). This is precisely the link between Aleramo's feminism and the social battle of the present-day anorexic. The young protagonist of *Una donna* in the late nineteenth-century context experiences the same sense of uncertainty and attempts a second source of communication through her body to articulate what she was still forbidden to express; employing an 'anorexic attitude', the protagonist speaks with her body and protests like a present-day 'disobedient eater'.

Bibliography

Primary Texts

Aleramo, Sibilla, *Una donna* (Milan: Feltrinelli, 2004)

—A *Woman*, trans. by Rosalind Delmar, introd. by Richard Drake (Berkeley and Los Angeles: University of California Press, 1980)

Secondary Texts⁹

Arslan, Antonia, 'Ideologia e autorappresentazione. Donne intellettuali fra Ottocento e Novecento' in *Svelamento. Sibilla Aleramo: una biografia intellettuale*, ed. by Annarita Buttafuoco and Marina Zancan (Feltrinelli: Milan, 1988), pp. 164–77

Bell, Rudolph, *Holy Anorexia* (Chicago: University of Chicago Press, 1985)

Brugnoli, Giovanni, 'Sull'anorexia. Storie e considerazioni', *Memorie dell'Accademia delle scienze dell'Istituto di Bologna*, 3, 6 (1875), 351–61

Svelamento. Sibilla Aleramo: una biografia intellettuale, ed. by Buttafuoco Annarita and Zancan Marina, (Milan: Feltrinelli, 1988)

Cesaretti, Enrico, 'Nutrition as Dissolution: Paola Masino's *Nascita e morte della massaia*', *Quaderni d'italianistica*, 28, 2 (2007), 143–62

Chernin, Kim, *The Hungry Self: Women, Eating, and Identity* (London: Virago, 1986)

Chemotti, Saveria, 'Il corpo come voce di sé: sussurri e grida in "Una donna" di Sibilla Aleramo', *Studi novecenteschi*, 65 (2003), 43–61

Colella, Anna, *Figura di vespa e leggerezza di farfalla. Le donne e il cibo nell'Italia borghese di fine Ottocento* (Florence: Giunti, 2003)

Sibilla Aleramo e il suo tempo. Vita raccontata e illustrata, ed. by Conti Bruna and Morino Alba (Milan: Feltrinelli, 1981)

Forni, Piera, *Sibilla e Rina: l'Aleramo tra giornalismo e letteratura* (Florence: Centro Editoriale Toscano, 2005)

Forti, Lewis, Angelica, 'Scrittura auto/bio/grafica: teoria e pratica. Una proposta di lettura androgina per *Una donna* di Sibilla Aleramo', *Italica*, 71, 3 (1994), 325–36

Girelli, Carasi, Fabio, 'Disease as Metaphor in Sibilla Aleramo's *Una Donna*' <<http://academic.brooklyn.cuny.edu/modlang/carasi/articles/aleramo.html>> [accessed: 2-Mar-11]

Gull, William, Withey e Lasègue, Ernest, Charles, *La scoperta dell'anorexia*, introd. by Piero Feliciotti, trans. and ed. by Giuliana Grando (Milan: Edizioni Bruno Mondadori, 1998)

Krugovoy, Silver, Anna, *Victorian Literature and the Anorexic Body* (Cambridge: Cambridge University Press, 2002)

⁹ Although it does not specifically deal with the depiction of anorexia in Italian women's writing, there are useful discussions on the topic of eating disorders generally and their portrayal in literature in *Disorderly Eaters: Texts in Self-Empowerment*, ed. by Lilian R. Furst and Peter W. Graham (Pennsylvania: The Pennsylvania State University Press, 1992).

- Lawrence, Marilyn, *The Anorexic Experience* (London: Women's Press, 1984)
- MacSween, Morag, *Anorexic Bodies. A Feminist and Sociological Perspective on Anorexia Nervosa* (London: Routledge, 1993)
- Maraini, Dacia, *Conversazione con Dacia Maraini. Il piacere di scrivere*, ed. by Paola Gaglianone (Rome: Òmicron, 1995)
- McEachern, Patricia, *Deprivation and Power: The Emergence of Anorexia Nervosa in Nineteenth Century French Literature* (Westport: Greenwood Press, 1998)
- Morandini, Giuliana, *La voce che è in lei. Antologia della narrative femminile tra '800 e '900* (Milan: Bompiani, 1980)
- Morino, Alba, *L'analista di carta. Sibilla Aleramo un'esperienza, un metodo* (Imola: Editrice La Mandragora, 2003)
- Neera, *Teresa* (Lecco : Periplo Edizioni, 1995)
- *Lydia* (Lecco: Periplo Edizioni, 1997)
- *L'indomani* (Palermo: Sellerio Editore, 1981)
- Orbach, Susie, *Fat is a Feminist Issue...The Anti-Diet Guide to Permanent Weight Loss* (New York: Paddington Press, 1978)
- *Hunger Strike: The Anorectic's Struggle as a Metaphor for Our Age*, 2nd edn (London: Penguin, 1993).
- *Bodies* (London: Profile Books, 2009)
- Re, Lucia, 'Fame, cibo e antifascismo nella Massaia di Paola Masino' in *Il cibo e le donne nella cultura e nella storia: prospettive interdisciplinari*, ed. by Muzzarelli Maria Giuseppina and Re Lucia (Bologna: Clueb, 2005), pp. 165–82
- Zancan, Marina, *Il doppio itinerario della scrittura. La donna nella tradizione letteraria italiana* (Turin: Einaudi, 1998)
- Wood, Sharon, *Italian's Women Writing 1860–1994* (London: The Athlone Press, 1995)

Feminism in the Twenty-First Century: Does It Need (Re)branding?

Maria Morelli

University of Leicester

Over the years, the media declared the death of feminism with headlines such as ‘Feminism was something for our mothers’, in the *Independent* (Levenson 2009) and ‘Feminism outmoded and unpopular’, in the *Guardian* (Ward 2003); other headlines such as ‘Warning: Feminism is bad for your health’ in the *Independent* (Dobson 2007) or ‘Bra-burning feminism has reached burn-out’, in *The Times* (Freaan 2003) have attached negative connotations to feminism. Similar headlines have been in and out the news since the 1980s. However, the evidence suggests that young women are formulating their own constructions of feminism as a way to carve out a personal space for the redefinition of their own identity. Following on from this and using the British and Italian situation as case studies, I shall provide evidence for the observation that an array of new feminist activities, including national networks, local groups, and blogs, has recently been formed. This article will demonstrate, first, that the feminist movement today is still very much alive and very much needed, and, secondly, that, even current activists are undeniably adopting methods that are different from those of their foremothers, this does not necessarily imply that feminism has ceased to exist.

Although aspects of these issues have already been considered by earlier studies, this article does so from an interesting and original perspective by examining them through a diverse range of sources available within mainstream media: excerpts from newspapers, feminist blogs and the American TV series *Sex and the City*. Furthermore, by not imposing a set definition of feminism but by letting it emerge from the corpus of material under investigation, my research provides evidence for the observation that much ambiguity lies in the meaning of feminism today, as is argued by the work of writers such as Leslie Heywood and Jennifer Drake (Heywood and Drake 1997: 7, 8, 15). Following their lead, I shall argue that the fragmentation of contemporary feminist activism can rightly be seen as a reflection of the on-going dialectic of the movement itself, rather than an internal contradiction denoting political apathy and that third-wave feminism explicitly embraces hybridism, contradiction, and multiple identities.

I shall begin my analysis with a brief introductory outline of the problematic situation concerning the defining of feminism at the present time by examining certain labels which have so significantly informed academic debate in recent years: ‘post-feminism’ and ‘third-wave feminism’.

The use of the first term, ‘post-feminism’, has become increasingly common, during the last ten years, in academic studies of contemporary media, its first use in this context being attributed to Judith Stacey (Stacey 1987: 341–61). In using it, Stacey reclaimed it from popular journalism at the time, explaining that she understood it as referring to a new stage in feminism rather than declaring the demise of the movement. ‘Post-feminism’ has been the subject of considerable debate and is currently used in at least three specific, different ways. First, to connote the ‘death’ of feminism, thus stressing that the equality feminism itself assumes is largely a myth; secondly, to indicate the next stage of the movement and its legacy, which can no longer be defined simply as ‘feminism’; thirdly, ‘post-feminism’ for some, refers to work inspired by poststructuralist or postmodern theory (Showden 2009: 168).

‘Third-wave feminism’ is the name given to a new feminist movement which made its appearance in the United States in the early nineties; calling themselves ‘third-wave’ feminists, this new generation of women has claimed feminism as ‘a birth right, an inherent feature of being of a woman’s life’ (Denfeld 1995: 2). As Jennifer Baumgardner and Amy Richards observe in *Manifesta: Young Women, Feminism, and the Future*, the presence of feminism in their lives is taken for granted by all born after the early 1960s (Baumgardner and Richards 2000). Using ‘third-wave’ as a way to define themselves in opposition to second-wave feminists (often criticised by them for their white, middle class bias), ‘third-wavers’ have frequently invoked *individualism* over the perceived dogmatism of second-wave feminism. Indeed, as Heywood and Drake note in *Third Wave Agenda*, ‘the ideology of individualism is still a major motivating force in many third wave lives’ (Heywood and Drake 1997: 11).

Although these terms, post-feminism and third-wave feminism, are often used interchangeably, there are differences between the two, but a discussion of them falls beyond the scope of the present study; what interests us here is that they are both responses to dissatisfaction with second-wave feminist theory. In view of the hybridism inherent to feminist activism today and Carisa R. Showden’s stance on third-wave feminism, I shall argue that, in this second decade of the twenty-first century, the feminist movement holds

promise for expanding outward from previous feminist theory and moving into political practice.

Critical commentary on third-wave feminism has often accused its work of conflating consumerism and political action, individual change and political change, cultural adjustments and economic and political restructuring (Probyn 1993: 278–94). While not entirely unfounded, these criticisms seem, however, to underestimate the contributions some recent activists are making to the feminist movement. These activities I shall explore, in order to endorse my claim that, such accusations notwithstanding, the so-called ‘third-wave feminism’ shows the potential to move into a politically engaged phase.

I’m not a feminist but..., the title of a well-known paper by Buschman and Lenart, is a phrase which has also become a cliché of our times (Buschman and Lenart 1996). That there is some truth in it is borne out by academic research, which has found that very few young women are willing to identify themselves as feminists (Rupp 1998; Stacey 1987) and that they express feminist ideas without labelling themselves as such (Morgan 1995).

As pointed out by journalist Chloe Angyal in an article published by the *Guardian* in April 2010, if you were to ask most women if they believe in equal rights, the answer would no doubt be a resounding ‘yes’. She goes on to observe that post-industrial regimes are quick to adopt feminist rhetoric yet, paradoxically, these are the very same regimes who generally declare themselves anti-feminist: when George Bush invaded Afghanistan post 9/11, he invoked the allegedly persuasive power of feminism to justify this action by claiming that one of its aims was to free women from the oppressive regime of the Taliban. This illustrates another striking paradox: feminism is well-known and recognised worldwide yet is deemed to be a victim of its own success and accused of having made itself irrelevant to life in the twenty-first century. Woman, in Ouellette’s words, are too often ‘reluctant to define themselves with the feminist label, but they approve of and indeed demand equal pay, economic independence, sexual freedom and reproductive choice’ (Ouellette 1992: 119).

What this suggests is that, while young women embrace the values of feminism, many cannot or do not want to identify with the feminist movement. Why? How can feminism be re-branded nowadays? And does feminism need to change its name or just change the way it communicates itself? In answer to these questions, it will be my contention that the name by which the movement calls itself is of paramount importance, since the naming policy is indeed a powerful political tool by which a social issue is not only ‘discovered and defined but also in some ways created’ (Klatch 2001: 904). However, it will also be my contention

that, as far as the future of feminism is concerned, finding a new name for the movement is unnecessary: feminists do not need to give up their name; they simply need to change the way in which they communicate their message.

The time when sisterhood was on the march and women were fighting side by side calling for equal pay seems to have now lost all of its appeal, to the point of its becoming a mere blurred memory from a distant past. Whilst women today may be the butt of sarcastic humour simply for the purposes of *writing about* feminism, the label ‘feminist’ equates with being old and unattractive (to say the least); as a consequence, more and more women fail to identify with the ‘f-word’. In her study of women of all ages, Sigel has observed that feminism was often characterised by ambivalence (Sigel 1996: 113); Sigel’s interviewees for the purposes of her study saw themselves as feminists to the extent that they advocated feminist goals but refused to accept the label.

As powerfully exemplified by the headlines quoted at the beginning of this article, feminism has acquired a poor reputation over the last decade or so. What is more, influential public figures have castigated it in no uncertain terms. To give just a British example, and quite a recent one, when David Willetts was speaking prior to the launch of the Government’s flagship social mobility strategy, his stance as regards the feminist movement was that ‘feminism has held back working men’ (quoted in Prince 2011). On this occasion, the British Minister for Universities and Science, who has also expressed his views on feminism in his recent book, *The Pinch: How the Baby Boomers Took Their Children's Future — And How They Can Give it Back* (2010), maintained that, as a result of better opportunities for women in terms of work and education than in the past, households now contain well-educated earning couples, thus widening the gap between such households and ones in which no adult is working. Feminism, in Willetts’ view, is the main reason behind the stagnation in social mobility over the past forty years. While maintaining that he is not against feminism *per se*: ‘it is not that I am against feminism, it’s just that [it] is probably the single biggest factor’ (quoted Mulholland 2011), the Minister is, in fact, blaming some of the main feminist achievements, namely, the entry of women into the workforce and universities, as the main cause for the men’s lack of progress.

This is a contentious issue. However, the claim advanced by Willetts that feminist achievements are to be blamed for magnifying social divides is quite hard to maintain; as Cristina Odone, a journalist and broadcaster specialising in the relationship between society and families, aptly observes:

Willetts is right that feminists are responsible for the plight of working class men. But not because they have stolen their jobs. Feminists [...] have undermined working class men with their philosophy that all males are expendable. (Odone 2011)

However, Odone also suggests that the responsibility for introducing this philosophy lies with successive Labour governments which introduced a benefits system that rewards single mothers who do not let the father of their children live under the same roof in order to satisfy the feminists in their party.

Following on from the controversial relationship between feminism and politics, what has just been said about Willetts allows us to draw on the Italian situation to venture a parallel between the British Minister's take on women and that of the Italian Prime Minister Silvio Berlusconi — the obvious differences between the two politicians and their ideologies notwithstanding. In recent years, one term (although used pejoratively) has gradually come to dominate the Italian feminist lexicon: *velinismo*, a neologism deriving from a popular TV show. The programme in question, *Striscia la Notizia*, shows two scantily dressed girls (*veline*) who dance without saying anything at all. From there, the name *veline* has been given to all women appearing on TV just to exhibit their physical attributes. As Marina Calloni, professor of social and political philosophy at the State University of Milano-Bicocca, shows in her study on media portrayal of Italian women titled *Women and the Italian television: the End of an Alliance* (Calloni 2009), such eroticisation of the female body in the media has turned women into saleable objects to the detriment of their professional capabilities. Often bordering on pornography, this new trend became established during the Nineties, thus making feminine beauty the *sine qua non* for successful TV programmes.

These facts, which mark the apotheosis of the debasement of women's body, also referred to as 'body politics', are inevitably linked with Berlusconi too, for the Italian prime minister has made a few TV soubrettes become politicians (Calloni 2009). This is how also Natalia Aspesi, columnist for *La Repubblica*, sees it in *The Times*; in Aspesi's words, economic recession in Italy seems to be reflected in the (mis)representation of the female body: 'It is clear that to enter Parliament, to become a minister, to go to Europe, you just have to be under 30 and very pretty and perhaps have gone to bed with someone' is the journalist's assessment of the condition of women in the *Bel Paese* (Aspesi 2009).

'Body politics' was first used in this sense in the United States during the 1970s, as part of the 'second-wave' of the feminist movement (Calloni 2009). It designates a movement chiefly concerned with the fight against violence against women, the campaign for reproductive rights and, more relevant to our analysis, the objectification of the female body.

The fact that women's physical appearance has become a political weapon begs the question whether all the gains feminists have supposedly made to date have actually been annulled. If so, this would corroborate the assertion that much still remains to be done in order to achieve real equity and justice, and, furthermore, would legitimise the question, as regards their role in civil society, whether women should be more than just passive onlookers when facing such an erosion of their identity.

That the name 'feminism' brings with it all the negative connotations which have been built up over the years, is indeed a given; many women today are led to accept the stereotype as inevitable. However, as Alison Camp pointed out during the two day conference and workshop *(Re)branding Feminism*, organised by the University of London's School of Advanced Study in March 2011, the key to overcoming prejudices (and stereotypes) does not lie in a (re)naming policy but, rather, in understanding what is uniquely good about one's own brand (namely, in this case, feminism) and using it as a starting point to prove its on-going validity. Drawing on her career of twenty years in research and consultancy, Camp examined the successes and failures of some of the great brands and considered how we might use these case studies, the better to promote the aims and ideals of feminism. For example, she brought up the everlasting competition between Coca-Cola and Pepsi as evidence for the observation that a product can be copied by a competitor, whereas a brand is unique. Whenever we buy a product, we also 'buy' what it says about ourselves; in other words, we buy (and value) a product for all the connotations which we see as being inextricably attached to it. As a consequence of this, it can rightly be claimed that, in the same way as does a brand, feminism also constantly renews and re-invents itself. As Jacob and Licona pertinently note (Jacob and Licona 2005: 197-205), today's feminism is to be found in its comprehensive tactics; in other words, it embraces a myriad of political and social activities which, in their changeability, appear to reflect that of present times and which can thus be seen as a positive, rather than a negative, attribute of the movement itself. It follows that, the peculiarity of the feminist movement, lies precisely in that it is not made up of a series of watershed moments but is, rather, a coherent totality; different bits of which blend together to give life to a single-brand personality. As such, there is no real need to find other names.

In order to be effective, [feminists] need to be able to broaden their appeal and to reach a new generation [...] and [those] who call [themselves] feminists have to grapple with that. (Jayatilaka 2001)

As has already been observed, whilst young women of today are often depicted by the media as being indifferent to feminist issues, the activities of young feminists are labelled as

politically ineffectual. To counter this impression, one must also acknowledge the existence of influential initiatives such as, to name but one, the feminism-related website *The F Word*. Founded in 2001 by Catherine Redfern, it plays a significant role in informing a revived interest in feminism among younger women and is one of the most visited feminist websites based in the UK. *The F Word* does not define what contemporary UK feminism is but instead offers a place for people to share their different opinions and views. This is precisely the point: there is no such thing as a 'user's manual' for feminism because, as *The F Word* declares on its home page, 'feminism is whatever we make of it'.

Another example of such a renewed interest in feminism is the attempt by young feminist organisations to re-ignite the consciousness-raising (or 'C.R.') movement in the UK today. The theory-practice of C.R., which had been developed in the U.S. towards the end of the 1960s, came to be practised in every part of the industrialised world from the 1970s (*Sexual Difference, A Theory of Socio-Symbolic Practice* by the Milan Women's Bookstore Collective 1992: 40). Briefly, C.R. is the practise of women to meet regularly in groups, deliberately kept small, in order to discuss and share their common experience of being marginalised by and made to feel different from men, simply because of their own nature. The fact that the women in these groups come to realise that their personal experiences are not unique is another indication of the fact that feminist consciousness did not die along with the twentieth century and that there are still women who openly identify as feminists.

Chitra Nagarajan, who is an active feminist and co-founder of the Black Feminists and Women's History Month in 2010 and who is now committed to organising regular C.R. groups in the capital, ran a C.R. workshop at *(Re)branding Feminism*. Those who attended the workshop were divided into small groups of four to six people and made to confront their own views on what it means being a woman nowadays, drawing on their personal experience to raise points of discussion on whether they had ever felt that they had been discriminated against or treated as being inferior to men.

However, the place where these new and influential initiatives primarily aimed at reviving feminism among younger generations are, in the main, gaining most ground is the net. Today, the web interface is the means whereby contemporary feminist activism can become less narrow than that of earlier generations. More particularly, feminists have recourse to blogs in order to build their own democratic forums of self-expression, using, instead of the actual space of a C.R. group, a virtual space chiefly designed to individuate the needs of twenty-first century women, as well as their issues concerning sexual identity and

gender. Amongst such blogs are *Feminazery*, which is primarily concerned about sexism and pornography, and *PinkStinks*, which deals mainly with the discussion of gender stereotypes. There is a diversity of possible reasons why feminists' activism is being taken off the streets and onto the net: first and foremost, as well-known on-line portal *The Scavenger* states on its home page, 'online' allows for interaction: people want to be part of what is happening, with no limitations of time or space. As each blog has its own comment boxes, visitors may easily join and have their say; hence, the growing number of people taking part in these virtual communities.

In the light of the above and at a time when influential initiatives such as those examined so far are being promoted and gradually adopted, one might rightly question the allegation that feminism is inefficient. It is, perhaps, not without significance that the causes that have given rise to this allegation seem to be found *within* the feminist movement itself: I am referring here in particular to distorted attempts at re-launching feminism in a way that is more palatable to younger women.

Second-wave feminists (those who were campaigning during the 1970s and 1980s) have expressed their fear that younger generations are devoted to a kind of feminism that they identify as style without substance. To put it simply, young feminists are, in their opinion, in danger of taking their position for granted, thus losing sight of what still needs to be achieved. The main accusation older feminists address to younger ones is that of being too concerned about fashion and sexual freedom, while trampling on those very same issues for which their feminists foremothers have been so passionately advocating, namely, economic equality, reproductive rights and violence against women to name but a few (Showden 2009: 178-181).

This is precisely the image of feminism which is well reflected in Nina Power's study of *Sex and the City* and which relates to what she defined as 'Fun Feminism' in her paper 'Feminism and Consumerism: against "Empowerment" through Economics' delivered at '(Re)branding Feminism'. Power chose the term in order to convey the idea, particularly deep-rooted in American society, that feminism has reduced itself to something exclusively aimed at making a woman's life more sparkling and exciting and rescuing her from a tedious routine: in short, a perfectly valid excuse, but one which Power sees as quite 'dangerous' (her term), for indulging in a designer outfit or a chocolate bar — or perhaps a vibrator. And it is precisely here that the feminist discourse entwines with materialism: as Power articulates it succinctly in the introduction to her book *One Dimensional Woman*: 'that the height of

supposed female emancipation coincides so perfectly with consumerism is a miserable index of a politically desolate time' (Power 2007: 1).

There is no denying it: *Sex and the City* portrays women who are chiefly concerned with their appearance and seem to define equality in terms of their sexual freedom. Yet, as Bonnie Dow argues in *Prime Time Feminism*, feminist and feminist characters have been a part, albeit sometimes an infrequent one, of TV's landscape since the second wave of feminism emerged in the late 1960s (Dow 1996: xxiii). Thus, following on from this, if TV reflects the changes in feminist thinking, then *Sex and the City* embodies what is now referred to as 'third-wave feminism': it is the reflection of a 'particular feminist agenda [which] has chosen to stress individuality [...] as a shared ideology' (Henry 2004: 67). Indeed, throughout the series, individual life choices appear to be the principal plot device (from choices regarding sexual partners to motherhood or career). In her recent study 'Orgasm and Empowerment: *Sex and the City* and the third wave feminism', Astrid Henry, currently Associate Professor of Gender, Women's and Sexuality Studies: English at Grinnell College, Iowa, sees this form of third-wave feminism that we have identified with individualism as the most suited for TV, given that the medium seldom depicts political or social issues and does not often suggest a need for change other than on the individual level (Henry 2004: 71).¹

Power's claims, namely, that the series is packed with glossy designer clothes and shoes, are clearly not completely groundless; notwithstanding, the series does certainly tackle more serious issues: the theme of friendship between women, for instance. Although the way in which the genuine nature and importance of female friendship is depicted in the series is clearly not relevant to our analysis, I agree here with the *Guardian* journalist Alice Wignall when, referring to the female heroines of *Sex and the City*, she says 'they identify as each other's soul mates and provide emotional, practical and moral support' (Wignall 2008). Of greater relevance is a discussion point raised later on in the very same article, which goes on to question whether it can be considered a betrayal of women (and feminism) that the series ends with all its female characters, to put it in Wignall's terms, 'paired up'. Nevertheless, while the piece seems to answer to the contrary, a statement such as that of Janet McCabe, currently a Member of the Department of the History of Art and Screen Media, Birkbeck College, University of London and co-editor of *Reading "Sex and the City"*, which claims

¹ When 'Orgasm and Empowerment: *Sex and the City* and the third wave feminism' was published in *Reading "Sex and the City"*, Henry was Assistant Professor of Women's Studies and English at Saint Mary's College, Indiana.

that ‘women are still caught in fairy tale narratives’ is quite a puzzling one.² This statement raises very important questions regarding feminism nowadays: why are the words ‘marriage’ and ‘feminism’ still viewed as incompatible, so that feminism is seen to be synonymous with being a spinster? The distorted yet widespread perception of the feminist movement as comprising man-hating ‘wimmin’ who look a certain way and wear shapeless clothes has contributed to a common misconception of what it means to be a feminist.³

Linked to the perception of what being a woman means today, and therefore relevant to our feminist analysis, is the treatment of pregnancy and maternity in western society nowadays, an issue that has been addressed in the United Kingdom, for instance, by the Equality Act 2010, most of which is now in force. This Act was introduced for the purpose of not only consolidating all earlier legislation, now repealed, which dealt with different aspect of equality and anti-discrimination, but also extending existing legislation by introducing new provisions: sections 17 and 18, for example, are intended to protect women from discrimination both in the work place and outside of work on the grounds of pregnancy and maternity.⁴ However no legislation can change people’s attitudes overnight. Such is the view of Rebecca Asher who, in her latest book, *Shattered: Modern Motherhood and the Illusion of Equality* covers the implications of what being a mother means today, thus exposing the inequalities perpetuated by the state, employers and the parenting industry in terms of childbearing (Asher 2011).

The 1960s is regarded as the period during which the number of women in the workforce increased significantly. Since then, the ‘feminisation of labour’ has become a key concept in economy and philosophy. Although gaining ground in the political and social arena, however, women are still subject to inequalities (in terms of salary in the work place to quote but an example). Paradoxically then, women today are becoming visible, yet voiceless. Thus, the relationship between feminism and work in the twenty-first century may deceive us into thinking that women now enjoy a degree of emancipation; this is a delusion. There are still countries, which in all other respects are considered modern, where a certain rigidity in social norms still obtains and this too often reflects an equal rigidity in gender roles. Wallis suggests

² When *Reading “Sex and the City”* was published, McCabe was Lecturer in Film Studies at Trinity College, Dublin.

³ The term ‘wimmin’ was coined for militant feminists and was applied particularly to the activists who set up and occupied the Greenham Common peace camp from 1981–2000 in protest against the decision to site ninety-six Cruise nuclear missiles there.

⁴ For a summary of these provisions, see, e.g., *Ecu*. The full text of the sections can be found at *Legislation.gov*. The full URLs for the relevant web-pages are contained in the bibliography.

that this explains the phenomenon that Italy has, according to *Eurostat*, almost the lowest rate of female employment in the European Union (Wallis 2008).

I shall conclude my analysis with a final case study to illustrate the fact that many examples can be found in the media of the negative depiction of women in the course of marketing. The case in point is the advertising campaign *Shameless*, launched by Dutch company Suit Supply in November 2010 to promote its winter range of men's suits. The advertisements in question are offensive in that they present explicit images of women caught in pornographic-like poses: in one, a woman has her legs spread around a man; in another, the half-naked woman is lying prone on a kitchen worktop drinking coffee while he is standing behind her between her legs, clutching her thighs.⁵ When the campaign first appeared in the Westfield Centre in White City, West London, the company's flagship store, the outcry of sexism which arose was such that the social network Facebook felt obliged to request Suit Supply to remove the advertisements from its website. Suit Supply is quoted by the *Daily Mail* as replying to a complaint from a member of the public as follows:

Our campaign is called "Shameless" and is shot by the renowned photographer Carli Hermès. In our opinion the photographs of the campaign are a well-balanced mix of style, humour and sex, the essence of fashion! We fully disagree that our campaign would be obscene and denigrating towards women. On the contrary, the women depicted in the photographs are obviously in the lead. (*Daily Mail* Reporter 2010)

Regardless of whether the women are indeed depicted as being 'in the lead' or not, Suit Supply's reply surely begs the question whether it is sufficient merely to assert that this is so in order to exonerate the company from the charge of running a campaign that is sexist.

Moving beyond the arguably sexist connotations of the campaign, this episode does make me wonder whether feminism might, perhaps, focus less on critique and move into a new way of communicating its message. What I am suggesting here is that, instead of simply criticising, it might actually play a more productive role: it seems evident to me that, if in Italy the phenomenon of *velinismo* is so widespread, and if a company such as Suit Supply dares to offer such distasteful images in order to promote its wares, perhaps feminism needs to put across its messages, whatever they are, differently.

As Showden observes in the concluding words of her article, it will take more than empowering cultural messages to realise the political potential of third-wave feminism (Showden 2009: 190); I would go further and argue that these 'cultural messages' may be 'empowering' but they are often confused and distorted as Power's concept of 'Fun

⁵ The full range of images can be seen on various websites, e.g. the blog *Openzedoor*.

Feminism' illustrates. This confused message is exemplified in the title of this article: first, (re)branding is in itself a process of denial, so feminism appears to be critiquing itself; secondly the suggestion that feminism needs to be 'rebranded' like any marketable commodity is in danger of implying that women, its 'contents', are 'saleable' objects: there is absolutely no need for feminism to find new, more appealing names in order to reach out to younger generations.

As this article has demonstrated, it is clear from the growing number of initiatives today (from blogs to C.R. groups to political activism) that, not only has the 'sleeping dragon' of feminism awakened, it seems to be setting off in a new direction, away from its previous political apathy towards newer forms of activism.⁶ It is also clear that the new means by which feminist messages are conveyed do offer some promise for feminism. Whether or not young women are willing to call themselves feminists, they support the movement's ideals. Most important, it is their initiatives, more than their words, that are laying the foundations of change and which 'under the right historical conditions [...] could blossom into the next wave of the women's movement' (Arosen 2003: 919).

Bibliography

Books and Edited Chapters

- Asher, Rebecca, *Shattered: Modern Motherhood and the Illusion of Equality* (New York: Harvill Secker, 2011)
- Baumgardner, Jennifer, and Amy Richards, *Manifesta: Young Women, Feminism, and the Future* (New York: Farrar, Straus and Giroux, 2000)
- Denfeld, Rene, *The New Victorians: A Young Woman's Challenge to the Old Feminist Order* (New York: Warner Books, 1995)
- Dow, Bonnie, J. *Prime-Time Feminism: Television, Media Culture, and the Women's Movement since 1970* (Philadelphia: University of Pennsylvania Press, 1996)
- Henry, Astrid, 'Orgasms and Empowerment: *Sex and the City* and the third wave feminism', in *Reading Sex and the City*, ed. by Kim Akass and Janet McCabe (London: I. B. Taurus, 2004)
- Heywood, Leslie, and Jennifer Drake, 'Introduction', in *Third Wave Agenda: Being Feminist, Doing Feminism*, ed. by Leslie Heywood and Jennifer Drake (Minneapolis: University of Minnesota Press, 1997) pp. 1–24
- Milan Women's Bookstore Collective., *Sexual Difference, A Theory of Socio-Symbolic Practice*, translated from Italian by Patricia Cicogna and Teresa de Lauretis, (Bloomington: Indiana University Press, 1992)
- Morgan, Debi, 'Invisible Women: Young Women and Feminism', in *Feminist activism in the 1990s*, ed. by Gabriele Griffin (London: Taylor and Francis, 1995) pp. 127–36
- Power, Nina, *One Dimensional Woman* (Alresford: Zero Books, 2007)
- Probyn, Elspeth, 'Choosing Choice: images of sexuality and "choiceoisie" in popular culture', in *Negotiating at the Margins: The Gendered Discourses of Power and Resistance*, ed. by Sue Fisher and Kathy Davis (New Brunswick, New Jersey: Rutgers University Press, 1993) pp. 278–94
- Sigel, Roberta, *Ambition and Accommodation: How Women View Gender Relations* (Chicago: University of Chicago Press, 1996)
- Willets, David, *The Pinch: How the Baby Boomers Took Their Children's Future — And How They Can Give it Back* (London: Atlantic Books: 2010)

⁶ The term 'sleeping dragon' was inspired by the title of an article by Paddy Agnew which was published in the *Irish Times* in October 2009: 'Berlusconi awakens sleeping dragon of Italian feminism'.

Journal Articles

- Arosen, Pamela 'Feminists or "Post-feminists"? Young Women's Attitudes toward Feminism and Gender Relations' *Gender and Society*, 17, 6 (2003), 903–22
- Buschman, Joan K., and Silvo Lenart, 'I Am Not a Feminist, But...': College Women, Feminism, and Negative Experiences' *Political Psychology*, 17, 1 (1996), 59–75
- Jacob, Krista, K. and Adela C. Lecona, 'Writing the Waves: A Dialogue on the Tools, Tactics, and Tensions of Feminisms and Feminist Practices Over Time and Place' *NWSA Journal*, 17, 1 (2005), 197–205
- Klatch, Rebecca, E, 'The Formation of Feminist Consciousness among Left- and Right-Wing Activists of the 1960s' *Gender & Society*, 15, 6 (Dec., 2001), 791–815
- Ouellette, Laurie 1992. 'Our Turn Now: Reflections of a 26-year-old Feminist' *Utne Reader*, July/August (1992), 118–20
- Showden, Carisa, R, 'What's Political About the New Feminisms?', *Frontiers: A Journal of Women Studies*, 30, 2 (2009), 166–98
- Stacey, Judith, 'Second Thoughts on the Second Wave' *Feminist Studies*, 13, 2 (Summer, 1987), 341–61

Conference papers

- Jayatilaka, Geethika, 'Rebranding Feminism?', paper presented at *Rebranding Feminism*, evening conference held at the Institute for Contemporary Arts, London, 30 November 2001
- Calloni, Marina, untitled paper presented at *The East and the West: Women in the Eyes of the Media*, conference organised by Woman and the Media ReserDoC and The Northwestern University, held at The Qatar Foundation, Doha, Qatar, 19 April 2009
- Camp, Alison, 'What is a brand, what makes it "work", and what does it matter?', presented at *(Re)branding Feminism*, conference by the School of Advanced Study, University of London, held at the Institute of Germanic and Romance Studies, London, 1–2 March 2011
- Power, Nina, 'Feminism and Consumerism: against "Empowerment" through Economics', presented at *(Re)branding Feminism*, conference by the School of Advanced Study, University of London, held at the Institute of Germanic and Romance Studies, London, 1–2 March 2011

Articles in Newspapers and other Media

- Angyal, Chloe, 'You're not a feminist, but ... what?', *Guardian*, 7 April 2010, <<http://www.guardian.co.uk/commentisfree/2010/apr/07/feminist-f-word-young-women>> [accessed: 1-May-11]
- Aspesi, Natalia, 'Berlusconi's Italy shows a strange type of feminism', *The Times*, 23 June 2009, <http://women.timesonline.co.uk/tol/life_and_style/women/article6557429.ece> [accessed: 1-May-11]
- Daily Mail Reporter, 'Outrage over 8ft tall 'pornographic' posters in shopping centre...for MEN's suits', *Daily Mail*, 18 November 2010, <<http://www.dailymail.co.uk/news/article-1330845/Pornographic-window-display-Westfield-Outrage-8ft-tall-Shameless-posters.html#ixzz1QZgisy7v>> [accessed: 1-May-11]
- Dobson, Roger, 'Warning: feminism is bad for your health', *Independent*, 25 March 2007, <<http://www.independent.co.uk/life-style/health-and-families/health-news/warning-feminism-is-bad-for-your-health-441730.html>> [accessed: 1-May-11]
- Frean, Alexandra, 'Bra-burning feminism has reached burn-out', *The Times*, 2 July 2003, <<http://www.thetimes.co.uk/tto/news/uk/article1910064.ece>> (subscription) [accessed: 1-May-11]
- Levenson, Ellie, 'Feminism was something for our mothers' *Independent*, 1 July 2009, <<http://www.independent.co.uk/opinion/commentators/ellie-levenson-feminism-was-something-for-our-mothers-1726057.html>> [accessed: 1-May-11]
- Mulholland, Hélène, 'David Willets blames feminism over lack of jobs for working men', *Guardian*, 1 April 2011, <<http://www.guardian.co.uk/politics/2011/apr/01/david-willetts-feminism-lack-of-jobs>> [accessed: 1-May-11]
- Odone, Christina, 'Why David Willets is wrong about feminism', *Daily Telegraph*, 1 April 2011, <<http://blogs.telegraph.co.uk/news/cristinaodone/100082141/why-david-willetts-is-wrong-about-feminism>> [accessed: 1-May-11]
- Prince, Rosa, 'David Willets: feminism has held back working men', *Daily Telegraph*, 1 April 2011, <<http://www.telegraph.co.uk/education/educationnews/8420098/David-Willetts-feminism-has-held-back-working-men.html>> [accessed: 1-May-11]
- Wallis, Emma 'Why Italy's Women are out of Work', BBC News, Rome, 9 April 2008, <<http://news.bbc.co.uk/2/hi/business/7337145.stm>> [accessed: 1-May-11]
- Ward, Lucy, 'Feminism: outmoded and unpopular', *Guardian*, 2 July 2003, <<http://www.guardian.co.uk/uk/2003/jul/02/gender.women>> [accessed: 1-May-11]

Wignall, Alice, 'Can a feminist really love Sex and the City?', *Guardian*, 16 April 2008,
<<http://www.guardian.co.uk/lifeandstyle/2008/apr/16/women.film>> [accessed: 1-May-11]

Websites

Eurostat: <http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-08-099/EN/KS-SF-08-099-EN.PDF>
[accessed: 1-May-11]

Ecu: <<http://www.ecu.ac.uk/law/pregnancy-and-maternity-key-legislation>> [accessed: 1-May-11]

Legislation.gov: <<http://www.legislation.gov.uk/ukpga/2010/15/section/17>> [accessed: 1-May-11]

—— <<http://www.legislation.gov.uk/ukpga/2010/15/section/18>> [accessed: 1-May-11]

Blogs

The F Word: <<http://www.thefword.org.uk/blog>> [accessed: 1-May-11]

Feminazery: <<http://dmhatingfemisfromhell.blogspot.com>> [accessed: 1-May-11]

PinkStinks: <<http://pinkstinks.wordpress.com>> [accessed: 1-May-11]

Openzedoor: <<http://openzedoor.blogspot.com/2010/11/suit-supply-shameless-ad-campaign.html>>
[accessed: 1-May-11]

The Scavenger: <<http://www.thescavenger.net>> [accessed: 1-May-11]

‘[...] in all respects as if she were a *feme sole*’: married women’s long road to a legal existence

Harriet L. Clements

University of Kent

HAMLET: Farewell, dear mother.
 KING: Thy loving father, Hamlet.
 HAMLET: My mother. Father and mother is man and wife, man and wife is one flesh, so my mother.

Hamlet, IV. 3. 52–55¹

Hamlet is not only giving words from Scripture a twist in order to discomfit his stepfather, he is also stating a fundamental principle of English common law that would endure unchanged for another four centuries, not disappearing completely until well into the twentieth century. It was a principle that was already well established by the end of the thirteenth century when the English jurist Bracton was writing his *De Legibus et Consuetudinibus Angliæ* [On English Laws and Customs], in which he states: ‘*vir et uxor sunt quasi unica persona, quia caro una et sanguis unus sunt* [man and wife are as if a single person, because they are one flesh and one blood]’. The doctrine was supposedly grounded in Scripture: Genesis 2. 24 declares that a man ‘shall leave his father and mother, and cleave unto his wife: and they shall be one flesh’, while Jesus is reported as saying that ‘[f]or this cause shall a man leave his father and mother, and shall cleave to his wife: and they twain shall be one flesh? Wherefore they are no more twain, but one flesh. What therefore God has joined let no man put asunder’ (Matthew 19. 5–6) and ‘[...] for this cause shall a man leave his father and mother, and cleave to his wife: And they twain shall be made one flesh, so then they are no more twain, but one flesh. What therefore God has joined, let not man put asunder’ (Mark, 10. 7–9).² It is beyond the scope of this article to discuss whether the doctrine of the legal unity of husband and wife genuinely had a theological basis or whether Bracton and his medieval predecessors were putting a retrospective theological gloss on a custom, the evolution of which may have had more to do with changing demographics as Western European society became more patriarchal.

The overall effect of the common law was to put the married woman at a considerable disadvantage in comparison to her unmarried or widowed sister: married women were,

¹ From the *Arden Shakespeare Complete Works*; see Bibliography.

² Quotations from the Bible are from the Authorised Version of 1611.

together with ‘infants’ (the legal term for anyone under the age of majority (Mozley & Whitely, 1962: 181)), felons and lunatics, classed in law as being ‘persons under a disability’.³ The purpose of this article is, first, to explain the nature of this ‘disability’ and its effect, and then to outline briefly the campaign initiated by a mid-Victorian feminist to introduce legislation which would redress the position. It is not the purpose of this article to comment from a sociological viewpoint on either the changing demographics of the period or the relative merits and demerits of the arguments for and against the several Bills that were brought into Parliament in the course of the campaign; it is simply to give background information which may assist the reader of English literature, particularly literature of the eighteenth and nineteenth centuries.

The legislation which resulted from the campaign was the Married Women’s Property Acts 1870–1908;⁴ however, I shall focus on the Bills unsuccessfully introduced in 1857, first in the House of Lords and later, after the General Election of April that year, in the House of Commons, and on the second attempt to get legislation through Parliament, between 1868 and 1870, which culminated in the Married Women’s Property Act 1870. Despite the fact that the 1870 Act was hardly an unmitigated success so far as its supporters were concerned and despite the fact that adult women would not all be completely equal in the eyes of the law until well into the twentieth century, this Act can be seen as an early step on the road to women’s equality.

When I was an articled clerk some fifty years ago and studying law, I heard the tale, possibly apocryphal, of elderly solicitors still practising in the mid-1880s, who retired rather than reconcile themselves to what they perceived to be the folly of the changes introduced by the Married Women’s Property Acts. It was not only practitioners of the law who entertained this attitude: similar sentiments were probably harboured by many married men at the time, as John Galsworthy illustrates in his *Forsyte Saga*. This is the overarching title given to the three novels and two ‘interludes’ that chronicle the fortunes of the extended Forsyte family from

³ The term ‘disability’ is ‘generally used to indicate an incapacity for the full enjoyment of ordinary legal rights; thus persons under age and mentally disordered persons are under a disability’ (Mozeley & Whiteley: 112). It is worth remembering that, for several centuries, the age of majority was twenty-one for a male person but fourteen for a female one. I make no apology for the age of this and other legal texts to which reference is made in this article, since they are giving an historical exposition of laws which have now been abolished.

⁴ The Acts were, in chronological order, the Married Women’s Property Act 1870 (33 & 34 Vict. c. 93), the Married Women’s Property Act, (1870) Amendment Act 1874 (37 & 38 Vict. c. 50), the Married Women’s Property Act 1882 (45 & 46 Vict. c. 75), the Married Women’s Property Act 1884 (47 & 48 Vict. c. 14), the Married Women’s Property Act 1893 (56 & 57 Vict. c. 63), the Married Women’s Property Act 1907 (7 Edw. 7, c. 18) and the Married Women’s Property Act 1908 (8 Edw. 7, c. 27). Of these, the most important is the 1882 Act, which repealed the two earlier Acts and re-enacted their provisions. The subsequent Acts cleared up some ambiguities and deficiencies in the 1882 Act, which had become manifest with the passage of time.

the mid-1880s to the 1920s and early 1930s. *The Man of Property*, the first novel, was written about thirty years after the 1882 Act came into force, when there were probably still men alive who could remember the earlier 'golden age'. Its first chapter introduces the reader to many of the Forsytes by bringing them together in 1885 to celebrate the engagement of young June Forsyte. Of one of her uncles, Nicholas Forsyte, then in his early seventies, it is said that '[h]e himself had married a good deal of money, of which, it being the golden age before the Married Women's Property Act, he had mercifully been enabled to make a successful use' (Galsworthy, 1951: 27). A similar comment is made in the first chapter of *In Chancery*, the second novel, in the context of another family gathering in the 1890s: '[Nicholas], of course, had never really forgiven the Married Women's Property Act, which would have so interfered with him if he had not mercifully married before it was passed' (Galsworthy, 1962: 13)⁵.

To understand the purpose and effect of the Married Women's Property Acts (and also Nicholas Forsyte's attitude to them), we need to understand the effect of the common law as articulated by Bracton as quoted above and the way it developed in modern times. Sir William Blackstone, another English jurist, this time writing in the 1760s, summed up the position of the married women as follows:

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during her marriage or at least incorporated into that of her husband, under whose wing, protection and cover she performs everything'. (Blackstone, 1803: 442)

He goes on to remind the reader that, in the 'law-french (*sic*)' of the day, the married woman was called a '*feme-covert*' (an unmarried or widowed woman being a '*feme-sole*') and that her condition during her marriage was called her 'coverture', terms which are still in use long after Blackstone compiled his Commentaries. Note that the act of marriage did not create a *new* legal persona comprising husband and wife in equal measure: the woman's legal persona was *suspended* during coverture, subsumed in that of her husband, and would only be revived if she survived him (and then, of course, only for as long as she remained a widow; if she remarried, she once again become a non-person in the eyes of the law). One of the consequences of not having a legal persona was this: a married woman, at law, could not possess anything. This is illustrated by another quotation from Shakespeare and one which

⁵ *The Man of Property* was first published in 1906 and *In Chancery* in 1920. John Galsworthy (1867–1933) trained as a barrister and was called to the bar in 1890, although he never practised. He was also the son of a solicitor, from whom he probably heard anecdotal evidence about contemporary reaction, from both the legal profession and the lay public, to the Married Women's Property Acts.

George Shaw-Lefevre cited in 1868, when the attempt to introduce reforming legislation was first renewed after the abortive campaign of 1857 (Hansard 1868a: 1017).⁶

PORTIA Myself, and what is mine, to you and yours
Is now converted. But now I was the lord
Of this fair mansion, master of my servants,
Queen o'er myself: and even now, but now.
This house, these servants, and this same myself
Are yours, – my lord's!

The Merchant of Venice, III. 2. 165–71

Shaw-Lefevre subsequently observed, during the debate that took place in the House of Commons on the second reading of the Married Women's Property Bill on 10 June 1868, that 'the words of the marriage service were not now in harmony with the existing law, because they declared that the husband endowed his wife with all his worldly goods, whereas, in fact, everything which the wife possessed became her husband's' (Hansard 1868b: 1373). However, it oversimplifies the position to say that *jure maritii* or by virtue of the marriage everything that a woman owned when she married or to which she might subsequently be entitled, e.g. by inheritance, automatically became the property of her husband, who then enjoyed any income from it and was free to dispose of it as he saw fit either during his life time (*inter vivos*) or by his Will.⁷ This, with one exception, was true of the wife's moveable property or 'personalty', which would include investments, securities, savings valuables and such like. The exception was such articles of clothing and personal adornment as were appropriate to the wife's social status (technically known as her 'paraphernalia'), which the husband could dispose of neither *inter vivos* nor by Will, since such articles automatically became the wife's property if she survived her husband.⁸

The position with regard to immovable property, that is, land and buildings, was more complicated because of the distinction that English law makes between freehold and leasehold interests in land, the former being realty, the latter being 'chattels real' and classed as

⁶ George Shaw-Lefevre (1831–1928) was called to the bar (Inner Temple) in 1855 and served as Liberal M.P. for Reading (1863–1865).

⁷ A husband could, of course, leave all his personalty, which would include any personalty he had acquired *jure maritii*, to his widow but he was not obliged to do so. If a husband died intestate, that is, without making a Will, his widow was, according to the Statute of Distributions 1670 (22 & 23 Car. 2, c. 24), entitled to either one third or one half of his personalty depending on whether or not there was issue of the marriage. The rules of succession on intestacy are now those prescribed by the Administration of Estates Act 1925 (15 & 16 Geo. 5, c. 23), which came into force on 1 January 1926. The surviving spouse now receives a statutory legacy of a prescribed amount and a life interest in one half of the residue.

⁸ However, although her paraphernalia reverted to her if she survived her husband, a wife could not make an *inter vivos* disposition of it while he was alive.

personalty.⁹ It should also be borne in mind that, prior to 1540, the law did not permit any testamentary devise of freehold land; freehold land could only be inherited pursuant to the common law rules of succession. In simple terms, the law of succession with regard to freehold land generally had the effect that the eldest male inherited to the exclusion of all his siblings, male or female. Further, the rule of succession *per stirpes*, whereby the heir of a son who has predeceased his father inherits in his place meant that a younger son could never inherit, unless his elder brother had already died, without leaving a descendant who would qualify as his heir. In the absence of any male descendants, the females inherited equally (the technical term for them was ‘coparceners’), subject to the *per stirpes* rule (see further, Cheshire, 1962: 768–72).¹⁰ After her marriage, a woman’s freeholds did not vest in her husband absolutely *jure maritii*; that is to say, although he had the benefit of them during his lifetime, on his death they reverted to her. Even after the law permitted the alienation of freeholds by testamentary devise, he could not dispose of them by his Will, and his ability to dispose of them *inter vivos* was restricted.¹¹ If she died first, any freeholds that were estates of inheritance devolved to her heir, subject in certain circumstances to the husband’s life interest.¹² So far as the wife’s leaseholds were concerned, her husband had the benefit of them during their joint lives; if she predeceased her husband, the residue of the term of years granted by the lease then vested in him absolutely *jure maritii*, so in this respect, they were

⁹ It is beyond the scope of this article to explain the reason for this distinction. For a fuller discussion, see e.g. Cheshire, 1962: 37.

¹⁰ These rules could, however, be varied by local custom. For example, in Kent, there was a custom known as ‘gavelkind’, according to which land descended, upon intestacy, to all sons equally; elsewhere in England, there was the custom known as ‘Borough-English’, according to which land descended to the youngest son, to the exclusion of all others (see Cheshire 1962: 16–17). The Statute of Wills (32 Hen. 8 c.1) did relax the law considerably but it was not possible to make testamentary dispositions of all freehold land until the Tenures Abolition Act 1660 (12 Car. 2 c.64) came into force. After this, the common law rules of succession effectively became the rules that operated as regards the devolution of freehold land in the case of intestacy only. The common law and all customary laws regulating succession to realty on intestacy were abolished by the Administration of Estates Act 1925. There is now no distinction between realty and personalty and the descendants of the deceased have equal rights in the estate, subject to the *per stirpes* rule and to the rights of a surviving spouse.

¹¹ Since he only had a life interest, he could not convey the same interest as his wife had enjoyed before her marriage unless she were a party to the conveyance.

¹² A married woman could not make a Will, since she had no property upon which it could operate. Her heir would, therefore, be her heir determined in accordance with the common law or customary rules of succession discussed in the previous note. An ‘estate of inheritance’ is one that may devolve upon successors (heirs) *ad infinitum*. Prior to 1926, there were two freehold estates of inheritance: the estate in fee simple and the estate in fee tail, the difference between them being that the fee tail could only be inherited by specified descendants of the original grantee, never by his or her ascendants or collateral relatives. For a fuller explanation of the term ‘freehold’ and the common law concept of estate, see Cheshire 1962: 27–36. If there had been issue of the marriage *capable* of inheriting the wife’s freeholds, the widower retained his life interest; the technical term for him was a ‘tenant by the curtesy (or courtesy) of England’.

treated like personalty, but if her husband died first, the residue of the term reverted back to her, so the position was similar to that of realty.

Bromley comments that the common law, at least insofar as it applied to freeholds, made sense in the context of the early Middle Ages, when freehold land was subject to an obligation on the part of the owner to perform certain 'feudal duties'.¹³ These varied depending on the particular tenure by which the land was held but might include an obligation to perform acts which would not normally be expected of a woman, such as to bear arms on behalf of the lord to whom the duty was due or carry out a ceremonial role (Bromley 1962: 400). However, the same justification cannot be pleaded for leasehold land, personal possessions, investments and the like; in any case, by the sixteenth century many such duties had been commuted to payment of a fixed sum, which became hardly worth collecting as its value decreased with inflation.

By the thirteenth century, if not earlier, the rigidity of common law principles was being mitigated by the Chancellor through his court of equity. The position of a married woman *vis à vis* her property was improved as the equitable doctrine of the married woman's separate estate evolved. By the sixteenth century, it was well established that if property of any description was given to a woman expressly *for her separate use*, although it then vested in her husband *jure maritii*, he was regarded not as the beneficial owner but as a trustee.¹⁴ In other words, the husband might be regarded as the owner at law but the wife remained the beneficial owner in equity with all the rights of a *feme sole*. The advantage of this to a married woman was not only that she did have some rights, so far as the management of her property was concerned, but she also had a cause of action in equity if her husband abused his position as trustee. Clearly, not every man was a wastrel who managed to squander his wife's wealth and there was many a man who looked after his wife's assets wisely, but a married woman was still beholden to her husband in many respects, had to rely on the complexities of the law

¹³ It is beyond the scope of this article to explain the feudal system of land tenure and the different free tenures which obtained in England from the Conquest until 1660, when the Tenure Abolition Act (12 Car. 2 c.64) abolished all free tenures except socage tenure. For a fuller explanation, see e.g. Cheshire 1962: 12–22. However, it may help the reader without a legal background to know that the term 'free' does not mean that the land was no longer burdened by the obligation to perform the feudal duty but that it was capable of being inherited (see footnote 12 explaining the term 'estate of inheritance'), whereas land held under a non-free tenure, which eventually came to be known as 'copyhold', could not be inherited.

¹⁴ An example of this can be found in the Will of my great-great-great-great grandfather William Field, which he made three years before his death in 1796. He gave the sum of £335 (about £300,000 today) on trust to pay the income from it to one of his married daughters during her life, expressly directing that 'the same shall be for her *sole and separate use* and not subject or liable to the debts, contracts or engagements of her present or any future husband' (P.C. Canterbury).

for the protection of her property and lacked the complete autonomy as regards the management of her affairs enjoyed by the *feme sole*.¹⁵

However, the common law affected not only woman from the wealthy and leisured classes: since the term ‘property’ was all-inclusive, it could include earnings. The law thus affected and could cause real hardship to women who earned money from their own labour, not just women from the working class *stricto sensu*, who increasingly became a significant part of the work force after the Industrial Revolution, but also women who used their talents to earn money — writers, artists, musicians and the like. The equitable doctrine of separate estate did not protect earnings, since they could not made be subject to condition that they were for the separate use of the woman to whom they were due. Also, people of modest means were unlikely to involve themselves in complex and costly legal arrangements to protect small amounts of capital.

This was the situation when, in 1854, Barbara Leigh Smith (1827–1891, subsequently Barbara Leigh Smith Bodichon after her marriage in 1857 to the French physician Dr. Eugène Bodichon, whom she met in Algeria) published *A Brief Summary in Plain Language of the Most Important Laws concerning Women together with a Few Observations thereon*.¹⁶ Bodichon was, in the words of one of her biographers, a feminist, an artist and a rebel. Hers was an unusual upbringing: her parents, Anne Longden and Benjamin Leigh Smith defied convention by living openly as husband and wife until the former’s death in 1834 despite never having married, but the stigma of illegitimacy does not seem to have been an impediment to Bodichon. She was an accomplished artist, having studied art at Bedford College when in her early twenties, and was well thought of in her day. Among her many achievements, she is distinguished as being the co-founder, with Emily Davies, of Girton College in 1869.¹⁷

¹⁵ For more detailed explanations of the common law and the equitable doctrine of separate estate, see Bromley 1962: 404, Cheshire & Fifoot 1960: 356–59 and Cheshire 1962: 839–40.

¹⁶ Bodichon subsequently published a revised and extended version (see Barbara L.S. Bodichon, *A Brief Summary in Plain Language of the Most Important Laws concerning Women together with a Few Observations thereon*, 3rd edn. revised with additions (London: Trübner & Co, 1869)).

¹⁷ Her married life was also unconventional, in that she divided her time between this country and Algeria, where her husband lived. For detailed accounts of her life and work, not only as an early feminist and social activist but also as a gifted artist, see, e.g: Hester Burton, *Barbara Bodichon, 1827–1891* (London: John Murray, 1949); Jacquie Matthews ‘Barbara Bodichon: Integrity in Diversity (1827–1891)’ in *Feminist Theorists: three centuries of key women thinkers*, ed. by Dale Spender (New York: Pantheon, 1983), pp. 90–123; *Women, the Family and Freedom: the Debate in Documents: Volume I, 1750–1880*, ed. by Susan Groag Bell and Karen M. Offen, (California: Stanford University Press, 1983) Sheila R. Herstein, *A mid-Victorian feminist* (New Haven: Yale University Press, 1985; Clarissa Campbell Orr *Women in the Victorian Art World* (Manchester: Manchester University Press, 1995), pp. 167–86; Pam Hirsch *Barbara Bodichon: Feminist, Artist and Rebel* (London:

Bodichon does indeed, in *A Brief Summary*, summarise concisely the then current law, as it concerned (1) unmarried women, (2) married women, (3) separation and divorce and (4) illegitimate children and their mothers. She then highlights the disparity in the treatment of unmarried and married woman, first commenting that, despite becoming an independent human creature once she had attained the age of twenty-one, a woman was, if she married, ‘again considered an infant — she is placed under ‘*reasonable restraint*’ — she loses her separate existence and is merged with that of her husband’ (Bodichon 2001: 31; original emphasis) and then observing that women would be better served if they were educated to manage their own affairs and made responsible for doing so, so that they did not have to rely on either complex legal arrangements or the goodwill of their husbands.¹⁸ She comments on the particular hardship the obligation to hand over her earnings to her husband caused a working class woman and compares the system that then obtained in England with that in other countries. She seems, however, hopeful that a spirit of change is abroad:

The spirit, which made Blackstone and admirer of, rather than a critic on, every law because it was *law*, is exchanged for a bolder and more discriminating spirit, which seeks to judge calmly what is good and to amend what is bad. (Bodichon 2001: 30; original emphasis)

She was, no doubt, encouraged in this hope by the knowledge that in 1844 the Law Amendment Society had been founded by James Stewart and others with the object of initiating reforms to the law; meetings of the Society, which between its inauguration and 1857 was instrumental in procuring the enactment of ‘no fewer than forty statutes’ (McGregor: 19), were frequently chaired by Lord Brougham, Lord Chancellor from 1830-1834 and a staunch supporter of the Reform Act 1832. Another founder member of the Society was Matthew Davenport Hill, whose sisters brought Bodichon’s booklet to his attention. As a result, the Society espoused the cause of married women’s property rights and a campaign began. Together with a group of friends who met regularly and became known as ‘The Ladies of Langham Place’, Bodichon initiated a petition, printed copies of which were deposited in various locations in London and elsewhere, and seventy copies, together with the

Pimlico, 1999). Girton College now holds an important collection of Bodichon’s personal papers and a large number of books from her library.

¹⁸ A ‘man of goodwill’ might well be minded to enter into some kind of arrangement with his wife but she would not be able to enforce it against him or third parties, since, as Blackstone explains, a married man could neither grant anything to his wife nor enter into a covenant with her for ‘the grant would be to suppose her a separate existence: and to covenant with her would only be to covenant with himself’; equally, the parties could not enter into a pre-nuptial agreement, since ‘all compacts made between husband and wife when single are voided by their intermarriage’ (Blackstone 1803: 442).

signatures (estimated to be around 3,000) appended to them, were eventually bundled together to be presented to Parliament on 10 March 1856.¹⁹

Sir Erskine Perry and Lord Brougham, who presented the petition in the House of Commons and in the House of Lords respectively, subsequently led the debates on the petition that took place in both Houses on 10 June. The Society then drafted the Married Women's Property Bill which was brought in for its first reading in the House of Lords on 13 February 1857 by Lord Brougham (Hansard 3, 144: 605–19) but was lost along with other unfinished business when Parliament was prorogued on 21 March and, indeed, dissolved in preparation for the General Election held a few weeks later.²⁰ Sir Erskine Perry reintroduced the Married Women's Bill in the next Parliament on 14 May (Hansard 1857a: 266–81; McGregor: 22, n.12) but its progress was short-lived and seems to have been hampered somewhat by the introduction of the Married Women's Reversionary Interests Bill by a pair of M.P.s, euphoniouly named Mr. Malins and Mr. Mullings (Hansard 1857b: 1182–84). This Bill was read for a second time on 8 June, when Sir Erskine Perry tried, unsuccessfully, to have any further debate on it postponed to a date when his Bill was being debated (Hansard 1857b: 1293). Mr. Malin's Bill was next debated in Committee on 18 June (Hansard 1857b: 2078), but the second reading of Sir Erskine Perry's Bill in the House of Commons, which it passed, objections from Mr. Malins notwithstanding, did not take place until 15 July (Hansard 1857c: 1515–23).²¹ On 19 August, Mr. Malins reported to the House that their Lordships in the Upper House had recommended certain amendments to his Bill; these he regretted but, clearly anxious to preserve his Bill, he advised the House to accept (Hansard 1857c: 1866–84), with the result that his Bill was enacted as the Married Women's Reversionary Interests Act 1857 (28 & 29 Vic., c. 43) before Parliament rose on 28 August at the end of the

¹⁹ The full text of the petition is quoted in Carlyle's *Collected Letters* (1979: 33–36). The petition appears to have been sent to Jane Carlyle, the wife of Thomas Carlyle; as she was a signatory to one copy, together with other luminaries, such as Elizabeth Barrett Browning, Mrs. Gaskell and Harriet Martineau, as well as Bodichon (then simply 'Miss Leigh Smith') and her friend Bessie Raymer Parkes. The source notes and footnotes on the relevant web-page have provided the information regarding the presentation of the petition to Parliament and the subsequent debate.

²⁰ Sir Thomas Erskine Perry (1806–1882) was called to the bar (Inner Temple) in 1834 and initially worked as a law reporter. He was knighted in 1841 upon being appointed Judge of the Supreme Court of Bombay, of which he was Chief Justice 1847–1852. On his return to England, he stood for Parliament as a Whig and was returned as the Member for Devonport in 1854, serving for five years. Henry Brougham, First Baron Brougham & Vaux (1778–1868) was called to the bar (Lincoln's Inn) in 1808 and served as Lord Chancellor under the Whig Lord Grey (1830–34). The 1857 Election returned the Whigs, then in government and led by Lord Palmerstone, to power with an increased majority and they were returned again in the Elections of 1859 and 1865, although the complexities of politics at the time then resulted in there being a succession of Conservative Prime Ministers, even though there had been no further General Election.

²¹ In the meantime, questions had been asked, on 29 June in both Houses, about the Indian Mutiny, reports of which had just reached the United Kingdom.

Session. Sir Erskine Perry's Bill, however, was lost and was not reintroduced in the next Session.²² This, as Shaw-Lefevre would later explain, was not for want of interest or support but because it was assumed that certain provisions of the Matrimonial Causes Act 1857 passed that same year had 'remedied to a small degree the evils then complained of [...] [and], as something had been done, it was not desirable to renew the discussion on the broader question' (Hansard 1868a: 1016).²³

Three General Elections and about a decade after the initial campaign, the National Association for the Promotion of Social Science, with which the Law Amendment Society had by this time amalgamated, was again instrumental in drafting new legislation when the campaign was revived in the late 1860s, and the publication of John Stuart Mill's *The Subjection of Women* in 1869 did much to inject 'powerful intellectual stimulus to the reform movement' (Cretney 2003: 95).²⁴ Stuart Mill, together with Shaw-Lefevre and Russell Gurney, made the first attempt to get legislation onto the Statue Book in 1868;²⁵ the Bill which they introduced, as Shaw-Lefevre explained in his speech when it was read for the first time, was substantially the same as the 1857 Bill prepared by the Law Amendment Society which had passed its second reading by 120 votes to 65 (Hansard 1868a: 1016).²⁶ The House of Commons read the Bill for a second time on 10 June and referred it to a Special Committee of the House, but the Bill was then lost, having failed to complete its remaining stages before the end of the Session (Hansard 1868b: 1352–78).

Russell Gurney, Jacob Bright and Thomas Headlam reintroduced the Bill about a year later in the next Session — by which time there had been a General Election and the newly formed Liberal Party, under Gladstone, had been returned (Hansard 1869a: 331).²⁷ Again this

²² Perhaps it was the fact that Sir Erskine Perry's Bill had foundered that provided the impetus for the appearance in March 1858 of *The English Women's Journal*, a magazine intended to give a voice to not only the campaign for married women's property rights but also other feminist issues such as women's suffrage. The magazine was started by Bodichon with Rayner Parkes and then appeared monthly until August 1864.

²³ In the event, the particular provisions in this regard of the Matrimonial Causes Act (20 & 21 Vict. c. 85), popularly known as the Divorce Act, proved to be unsatisfactory in practice.

²⁴ John Stuart Mill (1806–1873), the influential contributor to social theory, was associated with the Liberal Party and was M.P. for City and Westminster from 1865–1868. When introducing the Bill in 1868, George Shaw-Lefevre mentions a speech that John Stuart Mill had made in Parliament the year before, in which he had advocated the claims of the women rate payers to the suffrage (Hansard 1868a: 1015).

²⁵ Russell Gurney (1804–1878) was called to the bar (Inner Temple) in 1828 and was Recorder for London from 1856 as well as the Conservative M.P. for Southampton from 1865 until his death. As well as introducing the Married Women's Property Bill, he was instrumental in introducing the Bill which was enacted as the Medical Act 1876, the Act which allowed a woman to practise as a medical doctor.

²⁶ Shaw-Lefevre gives a useful exposition of the common law and its modification over the centuries by equity in his speech (Hansard 1868a: 1016–20).

²⁷ The 1868 Election was the first after the Representation of the People Act 1867 (30 & 31 Vict., c. 102), popularly known the Reform Act 1867. Shaw-Lefevre's other commitments prevented him from sponsoring the

attempt failed, not because of opposition to it but because the Bill ran out of time and had not completed all necessary stages in both Houses by the time the Session came to an end. However, on this occasion, the Bill did get as far as its second reading in the House of Lords, having got through all its stages in the House of Commons.²⁸ Finally, the same three brought in the Bill for a third time on 11 February 1870 (Hansard 1870a: 192). Alas, although the resulting Married Women's Property Act 1870 did set the wheels of change in motion, a 'drastic amendment of the House of Lords [had] made it a pale shadow of what even the most moderate reformer had wanted' (Cretney 2003: 95).

Whilst there is no doubt that most damage to the Bill was done by the House of Lords, it is clear from the debate when it was read for the second time in the House of Commons that there were also Members of that House who entertained considerable misgivings about the radical changes which the Bill proposed. The problem seems to be that the effect of Bill as drafted (as had also been the case as regards the Bills introduced not only in 1868 and 1869 but also in 1857) went far beyond what was necessary to remedy the injustice which was the purported prime aim of its supporters: to mitigate the common law insofar as it was causing not inconsiderable hardship and distress to married women least able to benefit from the protection afforded by the Court of Chancery and the equitable doctrine of separate estate, namely women from the lower-middle and working classes, in that such a woman could not protect her wages from being seized and squandered by her husband, if he were so minded and even if they were living apart.²⁹ None of the opponents of the Bill in either House denied that this could and did happen all too frequently nor had they anything against the principle that it was a state of affairs which required urgent attention. What concerned them was that the proponents of the Bill seemed to be using this very laudable motive as a way of introducing legislation that would radically alter a fundamental principle of the common law and they feared that insufficient consideration had been given to all possible consequences. Mr. Raikes, the M.P. for Cheshire, no doubt spoke for many when he voiced his suspicion, during the Bill's second reading in the House of Commons that those outside Parliament who

Bill when it was reintroduced in 1869 and Stuart Mill was not an M.P. in the new Parliament. Jacob Bright (1821–1899) was the son of a Quaker industrialist from Lancaster and worked in the family cotton-spinning business before entering Parliament as M.P. for Manchester in 1867. Thomas Emerson Headlam (1813–1875) was called to the Bar (Inner Temple) in 1831. He was the M.P. for Newcastle-upon-Tyne, first as a Whig and then as a Liberal, from 1847–1874.

²⁸ It was read in the House of Commons for the second time on 14 April (Hansard 1869b: 760–98) and for the third time on 21 July (Hansard 1868c: 401–05), the debate having been adjourned from 9 July; its second reading in the House of Lords was on 30 July (Hansard 1869c: 979–87).

²⁹ However, the original Petition to Parliament in 1856 gives no special weight to this point; it is simply one grievance amongst all the others (Carlyle's Collected Letters 1970: 33–36).

supported the Bill included many who embraced ‘the novel principle of civil equality between the sexes’ and opined that the Bill’s principal defect was the way in which ‘imaginary rights were mingled with real wrongs’; he also pointed out an inherent inequality between husband and wife that would result, in that there was nothing in the Bill that would oblige a wife to apply any part of her separate property towards supporting the family, as the husband was obliged to do at common law (Hansard 1870b: 889). In the Upper House, the Earl of Shaftesbury ‘was not prepared to say that the Bill was not a good one but he did say that it ought to be very maturely deliberated’ (Hansard 1870c: 609–10); Lord Penzance, more forthright, was concerned that the provisions of the Bill, if it were enacted as it had come up to them from the Lower House, would ‘subvert the principle upon which the marriage relation had hitherto stood and its tendency would be to cause increased discord’ (Hansard 1870c: 603) a sentiment with which Lord Westbury agreed, adding that only ‘a very small part of the Bill related to the main evil requiring redress and in the remainder were many extravagant enactments’ (Hansard 1870c: 606). The mind of the House is summarised by Lord Lyveden, when he said that throughout the discussion ‘all arguments had been against the Bill, except to one point—namely, that a profligate husband ought to be prevented from throwing away the property of his wife’ and that ‘[i]n the position in which the House was placed it was essential that should come to some conclusion as to the course they should adopt’ (Hansard 1870c:618; added emphasis).

The position was that this Bill, like its predecessors, was running out of time: the Session was due to end on 10 August; their Lordships were not unmindful of the fact that this was the third attempt in as many years to redress by legislation what they perceived to be the ‘main evil’ addressed by the Bill but they feared that that, if they sent the Bill back to the Lower House too much cut down, it would be rejected and the opportunity to bring relief to a sizeable proportion of all married women would be lost.³⁰ In the event, the Bill did pass its second reading and was referred to a Select Committee of the House of Lords, whose amendments, which did indeed cut out everything in the Bill that did not directly address the ‘main evil’, were debated and approved by the Lords in Committee on 18 July (Hansard 1870d: 395–401) and sent back to the Lower House. The Lords’ fears proved to be unfounded: despite the ‘temper in which [the Bill] had been sent up’ (Hansard 1870c: 606), the House of Commons did accept the Lords’ amendments on 3 August, albeit ‘with regret’

³⁰ Lord Cairns states that according to the 1861 Census there were 3,000,000 married women in England, of whom some 800,000 earned wages (Hansard, 1870b:601).

(Hansard 1870d: 1488–89), so when the 1870 Act came into force, its principal effect was merely to give a married woman the legal right to property earned by her own industry and talents.³¹ However, there were probably many who concurred with Russell Gurney, when he declared that ‘legislation on [that] subject could not end with [that] Bill, as there would yet remain much to be remedied’ (Hansard 1870d: 1488–89); the campaign continued.³²

On being returned to power in the General Election of 1880, Gladstone pledged to introduce further reforms as regards married women’s property. A Bill was introduced which again more or less repeated the provisions of the unsuccessful Bill of 1857 (McGregor: 22), and the Married Women’s Property Act 1882, which came into force on 1st January 1883, was the outcome. As well as repealing the 1870 Act and re-enacting its provisions, the 1882 Act provided that, as regards a woman married on or after that date, all her property, no matter when acquired, would remain hers and she was free to deal with it as she saw fit, but, as regards women who were already married on that date, this would only apply to property which they acquired after 1882; any property which they already owned was still subject to the old law. The Act also enabled a married woman to give a valid receipt for what was lawfully hers. This has greater significance than might appear: at common law, a married woman could not give a valid receipt except to a limited extent, so a receipt given by a married woman for monies due to her under a Will or by virtue of an intestacy did not operate as a sufficient discharge for the executors (or administrators in the case of an intestacy) from their legal duties; This could have legal consequences for them if it were later claimed that the estate had not been properly administered, so executors/administrators would always insist on a receipt signed by both the married woman and her husband and refuse to release anything to her without such a receipt, unless they were expressly authorised by the Will to accept her receipt (the Will of William Field previously mentioned makes just such a provision as regards receipts for the income which would be paid to his married daughter from the trust fund set up for her). This had two consequences for a married woman who was separated

³¹ Married Women’s Property Act 1870, s. 1. The Act also allowed her to keep small legacies (i.e. not exceeding £200, or about £118,000 in today’s terms; it was not possible to bring an action in equity in respect of assets worth less than this amount), sums received by virtue of intestacy irrespective of the amount and rents and profits from real property which she had inherited as heiress under the common law rules of devolution (but not from real property which had been settled on her *inter vivos* or by testamentary devise) (s.7). The House of Lords had proposed that the Act came into effect on 1 November 1870 but Russell Gurney, when recommending that the Lord’s amendment be accepted, felt that the Act should take effect immediately it received the Royal Assent, which it presumably did before the end of the Session on 10 August.

³² It is unlikely that Nicholas Forsyte and his like would have been much troubled by the eventual provisions of the 1870 Act, although the realisation that the campaign was by no means over might have made them shift uneasily.

from her husband: first, the practical one that she might have no knowledge of his whereabouts, which would mean delay while enquiries were made; the other that he would then be put on notice of her inheritance and be able to insist on taking control of it, thus depriving her of the wherewithal to support herself independently. In his speech supporting the motion that the Bill be read a second time, Gurney cites such a case that had come to his notice (Hansard 1870b: 881).

This looks as though it is the end of the matter, but there remained a few points which meant that married women were still not quite on the same footing as their unmarried sisters: a woman still remained for legal purposes a ‘person under a disability’ in certain circumstances (along with, as will be recalled, infants, felons and lunatics). As Bromley observes, the Married Women’s Property Acts are ‘typical of so much English legislative reform in that they have created extensive exceptions to the old rules without striking at the root of the trouble by abolishing outright the fundamental principle on which the anomalies are based’ (Bromley, 1962: 259). Instead of simply abolishing the common law doctrine and hence the consequences that flowed from it, the 1882 Act merely gave statutory effect to the equitable doctrine of separate estate as regards *all* of a married woman’s property, instead of certain types of property, as the 1870 Act had done. Whilst women were henceforth freed from the need to enter into complex legal arrangements to protect their property, since the Acts gave them full rights of possession, marriage notwithstanding, neither the 1870 nor the 1882 Act fully addressed all the consequences that flowed from the doctrine that ‘husband and wife is one flesh’, which, it will be remembered, has the effect that ‘the very being or legal existence of the woman [was] suspended during her marriage or at least incorporated into that of her husband’ (Blackstone, 1803: 442).

As a result, the interaction of statute law and common law produced anomalies, some of which were addressed by amending legislation. For example, at common law, a husband became liable for any pre-nuptial contracts which his wife had made and which remained undischarged, a perfectly reasonable provision since the property upon which a creditor might levy execution in the event of her default was now vested in the husband. The 1870 Act simply abolished this rule, which only worked to the disadvantage of creditors, since the limitations of the Act meant that much of a woman’s property, apart from that which had been protected by being settled on her for her separate use, was still vested in her husband on marriage, so the wife had little property on which execution could be levied. The 1874 Act

hastily redressed the position by repealing the relevant part of the earlier Act but limiting the husband's liability to the value of the property which had vested in him *jure maritii*.

Neither the 1870 nor the 1882 Act addressed one consequence of a woman's legal person being suspended during her coverture, which was that she alone could not bring a civil action for damages unless her husband were joined as co-plaintiff, as if he had also suffered injury; conversely, an action could not be brought against her unless he were joined as co-defendant, as if he had also committed the tort. Further, although the 1882 Act and its successors did extend somewhat the married woman's capacity to contract, something which by and large she could not do at common law and could only do in equity to the extent that the contract related to property which had been settled on her for her separate use, her liability in contract was of a proprietary nature (i.e. the property concerned could be seized to satisfy the liability) not a personal one (i.e. she could not be made bankrupt or committed to prison if she failed to satisfy a judgment debt for breach of contract).³³ Her liability in tort and contract would continue unchanged until section 1 of the Law Reform (Married Women and Tortfeasors) Act 1935 provided that the married woman, the *feme covert*, should:

- (a) be capable of acquiring, holding and disposing of any property; and
- (b) be capable of rendering herself, and being rendered, liable in respect of any tort, contract debt or obligation; and
- (c) be capable of suing and being sued, either in tort or in contract or otherwise; and
- (d) be subject to the law relating to bankruptcy and to the enforcement of judgments and orders,

in all respects as if she were a *feme sole*. (quoted in Cheshire & Fifoot, 1960: 358)³⁴

In all respects? Not quite. By the early nineteenth century, a practice had evolved for the further protection of property which had been settled on a wife for her separate use. It was recognised that a spendthrift and domineering husband could still prevail upon his wife to realise assets or transfer them to him, when they could be seized by his creditors. It became customary to make assets settled on a woman for her separate use subject to a condition known as a 'restraint upon anticipation'. Although it was not possible to make such a provision in any instrument creating a settlement executed on or after 1st January 1936, settlements already existing at that date were unaffected. In the post-war economic climate, it was felt that this restraint could be overly burdensome, so restraint upon anticipation was

³³ See further Bromley 1962: 259–67, Cheshire & Fifoot 1960: 356–59 and Gibson's 1964: 35–38, 362.

³⁴ Law Reform (Married Women and Tortfeasors) Act 1935 (25 & 26 Geo. 5, c. 30).

fully abolished by virtue of the Married Women (Restraint upon Anticipation) Act, 1949 — nearly ninety years after Bodichon and her colleagues began their campaign.³⁵

The campaign by and on behalf of married women for the return of not only their rights as regards their property but also their very legal existence lacks the drama and the high-profile personalities that attended the later campaign for women's suffrage but is, I argue, no less important. The moves to introduce legislation in 1857, 1868–1870 and 1882 could be construed as evidence of a subtle change in the attitude of the Legislature towards women: earlier legislation had been concerned to protect them physically by regulating the hours that women could work and prohibiting them from being employed to work in particular environments, such as mines; the 1857 Bill and its successors, as well as addressing a manifest injustice that bore heavily on a particular category and class of woman, the working married woman from the poorer classes, did endeavour to promote equality at least between women by allowing a married woman the same freedom to enjoy what was lawfully hers and hers alone as was enjoyed by the *feme sole*. This, I suggest, does indicate a willingness to see women not merely as the 'weaker vessels' in need of protection but as persons in their own right, with all the consequences that flowed from that concept.

History is full of 'what ifs'. What if the Bill had not run out of time in 1857, would it have got onto the Statute Book then? On the evidence of its progress in 1870, probably not, at least not as drafted, but it is not inconceivable that a cut-down version similar to the 1870 Act might have been achieved. And what if it *had* got onto the Statute Book as originally conceived, if not in 1857 but at least in 1870, would this have made any difference to the campaign for women's suffrage? Again, it is impossible to say, but it is worth remembering that one of the objections to that campaign was that, if women's suffrage in some form were introduced, it would not be possible to exclude married women but, since a married woman was, in Blackstone's words, 'under the protection and influence of her husband' and, in any case, had no legal existence, it would be tantamount to giving a married man two votes. This argument might well have been less cogent, had married women been in charge of their own property earlier in the century.

The language used in the Parliamentary debates and elsewhere may, no doubt, seem overly paternalistic and patronising to modern ears with its references to women as 'the weaker vessel' or 'wives of the poorer class', but allowance must be made for the idiom of an

³⁵ Married Women (Restraint upon Anticipation) Act 1949 (12, 13 & 14 Geo. 6, c.78). See further Bromley 1962: 404–05, 408 and Cheshire 1962: 840.

era less troubled by the need for political correctness than ours is, and we should also remind ourselves how much women owe to far-sighted — and tenacious — men of the day, who were prepared to champion women's causes and use their position both within and outside of Parliament to push for reforms. When we look back from our vantage point in the second decade of the twenty-first century, the Married Women's Property Acts may well seem, so far as the general public is concerned, of little interest, obscured as they are by the achievements of later campaigns. However, as long as the *Forsythe Saga* continues to be published, they will not be completely forgotten, even if the time may come when a footnote is required to explain Nicholas Forsythe's unforgiving attitude to the Acts and his thankfulness that his marriage had taken place long enough before they came into force for him not to be too much troubled by them.³⁶

Bibliography

- Arden Shakespeare Complete Works*, ed. by Richard Proudfoot, Ann Thompson and David Scott Kastan (London: The Arden Shakespeare, 2001)
- Blackstone, Sir William, *Commentaries on the Laws of England*, ed. by Edward Christian, 4 vols (London: Cadell & Davies, 1803), I, digital version from <www.books.google.com> [accessed 3-Mar-11]
- Bromley P.M. *Family Law* (London: Butterworths, 1962)
- Cheshire, G.C. and C.H.S. Fifoot, *The Law of Contract*, 5th edn. (London: Butterworth & Co., 1960)
- Cheshire, G.C., *The Modern Law of Real Property*, 9th edn. (London: Butterworths, 1962)
- Cretney, Stephen Michael, *Family Law in the Twentieth Century: A History* (Oxford: Oxford University Press, 2003)
- Galsworthy, John, *The Man of Property* (Harmondsworth: Penguin Books, 1951)
- *In Chancery* (Harmondsworth: Penguin Books, 1962)
- Gibson's Conveyancing*, ed. by R.H. Kersley (London: Law Notes Lending Library, 1964) (cited as 'Gibson's, 1964)
- Hansard: the Official Report of Debates in Parliament, 1803–2005*, (cited as 'Hansard'), digital version at <<http://hansard.millbanksystems.com/>>
- Series 3, Volume 144, cc. 605–19, <<http://hansard.millbanksystems.com/lords/1857/feb/13/bill-presented-first-reading>> [accessed: 3-Mar-11]
- Series 3, Volume 145 cc. 266–81, <<http://hansard.millbanksystems.com/commons/1857/may/14/leave-first-reading>> [accessed: 3-Mar-11]
- cc. 1182–84, <<http://hansard.millbanksystems.com/commons/1857/jun/04/leave-first-reading>> [accessed: 3-Mar-11]
- c. 1293, <<http://hansard.millbanksystems.com/commons/1857/jun/08/married-womens-reversionary-interest>> [accessed: 3-Mar-11]
- c. 2078, <http://hansard.millbanksystems.com/commons/1857/jun/18/married-womens-reversionary-interest#S3V0145P0_18570618_HOC_90> [accessed: 3-Mar-11]
- Series 3, Volume 146 cc. 1515–23, <<http://hansard.millbanksystems.com/commons/1857/jul/15/second-reading>> [accessed: 3-Mar-11]

³⁶ Of little interest, except, that is, to anyone wishing to take advantage of a policy of life assurance effected under section 11 of the Married Women's Property Act 1882. Such policies still have a place, even today, in the careful arrangement of their financial affairs by a married couple.

- Series 3, Volume 147
c. 1866–84, <<http://hansard.millbanksystems.com/commons/1857/aug/19/divorce-and-matrimonial-causes-bill>> [accessed: 3-Mar-11]
- Series 3, Volume 191
cc. 115–25 <<http://hansard.millbanksystems.com/commons/1868/apr/21/leave-first-reading>> [accessed 11-Mar-11]
- Series 3, Volume 192
cc. 1352–78 <<http://hansard.millbanksystems.com/commons/1868/jun/10/bill-89-second-reading>> [accessed 11-Mar-11]
- Series 3, Volume 194
c. 331 <<http://hansard.millbanksystems.com/commons/1869/feb/25/leave-first-reading>> [accessed 11-Mar-11]
- Series 3, Volume 195
cc. 760–98 <<http://hansard.millbanksystems.com/commons/1869/apr/14/bill-20-second-reading>> [accessed 11-Mar-11]
- Series 3, Volume 198
cc. 131–33 <<http://hansard.millbanksystems.com/commons/1869/jul/21/married-womens-property-bill>> [accessed 11-Mar-11]
cc. 979–87 <<http://hansard.millbanksystems.com/lords/1869/jul/30/married-womens-property-bill>> [accessed 11-Mar-11]
- Series 3, Volume 199
c. 192 <<http://hansard.millbanksystems.com/commons/1870/feb/11/married-womens-property-bill>> [accessed 11-Mar-11]
- Series 3, Volume 201
cc. 878–92, <<http://hansard.millbanksystems.com/commons/1870/may/18/bill-16-second-reading>> [accessed 1-Mar-11]
- Series 3, Volume 202
cc. 600–22, <<http://hansard.millbanksystems.com/lords/1870/jun/21/no-125-second-reading>> [accessed 6-Mar-11]
- Series 3, Volume 203
cc. 395–401, <<http://hansard.millbanksystems.com/lords/1870/jul/18/no-125-committee>> [accessed 6-Mar-11]
cc. 1488–89, <<http://hansard.millbanksystems.com/commons/1870/aug/03/lords-amendments>> [accessed 6-Mar-11]
- Leigh Smith, Barbara, ‘A Brief Summary in Plain Language of the Most Important Laws concerning Women together with a Few Observations thereon’ in *Women’s Source Library: Volume III Barbara Leigh Smith Bodichon and the Langham Group*, ed. by Candida Ann Lacey (London: Routledge, 2001), pp. 21–35 (cited as ‘Bodichon’)
- McGregor, O.R., *Social History and Law Reform* (London: Steven & Sons, 1981), published under the auspices of The Hamlyn Trust
- Mozley & Whiteley’s Law Dictionary*, ed. John Saunders, 7th edn (London: Butterworths, 1962 (cited as Mozley & Whiteley, 1962)
- Prerogative Court of Canterbury *Letters of Administration dated 7th November 1796 (with Will annexed dated 28th September 1793) in the estate of William Field deceased granted to Ann Arnold Widow* (cited as ‘P.C. Canterbury’), office copy in the author’s possession
- The Collected Letters of Thomas Carlyle & Jane Welsh Carlyle*, 35 vols (Durham, North Carolina: Duke University Press, 1970), xxxi, (cited as ‘Carlyle’s Collected Letters’), digital version at <<http://carlyleletters.dukejournals.org/>> [accessed: 3-Mar-11]

Skepsi

University of
Kent

VOLUME IV, ISSUE 1
SUMMER 2011



skepsi@kent.ac.uk
<http://blogs.kent.ac.uk/skepsi>

ISSN 1758-2679