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Wed locked, by Joan Smith  
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Synopsis:  It was in the mid-18th century - the first great era of privatisation - that land became possession and wives became chattels. And it was then that morality became identified with a woman's sexual reputation. The malign legacy of that time, Joan Smith argues, has survived to this day.

The chastity of women is of all importance, as all property depends on it. Dr Johnson

A woman who has lost her honour, imagines that she cannot fall lower, and as for recovering her former station, it is Impossible; no exertion can wash this stain away. Mary Wollstonecraft

The 18th century was, par excellence, the age of privatisation. Not in the modern sense of selling off publicly-owned utilities, but in a much more fundamental way: what passed into private ownership was land and bodies. On the first count, countryside that for centuries had been open to all was fenced off and became the inviolable property of wealthy individuals. As a direct result, the landscape changed dramatically, and so did the lives of millions of people who lived upon it.

The appropriation was carried out legally, through a series of acts of parliament, and meant that farm labourers who used to supplement their meagre income by turning out their hens, pigs and geese to graze at no cost on common land could no longer do so. The rich benefited hugely, which is why they resorted to legislation so often: there were 64 Enclosure Acts from 1740-1749, 472 from 1770-1779, and 574 - the peak - in the first decade of the 19th century. But the effect on the rural working class was catastrophic. Families who had depended on access to common ground became landless trespassers. "An amazing number of people have been reduced from a comfortable state of partial independence to the precarious position of mere hirelings, who when out of work immediately come on the parish," observed the Reverend David Davies, rector of Cookham, Berkshire, in 1795. New boundaries - ditches, hedges and walls - not only created a more ordered vision of the countryside, but acted as a visual reminder of the power of landlords to exclude outsiders.

Whatever their effects - and historians are still debating their impact on agriculture - the Enclosure Acts are seen as a significant step in the creation of a modern society. What is less frequently remarked upon is the way in which a comparable process of enclosure was acted out in the 18th century on bodies, primarily on women's bodies. The effect was to divide women into two classes: wives who were indubitably the property of their husbands, and unmarried or abandoned women who, not belonging to one master, ran the risk of being regarded as the collective property of all.

The link between the ownership of land and the ownership of women was not accidental: just as the wealthy wanted control of vast estates, they also wanted certainty about the sons and heirs who would inherit the property they had gone to so much trouble to secure. At a time when blood tests to establish paternity had not yet been dreamt of, this was hardly the easiest goal to achieve. What the ruling elite could do, and did with extraordinary thoroughness, was to take more effective control of women's bodies. They did it by outlawing all forms of marriage except one that was formal and indissoluble, except by act of parliament - and they made sure that even this perilous and expensive escape route was not open to women.

Mary Wollstonecraft, author of A Vindication Of The Rights Of Woman (1792), was quicker than most to perceive that her century was obsessed with private property, and the baleful effect of that obsession on
women. "From the respect paid to property flow, as from a poisoned fountain, most of the evils and vices which render this world such a dreary scene to the contemplative mind." (She was also painfully aware of the liminal status of women who, like herself, gave birth to a child outside the protection of wedlock.)

The male elite that required absolute power over both women and property in England also managed to disguise its intentions, arriving at a deal with the Anglican church that gave rights over private life to clerics in return for guarantees about legitimacy and inheritance. This restored the status of the church as moral arbiter, a role that had been steadily eroded over the 16th and 17th centuries as ecclesiastical courts went into decline (resulting, inter alia, in the effective decriminalisation of adultery). Now, thanks to new legislation, the church resumed its traditional role: whatever moral code the emerging state was about to espouse would be shaped exclusively, and oppressively, by the Christian religion.

The first triumph of this powerful coalition was to elevate a method of securing and passing on property into a moral principle, while the historical baggage brought by the church - including, of course, its cult of female virginity - combined with the secular notion of women as chattels to produce discriminatory punishments for offenders. The most clear-sighted observer of this process was Wollstonecraft, who argued that the very existence of morality was undermined by making it synonymous with a woman's sexual reputation. "It has long since occurred to me," she wrote, "that advice respecting behaviour, and all the various modes of preserving a good reputation, which have been so strenuously inculcated on the female world were specious poisons, that encrusting morality eat away the substance." This vivid image reveals her understanding that linking morality and sex was not just a burden on women, but destructive of the wider moral order - a lesson that would not even begin to be taken to heart until the second half of the 20th century.

The piece of legislation that enclosed the female body as tightly as any tract of land was Lord Hardwicke's Marriage Act of 1753. Before this act, couples benefited from the long-standing confusion that existed around the various "forms" of marriage. One of them - contract marriage, frequently consisting of no more than a verbal agreement between a man and a woman, was notoriously difficult to prove, sometimes prompting costly disputes over property but also providing an escape route for discontented spouses. Then there were clandestine marriages, entered into without parental approval and frequently involving an elopement. Such arrangements were legally binding and were sometimes the only bearable alternative for an heiress whose father or guardian was pressing her to accept a suitor of his choice.

This is exactly what happened to Lady Mary Wortley Montagu, who wrote bitterly that "people in my way are sold like slaves, and I cannot tell what price my masters will put on me". She meant daughters of the aristocracy, and she avoided an arranged marriage with an unappealing candidate selected by her father by eloping with someone else. Many such ceremonies were conducted perfectly legally by clergymen who had been incarcerated for debt and who were able and willing to marry couples, for a fee, with no questions asked, at any hour of the day or night.

And while historians disagree about the numbers, some couples simply lived together and were accepted by their families and friends as husband and wife. Their children were baptised and treated no differently from legitimate offspring, but the spouses could, and sometimes did, go their separate ways at some point. While it would be wrong to claim much in the way of rights for women in the period before the Hardwicke Act, there was sufficient uncertainty about who was legally married to create a fluid situation, in which women in irregular unions were not automatically looked down upon.

The Hardwicke Act, and the moral discourse that underpinned it, changed all that. In future, the only marriages that had legal force were those carried out by a clergymen in a church or chapel in daylight hours. Banms had to be read in advance, alerting anyone with an interest in preventing the wedding, and no one under the age of 21 could marry without parental consent. How seriously the bill's drafters took the need for
state control of marriage is demonstrated by a clause that was eventually dropped, stipulating the death penalty for anyone who officiated at an unlicensed wedding; wiser counsels prevailed and the penalty was reduced to transportation for a mere 14 years.

The only way out of a bad marriage, other than a separation that prevented either spouse marrying again, was for the husband to go to the enormous cost of obtaining a parliamentary divorce - a procedure that included a full trial held in public, with testimony of the most intimate kind about the wife's sexual conduct. Her adultery, confirmed by two witnesses, was the only ground that was likely to be successful in dissolving the marriage, conditions so onerous on both men and women that they prompted a battle for easier divorce that would rage for two centuries. Even so, there were sufficient parliamentary divorces to scare MPs and peers into a belief that women were still not fully under patriarchal control. Four attempts were made, between 1771 and 1809, to introduce punitive bills that would prevent divorced women marrying their lovers - though not, of course, divorced men marrying their mistresses. In a climate in which the dire effects of the Hardwicke Act were already being felt, the bills were rejected, but the church was still trying to enact identical legislation as late as 1856, when a bishop sought to add a clause to the first Divorce Bill ensuring that wives who escaped their marriages would be unable to marry again.

What has not yet been sufficiently acknowledged, when modern commentators discuss the history of marriage, is the state of total subjection in which wives were placed from the middle of the 18th century onwards. What was required of them, according to Wollstonecraft, was "slavish obedience" to their husbands, an inequality that led to her scandalous observation that wives were "legally prostituted" in marriage. The effects, she concluded, were dire for both parties: "Whilst [women] are absolutely dependent on their husbands they will be cunning, mean and selfish; and the men who can be gratified by the fawning fondness of affection have not much delicacy, for love is not to be bought; in any sense of the words, its silken wings, are instantly shrivelled up when anything beside a return in kind is sought."

Wives who ran away from a violent marriage and unlucky women whose husbands had tired of them, could be kidnapped, held against their will and - in the very worst cases - confined to a lunatic asylum. Until 1774, when it became illegal to incarcerate a patient in a lunatic asylum without a doctor's order, there was nothing to prevent a malicious husband shutting up his wife with genuinely disturbed patients for the rest of her natural life.

Even when the law on asylums was reformed, there was nothing to prevent a husband kidnapping his wife and locking her up at home, a fate that, we might speculate, as Jean Rhys did in her novel Wide Sargasso Sea, was imposed on Mr Rochester's "mad" first wife in Jane Eyre. (As late as 1840 a judge ruled that a husband was entitled to lock up his wife to prevent her running away with her lover.)

At a time when male control of female sexuality was absolute, a similar threat hung over single women who lost their reputations, as Wollstonecraft recorded: "I cannot avoid feeling the most lively compassion for those unfortunate females who are broken off from society, and by one error torn from all those affections and relationships that improve the heart and mind. It does not frequently even deserve the name of error; for many girls become the dupes of a sincere, affectionate heart, and still more are, as it may emphatically be termed, ruined before they know the difference between virtue and vice, and thus prepared by their education for infamy, they become infamous. Asylums and magdalens are not the proper remedies for these abuses. It is justice, not charity, that is wanting in the world!"

Given the punitive moral climate of the times, it is hardly surprising that the institutions for the reformation of prostitutes to which Wollstonecraft refers in this passage were called magdalens. Even if wives escaped the threat of imprisonment, they were still subject to legal forms of domestic violence. A legal decision in 1782 established that a husband was entitled to beat his wife with a stick no thicker than his thumb, while
an even earlier judgement by Sir Matthew Hale established that rape in marriage was not a crime. In that sense, the growing importance placed on romantic love can be seen as cosmetic, a means of disguising the harsh reality of women's lives in which "the cult of the family merely created doll's houses for women to live in within a man's world, underlining men's grip on the rest of society", according to the historian Roy Porter. How little they were trusted or valued is revealed by the law relating to children, which gave very few rights to mothers. In the second half of the 18th century, a wife who committed adultery was likely to find herself an outcast whose punishment might include never seeing her children again; even nursing infants could be snatched from her breast.

According to the morality that prevailed at the time, this was as it should be. Respectable men seduced servants and enjoyed the services of prostitutes, habits that might stimulate gossip but did not incur the terrible penalties that their wives and daughters rightly feared when the least stain adhered to their reputations. Clarissa Harlowe, eponymous heroine of Samuel Richardson's novel, declared she had lost her honour when she was abducted, imprisoned and raped - a reaction mocked by Wollstonecraft, who pointed out the excessive scruples of any creature "who could be degraded without its own consent!" Yet Clarissa's intimation of the consequences of her rape was accurate - and would remain so until the late 20th century, when the suspicion that attached to victims of sexual violence ("She asked for it") came under concerted feminist onslaught.

Reform of the marriage laws proceeded at a snail-like pace, even though the misery they caused incompatible spouses, particularly wives, quickly became obvious. Wollstonecraft's one-time pupil, Margaret King, married the Earl of Mountcashell at the age of 19 to escape from an unhappy home life. Her father, the Irish peer Lord Kingsborough, had married his wife Caroline when she was only 15; the couple quarrelled frequently, with Lady Kingsborough accusing her husband of persistent ill-treatment, and separated in 1789, when Margaret was 17. The pattern was repeated in Margaret's life: in 1803, after giving birth to eight children, she eloped with her lover, George Tighe, and was obliged, like other aristocratic women whose marriages collapsed not just in acrimony but in scandal, to live abroad. Adopting the pseudonym "Mrs Mason", she had two daughters with Tighe - some compensation for the children she had been forced to leave behind - but her social ostracism was complete. Even when she lived in Pisa, she kept well away from nearby Florence, where there was a flourishing expatriate community that would undoubtedly have refused to receive her. Almost 20 years later, in a letter to the poet Shelley, whose radical views on marriage were well known, Lady Mountcashell complained bitterly about the hypocrisy of the English.

By 1800, the double standard was so firmly in place that the lawyer Thomas Erskine could claim, in a speech in the House of Commons, that adultery was the worst crime that could be committed, in the knowledge that his audience would understand that he was referring to female misconduct. Against this background, attempts to rescue wives from their state of servitude, and to give them rights to their children, took years of patient campaigning. A Divorce Act was finally passed in 1857, and one of its innovations was to allow custody of children up to the age of 14 to be awarded to their mothers. Naturally, the act allowed a husband to divorce his wife solely on the grounds of adultery, but not vice versa; a husband who was "a little profligate", in the words of one of the act's supporters, should not be penalised in the same way as an "adulterous wife", who was required to demonstrate an additional ground such as cruelty or desertion.

What these modest reforms reflected was a refinement of the idea of wives as property, adding a moral dimension to the uncomfortable role they already occupied. As the landless poor congregated in overcrowded conurbations, where they lived in slums where prostitutes openly patrolled the streets, the demand on respectable women to be the moral centre of the universe became all the more pressing. What was so clever about this shift was that its coercive intent was less transparent and it required women to play an active role in their own oppression. Thus, in the 19th century the middle-class home, and especially the bodies of the women who resided in it, came to be regarded not just as a refuge for husbands but as the very locus of
morality.

This was, according to the historian John Tosh, a response to what was perceived as the widespread collapse of moral values in the market place. Capitalism, colonialism, the opium trade: fortunes were waiting to be made, but not by men who were morally squeamish or overly concerned with ethics. This was a century in which children were put to work in factories and sent up chimneys, in which workers routinely suffered from dreadful industrial diseases like the so-called "phossy jaw", caused by phosphorus, which gradually ate away the jaws of women who worked in match factories. The UK abolished slavery in 1807, yet maintained until 1919 a form of indentured labour in its colonies that "seemed to many like a variant of slavery and which involved an international maritime trade in humility not dissimilar to the old slave trade".

Middle-class Victorian men, says Tosh, looked to their homes to offer a moral vision of life that would make them better human beings: "In keeping with the current elevated notions of womanhood, the custodians of the moral flame were the women of the home - perhaps a mother or a sister, sometimes a favoured daughter, but most often the wife, who was seen as owing a sacred duty to her husband in this respect." This is, in a sense, another manifestation of the familiar 19th-century notion of separate spheres, which held that men had been endowed by God with the talents and skills needed in the public world of commerce, government, the armed forces and the law, while women had gentler natures better suited to child-rearing and domestic management. It imposed on middle-class women a form of innocence that was synonymous with ignorance, restricting their education to what was needed in the home and protecting them from worldly knowledge, especially in sexual matters. What it certainly did not allow for was an awareness on the part of adult women of their own sexual needs, less so even than in the late 18th century when Wollstonecraft scolded her peers for what she saw as their selfish pursuit of pleasure. Unfortunately for many young wives, perhaps even the majority, the chief method of preserving their supposed purity was to keep them in complete ignorance of sex, and the functions of their own and their husbands' bodies. The shock some of them received on their wedding nights reinforced the middle-class erotophobia whose outlines were already discernible in some of Wollstonecraft's pronouncements in the 1790s.

A hundred years after publication of the Vindication, some of the bolder women writers of the day were beginning to expose these hidden sexual horrors in their fiction just as novelists in the mid-century had tackled domestic violence (The Tenant Of Wildfell Hall, by Anne Brontë) and the anguish of mothers separated from their children (Charlotte Brontë's Shirley, East Lynne by Mrs Henry Wood). The novelist Margaret Oliphant tackled the theme of female ignorance and male insensitivity in A Story Of A Wedding Tour, published in 1898. Her heroine, Janey, is "a very lonely little girl, without parents, almost without relations", who is quite unprepared for her initiation into sex on her honeymoon: "I am afraid that Janey, being young and shy, and strange, was a good deal frightened, horrified and even revolted, by her first discoveries of what it meant to be in love. She had made tremendous discoveries in the course of a week. She had found out that Mr Rosendale, her husband, was in love with her beauty, but as indifferent to herself as any of the persons she had quitted to give herself to him. He did not care at all what she thought, how she felt, what she liked or disliked ... He took it for granted that, being his wife, she would naturally be pleased with what pleased him, and his mind went no further than this."

Ironically, wives had to wait much longer than single sex-workers to obtain the right to bodily integrity. The Married Women's Property Acts of 1870, 1874 and 1882 began to correct a long-standing injustice by giving wives some control over their belongings. But the underlying assumption - that a wife's body and property were irreversibly vested in her husband - proved stubbornly resistant to change.

One of the many social changes precipitated by the first world war was an expansion of the idea of what constituted women's work, although the notion that their wages were secondary - pin money - was to endure for some decades; indeed, the concept of wives (and women generally) as chattels was sufficiently strong
even in the second half of the 20th century to become one of the principal targets of the feminist movement. Nowhere was this more evident than in the sphere of money, where women continued to encounter extraordinary obstacles when they tried to assert ownership, whether of houses or their own incomes. As late as the 70s women were routinely refused mortgages and loans, even if they had earnings in their own right, or were granted them only on special conditions, usually requiring the signature of a male guarantor. This ambiguous status was underlined on tax forms, archaic documents that required a wife's income to be shown on her husband's return unless she declared that she wished to have a separate assessment, a move unusual enough to cause raised eyebrows. This meant, of course, that husbands automatically knew how much their wives earned, but a wife had no right to be told her husband's income - a preposterous situation that became untenable when it was pointed out that Britain's first woman prime minister, Mrs Thatcher, was technically supposed to declare her salary on her husband's tax form. The injustice was finally corrected in the late 80s, by one of Thatcher's chancellors, John Major, giving wives full control over their finances for the first time.

There was, however, one more step to be taken before they acquired unconditional rights over their bodies. In 1991, with a palpable air of embarrassment, the House of Lords ruled that rape in marriage would in future be a criminal offence. It had involved two and a half centuries of protest and struggle, but at long last women had been liberated - even if they could not yet claim to be on absolutely equal terms with men from the physical and legal restrictions imposed under the cover of Christian morality. Mary Wollstonecraft could hardly have guessed when she analysed the de facto enclosure of women's bodies and souls in 1792, that it would take such a painfully long time to undo.