Women's Legal Landmarks

Celebrating the History of Women and Law in the UK and Ireland

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Women's Legal Landmarks: An Introduction

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Landmark [land-mahrk]

Noun:

1. a significant event, juncture or achievement marking an important stage or turning point in something;
2. a prominent or distinguishing object or feature that is easily seen, especially at a distance, which serves as a guide and/or that marks a site or location.

Verb (used with object):

1. to declare (a building, occasion) a landmark.

2019 marks the centenary of women's formal entry into the legal profession. This was, of course, a key legal landmark for women. But it was not the first: feminists have long had recourse to law as a key means of achieving equality. Nor was it the last: there have been, and continue to be, important legal advances for women. Women's legal history is full of landmarks, turning points in law's response to women's lives and experiences. The Women's Legal Landmarks Project was a multidisciplinary collaboration involving feminist scholars engaging in the process of 'landmarking' key legal events, cases and statutes for women in the UK and Ireland. Our aim was to offer a scholarly intervention into the recovery of women's lost history by combining legal and historical expertise to create the first scholarly anthology of legal landmarks for women. Together we worked to produce a collection of landmarks that demonstrated women's agency and activism in the achievement of law reform and justice. This book is the result.

I. The Women's Legal Landmarks Project

As with many good ideas, the impetus for the project arose out of an afternoon of procrastination. A chance happening upon the blurb of a promised but yet-to-be-written book led to a conversation about the possibility of a large, collaborative project – along the lines of the UK Feminist Judgments Project[1] – bringing together lawyers and historians

[1] The UK Feminist Judgments Project (FJP) ran from 2008 to 2010. Building on and developing the methodology of the Women's Court of Canada, participants sought to put feminist theory into practice by writing 'missing' feminist judgments to key cases in England and Wales (see further Rosemary Hunter, Clare McGlynn

to identify and write about legal landmarks for women. The forthcoming anniversary of women's entry into the legal profession – then just over five years away – seemed a good 'hook' to hang it on, as well as a target to aim for. The Women's Legal Landmarks Project was underway.

We realised early on that the project's scope would require a large number of participants with a range of expertise. A call for expressions of interest followed. We asked only that the landmark – case, statute, event or monument – be from the UK (England, Wales, Scotland and Northern Ireland) or Ireland and 'be significant for feminists'. The response was exceptionally positive. After an initial sift we selected around 75 potential landmarks, narrowing our focus down to those that had had a *positive* impact – however small or fleeting – on the lives of women. This is, of course, often a matter of judgement. We allowed the case for inclusion to be made, and sometimes we were persuaded. We also introduced a further category of 'first women', to include those who were the first women to undertake key legal roles and positions.

One consequence of this approach is that, notwithstanding our efforts to commission 'missing' landmarks, the collection may seem eclectic – eccentric even. It is evident that some fairly obvious landmarks for women are not present, though they will probably be referred to somewhere in the text (for example, though there is no landmark chapter on the Equal Pay Act 1970, it is discussed in the Dagenham Car Plant Strike, 1968 and *Birmingham City Council v Abdulla* (2012) landmarks). Others may seem arcane and of limited scope (for example, the Married Women (Restraint Upon Anticipation) Act 1949). Still others do not immediately suggest themselves as particularly concerned with women (for example, the Mental Capacity Act 2005) or indeed law (*A Pageant of Great Women*, Cicely Hamilton, 1909–12). However, the final list is not as random as it might, at first, seem. In particular, the preponderance of landmarks on property and/or money and women's bodily integrity is not a coincidence. There are more landmarks on these issues because, throughout history, men's control of women's property, money and body has been the most powerful means of keeping women in subjection. And because as feminist scholars we work and write on issues that matter most to women, the most basic denials.

The collection, while comprehensive, is not therefore definitive. It was never our aim to produce an encyclopedia. Rather it was to bring together a collection that reflected women's involvement in and experience of law and law reform. Although we hoped to reach a round number – first 20, then 50 and later 100 – our list of landmarks was not closed: indeed, we accepted (and lost) a new entry just six weeks before we submitted the manuscript, and accepted another – on the Irish abortion law Referendum in May 2018 – during the publication process. In total there are 92 landmarks.[2] We hope that in future, other people will identify – and fill – the gaps. There is certainly space for a second or third volume of equal interest and relevance.

and Erika Rackley (eds), *Feminist Judgments: From Theory to Practice* (Hart Publishing, 2010)). To date there have been FJPs in Australia, New Zealand, Northern/Ireland, the US, India and Scotland as well as related projects on international law, medical law and ethics, 'wild law' and children's rights.

[2] With the exception of this introduction, text that appears in bold indicates another landmark entry. This allows for connections across and among landmarks. We have also done our best to ensure that the index is as comprehensive as possible, including references to all individuals, organisations, statutes and cases mentioned by name in the text.

The landmarks were developed through a series of workshops supported by the Society of Legal Scholars, the journal *Social and Legal Studies*, the Institute of Advanced Legal Studies and several universities,[3] at which contributors discussed drafts and shared knowledge and insights into both the legal area and the historical context. Contributions followed the same basic structure: summary of landmark; context; detail of the landmark; what happened next; and significance for women.[4] At the workshops we grouped the landmarks within themes – property; crime; first women; public law and professions; equality, employment and discrimination; family and medical law – which enabled participants to locate their landmark within a common substantive but broad historical context. The 'crime' workshop, for example, discussed landmarks spanning almost 200 years.[5] A number of participants attended multiple workshops which allowed connections to be made across the themes. Workshops were also attended by other academics and scholars as well as postgraduates with an interest in the field.

With the support of the Institute of Advanced Legal Studies, we also held two methodology and training events, one on working with archival sources (at which experts introduced participants to relevant collections and sources and led them through the processes of finding and interrogating primary sources) and the other on the production of secondary sources in women's legal history.[6] For a number of participants this was their first time engaging in historical (as opposed to legal or even historically legal) research and so these events were important not only to ensure the academic rigour of the individual landmarks and the project as a whole, but also in relation to our broader aim of developing the discipline of feminist legal history. In addition to the feedback participants received at and after the workshops, the landmarks were subjected to an intensive editorial process involving detailed comments and suggestions on successive drafts.

In total, over 100 people have been involved in the project in some form. The 87 landmark authors are drawn from wide-ranging academic disciplines and backgrounds, including law, history, English literature, theology and criminology, and also include independent historians, parliamentary archivists, parliamentarians, civil servants, activists, lawyers and judges from across the four jurisdictions. We are proud that our authors range from established scholars to postgraduate and early career researchers as well as those who have retired from their professional employment. Another pertinent characteristic of a number

[3] Durham, London School of Economics (twice), Reading, Bristol, and Birmingham.

[4] The 'first women' landmarks followed more or less the same structure, with a discussion of the woman's life coming before a discussion of the context, what happened next and her landmark's significance for women.

[5] For the book, however, after some deliberation, we decided to present the landmarks chronologically rather than in related subject groups. We do so mindful of the danger of presenting what might appear to be a Whiggish tale of women's steady progress from injustice to equality, though we hope that the inclusion of sections on 'What happened next' and 'Significance' might go some way to avoiding that impression. We adopted a chronological approach because we wanted to demonstrate the full sweep of the historical development, to show how a number of issues might be being debated at any one period and how the same people might be involved in different landmarks (we know that feminist campaigners have always been active in a range of causes) and to give a sense of what was going on at any one time. We were also keen to encourage our readers, especially the academic ones, not to confine themselves to their specialist area of law and to read outside of their area, as they might not have done if we had arranged the landmarks in subject groups. This arrangement had the additional practical benefit of enabling us as editors to avoid having to allocate each landmark to a single category when, in reality, its effects might spread across several areas of law.

[6] Women's Legal Landmarks Archival Training Day, Institute of Advanced Legal Studies, London, 25 June 2015; Doing Women's Legal History, Institute of Advanced Legal Studies, London, 26 October 2016.

of our authors is that they were involved in some way in one or more of the landmarks.[7] Where authors wrote about landmarks in which they had played a role, we did not ask them to adopt the guise of academic distance or objectivity, but simply to note the fact of their involvement.

We are also aware that there are divergent feminist views on a number of the issues raised by the landmarks – and indeed in relation to some of the landmarks themselves. However, while we know that not all will agree, we think that in all cases the argument that the landmark had some positive impact on women (however limited, fleeting or vexed) can be – and has been – made.

II. Doing Feminist Legal History

Despite a fairly well-established tradition of feminist legal history in North America and elsewhere,[8] legal history scholarship in the UK and Ireland largely ignores women. With some notable exceptions,[9] at best it plays down women's perspectives and agency[10] and at worst, reduces mentions of women to the occasional paragraph.[11] In contrast to the well-established and vigorously theorised sub-discipline of feminist *history*, feminist *legal* history is under-utilised as a resource or method within feminist legal scholarship in the UK and Ireland.[12] This is true notwithstanding the proliferation of projects, exhibitions and events marking the centenary of women lawyers. There is an important (though often unremarked) difference between doing feminist legal history and collating accounts of the lives of women lawyers and/or women in law. A feminist legal historian does not simply collect

[7] eg Susan Atkins, Ivana Bacik, Frances Burton, Elizabeth Cruickshank, Mairead Enright, Fiona de Londras, Brenda Hale, Rosemary Hunter, Clare McGlynn, Maeve O'Rourke, Pragna Patel, Erika Rackley, Miranda Threlfall-Holmes, Elizabeth Woodcraft.

[8] eg Mary-Jane Mossman, *The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Professions* (Hart Publishing, 2016); Diane Kirkby (ed), *Past law, Present Histories* (ANU E Press, 2012); Tracy Thomas and Tracey Boisseau (eds), *Feminist Legal History: Essays on Women and Law* (New York University Press, 2011); Felice Batlan (ed), 'Women's Legal History: A Global Perspective' (2012) 87(2) *Chicago-Kent Law Review* 331–704; Eileen Spring, *Land, Law and Family: Aristocratic Inheritance in England, 1300 to 1800* (University of North Carolina Press, 1993); Susan Staves, *Married Women's Separate Property in England, 1660–1833* (Harvard University Press, 1990); Dorothy M Stetson, *A Woman's Issue: The Politics of Family Law Reform in England* (Greenwood Press, 1982).

[9] eg Rosemary Auchmuty, 'Whatever happened to Miss Bebb? *Bebb v The Law Society* and women's legal history' (2012) 31 *Legal Studies* 199–230; Rosemary Auchmuty, 'Recovering lost lives: researching women in legal history' (2015) 42 *Journal of Law and Society* 34; Patrick Polden, 'The Lady of Tower Bridge: Sybil Campbell, England's first woman judge' (1993) 8 *Women's History Review* 505; Patrick Polden, 'Portia's Progress: Women and the Bar, 1919–1939' (2005) 12 *International Journal of the Legal Profession* 293; Ivana Bacik, Cathryn Costello and Eileen Drew, *Gender inJustice: feminising the legal professions* (Trinity College Dublin Law School, 2003).

[10] eg Michael Birks, *Gentlemen of the Law* (Stevens, 1960).

[11] eg AH Manchester, *Modern Legal History* 1750–1950 (Butterworths, 1980).

[12] Again with notable exceptions, eg, Albie Sachs and Joan Hoff Wilson, *Sexism and the Law: A Study of Male Beliefs and Judicial Bias in Britain and America* (Wiley-Blackwell, 1978); Sally Sheldon, '"Who is the Mother to Make the Judgement": Constructions of Woman in UK Abortion Law' (1993) 1 *Feminist Legal Studies* 3; Rosemary Auchmuty, 'Law and the Power of Feminism: How marriage lost its power to oppress women' (2012) 20 *Feminist Legal Studies* 71; Máiréad Enright and Emilie Cloatre, '"On the Perimeter of the Lawful": Enduring Illegality in the Irish Family Planning Movement, 1972–1985' (2017) 44(4) *Journal of Law and Society* 471.

and assemble the 'facts' of an event or person's life. Rather feminist legal history seeks to produce a new, accurate, inclusive account by:

1. asking the 'woman question' (where are the women in this account?);[13]
2. foregrounding *gender* as an organising principle in society and the *dynamic* between the sexes;
3. including *women's* stories, experiences and voices (often hidden, ignored and silenced in dominant narratives) and locating *men's* position – their opposition or support – within these;
4. establishing women as *agents* rather than simply subjects of law;
5. focusing on law (broadly conceived), with a nuanced view of how it operates;
6. placing events in their historical context and rejecting the assumption that change occurs merely through shifts in social attitudes and institutional reform;
7. challenging assumptions of unabated progress and liberal incrementalism by showing that legal reform is often messy, disjointed and episodic, that there is very often a backlash and regrouping by opponents, and that hard-won gains are easily lost as momentum and focus shift elsewhere.

Feminist legal history is, then, at root a political project. Its purpose is transformative, not descriptive. It requires its authors to commit not only to uncovering the silences and the silenced and to locating the specific in the general, but also to take a further step and use these histories to challenge and change the dominant narrative not only of the past, but also the future. In other words, while its substance may require the author to look back, the motivation of feminist legal history is forward-looking.

With this in mind, the Women's Legal Landmarks Project had both academic and political ambitions.

Academically, it sought to blur disciplinary boundaries by applying a feminist lens to an under-explored research methodology in the UK and Ireland, where legal history – let alone *feminist* legal history – remains a relatively niche subject. It sought to carve out a space for feminist legal history, so that it might push at the boundaries of knowledge and critical engagement in legal history and feminist legal studies generally. It also aimed to foster a broader study of law reform and legal change across academic disciplines by harnessing a range of multi-disciplinary expertise and creating a space in which the insights of scholars and professionals from many backgrounds could be brought to bear on a specific case, statute and/or event. Our hope was that the landmarks could be located – and stand up to scrutiny – within any relevant discipline.

In particular, we wanted the subject-specific expertise of legally-trained scholars to ensure the accurate interpretation of complex legal provisions, sometimes missing in historical research. And we wanted the subject-expertise of historians to ensure that the contributions were permeated by an understanding of historiography – the idea that history is not simply a collection of established facts assembled in an unchallengeable narrative, but has been, and should be, a dialogue between past and present, acknowledged to come from a range of perspectives and viewpoints. This approach had the effect of forcing legal scholars to widen their focus beyond the *legal* sources which all too often

[13] See Katharine T Bartlett, 'Feminist Legal Methods' (1990) 103 *Harvard Law Review* 829.

constitute the compass of legal research and which therefore frequently overlook or exclude women simply because women were not present in public office or practically involved in law before the twentieth century, and continue to be in a substantial minority in the law-making process.

Taken together, the landmarks challenge the 'top-down' gender-neutral and ahistorical understanding of law which dominates much of UK legal education.[14] Many law students graduate knowing little about legal history and even less about *women's* legal history. The revised 'statement of standards for university law library provision in the United Kingdom', prepared by the Libraries Sub-Committee of the Society of Legal Scholars in 2009 to 'assist law libraries to meet the needs of the research and teaching objectives of … university law schools', makes just one mention of gender and feminism (in the titles of the *Harvard Journal of Law and Gender* and *Feminist Legal Studies*[15] respectively).[16] Gender is not included as a separate 'subject source' in a list that runs to 43 entries and includes computer law, construction law and tax/revenue law. While legal history does make the Sub-Committee's list, the main thrust of legal education is one that encourages little sense of historical perspective beyond the development of certain precedents. In lectures and textbooks, current principles are often stripped of context and critique, while the emphasis on the *legal* actors (mainly judges, but also politicians), rather than the politics and/or activism that influenced the court or Parliament, ensures (so long as women continue to be in the minority in such positions) the continued dominance of the perspectives and agency of *men*. The process of law reform is presented as a tale in which enlightened institutions gradually reform themselves. And if women's legal history is mentioned at all, it appears as one of steady progress from injustice and inequality toward justice and equality, in which women are subjects rather than agents of change. For the authors of this collection, however, the landmarks are a reflection of the determination and commitment of women and groups of women in the ongoing struggle to achieve justice and equality for women.

Of course, this view of women's legal history is not only found in law schools. It is found across academic disciplines and beyond. Thus, the challenge to debunk the myth of 'women's linear progress from oppression under the law to equal opportunity in modern times'[17] is *political* as well as academic. With this in mind, the Women's Legal Landmarks Project had two further aims: first, through the recognition of hitherto overlooked or suppressed histories, to expose the continued marginalisation of women in law, public policy and social justice, and, second, by providing a deeper understanding of the impact of law on the lived experience of women and the impact of women on law, to inform strategies adopted by those *currently* seeking social justice. The history of women's admission to the legal profession is a case in point.

[14] Though see Susan Atkins and Brenda Hoggett, *Women and the Law* (Wiley-Blackwell, 1984); Rosemary Auchmuty (ed), *Great Debates in Gender and Law* (Palgrave, 2018).

[15] See *Feminist Legal Studies* Journal, 1993.

[16] Libraries Sub-Committee of the Society of Legal Scholars, 'A library for the modern law school: a statement of standards for university law library provision in the United Kingdom' (Society of Legal Scholars, 2009 revision): http://www.legalscholars.ac.uk/wp-content/uploads/2016/05/SLS-Library-for-a-Modern-Law-School-Statement-2009.pdf.

[17] Thomas and Boisseau (eds), n 9 above, 2.

III. The Reason for the Project: Celebrating the Centenary of Women's Admission to the Legal Profession

This Project celebrates the admission of women to the legal profession in the UK and Ireland following the enactment of the Sex Disqualification (Removal) Act 1919. This admission was not gained easily, though existing accounts might lead one to imagine it was, perhaps as a reward for women's service during the First World War or as part of the natural progress of women's rights.[18] In fact, women's admission had been resisted for decades by a profession that clung to its male monopoly on law-making and the power that accompanied the status and income of lawyers. Law was among the last professions in the UK to admit women; and it was able to keep them out for so long because lawyers, judges and MPs, all of them men, controlled the very means by which their entrance was to be achieved.

Even after women had demonstrated their mastery of the legal technicalities involved in their many campaigns to reform the law relating to domestic violence, married women's property, prostitution and other legal issues;[19] even after they had shown they could compete intellectually with male students in the university law schools;[20] even after they could be observed carrying out professional legal functions, as did Eliza Orme in the law office she ran with women friends in Chancery Lane between 1875 and 1904,[21] or Gwyneth Bebb in prosecuting employers who fell foul of labour laws before the First World War and black marketers during the war,[22] still the professions held out. Women were unsuited to legal work, they argued; they were too emotional, and unable to reason: the Earl of Halsbury (of *Halsbury's Laws*) objected that 'a woman had no recognition of any side but her own'.[23] Many men feared the competition of women, and claimed that there was not enough work to go around. They were sure that clients would not want to be represented by women. Barristers especially resisted women's invasion of their masculine spaces where they could freely indulge their masculine customs.[24] All these objections were aired in debates at the Law Society (for solicitors) and the Bar (for barristers) and motions to admit women were repeatedly lost.[25]

There was evidence that women had occupied legal offices and performed legal functions in the distant past. In a book published in 1894, Charlotte Carmichael Stopes gave examples of titled women who had appeared as advocates in mediaeval times and Tudor women who had been judges in County courts.[26] But, like the vote, women had

[18] Birks, n 11 above; Manchester, n 12 above.

[19] See, eg, Gaols Act 1823; Married Women's Property Act 1882; Section 5(1) of the Criminal Law Amendment Act 1885.

[20] Rosemary Auchmuty, 'Early Women Law Students at Cambridge and Oxford' (2008) 29 *Journal of Legal History* 63.

[21] Leslie Howsam, 'Eliza Orme (1848–1937), social activist and lawyer' in *Oxford Dictionary of National Biography* (2004).

[22] Rosemary Auchmuty, 'Whatever happened to Miss Bebb? *Bebb v The Law Society* and women's legal history' (2012) 31 *Legal Studies* 199–230.

[23] Nellie Alden Granz, *English Women Enter the Professions* (privately printed, 1965) 275.

[24] Elsie Lang, *British Women in the Twentieth Century* (T Werner Laurie, 1929) chapter 6.

[25] See further First Woman Solicitor in England and Wales, Carrie Morrison, 1922.

[26] Charlotte Carmichael Stopes, *British Freewomen. Their Historical Privilege* (Swan Sonnenschein & Co, 1894) 47, 64. See also Lang, n 24 above, 145.

ceased to participate in law and politics by the time industrialisation took hold in the eighteenth century and the doctrine of separate spheres (men for public life, women for the home) became the ideal and the enforced reality. Middle-class women's frustration with this arrangement, combined with an expanding economy (and a plummeting marriage rate) in the nineteenth century, led to the first wave of feminism and campaigns that included finding opportunities for women to support themselves and pursue careers. Better education for girls was the first target. Then, following a successful campaign to open higher education to women, Cambridge and then London and Oxford permitted women to attend lectures and take the university examinations from the 1870s onwards.[27] A very few women chose to study law, cognisant of its usefulness to the women's movement quite as much as its career potential.[28] In 1878 a 'Small Group for the Promotion of Legal Education' was founded, and in 1888 Eliza Orme became the first woman law graduate when she successfully completed the external LLB at London University.[29] (Oxford and Cambridge did not grant degrees to women until 1920 and 1948 respectively.)

But the possession of a law degree was not sufficient – was not, indeed, required – to become a practising lawyer.[30] For that, one needed to pass the professional examinations authorised by each of the two branches of the legal profession; and to these, women were not admitted. In 1871 Maria Grey was refused permission to attend the lectures at Lincoln's Inn (for the Bar). In 1878 Eliza Orme was refused permission to take the Law Society's examinations (to become a solicitor). We emphasise these dates to reinforce the point that women had been campaigning for *almost 50 years* before finally winning admission to the legal profession in 1919.

If the traditional legal histories record one event in this long, sustained, highly organised feminist campaign, it is the case of *Bebb v Law Society*.[31] Gywneth Bebb held the equivalent of a first-class honours degree in law from Oxford University. Along with three companions, she applied to the Law Society to be permitted to sit the examinations to become a solicitor. The women were refused on account of their sex. Miss Bebb thereupon challenged the Law Society in the High Court and then in the Court of Appeal. Her supporters and legal advisers, who included the distinguished male barristers who represented her in court and the sympathetic male solicitors who briefed them, relied primarily on section 48 of the Solicitors Act 1843, which stated that

> every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male … unless it be otherwise specially provided or there be something in the Subject or Context repugnant to such construction.

In spite of this textbook case of statutory interpretation – the very statute regulating solicitors stated that women were encompassed in 'men' – Miss Bebb lost. All four judges

[27] Auchmuty, n 20 above. Although not to take degrees.

[28] Christabel Pankhurst, for example, graduated from Manchester University with a first in law in 1906, having applied unsuccessfully to the Bar in 1903. See further Rosemary Auchmuty, 'Feminists as stakeholders in the law school' in Fiona Cownie (ed), *Stakeholders in the Law School* (Hart Publishing, 2010) 35.

[29] Mossman, n 8 above, 121–37; Howsam, n 21 above.

[30] This is still the case.

[31] *Bebb v Law Society* [1914] 1 Ch 286. See further Rosemary Auchmuty, 'Whatever happened to Miss Bebb? *Bebb v The Law Society* and women's legal history' (2011) 31 *Legal Studies* 199.

(one in the High Court and three in the Court of Appeal) contended that they were bound by 'long uniform and uninterrupted usage, which we ought … to be very loth to depart from'.[32] Since only men had ever been solicitors, they said, women could not become solicitors until Parliament passed explicit legislation admitting them.

Miss Bebb's case was important for attracting huge publicity (and general press approval) for the women's cause. But it was only one of a range of strategies the feminists adopted in pursuit of their goal. Campaigning was stepped up, with the formation of the Committee to Open the Legal Profession to Women in 1914, whose members included distinguished establishment figures from the Conservative, Liberal, and Labour parties as well as representatives of all the feminist groups (and even some opponents of votes for women, like Mary Ward). There were meetings, debates, heated discussions in the solicitors' and barristers' professional associations and a succession of private member's Bills in Parliament.

The First World War proved to be the catalyst for a change of heart among solicitors, not just because women 'proved their worth' in keeping services going while the men were at the front but because so many young men were lost that women were needed to fill the gap. After the war, therefore, the Law Society voted to admit women. The Bar remained obdurate to the end. Only with the enactment of the Sex Disqualification (Removal) Act 1919 were they forced to admit women, and they did so with poor grace. Women who went down the barrister's route found themselves excluded, unsupported, criticised and harassed, and struggled to succeed at the Bar for decades thereafter.[33]

Women's admission to the legal profession in the UK and Ireland is, then, not just the historical peg upon which the Women's Legal Landmarks Project hangs, but is itself a landmark in women's legal history itself, paradigmatic of the landmarks in this book, for the following reasons.

First, the whole story of women's admission to the legal profession is not well-known and, where told, tends to take forms that this project hopes to correct. Second, the *Bebb* case dominates discussions for the simple reason that it is a *legal* source, and legal scholars are infamous for relying on legal sources and ignoring or dismissing extra-legal ones. This explains why their accounts so often display ignorance of or indifference to the background and context of the *Bebb* litigation and the wider campaign of which it was a part. Moreover, focusing on *Bebb* allows traditional historians to isolate Miss Bebb as the first and only complainant, instead of revealing her to be one of a large and longstanding group of campaigners on this issue. Worse, it encourages us to elevate Miss Bebb to the status of heroine. However attractive such presentations may appear at first sight for those in pursuit of suitable role models for young people and inspirations for today's equality campaigns, this is something we must guard against. To embrace an individual as a heroine risks falling into the trap that men's history has set for us, where she becomes one lone voice instead of representative of a mass movement, and personally courageous rather than carried along by a host of supporters. It takes attention away from the *real* story, which is

[32] This despite the fact that Counsel for Miss Bebb listed the names of women who had held legal functions in days gone by.

[33] See further First Woman to be Admitted to an Inn of Court, Helena Normanton, 1919; Helena Kennedy, 'Women at the Bar' in Robert Hazell (ed), *The Bar on Trial* (Quartet Books Ltd, 1978) 148.

the decades-long resistance of the male lawyers, MPs and judges to the idea of allowing women to be lawyers, and the need for feminist campaigners to strategise on all fronts to shift attitudes, since they had no say in changing the law. While feminists today have a far greater say in the processes and outcomes of law reform, the need to make visible the extent to which feminist campaigns stand on the shoulders of those who came before them is as important as ever.

What makes women's admission to the legal profession particularly *significant* for a project on women's legal landmarks is that, as with votes for women, feminists had high hopes for what it would achieve. Both changes, coming so close together, seemed to signify the advent of a new legal era for women in which women would be *directly* involved in the law-making process instead of having to rely on men to take up their causes. And so it has been. Even if not all women lawyers or MPs have been feminists, it is clear from the landmarks in this collection how often the feminists among them have indeed been involved in women's causes and how often it has been the participation of feminist lawyers, MPs and, eventually, judges that has pushed women's issues and perspectives onto the legal agenda, sometimes with marked success.[34]

But progress has been astonishingly slow. The 1919 Act gave women the right to sit on juries[35] and to be appointed as magistrates (judges in the lower courts), and it was a long-term feminist goal to have women on the senior judiciary, as these judges were appointed from the ranks of barristers at the time. Although magistrate appointments were made immediately,[36] the arrival of women in the higher courts proved to take much longer than any of the campaigners of 1919 would have envisaged, as men's grip on the top levels of the judiciary held firm through their ability to decide who was chosen, and later through their ability to interpret 'merit'.[37] Few of those entering the profession in 1919 would have imagined that it would take another 85 years for the first woman – Brenda Hale – to be appointed to the Appellate Committee of the House of Lords, then the most UK's most senior court.[38] Even fewer would think that it would take (on current predictions) somewhere *between 150 and 200 years* for there to be parity across the judiciary between women and men judges.[39]

The trajectory of women's representation in the legal profession and the judiciary thus shows how landmarks for women are always partial and circumscribed, and almost always followed by a tightening of control by those whose power has been breached. The achievement of a landmark is rarely, if ever, the end of the story. Too often it signifies the start of

[34] eg Education Act 1944; Family Allowances Act 1945; Dagenham Car Plant Strike, 1968; *R v Ahulwalia* (1992); First Woman President of the UK Supreme Court, Lady Hale, 2017.

[35] See Sex Disqualification (Removal) Act 1919 and Section 25 of the Criminal Justice Act 1972.

[36] First Women Justices of the Peace, 1919.

[37] Although the ability of the judiciary to be 'self-selecting' formally ended when the Judicial Appointments Commission (JAC) was established in 2006, it has been suggested that during its first decade the JAC been 'hemmed in' to varying degrees by its judicial stakeholders (Graham Gee and Erika Rackley, 'Introduction: Diversity and the JAC's First Ten Years' in Graham Gee and Erika Rackley (eds), *Debating Judicial Appointments in an Age of Diversity* (Routledge, 2017)).

[38] Susan Denham was appointed to the Supreme Court of Ireland in 1992, becoming Chief Justice in 2011, a position she held until her retirement in 2017.

[39] Lord Sumption, 'Home Truths about Judicial Diversity', Bar Council Law Reform Lecture, 15 November 2012; Alan Paterson and Chris Paterson, *Guarding the guardians? Towards an independent, accountable and diverse senior judiciary* (CentreForum, 2012) 37.

another struggle; an even more bitter one since the impediments to justice and equality for women are no longer explicit but may be hidden, informal, and bolstered by practices not yet forbidden or even recognised, and always able to be denied by opponents protesting that 'women are equal now'.

IV. The Landmarks

Together, the landmarks in this collection span eleven centuries. The earliest – The Laws of Hywel Dda, which detail the legal status of women in mediaeval Wales[40] – comes from the tenth century. Most of the rest date from the latter half of the twentieth century, thanks no doubt to women's greater participation in law-making as well as successive tides of feminist activism. In between, some of the landmarks are familiar steps in the history of women's emancipation, such as the Married Women's Property Act 1882, which gave married women the ability to own and manage property independently of their husbands, and the Representation of the People Act 1918, which gave women over 30 who met a property requirement the vote. Others are important milestones in women's social or political history: the Abortion Act 1967, which provided for legal abortion in England and Wales in certain defined circumstances; the Health (Family Planning) Act 1979, which regulated the importation and provision of contraception in Ireland; the Housing (Homeless Persons) Act 1977, which increased legislative protection for women escaping from domestic violence; and the ordination of women bishops.[41] Still others feature regularly on undergraduate law degrees, such as *Williams & Glyn's Bank v Boland* (1980), which accepted that wives might have an overriding interest in the family home instead of merely a personal right by virtue of being married to the legal owner; *R v Ahluwalia* (1992), which recognised Battered Woman Syndrome as evidence to support the defences of diminished responsibility and provocation in homicide; and Section 41 of the Youth Justice and Criminal Evidence Act 1999, which sought to limit the use of sexual history evidence in criminal trials.

Other landmarks will be less familiar as feminist landmarks or to non-lawyers: for example, the Criminal Law Amendment Act 1885,[42] best known for criminalising homosexual acts between men but which also raised the age of consent for girls; the Maternity and Child Welfare Act 1918, which obliged local authorities to set up maternal and child welfare clinics; Article 7 of the Covenant of the League of Nations 1919, which gave space for women's participation in public international law; and *Gill and Coote v El Vino Co Ltd* (1982), which overturned a rule that women would not be served at a London bar.

A. Jurisdiction

Not all the landmarks in this collection apply equally to the whole of the UK and Ireland. The description 'UK and Ireland' encompasses the jurisdictions of England and Wales,

[40] Cyfraith Hywel (The Laws of Hywel Dda), c. 940.

[41] Bishops and Priests (Consecration and Ordination of Women) Measure 2014 and Canon C2, 'Of the Consecration of Bishops', 2014.

[42] See Section 5(1) of the Criminal Law Amendment Act 1885.

Scotland and Northern Ireland – which make up the United Kingdom of Great Britain and Northern Ireland – and the Republic of Ireland, as well as the UK itself in international matters. Some of the landmarks apply across all these jurisdictions, others to only to some or one of them. During the time period of the collection, these jurisdictions have come together, separated, been created, and co-existed to varying degrees.

At the time of our first landmark – circa 950 – what we now know as Wales, Ireland, Scotland and England looked very different indeed. The borders between England and Wales, and England and Scotland were yet to be settled, and the geographic areas were largely ruled by a system of small kingdoms, each with their own laws and customs. Fast-forward almost 800 years to our next landmark and England and Wales have become distinct countries, but a single jurisdiction by virtue of the Laws in Wales Act 1535–42. Scotland is also part of a political union with England and Wales – known as the United Kingdom of Great Britain – following the Treaty of Union in 1707. There is just one Parliament sitting in Westminster. But Scotland retains its own legal system, and still does today.[43]

100 years later, the Union expands further. On 1 January 1801, Ireland becomes part of 'the United Kingdom of Great Britain and Ireland'.[44] A group of protestant MPs take up their seats at Westminster and the Irish Government votes to abolish itself. This remained the political and legal status quo until the partition of Ireland and the creation of Northern Ireland in 1921 under the Government of Ireland Act and the establishment of the Irish Free State in 1922.[45] From this point on, Ireland (once again) had a separate and distinct legal system. Just over a quarter of the landmarks discussed in this collection fall within the period prior to 1922, so will apply to the whole of the UK unless expressly excluded. The Married Women's Property Act 1882, for instance, applied to England and Wales and the unified Ireland but not to Scotland, which has always had its own property law.

Fast-forward another 50 years and a new site of law-making joined the mix: the (then) European Economic Community (EEC), now the European Union (EU). This introduced to both the UK, by virtue of the European Communities Act 1972, and to Ireland, following a referendum the same year, a new – and expansive – site of law-making via the EU institutions and the Court of Justice of the European Union. 30 years later, in 1998, the institutional landscape of law-making across the UK altered again. There are now devolved legislatures in Scotland (the Scottish Parliament), Northern Ireland (the Northern Ireland Assembly) and Wales (the National Assembly of Wales). The latter provides us with two landmarks: the National Assembly of Wales Election, 2003, following which the Assembly became the first legislative chamber to elect equal numbers of men and women, and the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

[43] See further William Gordon, 'Scotland as a Mixed Jurisdiction' in William Gordon, *Roman Law, Scots Law and Legal History: Selected Essays* (Edinburgh University Press, 2007).

[44] By virtue of the Acts of Union 1800. In fact, English law was first imported into Ireland, and had 'held sway', since the Anglo-Norman invasion of 1170 (Bacik et al, n 9 above, 40).

[45] Basil Chubb, *The Politics of the Irish Constitution* (Institute of Public Administration, 1991).

B. Types of Landmarks

It is often imagined that the only significant legal landmarks are those enshrined in legislation or, occasionally, case law in the higher courts. This collection shows that a range of influences, including pressure from outside the legal and political establishment, can bring about shifts in legal thinking and practice. That said, many of the landmarks are indeed statutes, beginning with the Gaols Act 1823, which identified women prisoners as a special group and created standards of health and inspection, and ending with Section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, the first legislation in the UK and Ireland to address varied forms of image-based sexual abuse.

A further group of landmarks is legal cases. The first, *The Slave, Grace* (1827), though substantively about the position of (women) slaves in England, establishes the importance of feminist organisation in pursuance of law reform from the early nineteenth century onwards. As Rosemary Auchmuty notes:

> The anti-slavery movement gave women experience in organising around political issues, dealing with male opposition, identifying the ways that privilege worked, and making links between the oppression of other women and their own, which was to stand them in good stead when, the emancipation of slaves achieved, they turned their attention to the emancipation of women.[46]

Other cases include *R v Jackson* (1891), which held that no one had the right to imprison another person, even his wife, *St George's Healthcare NHS Trust v S* (1998), which confirmed that a competent pregnant woman can refuse medical treatment even if that may result in harm to her or the foetus, *White v White* (2000), which established the equal-sharing principle on divorce, and our final case, *In the Matter of an Application for Judicial Review by the Northern Ireland Human Rights Commission* (2015), which ruled that, in denying terminations to women who were carrying a foetus with a fatal abnormality or who had become pregnant as a result of rape or incest, Northern Irish abortion law was not human rights compliant (under article 8 of the European Convention on Human Rights).

Another group of landmarks coalesces around key events in which women were the primary participants and which either led to legislation – such as the strikes by match-workers at the Bryant and May factory in 1888[47] and, 80 years later, by Ford workers at the Dagenham car plant[48] – or, as is the case with the Women's Peace Camp at Greenham Common 1981–2000, had a significant impact on the development of the common law.

The collection also includes discussion of two parliamentary reports – the Committee on the Employment of Women on Police Duties, 1920 and the Warnock Report, 1984 – and of international obligations that follow from the UK Ratification of the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women (OP-CEDAW), 2005 and the United Nation's recognition in 2011 of the Irish State's failure to protect the girls and women who were involuntarily confined in the Magdalene Laundries.[49]

[46] *The Slave, Grace* (1827), 53.
[47] See Match Women's Strike 1888.
[48] See Dagenham Car Plant Strike, 1968.
[49] Concluding Observations of the UN Committee against Torture, Recommendation to Ireland regarding the Magdalene Laundries 2011.

A final subset of landmarks encompasses books, journals and plays. These include popular works such as Mary Wollstonecraft's call for equality and for the extension of civil and political rights in *A Vindication of the Rights of Woman* (1792),[50] Barbara Leigh Smith Bodichon's *A Brief Summary of the Most Important Laws Concerning Women*, 1854, which set out the law that shaped and underpinned campaigns for women's rights, Cicely Hamilton's *A Pageant of Great Women*, which presented arguments for women's enfranchisement, and Radclyffe Hall's *Well of Loneliness*,[51] whose banning in 1928 brought the issue of lesbian freedom into the public domain. In addition, we include the first text to comprehensively examine the gendered nature of law and the legal inter-relationships between women's private and public lives and between men and women, the agenda-shaping *Women and the Law* by Susan Atkins and Brenda Hoggett (now Lady Hale), and the first feminist law journal in the UK, *Feminist Legal Studies*.

Interwoven among the substantive landmarks are short biographies of women lawyers, judges, politicians and academics who were the first to fill a particular role or position, beginning with Helen Taylor (the first woman to run an election campaign for Parliament in 1885) and ending with Brenda Hale's ground-breaking appointment as President of the UK Supreme Court in 2017. These personal histories allow for exploration of the role played by these women in the substantive landmarks considered (for example, Helena Normanton and the Married Women's Property Act 1964, and Mary Robinson[52] and the Health (Family Planning) Act 1979 and the Fifteenth Amendment of the Constitution Act 1995), as well as for direct consideration of the differences in viewpoint, ambition and feminism among women. We include their stories, mindful of the invidiousness of singling out individual women from what are often collective endeavours and aware that the designation of 'the first' is often – as many women 'firsts' (though not, we note, men) acknowledge – a matter of 'being in the right place at the right time'.

We are also aware that there are many other 'firsts' who are not included in the collection, such as Agnes Twiston Hughes who, in 1923, became the first woman solicitor in Wales, or Linda Dobbs, the first black woman appointed to the High Court in 2004. We could also have included Elish Angiolini, the first woman to be appointed Lord Advocate in Scotland in 2006, Denise McBride and Siobhan Keegan who, in October 2015, became the first women to sit on the High Court in Northern Ireland or, perhaps more controversially, Margaret Thatcher, the first woman UK Prime Minister. There are many others.[53] Some we wanted to include, but lost along the way. Other notable women in law were excluded because, while they had undoubtedly made outstanding contributions to women's legal progress, there was not a significant UK or Irish 'first' peg on which to hang their inclusion. Cornelia Sorabji, the first woman to study law at Oxford – but not the first woman to study law – was excluded for this reason, as was Chrystal Macmillan, the first woman to plead a case before the House of Lords. As with the collection as a whole, the purpose of our list of 'first women' is not to be exhaustive, but representative. However, their stories are important not only in order to celebrate the significant personal achievements of these landmark women but as a lens through which to acknowledge the contribution of other women, known and unknown,

[50] *A Vindication of the Rights of Woman*, Mary Wollstonecraft, 1792.
[51] *DPP v Jonathan Cape and Leopold Hill* (1928).
[52] First Woman President of Ireland, Mary Robinson, 1990.
[53] See further, First 100 years: https://first100years.org.uk/.

who appear in these and other entries in the collection (and who are listed in the index). The collective history of women lawyers is also considered in the chapters on the appointment of the first women Justices of the Peace, and the foundation of the Association of Women Solicitors, 1919, and the Association of Women Barristers, 1991.

C. Topics

Just as every area of law affects women (though this is far from obvious in the undergraduate law curriculum today), so the landmarks in this volume come from a wide range of legal fields, public and private, national and international: from tort law to family law, property law to employment law, medical law to human rights law, criminal law to tax law. Many deal with subject-matter that might be considered paradigmatically feminist: issues of immediate concern to women's lives such as domestic and sexual violence,[54] marriage and divorce,[55] reproduction and childcare,[56] workplace discrimination,[57] as well as access to professions and political institutions.[58] Indeed, some were causes célèbres for feminist activism in law, such as the Women's Peace Camp at Greenham Common 1981–2000, Section 41 of the Youth Justice and Criminal Evidence Act 1999 and the Irish referendum on the 8th Amendment in May 2018. However, others – such as the British Nationality Act 1948 (which conferred on women the same right as men to retain or change their nationality, irrespective of their marital status) and Section 32 of the Finance Act 1988 (which introduced separate taxation for married women) – wear their (no less significant) feminist credentials more lightly. Several of the landmarks consider intersectional issues of class,[59] race and ethnicity,[60] disability,[61] age,[62] sexuality[63] and religion.[64]

[54] eg *R v Jackson* (1891); First Women's Refuge, 1971; First Rape Crisis Centre, 1976; Section 4 of the Sexual Offences (Amendment) Act 1976; Housing (Homeless Persons) Act 1977; *Davis v Johnson* (1978); Section 5 of the Criminal Law (Rape) (Amendment) Act 1990; *R v Ahluwalia* (1992); Section 1 of the Sexual Offences Act 2003; Section 14 of the Policing and Crime Act 2009; Section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.

[55] eg Divorce and Matrimonial Causes Act 1857; Married Women's Property Act 1882; Matrimonial Causes Act 1923; Married Women (Restraint Upon Anticipation) Act 1949; Married Women's Property Act 1964; *White v White* (2000); Forced Marriage (Civil Protection) Act 2007; *Radmacher v Grantino* (2010).

[56] eg Maternity and Child Welfare Act 1918; Family Allowances Act 1945; Abortion Act 1967; National Health Service (Family Planning) Act 1967; Health (Family Planning) Act 1979; Warnock Report, 1984; Protection of Life During Pregnancy Act 2013; *In the Matter of an Application for Judicial Review by the Northern Ireland Human Rights Commission* (2015); Thirty-sixth Amendment to the Irish Constitution, 2018.

[57] eg Education Act 1944; Dagenham Car Plant Strike, 1968; Sex Discrimination Act 1975; *Webb v EMO Air Cargo (UK) Ltd (No 2)* (1994); *Birmingham City Council v Abdulla* (2012); Bishops and Priests (Consecration and Ordination of Women) Measure 2014 and Canon C2, 'Of the Consecration of Bishops', 2014.

[58] eg Sex Disqualification (Removal) Act 1919; Article 7 of the Covenant of the League of Nations, 1919; Committee on the Employment of Women on Police Duties, 1920; Life Peerages Act 1958; Bishops and Priests (Consecration and Ordination of Women) Measure 2014 and Canon C2, 'Of the Consecration of Bishops', 2014.

[59] eg Match Women's Strike, 1888.

[60] eg *The Slave, Grace* (1827); British Nationality Act 1948; Prohibition of Female Circumcision Act 1985; *Islam v Secretary of State for the Home Department, R v Immigration Appeal Tribunal and Another, ex parte Shah* (1999); Forced Marriage (Civil Protection) Act 2007.

[61] eg Mental Capacity Act 2005.

[62] eg *Gillick v West Norfolk and Wisbech Area Health Authority* (1985).

[63] eg *DPP v Jonathan Cape and Leopold Hill* (1928).

[64] eg Bishops and Priests (Consecration and Ordination of Women) Measure 2014 and Canon C2, 'Of the Consecration of Bishops', 2014.

D. Themes

There are a number of themes that emerge from the landmarks and which cut across different areas of law and different times and places. These include issues relating to justice, power and equality, representation and agency, feminist networks and organisations, as well as the use and abuse of law.

(i) Equality, Justice and (Gendered) Power

Conventional legal histories of women portray a gradual trajectory towards the equality we are supposed to enjoy today. As these landmarks demonstrate, however, this description is far from accurate. Though there has undoubtedly been progress, the trajectory is not always and unremittingly upwards, but rather proceeds in fits and starts, and sometimes goes backwards. Moreover, as many of the landmarks make clear, in spite of equality legislation and policies, women still do not enjoy full equality today,[65] and some women continue to be more equal than others.

Throughout most of the nineteenth century, equality was not the only – or indeed the primary – issue at stake. The main target of the Victorian feminist campaigns was the removal of the worst examples of men's privileges and women's oppression. Indeed, the very notion of equality is problematic when it means equality with masculine institutions and practices that we deplore. Thus, while the pursuit of equality features across many landmarks, it is not the most important theme that links them. If there is any feminist goal that characterises them all, it is probably the search for *justice* – for fair legal treatment for women, for freedom from gender-based oppression, as well as freedom to act as full citizens.

Central to the achievement of justice for women is an analysis of gendered power. 'Gender' is an expression that is used to distinguish men from women but it is also a relationship, one in which, throughout most of history, men have held power *over* women through their control of both the public and the private spheres. Women's legal landmarks are therefore linked by the theme of *resistance to male power and control*, whether it be in politics (Representation of the People Act 1918, Life Peerages Act 1958), in the workplace (for example, Match Women's Strike 1888, Dagenham Car Plant Strike, 1968), in informal masculine institutions (*Gill and Coote v El Vino Co Ltd* (1982)) or in the home (First Women's Refuge, 1971; *Davis v Johnson* (1978)). Many other landmarks are about *men's brutality and women's basic need for protection*, before they could even think about justice and equality (for example, Section 5(1) of the Criminal Law Amendment Act 1885; First Rape Crisis Centre, 1976; Section 5 of the Criminal Law (Rape) (Amendment) Act 1990; Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015). The same is true of women at the heart of landmarks involving the *use (and abuse) of state power* (for example, *Islam v Secretary of State for the Home Department, R v Immigration*

[65] This is starkly demonstrated by the inclusion of both the Dagenham Car Plant Strike (1968), which led to equal pay for women, and the UK Supreme Court case of *Birmingham City Council v Abdulla* (2012), a test case brought by 170 women and four men in relation to 11,000 equal pay claims against Birmingham City Council 40 years later.

Appeal Tribunal and Another, ex parte Shah (1999); Housing (Homeless Persons) Act 1977; Concluding Observations of the UN Committee against Torture, Recommendation to Ireland regarding the Magdalene Laundries, 2011; *In the Matter of an Application for Judicial Review by the Northern Ireland Human Rights Commission* (2015)).

(ii) Representation, Access and Agency

In a book about *legal* landmarks it is unsurprising that women's *representation in law-making* at every level is a recurring theme: from their admission to the legal profession itself and as JPs and jurors[66] to their gradual inroads into the higher judiciary (many examples in this book) and the legal academy (First Woman Professor of Law in Ireland, Frances Moran, 1925; First Woman Professor of Law in the United Kingdom, Claire Palley, 1970); and from securing the vote to being able to sit in Parliament, whether as MPs,[67] members of the House of Lords (Life Peerages Act 1958) or bishops of the Church of England (Bishops and Priests (Consecration and Ordination of Women) Measure 2014 and Canon C2, 'Of the Consecration of Bishops', 2014).

Of course, legal and political representation is just one form of access. Other landmarks demonstrate women's struggle for *access*, not just to rights and opportunities enjoyed by men (for example, in the workplace[68] or the public sphere)[69] but to *sex-specific rights and services* related to pregnancy and abortion,[70] whose denial has limited or prevented women's participation in civil society. Access to *good health* is equally important and several landmarks focus on the removal of restrictions on the medical care necessary to ensure this.[71]

Access to *money and to property* are particularly important feminist goals for women since women's independence depends on being able to support themselves free of men's control. A number of the landmarks address this, including the Family Allowances Act 1945, which by paying the newly-established family allowance to *mothers* provided them with a level of control over the family finances, the Married Women's Property Act 1964, which established that housekeeping money belongs jointly to husband and wife, and *White v White* (2000), which laid down the equal-sharing principle on divorce. Other landmarks focus on *preventing* others from accessing (and appropriating) women's property – whether by virtue of marriage (Married Women's Property Act 1882; *Barclays Bank v O'Brien* (1993); *Radmacher v Grantino* (2010)) or cohabitation (*Grant v Edwards* (1986), which facilitated women's acquisition of property rights through informal means). Closely allied to access

[66] First Women Justices of the Peace, 1919; Section 25 of the Criminal Justice Act 1972.

[67] Sex Discrimination (Election Candidates) Act 2002; National Assembly for Wales election, 2003 Electoral (Amendment) Act 2012.

[68] eg Sex Disqualification (Removal) Act 1919; Article 7 of the Covenant of the League of Nations, 1919; Bishops and Priests (Consecration and Ordination of Women) Measure 2014 and Canon C2, 'Of the Consecration of Bishops', 2014.

[69] eg *Gill and Coote v El Vino Co Ltd* (1982); *R v Nimmo and Sorley* (2014).

[70] eg Abortion Act 1967; National Health Service (Family Planning) Act 1967; Health (Family Planning) Act 1979; Warnock Report, 1984; *Gillick v West Norfolk and Wisbech Area Health Authority* 1985); *Webb v EMO Air Cargo (UK) Ltd (No 2)* (1994); Protection of Life During Pregnancy Act 2013; *In the Matter of an Application for Judicial Review by the Northern Ireland Human Rights Commission* (2015).

[71] eg Maternity and Child Welfare Act 1918; Health (Family Planning) Act 1979.

is the acceptance and recognition of women's agency, whether through the systematic dismantling of coverture (whereby married women's legal personality was subsumed in their husband's, for example, the Married Women's Property Act 1882, the Married Women (Restraint Upon Anticipation Act) 1949, and *Williams & Glyn's Bank v Boland* (1980)), or by being treated as competent to agree to or refuse medical treatment (*Gillick v West Norfolk and Wisbech Area Health Authority* (1985); *St George's Healthcare NHS Trust v S* (1998); Mental Capacity Act 2005).

(iii) Feminist Organisations, Networks and Campaigns

The importance of feminist networks, organisations and campaigns is another strong theme across the landmarks. Across the centuries, feminists have used a range of strategies to publicise, educate and influence, some of which have been noted here as landmarks in their own right (*A Vindication of the Rights of Woman*, 1792 (Mary Wollstonecraft), *A Brief Summary of the Most Important Laws Concerning Women*, 1854 (Barbara Bodichon), *A Pageant of Great Women*, 1909–12 (Cicely Hamilton), *Women and the Law*, 1984 (Susan Atkins and Brenda Hoggett), and the *Feminist Legal Studies* journal, 1993). Other common features of feminist tactics have been networking among women and alliances with those with power, whether these be professional associations (Association of Women Solicitors, 1921; Association of Women Barristers, 1991) or interest groups focused on a single issue (for example, votes for women), or links with legal men and male MPs before 1919 and with feminist lawyers and politicians thereafter. Sometimes leaders emerge, and their names are noted, but second-wave feminism resisted the idea of individual spokeswomen who could be isolated by opponents or made to speak for a range of different views. The Women's Peace Camp at Greenham Common 1981–2000 represents the high point of collective action.

Many of the landmarks have come as a direct result of feminist campaigning, even though when the official story is told some other cause is generally found, as we found with women's entry into the legal profession. Some are well known: votes for women is an obvious example. Others are overlooked or not known at all, such as the lobbying of women-led NGOs at the Paris Peace Conference in 1919, which ensured that women were at the heart of the emerging mechanisms of global governance through their membership of the League of Nations Secretariat,[72] and the Married Women's Property Act 1964, which allowed wives to keep half the housekeeping allowance. Across the centuries these sometimes lengthy and often hard-fought campaigns have made, and continue to make, a significant difference to women's lives. The match women's and the Dagenham car worker's strikes advanced women's claims to a fair wage and better conditions of work and the Justice for Magdalene campaign revealed the oppression of Irish women by the state and fought for compensation for survivors.[73] Feminist campaigns have led to statutory reforms relating to prostitution,[74]

[72] Article 7 of the Covenant of the League of Nations, 1919.

[73] Concluding Observations of the UN Committee against Torture, Recommendation to Ireland regarding the Magdalene Laundries, 2011.

[74] Section 14 of the Policing and Crime Act 2009.

rape and sexual history evidence,[75] domestic violence,[76] forced marriage,[77] the provision of contraception,[78] the appointment of women bishops,[79] and so-called 'revenge porn'.[80] *R v Nimmo and Sorely* (2014), the first prosecution for online threats of rape and sexual violence, may also fit within this category – though in this case the feminist campaign (to ensure women's representation on UK bank notes) provided the 'trigger' for the defendants' actions. Some of these landmarks do not at first sight appear to benefit women specifically, yet were fought for with women in mind: for example, the Housing (Homeless Persons) Act 1977 and *Birmingham City Council v Abdulla* (2012), fought on behalf of predominantly female workers. The inclusion of the UK's ratification of the Optional Protocol to CEDAW provides an opportunity to consider future avenues for feminist campaigns and a 'call to arms' to utilise its provisions to hold governments to account for systemic gender inequality.

(iv) The Use and Abuse of Law

Finally, the landmarks demonstrate how law has been used to control and discipline women. Though for most of the time period covered by the collection, women were formally excluded from the mechanisms of law, this did not mean it did not touch their lives; rather the reverse. Throughout the nineteenth and into the twentieth century, women were subject to sex-specific laws designed to restrict their access to many of the rights of men. As Barbara Leigh Smith Bodichon noted in her *Brief Summary*, 'women, more than any other members of the community, suffer from over-legislation'.[81] As in 1854, so too in 2017.

The landmarks also reveal law as a tool that can be used by women to advance their cause, whether simply for their protection[82] or for wider goals like equality. They recognised the power of law to lead public opinion and to disrupt the 'normal' gender relations in which women were subject to men. In some cases, they hoped that the legal intervention would be short-lived, that it would lead to a world where protective legislation was not needed.[83] They looked forward to a new era in which women's voices would be heard, women's concerns addressed, and women's injustices and inequalities righted; when gender would cease to be a justification for differential treatment in law.

But this is not to say that feminists, then and now, were unaware of the limits of legal reform. Each generation of feminists dismisses earlier movements as naïve and over-optimistic because they failed to achieve perfect equality and justice for women, but even nineteenth-century feminists quickly learned to be wary of expecting too much from

[75] eg Section 4 of the Sexual Offences (Amendment) Act 1976; Section 5 of the Criminal Law (Rape) (Amendment) Act 1990; Section 41 of the Youth Justice and Criminal Evidence Act 1999; Section 1 of the Sexual Offences Act 2003.

[76] *R v Ahluwalia* (1992).

[77] Forced Marriage (Civil Protection) Act 2007.

[78] Health (Family Planning) Act 1979.

[79] Bishops and Priests (Consecration and Ordination of Women) Measure 2014 and Canon C2, 'Of the Consecration of Bishops', 2014.

[80] Section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.

[81] Barbara Leigh Smith Bodichon, *A Brief Summary of the Most Important Laws Concerning Women*, 1854, 13.

[82] eg *R v Jackson* (1891).

[83] eg Section 4 of the Sexual Offences (Amendment) Act 1976; Sex Discrimination (Election Candidates) Act 2002; National Assembly for Wales election, 2003; Electoral (Amendment) Act 2012.

institutions so firmly controlled by men in the interests of men. This has not stopped others from seeking to lower women's expectations. Consider, for example, the warning in the White Paper that preceded the Sex Discrimination Act 1975: 'it is important to recognise the inevitable restraints on what can be achieved by legislation, so that it is seen in proper perspective, without arousing false expectations or encouraging a sense of complacency'.[84] In truth such warnings are unnecessary. History has taught women the limits of law.

Law reform is messy. It is unpredictable, usually time- and personality-dependent and often flawed. The legislation or decision that results is – more often than not – the product of compromise: a (hopefully temporary) foothold from which to secure further reform. It was, for example, another decade after the enactment of the Representation of the People Act 1918 before many of the women who campaigned for the vote were actually able to do so. It took over half a century for the double standard, put on a statutory footing in the Matrimonial Causes Act 1857 – allowing a husband to divorce his wife for adultery while requiring that a husband's adultery be compounded by another matrimonial offence – to be removed.[85] Meanwhile, women in Northern Ireland still are waiting to be able to access abortion, even on the limited terms provided for under the Abortion Act 1967.[86]

Nor does law reform *alone* secure real change in women's lives. It cannot stop male violence, pregnancy discrimination, pay inequality, exploitation and abuse. In fact, as many of the landmarks in this volume demonstrate, whenever there is a legal advance for women, there follows a backlash, as men attempt to re-assert the patriarchal control they formerly enjoyed. Successful campaigns for legislative reform are typically followed by decades of case law as both 'sides' turn to the courts to enforce or subvert Parliament's wishes. Sometimes, of course, the wrong side wins: it took less than six months for the House of Lords to 'read down' the provisions of section 41 of the Youth Justice and Criminal Evidence Act 1999.[87] But not always: it may have taken a couple of years, but in the end the judiciary was finally convinced that Parliament really had intended the Domestic Violence and Matrimonial Proceedings Act 1976 to enable a wife or cohabiting partner to exclude a husband or male partner from the family home in cases where her life was in serious or grave danger.[88] It took slightly longer for judges to widen the matrimonial offence of cruelty contained in the Matrimonial Causes Act 1857, to include non-violent mental cruelty, but they were well ahead of their time in doing so.[89] And, while we might have hoped that 40 years after the Equal Pay Act 1970, the long-promised reality of equal pay for equal work would have materialised, at least the UK Supreme Court in *Birmingham City Council v Abdulla* (2012) did what it could to facilitate the novel litigation strategy and claims of 11,000, predominately female, council workers.

[84] Home Office, *Equality for Women* (HMSO, Cmnd 5724, 1974) [21].
[85] By virtue of the Matrimonial Causes Act 1923.
[86] *In the Matter of an Application for Judicial Review by the Northern Ireland Human Rights Commission* (2015)).
[87] In *R v A (No 2)* [2001] UKHL 25. See further Clare McGlynn's feminist judgment – '*R v A (No 2)*' – in Hunter, McGlynn and Rackley (eds), n 1 above, 211.
[88] *Davis v Johnson* (1978).
[89] Matrimonial Causes Act 1857.

Without doubt, then, law is a blunt tool with which to try to secure, protect and enhance women's lives, experiences, and opportunities. It can be (and has been) used against us; it never quite achieves its goals; and it must be resorted to again and again to secure every little advance. But as Anne Morris points out in her discussion of *Gill and Coote v El Vino Co Ltd*, in the hands of determined women law can prove a powerful mechanism for change. This collection is evidence of that.