

# The post-national sexual contract: An examination

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## Abstract

This paper examines the sexual contract in the 21<sup>st</sup> century. The analysis first focuses on the transformation in modernity from the liberal to the neoliberal social contract. This is then compared to the changes in the private spheres of home and domesticity. It is argued that the new gender composition of Western homes that consist of female migrant labour, contests the idea of the sexual contract as institutionalised in modernity. The work of Carole Pateman is taken as a starting point, while some new artistic interventions, as well as transnational motherhood and sham marriages, are used to inspect the future of the social contract in the 21<sup>st</sup> century.

**KEYWORDS:** social contract, sexual contract, sham marriages, transnational motherhood, Carole Pateman, Tanja Ostojić, Nela Milic.

## Introduction

This article examines the fate of the sexual contract in the 21<sup>st</sup> century. It first asks whether the feminist notion of the sexual contract (Pateman 1988, 1989; Pateman & Mills 2007), as developed in correspondence to and a critique of the philosophical legacy of contractualism, still adequately frames the gender issue of the social contract. Specifically, considering the social, economic and political changes in the private and public organisation of (post)modern life, which in many ways challenges the idea of the contract itself, the gender arrangement that supported the economic and emotional architecture of modernity may face some similar trials of history. Is the marital contract still a proper way to address the oppressive regime, placed upon the woman to assure the smooth running of the socio-sexual order of the capitalist rule; is the nuclear heterosexual household, managed by the middle class housewife, still a proper site to examine the exploitation of the invisible labour of women in the modern spheres of home and domesticity? Finally, is the romantic figure of the domestic female, accomplished in the role of mother and wife, a proper fantasy to even begin to disentangle the sexual and gender ideology of modern relations of power?

Without much hesitation, the answers to the above inquiries can all be abridged to a single “no”. No, the changes in the spheres of the economy after WWII have made

the idea of the “professional housewife” (Vidmar Horvat 2015) as the only career option for women an obsolete narrative. Women’s entrance into paid labour has doubled (or tripled) her domestic burden in quantity, but the idea of woman’s exclusive place in the confines of home and domesticity has waned. No, the invisible labour of women no longer resides within the bodies of white middle-class housewives, but has made progress toward the embodied work (Kang 2010; McDowell 2009) of paid care. No, since at least the publication of Betty Friedan’s *Feminine Mystique* (1963, in Vidmar Horvat 2015) it is clear that the romantic, “happy housewife” heroine never assumed an actual historical place in the modern family; rather, the ideal was bouncing against the wall of the alleged domestic bliss which the modern woman, either in fatigue or mental disorder, or both, tried to escape on a daily basis.

Since the 1970s, moreover, a long list of sociological, philosophical and anthropological work has been unveiling the fallacy of the modern sexual and gender arrangement, inscribed in the modern family life and marriage as the historic accomplishment of the alleged plan of nature. Some openly feminist scholars (de Beauvoir 2011; Butler 2006; Oakley 1990) and others supportive of the feminist agenda as concerns family and private life (Goody 1983, 1996), for decades now have been documenting historical, conceptual and empirical disfiguring of reality based on hegemonic knowledge production of modern patriarchal institutions. More recently, critical work on female global labour, transnational women’s working class of mothers and care workers, and the employed in the industry of intimacy (Hochschild 2003), has thrown additional light onto the epistemic rule of modernity, which has operated, in private and public life alike, by the hand of colonialism, racism, and ethnocentrism (McClintock 1995). The figure of the modern woman, which came out of the diverse class, race and sexual trajectories of colonial thinking, was the chosen subject to execute daily national fantasies and economies of social life. Behind her silhouette, in modernity, groups of invisible women, together with the tasks of “unwomanly” labour, contributed their body work to accomplish the social plan of modernity. Today, with the globalisation of labour and feminisation of migrant work (Sassen 2014), the neoliberal economy of private life in fact, I will argue, allows us to see more clearly the intricate relationship between class, race, and gender as well as to better understand the project of the social contract itself.

This is by no means a new discovery nor should it be assigned any specifically new powers to redirect our critical method. In my analysis, I, therefore, embrace a modest goal of bringing together two strands of work, feminist philosophical on the sexual contract and migration studies, to reflect on their mutual power to foster the understanding of the global social change in the realm of the gender and sexual economy of home. For this purpose, I first briefly review the (neoliberal) transformation of the social contract. Next, relying on Carole Pateman’s work, I summarise the main argument about the sexual contract. The third section discusses two global women’s migrations of care workers and brides with the focus on their implication in the neoliberal sexual *and* social contract as well as in their capacity to disentangle the class and race structure of the contract of modern private life. In conclusion, I present the findings and suggest further orientations for critical sociological work on contractualism in the realms of labour and gender.

## Social contract from liberal to neoliberal state

The idea of the social contract usually is presented as the founding feature of modern Western secular societies. The contract is based on principles of democratic citizenship and respect of human rights. Philosophically, it denotes the historical transition from the rule of the status to the law(s) of universal equality (Cavalieri & Kymlicka 1996; Marshall 1987). The modern social contract is both a consequence of the disenchantment of the world and the agent of the collectivisation of life, based on principles of liberal institutions of state and national identity. It is a product of the realisation that monarchs and rulers too but ordinary people; and a vehicle to legitimation that the new power needs for its operation (Cavalieri & Kymlicka 1996: 6). The classical theory of contractualism explains that people continue to accept the tyranny of power in its modern form, as this time, the submission is based on the belief that the sovereign will tend to their needs and provide safety. The contract, in this sense, is a legal and a moral form of a bond by which the obligations of the rulers and the ruled are defined. From Hobbes to Kant and into the early 20<sup>th</sup> century, the idea settles in the concept of justice, which Rawls, following Kant, articulates as the commitment to equality among human beings as moral persons (in Cavalieri & Kymlicka 1996: 9).

The social contract operates within the contexts of the nation-state (Calhoun 2003). This gives the contract a historically specific frame of power but also begins to foster contradictions. The nation-state provides the legal, cultural and moral context of equality which prospers by the ideology of common belonging to a territorialised community of equals. The invention, and production, of national consciousness contributes to the civilising processes within society (Bauman 1993) and, in reverse, consolidates the power of the contract (Maine, in Marshall 1987). However, as critical readings of the modern contract suggest, the new type of contractual bond acknowledges the equality of individuals as concerns freedom and status, but not the access to power (Butler 2004). Furthermore, as Agamben emphasises, the modern social contract that institutionalises the rule of the law, is an act of initiation that rests on exclusion: ‘It has been rightly observed that the state is found not as the expression of a social tie but as an untying (*déliaison*) that prohibits...’ (1998: 109); it is not a contract, he claims, but a mode of a “ban”, engraved in the differentiation between the bare and political life. Butler and Spivak similarly argue that the nation-state is the name for non-belonging, the idea of citizenship an assemblage of institutions that prevent people on the outside from belonging within. For those who, as outsiders, are allowed to cross the borders of the nation-state and its zones of belonging, national citizenship continues to be the perpetual source of their inequality (de Genova 2013).

This means that the principles of social contract depend on the political geography of community that differentiates between the inside and the outside. Henceforth, the crucial historical role of the modern border (Brown 2010; Sassen 2014). In addition, the idea of a homogenous community of the nation-state creates inner circles of exclusion, operating across class, race and gender articulation of equality even though legally, the categories of exclusion resided in the terrain of the same citizenship. The early 20<sup>th</sup> century history of eugenics, the fears of the “race suicide” of the middle classes running

as late as the 1950s (Vidmar Horvat 2015) and the continuous history of exclusion of Roma across European states, attest to the persistence of history, spinning on the wheels of social hierarchies and privileges of belonging well into the 20<sup>th</sup> century.

The global neoliberal economy has corroded the elegance of the modern divide between the inside and the outside of the nation (Brown 2010). Forces of globalisation nowadays materialise *inside* the countries (Sassen 2014) as much as they operate trans-nationally. The deregulation of national borders unfolds together with the intra-national compartmentalisation across socio-economic and juridical spaces. This has resulted in a changing relationship between state and society (Rumford 2006). A neoliberal state can operate a-territorially, meaning that it no longer depends on the national economy (Bauman 1993) nor national labour. Moreover, as Bauman argues, the state nowadays can exist without mass mobilisation of its citizens (*ibid.*). In the moral lenses of the neoliberal state, citizens exist as taxpayers. The management of population no longer adheres to the concern for public sentiments but applies the biopolitical rule of governmentality in which citizens exist as bodies (McCormack & Salmenniemi 2016). Consequently, the condition of neoliberal life shifts from the concept of social security to that of precarity of life (Bauman 2016). The precarity of neoliberal existential condition still invokes historical experience of solidarities based on ethno-cultural belongings, but there is no reverse echo from the echelons of state powers (Narotzky 2016). Neoliberal governance decomposes the idea of social justice and moves it from the terrain of an *a priori* state of social regulation to the *a posteriori* fact of self-management (McCormack & Salmenniemi 2016). The social bond between the citizen and the state has collapsed into the field of ultra-rationality whereby both are run as enterprises; and none of the two can interpellate modern moral obligations to claim the rights and/or success.

## **Carole Pateman: Thirty years later**

How does this change affect the gender composition of the social contract, as inherited from modernity?

In her 1988 book, Pateman argues that social contract should be read together with the progress of patriarchy. Namely, citizenship rights, which came with modern liberal state and which assumed the public presence, were developed together with the patriarchal right of men to subdue women in the private space. In fact, the very division between the private and the public, in Pateman's view, served to conceal the intertwining of political with sexual rights and, hence, the co-dependency between the social and sexual contracts. The story of the social contract, written from Hobbes onwards, is a story about freedom; the untold story of the sexual contract is the story of submission. Freedom and submission constitute two sides of the same coin of the modern civic arrangement. The idea of the free individual is gender specific, inscribing the figure of the male individuum who, since his birth, already possesses the identity of the political offspring whereas the female child remains tied to biological sexual origins as an apolitical creature.

When read in this manner, the social contract did not annihilate patriarchy but presents its continuation in a different mantle. This is the case even if we consider the progress of women in the spheres of economic independence and political rights. Al-

though one can appreciate the expansion of liberal principle towards the inclusion of both sexes, only the critical evaluation of both spheres, the public and the private, and their combined effect in the political constitution of the community will tell whether we have entered the age of post-patriarchy. Therefore, Pateman refutes both feminist and socialist debates about the modern sexual exploitation of women. In her view, the two buy into the idea that the advancement of egalitarianism concurs with the move from “nature to culture” which equals progress in citizenship rights, but together they fail to examine the constitution of the citizenship itself.

Consequently, both theoretical currents remain indifferent to the political birth of the father figure. This figure, in Pateman’s reading, is always a post-figure, historically established only after he had taken for himself the right of sexual access to the woman and made her into a mother. The father figure, therefore, conceals the fact that political rights are intertwined with the sexual right and that the advancement of the modern liberal society is predicated on the consolidation of the heterosexual marital bond. With Freud, she concludes that the elimination of the father figure will not do away with patriarchal rule because the legacy of paternity in modern contract is passed onto the sons. They are the modern political and moral heirs of the patriarchal sexual order.

When and if a woman is to enter the marital contract, she also needs to possess the quality of the individual; in contrast to a wage worker, her commitment to the conditions of the contract stems from the qualities of her gender. The marital contract resembles the work contract by which the wife commits herself to work for her husband. In her capacity to serve as a free individual, she departs from the traditional bond of serfdom, and comes closer to the figure of the servant. She is at the same time the (emotional) member of the family and its labour force, “employed” by the invisible authority of the sexual contract. The social contract is about male work; the sexual contract deals with female work. The political fiction of labour *qua* property in person is accommodated as a liberal state of affairs, while the paradoxes of women’s work and the contradictions of her servitude silently continue as its historical precondition.

## **Post-national sexual contract**

As can be inferred from the above summary of Pateman’s argument, the key figure of the sexual contract is the housewife, that is the woman who not only performs the role of the wife but the wife who is the partner in the contract as the worker in her husband’s household. Both the legal and the physical space of the marital home are crucial for the consolidation of the sexual contract. If a woman performed her role as a “housewife” in a different husband’s home, she would have been changed in her social presence, instead of sexually entering the legally binding contract of paid work. Her gender qualities, of course, would still make her a proper substitute for the domestic “ladies” of the leisure class in the 19<sup>th</sup> century, and the employed career women in the late 20<sup>th</sup> century. However, this is only so because her gendered performance, tied to the sexual contract of the modern marital arrangement, already pre-proved her to be a valid party in the labour contract of the dominant society.

Since the 1970s, the gender anatomy of the modern household has dramatically changed. Women have been assigned the role to reproduce nations biologically, culturally, and symbolically (Yuval-Davis 1997). In order to perform their role as mothers, women had to be made available in time and space. Nurturing and family care demand a subject whose daily routine is defined by the needs of the household. This means a restriction on movement and mobility outside the limits which is then so accurately termed the “private sphere”. The private denotes the inward social world of the family which is organised as a natural, biological and emotional unit, closed off from the intervention of the political. Run by women and headed by men, it is conceived as a socialised nature in a culturally bounded space. The sexual organisation of labour is spatially defined, which means a limited, task-legitimised movement over the threshold of domesticity for women; and freedom of crossing of borders between private and public worlds with no need for justification for men. Whereas the public world is open to the man for either work, leisure or pleasure, for the woman, the world outside exists only as a social extension of the space for the performing of her maternal role in public: in the realm of the “feminised” professions and non-paid, voluntary care work (Vidmar Horvat 2015).

Recent social discourse outlines the phenomenon of the “feminisation of migration”. Quantitatively, this is an accurate description. According to UNFPA: ‘One of the most significant changes in migration patterns in the last half century is that more women are migrating than ever before. Women now constitute half the international migrant population, and in some countries, as much as 70 or 80 per cent’ (World Bank 2017). Women, for different reasons, have been on the move throughout history, and migration has always included women. However, modernity ascribed a specific public perception to migrant women. As concerns women of upper classes, intellectuals and artists, their mobility was tolerated to the degree that they did not constitute the core of the reproductive middle class ideal; deemed deviant in their pursuit of creative accomplishment outside family and domesticity, they could always also be used as case studies of “failed femininity” (Vidmar Horvat 2015). As relates to the women of lower classes, such as the (in)famous photographic depiction of “Migrant Mother” by Dorothea Lang, they were used in state propaganda programs to disseminate narratives of deprivation, but were of a lesser concern as representatives of their gender (ibid.). The feminisation of global migration has changed the picture. Two cases can be used as an illustration.

The first concerns the care work. The late 20<sup>th</sup> century witnessed an eruption of the phenomenon of “transnational mothers” (Phoenix 2013). The majority of transnational mothers are women from the global South who have been forced to leave their family and children behind. They work to support their families and send most of the money earned back home. This is a flourishing global economy of care which depends on the paid gendered contract (Calavita 2005; Yuval-Davis 2011). The migrant female is a new party in the social contract of the West: her paid labour fills a fourth of all households in the developed world (Zaviršek 2012) As commented by Darja Zaviršek on the case of Denmark, in the country with one of the highest degrees of gender equality, thousands of Philippine women are employed in the households to fill in the gap created by the Danish women who enter the paid job market (ibid.). In the global chains of welfare capitalism

(Esping-Andersen 1990), migrant women tend to the physical and mental health of the ageing population and young children. In addition, they are employed in the “body industry” (McDowell 2009; Twigg et al. 2011), of health and wellness services, as well as in other subsectors in the globalised commercial “culture of touch” (Kang 2010), such as manicure. As Kang writes, ‘Asian women’s racial acceptance require their enactment of forms of femininity grounded in subservient work’ (ibid.: 5), meaning that the transnational labour contract both consumes and expands the modern sexual contract with the categories of class, race and ethnicity.

### **‘Wedding Bellas’ and ‘Looking for a Husband’**

The second case concerns bride migration. Here, public perception of migrant women is quite different. In contrast to the invisibility of migrant care workers (Calavita 2005), and, consequently, morally mainly indifferent attitude by the public, the news reports about trading with brides, marital contracts, and sham marriages are often accompanied by moral outrage. The outrage goes to the traffickers, but this redirection of the attention from women to criminal associations serves the purpose of concealing the repressive impacts of borders as well as hegemonic socio-sexual codes of the West (Milic 2016). To provide only some news headlines from 2016, one Slovene newspaper brought the story of a sham marriage between a Russian bride and a Slovenian male with the emphasis on how the fraud enabled both partners to “cheat the state”. On the list of deceitful acts appeared the residence permit and the maternity allowance for the bride, and tax evasions for the groom. As concerns the female, the discourse defines residence and social support as applicable to the migrant woman only in a legalised form and, as this coverage further attests, avoids the question of the implication of Western marital regimes in making the sham brides (M. R. 2014).

In another article, it is reported that approximately 400 fake marriages occur every year in Slovenia, whereas the fraud is carried out mainly by women who help male citizens from the ex-Yugoslav region to enter the Schengen zone (B. B. 2015). Again, even though a state police representative in her statement emphasises that in Slovenia, this is a fairly recent occurrence, connected to the expansion of the Schengen area, the target of public scrutiny is not how the Schengen borders may have triggered the new economy of sham marriages in the region. Instead, the focus is on the violation of laws by brides and traffickers which, as the title *A Slovene bride for 9000 dollars* (Lindič-Dragaš 2015) tells, disturbs the public that (rightfully?) cannot tolerate the combination of a sacrosanct institution with the banality of a financial transaction.

As concerns the migrant brides, the employment of the sacred aura of marriage indeed constitutes a major frame of the moral dilemma. This can be observed in photographic art project “Wedding Bellas” by Nela Milic (2016).<sup>1</sup> The author describes the idea as follows: ‘The photographs are the stories of twelve women who found themselves at a time when they refused to leave. Many have been rejected – by partners, by landlords, by employers – and many have been refused leave to remain in the United Kingdom by

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<sup>1</sup> The attention to this project was brought to me by Tanja Petrović for which I thank her.

the state' (Milic 2016: 76). The women from Iran, Uganda, Zimbabwe, Ukraine, Iraq, Ethiopia, Bosnia, Turkey, Eritrea, Rwanda, Kurdistan, Lebanon, and the United Kingdom pose on the streets of London dressed in white wedding gowns. The project discloses how the dressing ceremony of the institution of marriage implies a narrative of female sexual innocence, purity, and availability. However, the white clothing is there to conceal the sexualised fantasy which the marital contract translates into a morally permissible form. Therefore, when twelve migrant women impersonate Western brides, they create a visual scandal. By means of photography, they perform a travesty act of belonging to the very culture that is attempting to expel them.

In addition, by imitating the genre of glamorous photography, in the author's words,

The project for the women served as a weapon to attack the trajectory of image making that reinforced the media canon through depictions of tragedy in the pictures of teary faces, devastated lands and abandoned children. The iconic photographs of human struggle fed the idea of females as the "weaker sex", and robbed them of their dignity. The immigration laws followed suit from this notion of tolerance of them rather than acknowledging their strengths and contributions to the United Kingdom (ibid.).

From a reversed angle of a potentially sham subject, the project enacts the truth of the sexual contract which should remain undisclosed, namely that the female party of the contract is not a passive victim, but an autonomous performer.

This comes out even more clearly in the art project by Tanja Ostojić. In her work *Looking for a husband with EU passport*, Ostojić self-advertises herself as a naked-bride-to be on offer to a Schengen husband. The ad, which ran for five years, in which period Ostojić received over 500 letters, led to a public performance of a wedding with a German man in Belgrade. Ostojić obtained a visa and moved to Germany where she lived for three years. Because her visa was not renewed, in 2005 Ostojić organised a "divorce party" at which she officially ended her German marriage. The exhibition which followed included letters of correspondence with men, official documents, wedding photos and posters of Ostojić's naked body.

In 2006, Ostojić continued her work in the project *Untitled (After Courbet) and Integration Impossible*. Designed as billboard work which in one image shows a semi-naked female body wearing pants with a pattern of the EU flag cloth, Ostojić, as one commentator put it, 'used her body to demonstrate the border.' However, a 'massive pressure from various sides' forced the curators in Vienna to remove the billboards. Various political parties, including Chancellor Angela Merkel, Christian organisations, and concerned publics demanded the removal of the poster due to its "sexism" and pornographic content.

The problem that this representation constitutes for the dominant West is that it openly self-criminalises the subject who enters the global marital market of brides. Ostojić wants to become a citizen of the West and if this requires sexual consumption in a marital contract with an EU male citizen, the institution of marriage performs its function,



as far as the would-be migrant bride is concerned. This, of course, is both a profanisation and banalisation of the Western ideology of the marital bond, complete with the sexualisation and objectification of female subject. The real scandal, another commentator writes, is ‘not in its sexual explicitness, but in how it located sex at the centre of European politics’ (Gržinić & Ostojić 2009).

Moving a critical performance from the domain of art to that of pornography, and creating public discomfort helped in foreclosing the debate on migration, global poverty, and human vulnerability. At a larger scale, refuting sham brides, either real or artistic, as morally weak, supports the view that sham marriages are among the reasons for heightening border controls and immigration regulations. The British tabloid the *Daily Mail* quotes the judge in the lawsuit against a babysitter who married a Nigerian immigrant, stating that ‘her crime “struck at the heart of the immigration system”’ (Williams 2016). The topic of illegal migration is used to conceal the global reach of Western institutions of family and marriage and their violent impact on the lives and hopes of deprived women worldwide. As the above-mentioned representative of Slovene police states, ‘a year ago, in Slovenia we almost did not know of the sham marriages which now are becoming an attractive way from the Balkans and the Third World into the EU using women from the bottom of society’ (Lindič-Dragaš 2015).

A recently run project *Preventing human trafficking and sham marriages: A multidisciplinary solution* (European Commission 2016), financed in part by the European Commission, to provide one last illustration, thus states its objective as ‘to create a shared understanding of a new, evolving form of trafficking in human beings – through sham marriages, provide a precise definition of sham marriages as a form of human trafficking hitherto in-existent at the EU level, and initiate a comprehensive action for its prevention.’ According to the authors of the project, the best way to a solution is in ‘training of multidisciplinary specialist groups’ who would work with vulnerable groups, such as ‘low-income families, ethnic minorities and people with special needs’ (ibid.). When sham marriages are concerned, for the EU authorities, the problem apparently lies in the vulnerable Other whereas the fact of its own implication in the making of the vulnerable stays out of the research picture.

## Conclusion

How can the above cases help us in resolving the opening dilemma of the sexual contract in the era of trans- and post-national social arrangements?

The sexual contract was the precondition for the functioning of the social contract. This relationship stayed more or less intact until the 1970s when middle-class white women began to enter paid labour. The moment Western women attained financial independence, the rules of the contract, and its allegedly underlying consent, changed. Whereas this does not mean the end of the sexual contract, it does announce the era of a new class of women on whose chests (and breasts) the neoliberal home will be run.

Reviewing the work of Pateman, it can be concluded that a major challenge to the sexual contract in the 21<sup>st</sup> century will come from the confines of the home. The care

economy, together with mobile “servants of globalisation” (Parreñas Salazar 2001) is becoming a new laboratory for the reproduction of global capitalism. The arrival of the transnational mothers from the global South to the global North has created retrospective lenses to the modern social contract. As Neilson and Mezzadra write, the employed migrant in the Western household is ‘a prism which enables the analysis of monetisation and commodification of a wide spectrum of tasks that once represented an integral part of female domestic labour’ (2013: 105). In contrast to male migration, they do not represent competition on the labour market: they are not employed to lower the wages of the “natives” but precisely to enable Western women to increase their job opportunities. This kind of help often comes at the cost of the migrant women downgrading their own accomplished education and settling for lower wages (Calavita 2005).

Pateman belongs to the philosophers of difference. She claims that only when a woman is recognised as different in her gender, will she be fully emancipated. However, our case stories reveal that women’s “body work” is not harmonised across all social categories. Women inhabit bodies differently while their bodies are differentially valued and employed. The end of exploitation by gender will not automatically lead to the end of the exploitation of women: as the case of the transnational mothers unveils, emancipation by gender relies on the invention of new regimes of oppression and subjugation of (other) women.

There is one final remark to be made as concerns the differentiated circles of women’s vulnerability. Vulnerability does not imply passivity and agency-less victimhood. This is especially important in relation to two coinciding global phenomena: the feminisation of migration and the feminisation of poverty. Although arriving from different geographies of oppression, they both meet in the Western homes. Since the 2008 financial crisis, according to the report by the working group at the European Commission (World Bank 2017), women in the EU Member States are a more vulnerable group than men. This is due to the fact that already prior to the crisis, women were subject to lower wages, limited promotion and, lower pensions.

According to another report in 2016:

Women are nearly four times more likely to work on a part-time basis than men (32% against 9%), and the inactivity rate of working-age women (20–64 years) is almost twice that of men (30% against 17%). A fifth of women living in poverty are not active in the labour market due to caring and domestic responsibilities (Barbieri et al. 2016: 11).

As the report also indicates:

Women and men are not homogenous groups. Their reality varies depending on many social characteristics, such as age, ethnicity, citizenship and household type, which all create and influence their challenges and opportunities, including their financial situation and likelihood of falling into poverty (ibid.: 12).

Therefore, employment is ‘not always a path out of poverty’ and furthermore, the gender gap in poverty ‘levels to the detriment of women is highest in the 75+ age

group (7 percentage points)(*ibid.*). It is concluded in the report that ‘This is of particular concern given that women in the EU make up most of the ageing population’ (*ibid.*: 11).

Despite their detrimental effects on the lives of women, the expansion of feminisation of migration and feminisation of poverty should make us wary of resorting to discourses of victimisation. The dependency on statistics may, in fact, lead to yet another historical cycle of seeing women as passive, submissive, silent and with a maternal sacrifice-like attitude towards their existential dramas. To return to the two above-mentioned artistic projects, the question of agency may, in fact, be one way of addressing the dilemma of the moral panic associated with alleged trespassing by the two artists of the norms of the modern sexual contract.

In many ways, this supports Pateman’s argument, who, unlike Rousseau, put much more emphasis on the function of the wife than the mother in the institutionalisation of the modern contract. The wife is closer to the political context of the contract because the role implies, its actual shortcomings notwithstanding, the vision of the autonomous individual. In the modern iconography of the nation-state, motherhood continues to be seen as a woman’s given mission, whereas the commitment to marriage reverberates with the idea of choice, consent – voluntary act. When the artistic representation unveils the voluntarism in its “naked” form, the fact of woman’s sexuality loses the moral bliss of innocence and monogamous commitment. Instead, while targeting male holders of passports only, as in Ostojić’s case, it is on display to a wide range of publics. The “bride on sale” demystifies the sexual contract by which the modern society runs its intimate economy of households and unveils its implication in public life.

For the post-national sexual contract to perform its role in consolidating the neoliberal social contract, it is, therefore, obligatory to conceal the marketisation of marriage circulating in the global economy of exploitation. To destabilise the neoliberal social contract, it is equally obligatory to begin to look into the sexual contract which the West has signed with the migrant women; and unveil once more the truth that to try to harmonise women’s interests, as Nakano Glenn writes (in Kang 2010), would be a falsifying endeavour.

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## **Povzetek**

Članek analizira usodo spolne pogodbe v 21. stoletju. Najprej se osredotoči na preobrazbe družbene pogodbe v času med moderno liberalno in neoliberalno paradigmo. Nato spremembe primerja s premenami v zasebni sferi doma in družine. Avtorica trdi, da je nova spolna kompozicija zahodnih gospodinjestev, ki vključuje migrantsko žensko delovno silo, porušila spolno pogodbo, kot jo je institucionalizirala modernost. Pri tem se opira na delo Carole Pateman in, s pomočjo dveh izbranih umetniških projektov, ki obravnavata lažne poroke in transnacionalno materinstvo, izriše nekaj ključnih potez družbene in spolne pogodbe 21. stoletja.

**KLJUČNE BESEDE:** družbena pogodba, lažne poroke, transnacionalno materinstvo, Carole Pateman, Tanja Ostojić, Nela Milic

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