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THE CASE FOR FEMINIST LEGAL HISTORY

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ABSTRACT

While we may be witnessing a highpoint of interest in the lives of early women lawyers, and women's legal history generally, feminist legal history remains largely undeveloped in the UK. Drawing on examples of women's representation in and engagement with law and law reform in the UK and Ireland, this article delineates the method, scope and purpose of feminist legal history. It begins by exploring the place of women in traditional accounts of legal history, before going on to consider the methodological and substantive goals of feminist legal history. We argue that feminist legal history is a political project, requiring its authors to commit not only to uncovering untold stories but to challenging and revising dominant historical narratives. We conclude with a call for scholars to take up the insights and methods of feminist legal history as a means of acknowledging and celebrating the agency of those involved in past and ongoing struggles for justice and equality.

KEY WORDS

feminist legal history; law reform; legal history

I

INTRODUCTION

It may be that we are witnessing a highpoint of interest in the lives of early women lawyers, and women's legal history generally, both within and outside the academy, fuelled by the twin centenaries of the (partial) extension of the vote to women in 1918 and the formal admission of women to the legal profession the following year.[1] Without doubt the anniversaries provide an

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* Kent Law School, University of Kent. Email: e.rackley@kent.ac.uk.

** Law School, University of Reading. Email: r.auchmuty@reading.ac.uk. Feminism is a collective endeavour. So too is the writing of feminist legal history. We are enormously grateful for the collegiality and insights of colleagues who have heard or commented on earlier iterations of this paper, and in particular for the generousity and expertise of those who worked with us on the Women's Legal Landmarks project. Thanks are also due to the anonymous referees for their comments and suggestions. Erika Rackley gratefully acknowledges the support of the Philip Leverhulme Trust (PLP-2014-193).

[1] See, eg, Erika Rackley and Rosemary Auchmuty (eds) *Women's Legal Landmarks: Celebrating the History of Women and Law in the UK and Ireland* (Bloomsbury, 2019) [hereinafter *Women's Legal Landmarks*];

opportunity to insert women into legal history (and history generally) and to mark the dedication, commitment and sacrifice of those involved in bringing them about. But without a strong scholarly method, politics and purpose, there is a danger that these celebrations will also encourage the proliferation of well-meaning but uncritical heroine narratives replete with myths and anecdote.

Feminist legal history provides a counter to this. Anchored in a commitment to disciplinary, social and political change, feminist legal history seeks not only to inform about women in law in the past, to uncover new histories, but also to challenge, and ultimately transform, our understandings of the past and present, and indeed the future. Its purpose is twofold: unlike its popular dopplegangers, typically focusing on women in the legal professions, feminist legal history is concerned with both 'the production of knowledge of the past' (an important end in itself, when so little is still known about women's history*) and,* crucially, in the words of Joan Scott, setting down 'the substantive terms for a critical operation that uses the past to disrupt the certainites of the present', opening up the possibility of imagining different futures.[2]

However, the *doing* of feminist legal history as an academic discipline and method remains largely undeveloped in the UK.[3] This article seeks to address this absence by delineating its method, scope and purpose. We begin by exploring the exclusion of women and women's engagement with policy and law reform more generally within traditional accounts of legal history. We go on to consider the methodological and substantive goals of feminist legal history, which relate both to the production of knowledge (by including women's stories and establishing women as agents of change) and to feminist legal history's disruptive purpose (by asking the 'women' question, challenging assumptions of progress, debunking heroine narratives and (re)locating the position and role of men). Drawing on examples of women's experiences in and of law in the UK and Ireland, we seek to demonstrate the agency of women – both individually and in groups – in effecting legal, political and social change. We conclude with a call for scholars to take up the insights and methods

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Guy Fox, *History Rocks: Women in Law* (Guy Fox Publishing, 2019); Lucinda Acland and Katie Broomfield, 'First 100 Years of Women in Law' (Scala Arts & Heritage Publishers Ltd, 2019); First Hundred Years: https://first100years.org.uk; Voice and Vote: Women's Place in Parliament Exhibition: https://www.parliament.uk/get-involved/vote-100/voice-and-vote/; Alex Giles, *The Disappearance of Miss Bebb*: https://www.thekalishertrust.org/theatre-events/past-productions/disappearance-miss-bebb-alex-giles; Alexandra Topping, 'First statue of a woman in Parliament Square unveiled' *Guardian*, 24 April 2018.

[2] Joan Wallach Scott, *The Fantasy of Feminist History* (Duke University Press, 2011) p 34.

[3] With notable exceptions, eg: Sally Sheldon, '"Who is mother to make the judgment": Constructions of Women in UK Abortion Law' (1993) 1 Fem L S 3; Rosemary Auchmuty, 'Whatever happened to Miss Bebb? *Bebb v The Law Society* and women's legal history' (2011) 31 LS 175; Linda Mulcahy and David Sugarman, 'Special issue: Legal life writing: Marginalized subjects and sources' (2015) 42 J L & Soc'y 1; Caroline Derry, 'Female Husbands, Community and Courts in the Eighteenth Century' (2017) 38 J Leg His 54; Kevin Crosby, 'Keeping women off the jury in 1920s England and Wales' (2017) 37 *Legal Studies* 695; Máiréad Enright and Emilie Cloatre, "Transformative Illegality: How Condoms Became Legal in Ireland, 1991-1993" (2018) 26 Fem L S 261; Penny Russell, 'Re-tying the Knot? Remarriage and Divorce by Consent in Mid-Victorian England' (2019) Am J Leg His 257.

of feminist legal history: to acknowledge the existence and different experiences of women in/and law, the ways they negotiated and fought to overcome the legal obstacles and opposition they faced (and still face) – before climbing on to their shoulders and continuing the fight for justice.

II

THE ERASURE OF WOMEN AND FEMINISM FROM LEGAL HISTORY AND WHY IT MATTERS

There is no field of academic study that has not been skewed towards men's roles and experiences, to the near exclusion of women's. For many centuries, this prohibition was literal: women were physically excluded from political and educational institutions and most areas of intellectual endeavour.[4] Even after they were permitted to participate in education and scholarship on equal terms with men – a relatively recent landmark[5] – they still had to do so on conditions set down by men and embedded in custom and practice.[6] Thirty years on, Dale Spender's comment remains true:

> We may have reached the stage where we can produce knowledge, but we are still a long way from influencing the directions that it takes after it is produced. … From the formulation of the agenda of public knowledge and discussion to the formulation of curricula in

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[4] Women, eg, were not allowed into universities in the UK until 1869 or to enter the legal profession until 1919. They could not vote in national elections or stand for Parliament until 1918 or sit in the House of Lords until 1958. See further, Carol Dyhouse, *No Distinction of Sex? Women in British Universities 1870-1939* (UCL Press, 1995); Mari Takayanagi, 'Representation of the People Act 1918' in *Women's Legal Landmarks*, n1 p 113; Mari Takayanagi, 'Sex Disqualification (Removal) Act 1919' in *Women's Legal Landmarks*, n 1, p 133; Supuni Perera, 'Life Peerages Act 1958' in *Women's Legal Landmarks*, n 1, p 249; Rosemary Auchmuty, 'Early women law students at Cambridge and Oxford' (2008) 29 J Leg His 63; Auchmuty, 'Whatever happened to Miss Bebb? *Bebb v The Law Society* and women's legal history', n 2.

[5] London University granted degrees to women from 1878, but Oxford did not do so until 1920 and Cambridge 1948. Even then, women were not admitted into universities on equal terms with men until the expansion of higher education in the 1960s, and continued to be subjected to quotas for entry into some courses (eg medicine) and some universities (Oxford and Cambridge). See further, Ann Brooks, *Academic Women* (Open UP, 1997); Stella Lowry and Gordon McPherson, 'A blot on the profession', BMJ 5 March 1988, 657.

[6] Though the first woman professor was appointed to (then) Reading University College in 1908 (after protest, when all male heads of department had been granted chairs and she had not), women academics remained a small minority until the 1990s, when the Research Assessment Exercises prompted universities to prioritise research excellence over homo-sociability in making appointments: see further, Edith Morley, *Before and After Reminiscences of a Working Life* (Two Rivers Press, 2016); Rosemary Auchmuty, 'Feminists as stakeholders in the law school' in Fiona Cownie (ed) *Stakeholders in the Law School* (Hart Publishing, 2010) pp 35-64). Law schools were particularly slow to appoint women: though the first woman law professor was appointed to Trinity College, Dublin, in 1925, there were none in the UK until 1970: see Emma Hutchinson, 'First Woman Professor of Law in Ireland, Frances Moran, 1925' in *Women's Legal Landmarks*, n 1, p 199; Fiona Cownie, 'First Woman Professor of Law in the UK, Claire Palley, 1970' in *Women's Legal Landmarks*, n 1, p 297. There are legal academics active today who were not taught by a single woman in law school: see eg Celia Wells, 'The remains of the day: the women law professors project' in Ulrike Schultz and Gisela Shaw (eds) *Women in the World's Legal Professions* (Hart Publishing, 2003) pp 225-46.

> educational institutions, women are still denied influence, so that it is not our knowledge which informs society.[7]

So too with the writing and focus of legal history. Feminism came late to academic law[8] – much later than to other disciplines like English and history – and while it has managed to carve a space within legal scholarship generally, legal *historical* scholarship has remained relatively impervious. As Felice Batlan notes:

> It was long acceptable to write legal history, even excellent legal history, without including women or gender. Legal historians rationalized that because women did not participate in the ostensibly most significant events of legal history … they were irrelevant when writing 'serious' legal history. While women might play a role in a social history of the law or in discussions of domestic relations law, on the whole, women and gender stood at the periphery of legal history.[9]

An over-reliance on legal sources and actors within traditional legal scholarship and education, thanks to law's traditional refusal to recognise sources outside its own discipline, has relegated to the margins – or obscurity – the actions of those who are not named in those sources. Thus, the legal actors we read about are almost always male, upper/middle class, white, and (usually) a member of the legal or political elites. One result of this exclusion is that general knowledge of the role women have played in law and law reform is patchy, and often non-existent, even among those who work and study in the area.[10] Indeed, until the centenary year, few people (including most lawyers) would, we suspect, have known when women were formally admitted to the legal profession in the UK and Ireland. Even now, while some may now be familiar with the name of Miss Bebb (of *Bebb v Law Society* [1914] 1 Ch 287 fame) and/or the Sex Disqualification (Removal) Act 1919 as way-markers on the road to women's admission, they are unlikely know what the case decided (many assume that Miss Bebb won) or that the 1919 Act followed over 50 years of feminist campaigning.[11] Away from the milestones within the legal profession, fewer still are likely to know the role that women have played in campaigns for law reform more generally, in the movement for

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7 Dale Spender, *For the Record: The making and meaning of feminist knowledge* (The Women's Press, 1985) p 2

8 Auchmuty, 'Feminists as stakeholders in the law school' n 6, p 35.

9 Felice Batlan, 'Legal History and the Politics of Inclusion' (2014) 26 *Journal of Women's History* 155, 155. W R Cornish and G de N Clark's *Law and Society in England 1750-1950* (Sweet & Maxwell, 1989), eg, runs to 700 pages and has no index entry for 'women', but two for 'wife'.

10 Or even wrong. See eg John Baker's statement in the latest edition of *Introduction to Legal History* (Oxford UP, 2019) that 'females who inherited peerages were excluded from the House of Lords until 1919' (p 499). In fact, provisions included in the 1919 Act relating to women hereditary peers were unsuccessful. Women were unable to sit in the House of Lords as heritiary peers until the enactment of the Peerages Act 1963, though women had been admitted as life peers by virtue of the Life Peerages Act 1958 five years earlier. See futher Supuni Perera 'Life Peerages Act 1958' in *Women's Legal Landmarks*, n 1, p 249.

11 Auchmuty, 'Whatever happened to Miss Bebb?' n 3.

the abolition of slavery,[12] the creation of international law,[13] the development of trade unions,[14] or against cruelty to animals and birds.[15]

Our point here, however, is not simply one of recognition, though that is important. Rather it is about understanding the politics of legal change. Presenting hard fought-for legal change, for example, as a simple response to shifts in 'social attitudes' without saying who or what changed those attitudes is not merely inaccurate; it allows for the justification of *in*action while waiting for the societal shift to happen. Michael Birks's comment in *Gentlemen of the Law* is a case in point:

> In opposing the admission of women to their ranks, solicitors were doing little more than following current ideas on the inequality of the sexes … This episode has left no mark on the profession and merely serves to illustrate the solicitors' cautious and sometimes hostile attitude to change.[16]

This approach to legal history, where 'gender [is] never … more than an incidental aspect of a legal past with limited purchase on the present',[17] is, of course, as political as it is partial. As Susan Staves observes:

> Because legal history has usually been done by judges and law professors involved in a system which society requires to produce articulate defenses of the justice and rightness of current institutions, legal history has mostly been celebratory, explaining how law was more and more beautifully adapted to the needs of society and more and more reflective of absolute justice.[18]

Legal historians – and the discipline of legal history itself – have been heavily invested in preserving the illusion of legal objectivity, neutrality and inevitability; in maintaining a narrative characterized by progress and liberal incrementalism. The consequence of this pursuit of coherence is that the jumbled reality of law reform – the setbacks, compromises and failures – is lost. What we see today are the rules and doctrines that survived, not those that were fought for but watered down, or never adopted in the first place. For example, feminists throughout the 1960s campaigned for a form of community or equal distribution of marital property on divorce, long before the *White v White* [2000] UKHL 54 pronouncement on equal division; but it was never implemented, so we never hear

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12 Rosemary Auchmuty, 'The Slave, Grace (1827)' in *Women's Legal Landmarks*, n 1, p 47.

13 Aoife O'Donoghue, 'Article 7 of the Covenant of the League of Nations, 1919' in *Women's Legal Landmarks*, n 1, p 125.

14 Jacqueline Lane, 'Match Women's Strike, 1888' in *Women's Legal Landmarks*, n 1, p 91.

15 Thanks to Sarah Wilson for this example. See further: Anon, 'Birds of a feather: The female founders of the RSPB, *The History Press*, [no date]

16 Michael Birks, *Gentlemen of the Law* (Stevens, 1960) p 278.

17 Joanne Conaghan, *Law and Gender* (Clarendon, 2013) p 114.

18 Susan Staves, *Married Women's Separate Property in England, 1660-1833* (Harvard University Press, 1990) p 9.

about it.[19] Similarly, the Advisory Group on Rape led by Rose Heilbron expressed concern as to the prejudicial effect of a victim's sexual history evidence almost 30 years prior to the enactment of the restrictions introduced in section 41 of the Youth Justice and Criminal Evidence Act 1999.[20]

For feminist legal historians, there is an additional problem. If you want to present legal history as a largely inevitable process of progressive reform, lawmakers must be shown to be fundamentally benign and responsive to social change. And the first casualties of such accounts are women's, and more specifically feminists', contributions and voices, without which the change might not have happened. Take, for example, the enactment of the Married Women's Property Acts in the late nineteenth century, one of the rare reforms concerning women that has made it into mainstream legal history. Prior to these Acts, a wife's property and earnings belonged in common law to her husband. The 1870 Act enabled her to keep her earnings and the 1882 Act to hold all the property brought by her to the marriage, or acquired thereafter, as her 'separate property'.[21] Those were key legal landmarks for Victorian women, which feminist campaigners had long sought. They recognized that men's control of women in marriage was largely facilitated by women's financial powerlessness, both in the middle and upper classes, where no career other than marriage was open to them, and in the working class where a woman might 'work[ed] from morning to night to see the produce of her labour wrested from her, and wasted in a gin-palace'.[22] Campaigns led by Barbara Bodichon and her associates from the Langham Place group came close to achieving their goal in the 1850s (decades before the eventual legislation) but were scuppered by the enactment of divorce law reform in 1857, which enabled opponents to claim that the rights were not now needed: unhappily married women could get a divorce, while those who were happily married did not need their own property.[23] Feminists redoubled their efforts and the Acts were finally passed, though, as is common with reforms intended to 'benefit' women, not in the form the feminists sought: rather than being able to hold property in the same way as men and single women, married women thenceforth held their 'separate property' as if under a trust.

While it is undoubtedly true that this reform owed its achievement partly to other influences – a declining marriage rate led the legislature to sense that the restrictions of coverture might be partly to blame, and the 'separate property' solution was due to equity's recent integration

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[19] Dorothy Stetson, *A Woman's Issue: the Politics of Family Law Reform in England* (Greenwood Press, 1982) p 190-204.

[20] Home Office, Report of the Advisory Group on the Law of Rape (Cmnd 6352, 1975) [153]–[157].

[21] See further Andy Hayward, 'Married Women's Property Act 1882' in *Women's Legal Landmarks*, n 1, p 71.

[22] 'The Property of Married Women' in *The Englishwoman's Domestic Magazine* (S O Beeton, December 1856, No 8 vol 5) p 236.

[23] Lee Holcombe, *Wives and Property: Reform of the Married Women's Property Acts in Nineteenth Century England* (Toronto UP, 1983), p 209.

into the reformed court structure and its desire to flex its muscles in the courts – the prominence and impact of feminist campaigns that made the Acts' passing less remarkable than it might have been.[24] In the words of Sir George Campbell MP, 'the "women righters" had been [so] exceedingly energetic [that] the case for the poor married man was hopeless'.[25] However, even as the Acts were unfolding, history was being rewritten and the associated reforms of which they were a part were recategorised as having little to do with men's abuse of power and everything to do with the natural evolution of legal history – for A V Dicey, the extension of equitable rights from the middle class to the working class,[26] and for A R Cleveland the advent of 'modern' notions of women's status:

> Such has been the remarkable change in the position of woman during the last fifty years, that it may be safely said, that no social legislation of any previous age has had such an effect upon society as the laws concerning women passed since the accession of Queen Victoria.[27]

By the mid-twentieth century, any acknowledgement of the feminist stimuli for the Acts had disappeared completely. The Married Women's Property Acts were now presented as by-products of other equality measures: as Otto Kahn-Freund put it, 'in the process of giving to women the legal status which reflected their status in society, English law adopted, *almost by accident*, a regime of 'separation of goods' (our emphasis).[28] These accounts fall somewhat wide of the mark. While it is true that campaigners wanted men and women to be treated equally in respect of property rights, few Victorian feminists believed, and no one seriously argued, that the sexes could be 'equal' in the modern sense. What they sought was removal of the oppressive and unjust laws that gave men power to dominate, exploit and exclude women and to control their property and, through this control (which left women without alternatives), their bodies. They were not fighting for 'equality', but rather for justice.[29]

These accounts illustrate the extent and speed with which traditional legal histories have reframed law reforms benefiting women in ways that manage to exclude the main impetus: feminist

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[24] Mary Lyndon Shanley, *Feminism, Marriage, and the Law in Victorian England 1850-1895* (Princeton University Press, 1989) p 124.

[25] HC Deb, 11 August 1882, vol 273 col 1604.

[26] A V Dicey, *Lectures on the Relations between Law and Public Opinion in England During the Nineteenth Century* (Macmillan, 1930) p 361.

[27] A R Cleveland, *Woman Under the English Law* (Hurst & Blackett, 1896) p 255; See also J H Baker *An Introduction to English Legal History* (Butterworths, 1990, 3rd edn) p 554.

[28] Otto Kahn-Freud 'Injustices and Inconsistencies in the Law of Husband and Wife' (1952) 15 *Modern Law Review* 135.

[29] Rosemary Auchmuty, 'The married women's property acts: Equality was not the issue' in Rosemary Hunter (ed) *Rethinking Equality Projects in Law: Feminist Challenges* (Hart Publishing, 2008) p 13. Of course, by framing first-wave feminism in terms of equality struggles, later generations were encouraged to see it as a failure, because equality was not achieved. Writing off earlier feminists as failures is a classic technique in disarming later ones, forcing every generation to re-invent the wheel.

activism. They also give the impression – indeed, it is remarkable how each generation of legal writing gives this impression – that, with the passing of any given reform, gender equality was achieved, or even that men were losing out. In truth, it would take almost another century to remove the last vestiges of coverture in law,[30] and inequalities in the law's treatment of married women remain.[31]

At other times women's agency is not merely silenced, but explicitly denied. Here is A R Cleveland again:

> It is very questionable whether woman has ever gained any great concessions by direct agitation. If we look back, and note the numerous changes in the laws concerning women, how many of these changes are attributable to women themselves?[32]

Women are thus portrayed as the passive recipients of legal and social change, as subjects rather than initiators of legal reform. We see this too in A H Manchester's explanation of the opening up of the legal profession in the early twentieth century. No mention is made of women's hugely significant organized campaigns in the 50 years preceding admission. Instead change is simply attributed to the dominant trope of social change, this time in the form of a developing legal or professional consciousness:

> After the First World War, and the dramatically changed role which women played during the course of that conflict, society began to take a radically different view of women's proper role in society. In 1919 the Law Society *itself* resolved that women might be admitted to the profession (our emphasis).[33]

This explanation not only suits the self-referential nature of legal reasoning and history but also serves to bolster the illusion of law's timely responsiveness to injustice and the idea that justice is safe in legal men's hands. How better to remove the threat of feminist agitation and deter future attempts by women to secure legal change by their own efforts than by denying previous successes?

These sort of accounts also suggest that the 'deeply patriarchal legal past' is, to use Joanne Conaghan's words, 'no more than a tatty historical legal remnant which occasionally needs tidying up'. She instances the opinions in *R v R* [1991] UKHL 12 that presented the marital exemption from the rape laws as merely 'a distasteful leftover which no one had bothered to clear away', even

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30 See further, Rosemary Auchmuty, '*Williams & Glyn's Bank v Boland* (1980)' in *Women's Legal Landmarks*, n 1, p 357.

31 See, for instance, Sarah Greer, '*Barclay's Bank v O'Brien* (1990)' in *Women's Legal Landmarks*, n 1, p 457; Jonathan Herring, '*White v White* (2000)' in *Women's Legal Landmarks*, n 1, p 505.

32 Cleveland, n 27, p 298.

33 A H Manchester, *Modern Legal History* 1750-1950 (Butterworths, 1980) p 71. Miss Bebb does not have her own entry in the index to A H Manchester's *Modern Legal History,* but *Bebb v Law Society* is mentioned, where she is described as 'the plaintiff spinster' (at p 70). While it is true that Miss Bebb was unmarried at the time, the word 'spinster' connotes a rather different image to the reality of the attractive 23-year-old with a first in law from Oxford.

though its abolition was hugely contentious (and resisted by many men) right up to the date of the decision.[34] And, of course, a final bonus is that later generations will not recognize what is happening: the absence of women and feminists from these accounts only strikes those who want – and know how – to look for it.

What is clear is that 'traditional' legal histories, with their emphasis on public and legal sources and personnel, are not the neutral centre-ground of the discipline, as is so often taken for granted.[35] Rather, they are a way of doing legal history which, by virtue of its purported objectivity no less than its concealed partiality (not to speak of the fact that it represents the interests of the legal ruling class), has maintained its dominance over both scholarly and pedagogic agendas for generations simply by failing to include, or deliberately excluding, any sources or questions deemed within its parameters to be irrelevant. Once we recognize this, we see that feminist legal history, in company with, for example, socio-legal, critical-legal and post-colonial legal approaches, is not simply a niche or marginal sub-discipline, but an integral part of the story that must be told.

III

DOING FEMINIST LEGAL HISTORY

Over 40 years ago, Robert Gordon drew a distinction between the *internal* legal historian, who 'stays as much as possible within the box of distinctive-appearing legal things', and the *external* historian, who 'writes about the interaction between the boxful of legal things and the wider society of which they are a part'[36] – albeit a 'wider society' largely synonymous with men and men's interests. In spite of its reference to 'society', in 1975 the external or critical approach to legal history did not include feminist concerns. Indeed, Gordon's follow-up paper almost decade later – a self-described 'little guidebook' on Critical Legal Histories running to 70-pages – made no mention of the (then) nascent field of 'women's legal history'.[37]

This is not to suggest that no one was interested in the historical relationship between women and law at the time. Among those attending the founding Conference of the Women's Liberation Movement at Oxford in 1970 were historians such as Sheila Rowbotham and Catherine Hall, who recognised the importance of recovering women's history as a tool for understanding their present grievances, and as an inspiration for future struggle. They understood that a group cut off

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[34] Conaghan, n 17, p 113.

[35] See further Andrew Lewis and Michael Lobban (eds) *Law and History* (Current Legal Issues, vol 6 Oxford UP, 2004) p 2.

[36] Robert W Gordon, 'J Willard Hurst and the Common Law Tradition in American Legal Historiography' (1975) 10 *Law and Society Review* 9, 11.

[37] Robert W Gorden, 'Critical Legal Histories' (1984) 36 Stan L R 57.

from its heritage is necessarily disempowered, always starting from the back foot. Rowbotham's *Hidden from History: 300 Years of Women's Oppression and the Fight against It* appeared in 1973,[38] the same year as the first Berkshire Conference on the History of Women took place in the US with the intention of 'making women proper objects of historical study':

> Our goal was to … tell edifying stories whose import went beyond their literal content to reveal some larger truth about human relationships – … about gender and power … we wanted to be recognized as the source of those stories … we wanted all of history as our province; we were not just adding women to an existing body of stories, we wanted to change the way stories would be told.[39]

By the 1980s, the substance – though not yet the discipline – of law was well within feminist historians' purview. In the UK, second-wave feminists were beginning to engage with specifically legal issues which they recognized lay at the heart of women's continuing oppression. Though often not legally trained, and mostly not working within law schools[40] – or even universities – they produced excellent historical work on domestic violence,[41] crime and family law,[42] sexuality,[43] women's suffrage,[44] and marriage and divorce.[45] Some of the most interesting feminist work on British legal history came from the US, where feminist historians offered important analyses of what might be considered paradigmatically women's issues: property, inheritance, family law, and political representation.[46]

Unsurprisingly, law as an academic discipline was slower to embrace the insights of feminist history. While some excellent examples of 'women's legal history' began to emerge out of law schools in the US and Canada in the 1990s,[47] the first women's legal history conference in North

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38 Shelia Rowbotham, Hidden from History: 300 Years of Women's Oppression and the Fight against It (Pluto Press, 3rd edn, 1977).

39 Scott, n 2, p 24.

40 Susan Atkins and Brenda Hoggett, *Women and the Law* (Basil Blackwell, 1984; reprinted IALS, 2019) is a notable exception.

41 eg Anna Clark, *Women's Silence, Men's Violence: Sexual assault in England, 1770-1845* (Pandora, 1987).

42 Carol Smart, *Women, Crime and Criminology: a feminist critique* (Routledge, 1977); *The Ties that Bind: Law, marriage and the reproduction of patriarchal relations* (Routledge, 1984); (ed) *Regulating Motherhood: Historical essays on marriage, motherhood and sexuality* (Routledge, 1992).

43 eg Lucy Bland, *Banishing the Beast: English feminism and sexual morality, 1885-1914* (Penguin, 1995).

44 eg June Purvis, 'Doing Feminist Women's History: Researching the lives of women in the suffragette movement in Edwardian England) in Mary Maynard and June Purvis (eds) *Researching Women's Lives from a Feminist Perspective* (Taylor & Francis, 1994) p 166.

45 eg Carol Dyhouse, *Feminism and the Family in England 1880-1939* (Basil Blackwell, 1989)

46 See, eg, Stetson, n 19; Staves, n 18; Eileen Spring, *Land, Law and Family: Aristocratic Inheritance in England, 1300 to 1800* (University of North Carolina Press, 1993); Susan Kingsley Kent, *Sex and Suffrage in Britain 1860-1914* (Princeton UP, 1987).

47 See, eg, the many fine works of Constance Backhouse, including *Petticoats and Prejudice: Women and law in nineteenth-century Canada* (Women's Press, 1991); *Challenging Times: Women's movements in Canada*

America did not take place until 2000,[48] and the British *Journal of Legal History*, founded in 1979, did not publish an article on women's legal history until 2005.[49] Nevertheless, by the turn of the twenty-first century, scholarship employing feminist legal historical method was beginning to find its way (albeit sporadically) into mainstream legal journals across the Anglophone world.[50] However, while the stories and narratives of women's legal history were beginning to make a gentle ripple on the documentation of the legal past, discussion of the purpose, nature and process of producing this history remained (and still remains) strikingly limited, in contrast to the well-developed field of feminist legal scholarship more generally.[51]

This situation is reflected, perhaps most obviously, in questions concerning nomenclature. Insofar as understandings of 'women', 'sex', and 'gender' are historically and culturally specific,[52] is it possible – or indeed appropriate – to talk about *women's* legal history? And if, in turn, women's legal history is, as US feminist legal historian Felice Batlan describes, not simply about 'the writing of women into the history of law' but also about the production of 'new history and innovative modes of how we imagine, characterize, and locate law, rights, citizenship, the family and the state' which in turn challenge 'traditional meta-narratives of law',[53] then where does this leave its feminist counterpart? Are we not talking about the same thing?

To take each in turn. Without doubt, the use of gender as a category of (historical) analysis is not unproblematic.[54] Binary understandings of gender as simply a 'social construction' along sexually differentiated lines are deeply contested. Rather, gender is better understood as temporally, socially, culturally and political contingent; as Scott puts it as 'a historically and culturally specific attempt … to assign fixed meaning to that which ultimately, cannot be fixed'.[55] Nevertheless, gender remains a useful concept for thinking about relationships of power, including that between men and women[56] as well as across (and intersecting with) class, sexuality, race, geography and other markers

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and the United States (McGill-Queen's UP, 1992); *Colour-Coded: A Legal history of racism in Canada, 1900-1950* (Toronto UP, 1999).

48 At the University of Akron, Ohio, Law School: see Tracy A Thomas & Tracey Jean Boisseau (eds) *Feminist Legal History: Essays on Women and Law* (New York University Press, 2011).

49 Cynthia Neville, 'Women's Charters and Land Ownership in Scotland 1150–1350' (2005) 26 Journal of Legal History 2 as identified in Maria Drakopoulou, 'Feminist Historiography of Law: An exposition and a proposition' in Marcus D Dubber and Christopher Tomlins (eds) *The Oxford Handbook of Legal History* (Oxford UP, 2018) p 605.

50 See, eg, references in n 3.

51 With notable exceptions, see Conaghan, n 17, Chapter 4.

52 See, eg, Denise Riley, *'Am I That Name?' Feminism and the Category of 'Women' in History* (Macmillan, 1988).

53 Felice Batlan, 'Introduction: Making History' (2012) 87 Chic-Kent L Rev 335, 336.

54 Scott, n 2, p 5-11.

55 ibid, p 5.

56 On the role those who reject these gender binaries have also played a role in forming, contesting, constructing feminist legal histories see, eg, discussion of Radclyffe Hall's *The Well of Loneliness'* in Caroline Derry, '*DPP v Johnathan Cape and Leopold Hill* (1928)' in *Women's Legal Landmarks,* n 1, p 205.

of disadvantage. It is possible, we suggest, to approach history through the lens of gender, that is, understanding that 'the world of women is part of the world of men, created in and by it',[57] while at the same time accepting that these categories are unstable and context-specific. Here we adopt Scott's approach to the examination of gender and history in which gender is

> the history of the articulations of the masculine/feminine, male/female distinction whether in terms of bodes, roles or psychological traits. It does not assume the prior existence of the masculine/feminine, male/female distinction, but rather examines the complicated, contradictory and ambivalent way it has emerged in different social and political discourse. Neither does it assume that normative discourses determine the way subjects identify themselves … The categories [of women and men] … no longer precede the analysis but emerge in the course of it.[58]

But has the 'woman' of women's legal history been rehabilitated only to be ousted by its 'feminist' counterpart? Is feminist legal history simply women's legal history rebranded? Certainly, within the academy, women's legal history and feminist legal history share a common and rich source material. While there is a clear distinction between the collection of women's stories and experiences *in law* or *as lawyers* and the 'feminist' or 'women's' academic legal historical endeavour, in many academic situations the choice of label may be strategic rather than dissociative. 'Woman' is perhaps at times a more acceptable term than 'feminist'; the one suggesting (at least to some) 'inclusion and diversity', the other political activism and, perhaps, threat. But in practice, the stories and narratives of women 'in', 'and' and 'of' law – what we might call 'women's legal history' – are the building blocks of *feminist* legal history. It is through these histories that feminist legal history is able to expose and contest 'as instruments of patriarchal power stories that explained the exclusion of women as a fact of nature … the lie of women's passivity, as well as their erasure from the records that constitute collective memory'. [59] It is through these tales that we can counter stereotypes of women, replacing them with versions showing the differences and diversity among real women, and ascribing to them an activist role in contesting legal power.

Moreover, feminist legal history is not just about women – not just because 'men can be feminists too' (an obvious truth, given women's continuing reliance on men to effect legal change) – but because its *political* purpose requires analysis of the relations between men and women in and under law and a study of the power structures that have ensured men's dominance of law across the

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[57] Joan Wallach Scott, 'Gender: A useful category of historical analysis' (1986) 91 Am Hist Rev 1053, 1056.

[58] Scott, n 2, p 21

[59] ibid, 33.

centuries.[60] Women's legal history simply adds women to the story; feminist legal history seeks to *change* it, to contest the 'assumed contours' of the past, contradict the lie of 'women's linear progress from oppression under the law to equality in modern times', [61] and create a new, more complete and more accurate account of the past.

To this end, we identify six substantive and methodological characteristics of feminist legal history. They are:

- Asking the woman question
- Including women's stories, experiences and voices
- (Re-)locating men
- Establishing women as agents, not just subjects of law and law reform
- Avoiding heroine narrives
- Challenging the tale of steady and inevitable progress

i. Asking the woman question

Asking the 'woman' question was probably the most significant contribution of second-wave feminism to the discipline of history.[62] Put simply, it enjoined historians to ask of any event or topic they were researching, 'How did this affect women?' and 'Where were women in all this?' The object was not simply to uncover women's lost history, but to show that, once women were considered, every area of historical research would look different.[63] In so doing, 'asking the woman question' transformed social history. Up to the 1960s, history-writing had been almost completely confined to accounts of public life: politics, wars and lives of famous white men. The private sphere (where, of course, women were mainly located) was not considered worth writing about and, if women's lives were studied at all, it was almost always in the context of their contribution to public life – occasionally as public figures in their own right, more commonly in their relationship to men. Even biographies (and autobiographies) of well-known women tended to downplay their private lives,[64] while the so-called 'social history' of the time consisted of accounts of people's everyday

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60 Indeed, law itself is gendered. Many feminist scholars have explored its role in the construction of gender. See eg Ngaire Naffine and Rosemary J Owens (eds) *Sexing the Subject of Law* (Sweet & Maxwell, 1997).

61 Thomas and Boisseau, n 48, p 1,2.

62 June Purvis, 'Using Primary Sources When Researching Women's History from a Feminist Perspective' (1992) 1 *Women's History Review* 273, 274.

63 See, eg, Sheila Rowbotham, *Hidden from History: 300 years of women's oppression and the fight against it* (Pluto, 1973).

64 eg Richard Findlater, *Lilian Baylis: The Lady of the Old Vic* (Allen Lane, 1975); Elizabeth Lane, *Hear the Other Side: Audi Alteram Partem: The Autobiography of England's First Woman Judge* (Butterworth, 1985).

lives, what they wore and ate and did for work and recreation, rather than an examination of social movements or the social conditions of the non-ruling classes.[65] 'History from below' arrived in the late 1960s, but still the focus was on men and their issues. E P Thompson, its most famous initiator, was subsequently criticised for treating women as mere supporters of their menfolk[66] and ignoring women's activist contributions – as with the Chartist movement[67] – and their different concerns: women's campaigns for equal pay from the 1890s, for example, were opposed by men who, fearing their competition in work and the loss of their full-time services at home, wanted a 'family wage'.[68] 'Women, and in particular the history of work, has been written almost exclusively from the male perspective', observed Julia Swindells in the introduction to one of many first-wave feminist books intended to correct this focus.[69]

What is true for history is even more pertinent for law. 'Asking the woman question' – that is, examining and highlighting 'the gender implications of rules and practices which might otherwise appear to be neutral or objective' – is now a key feminist legal method.[70] Many legal rules, while on their face gender-neutral, can have a different meaning for men and women. Asking the woman question is a key way of revealing this difference and forcing us to consider why it exists and matters. It reveals how gender-neutral laws can change women's lives much more radically than men's, for the better, or (more often) for the worse. Take, for example, disputes over shares in the family home, long resolved by reference to the parties' respective financial contributions to the property. In a society in which women have had markedly less access to money than men, thanks to a range of factors including unequal pay, marriage bars, workplace discrimination and women's more or less obligatory role as unpaid homemakers, this gender-neutral rule put them at an obvious disadvantage.[71] Asking the woman question allows us to see the disproportionate effect that many laws that are presented as entirely neutral may have on women, especially when the many *non*-neutral legal rules (unequal pay, marriage bars, workplace discrimination among them) are ignored.

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[65] eg Marjorie and CHB Quennell, *A History of Everyday Things in England* (4 volumes, Batsford, 1918-38). The books were in print until the late 1960s: Laura Carter, 'The Quennells and the History of Everyday Life in Britain, 1918-1969' (2016) 81 *History Workshop Journal* 106.

[66] E P Thompson, *The Making of the English Working Class* (Gollancz,1963); Iain McCalman, 'Females, Feminism and Free Love in an Early Nineteenth-Century Radical Movement' (1980) 38 *Labour History* 1.

[67] See, eg, Dorothy Thompson, 'Women and Nineteenth-Century Radical Politics' in Juliet Mitchell and Ann Oakley (eds) *The Rights and Wrongs of Women* (Penguin, 1976) p 112.

[68] Jean Gaffin and David Thoms, *Caring and Sharing: The Centenary History of the Co-operative Women's Guild* (Co-operative Union, 1983) p 55-62.

[69] Cited in Ruth and Edmund Frow, *Political Women 1800-1850* (Pluto, 1989) p viii.

[70] Katharine T Bartlett, 'Feminist Legal Methods' (1990) 103 Harv L Rev 829, 837; see also Martha Chamallas, *Introduction to Feminist Legal Theory* (3rd edn Aspen, 2012).

[71] Rosemary Auchmuty, 'The Fiction of Equity' in Susan Scott-Hunt and Hilary Lim (eds) *Feminist Perspectives on Equity and Trusts* (Cavendish, 2001) pp 1-25.

Sometimes, of course, it is not the law itself, but the biased or uninformed approach of courts in their interpretation of the law, that leads to disadvantage for women. While this is most obviously true of many criminal laws, where women often suffer greater opprobrium and penalties than men for the same offence, it also arises in other areas such as the operation of the Human Fertilisation and Embryology Act 1990.[72]

In some situations, however, 'asking the woman question' can reveal the effect of gender-neutral legislation to be more *positive* for women than for men. Consider the Education Act 1944 which, as well as abolishing the marriage bar that forced women to resign their teaching posts on marriage (an example of direct discrimination), hugely improved women's position by providing for free full-time education for both sexes up to the age of 15. The new grammar schools made it possible for many young women to go to university and thus to enter the professions, enhancing their independence immeasurably.[73] Or the Domestic Violence and Matrimonial Proceedings Act 1976 which made it possible for one spouse or cohabitant (usually the woman) to exclude the other (typically the man) from the home he owned in cases where her life was in serious or grave danger,[74] and the Mental Capacity Act 2005, which had particular significance for young women with impaired decision-making for whom sterilisations were commonly sought.[75]

ii. Including women's stories, experiences and voices

Stories and storytelling lie at the heart of the production of law and legal knowledge:[76]

> From the pleader's tales unravelled in Medieval Chancery and equity courts … to contemporary law review releases, stories are part of a legal tradition … [yet] for years, no one called them stories; they called them "truth".[77]

Since time immemorial, the history of the common law has been the history of 'great men' and their ideas – their 'truths'.[78] Judgments today still tend to invoke one of a number of 'stock' legal stories

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[72] See, eg, Smart, *Women, Crime* and Criminology n 47 and *Evan v Amicus Healthcare Ltd* (Commentary: Sally Sheldon; Judgment: Sonia Harris-Short) in Rosemary Hunter, Clare McGlynn and Erika Rackley (eds) *Feminist Judgments: From Theory to Practice* (Hart, 2010) p 59.

[73] See Harriet Samuels, 'Education Act 1944' in *Women's Legal Landmarks*, n 1, p 219.

[74] See Susan Edwards, '*Davis v Johnson* (1978)' in *Women's Legal Landmarks*, n 1, p 341.

[75] See Rosie Harding, 'Mental Capacity Act 2005' in *Women's Legal Landmarks*, n 1, p 533.

[76] See, eg, Richard Delgado, 'Storytelling for Oppositionists and Others: A Plea for Narrative' (1988) 87 Mich L Rev 2411; Richard Delgado, 'Shadowboxing: An Essay on Power' (1992) 77 Cornell L Rev 813; Robin West 'Narrative, responsibility and death' in Robin West, *Narrative, Authority, and Law* (Ann Arbor: University of Michigan Press, 1993) p 419.

[77] Lindsey Martin-Bowen, 'Words from a teller of tales: can storytelling play an effective role in feminist jurisprudence?' (1997) 66 UMKC L Rev 95, 109.

[78] Or, on William Holdsworth's view, the 'labour' of 24 great men: see William Holdsworth, *Some Makers of English Law* (first pub: 1938; reprinted Cambridge UP, 2009). The back cover of the paperback

to reframe the litigants' experiences into recognised legal narratives and excludes ambivalent or complicating detail and other grievances. The effect is to shape the story (and, often, the character of the people concerned) to fit the formal categories of law, many of them not designed to work for women, and allow Counsel to formulate an argument that is selective, or even silent, as to facts, omitting those deemed to be irrelevant.[79] Unsurprisingly feminist legal scholars and others have embraced stories and narrative as 'iconoclastic tool[s] of persuasion for legal and social change',[80] strategically deploying counter-narratives in an attempt to challenge and expose the unacknowledged stories, narratives, myths and symbols that construct the social and legal world.

So too with feminist legal history. It is incumbent upon feminist legal historians to recover and present women's own stories of their encounters with law: to search out women's voices in autobiographical accounts, oral histories,[81] the press,[82] fiction even;[83] to look beyond self-referential legal historical accounts and to immerse ourselves in secondary sources, often written by social historians and biographers, which reconstruct and account for the law in its political and social context, and provide insights into not only what was going on but also, crucially for our purposes, *what it was like* for women then. This is important not simply because it adds women's perspectives, hitherto absent, to the historical account, but because it helps to avoid imposing the understandings of the present on to the past. June Purvis warns:

> For the feminist historian, immersed in feminist debates today, there is the knife-edged decision to be made between using feminist insights to analyse women's lives and avoiding the danger of projecting present ideals and values back in the past.[84]

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reissue reads: 'Sir William Holdsworth's book … shows how English Common Law was shaped by a line of great men'.

[79] For a practical demonstration and rebuttal of this see the many and varied judgments arising out of the feminist judgments projects: eg Rosemary Hunter, Clare McGlynn and Erika Rackley (eds) *Feminist Judgments: From Theory to Practice* (Hart, 2010); Máiréad Enright, Julie McCandleless and Aoife O'Donoghue, *Northern / Irish Feminist Judgments: Judges' Troubles and the Gendered Politics of Identity* (Hart, 2017); Sharon Cowen, Chloë Kennedy and Vanessa Munro, Scottish Feminist Judgments: (Re)Creating Law from the Outside In (Hart, 2019).

[80] Jane B Baron 'The many promises of storytelling in law: an essay review of Narrative and the Legal Discourse: A Reader in Storytelling and the Law' (1991) 23(1) Rutgers L J 79; Steven L Winter 'The cognitive dimension of the agony between legal power and narrative meaning' (1989) 87 Mich L Rev 2225, 2228.

[81] See, eg, Emilie Cloatre and Máiréad Enright, 'On the Perimeter of the Lawful': Enduring Illegality in the Irish Family Planning Movement, 1972-1985' (2017) 44(4) J Law & Soc'y 471; Dawn Watkins, 'Recovering the Lost Human Stories of Law: Finding Mrs Burns' (2013) 7(1) L & H 68.

[82] eg Lois S Bibbings, *Binding Men: Stories about violence and law in late Victorian England* (Routledge, 2014).

[83] Rosemary Auchmuty, 'The Woman Law Student and the Girls' College Novel' (2007) 19 Can J Women & L 37-71; Ian Ward, *Law and the Brontes* (Palgrave, 2012).

[84] Purvis, n 62, p 277.

The fact that legal scholars, unlike historians, have been trained to construct the past in the service of the present leads some contemporary feminists to criticise earlier feminists for 'getting it wrong': as Conaghan explains,

> Not only does this kind of claim often overstate or misrepresent the 'errors' of past feminist scholars, it encourages readings of bodies of scholarship which were the products of particular times, energies and concerns against the times, energies and concerns of later generations. Within this narrative frame, the struggles of historical actors are almost always deemed to have fallen short of the goals and objectives which contemporary scholars attribute to their activities.[85]

Which in turn produces an unjustified assurance that the contemporary approach will get it right: that 'the present cannot fail but to overcome the limitations of the past'.[86] History shows that every era is unique, and the legal historian must be social and political historian too simply in order to try to grasp the context.

iii. (Re-)locating men

If we want a truer picture of context then, we need to put women's experiences back into legal histories. But not only women: feminist legal history also requires us to go back and look at the legal men, and at men's place in women's legal history, as supporters of women's rights, opponents, or passive beneficiaries of the gendered legal regime. Clearly many feminist legal reforms could not have happened without the active assistance of men at every stage. Sometimes this took the form of support for a wife or daughter embarking on a public campaign or career. Miss Bebb, for example, was encouraged by her husband in her aspiration to become a barrister,[87] while the annual income settled on Bodichon by her father, a wealthy Whig social reformer, provided her with the financial independence necessary to pursue her interests, which included the reform of women's education and employment and votes for women, as well as writing the first account of women's position under English Law.[88]

At other times, male support has involved advocacy in the court or Parliament – often (but not only) because women had no place there. Lord Buckmaster, for example, most famous perhaps for being on the wrong side of legal history in *Donoghue v Stevenson* [1932] AC 562, championed women's legal campaigns throughout his career, including the admission of women as solicitors (as

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85 Conaghan, n 17, p 125.

86 ibid.

87 Auchmuty, 'Whatever happened to Miss Bebb?, n 3 p 224.

88 See Joanne Conaghan, 'A Brief Summary of the Most Important Laws Concerning Women, Barbara Leigh Smith Bodichon, 1854' in *Women's Legal Landmarks,* n 1, p 55.

Counsel for Miss Bebb), equal grounds for divorce and married women's property rights (as Lord Chancellor), and the provision of family planning (as a member of the House of Lords and Vice-President of the Malthusian League).

But the purpose of feminist legal history is not simply to identify *what* happened but also to ask *why* it did. Just as it seeks out the stories and experiences of women in law, feminist legal history asks questions of these male allies: what encouraged and facilitated their support for women's causes? Why did they adopt a particular position? Who and where were the women in their public or private life? What, for example, was the influence of their wife, mother, daughter, sister, or 'mistress', as well as women litigants and feminist reformers of their era, and how did these relationships affect their behaviour and achievements? Doing this renders visible the impact of women on the public life of law, even where they had no formal role.

Take the so-called Clitheroe abduction case, reported as *R v Jackson* [1891] 1 QB 671, a *cause celebre* in its day. Edmund Jackson kidnapped his estranged wife Emily Jackson in an attempt to enforce his conjugal rights. Having successfully defended himself against his wife's family's application for a writ of habeas corpus in the High Court, he lost in the Court of Appeal, Lord Halsbury, Lord Esher and Fry LJ declaring that no English subject had the right to imprison another person, wife or not.[89] What the law report does not reveal – but the media reports do – is that also in the crowded courtroom that day, seated to the right of the judges' bench, were three women, including Lady Halsbury and Lady Esher.[90] We cannot know why they chose to be there that day or, indeed, whether their coming to court was a rare occurrence (though we do know that it was not unknown at the time for judges' wives to attend court). But it seems likely, as Lois Bibbings suggests, that their presence was testament to the 'degree of female interest (and interest on the part of upper-class women, in particular) in a case concerned with the way a husband should treat his wife'[91] and the outcome of the case may well therefore have owed at least something to their influence on their husbands.

Feminist legal historians must also take note of situations where men pushed through reforms for reasons that had nothing to do with support for women. The Married Women's Property Acts, as we have seen, succeeded in part because of the legislative desire to fuse law and equity.[92] Divorce law reform has almost always been a response to men's agitation – their desire to rid themselves of unwanted wives – however much it has incidentally benefited (some) women (following the Matrimonial Causes Act 1857, for example, women very quickly formed the majority

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89 *R v Jackson* [1891] 1 QB 671, 681: see Teresa Sutton, '*R v Jackson (1891)*' in *Women's Legal Landmarks* n 1, p 99.

90 Bibbings, n 82, 161.

91 ibid.

92 Dicey, n 26.

of petitioners).[93] The Married Women (Restraint Upon Anticipation) Act 1949 was due partly to the government's wish to enable Lady Mountbatten to clear her debts (and so save the government from having to do so) and partly because the Restraint had become a burden on *men.*[94]

Finally, of course, we must be prepared to describe and examine men's *opposition* to legal rights for women. Forty years ago, Albie Sachs analysed the behaviour of the judges in the so-called 'persons' cases[95] in England and Wales asking

> Why did upper-class men, who prided themselves on their education, fair-mindedness and, above all, their respect for women, behave with such brutality towards women of their own class who sought in dignified manner to exercise public rights?[96]

He concluded that the main reason was the judges' 'habitual and unconscious male arrogance'[97] which, taken in conjunction with their ability to manipulate legal interpretation through their monopoly over law-making, together with their invention of a 'spurious historiography' that justified their finding of 'inveterate usage',[98] 'manifest[ed] a gender bias so striking and so explicit as to contradict totally the idea of judicial impartiality'.[99] Too often historical accounts simply take this kind of behaviour for granted, or explain it away as just typical of powerful men of the era (*men were like that then,* with its accompanying implication that *they are not like that now*). But it still needs to be described and named, if only (as in this case) to expose the contradiction between the partisan attitudes and the declared norm of judicial impartiality that has played a long and continuing role in maintaining women's different treatment in law. In this way feminist legal history helps to explain not only the past but the present, and alerts us to the issues that remain to be tackled in the future.

iv. Establishing women as agents, not just subjects of law and law reform

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93 Russell, n 3. In fact, historically divorce was rarely an unqualified good for women. Unless the law embodies adequate financial provision for ex-wives, in an era when women curtail their paid employment on marriage to be primary homemakers, divorce leaves most ex-wives worse off than men. It took a major campaign by feminists to ensure women received ancillary relief (now provided for in the Divorce Reform Act 1969) (Stetson, n 21, p 204).

94 Rosemary Auchmuty, 'Married Women (Restraint Upon Anticipation) Act, 1949' in *Women's Legal Landmarks,* n 1, p 241.

95 A series of cases in which women sought entry into various public offices on the basis of existing gender-inclusive legislation.

96 Albie Sachs and Joan Hoff Wilson, *Sexism and the Law: A study of male beliefs and judicial bias* (Martin Robertson, 1978) p 6.

97 ibid.

98 ibid, p 44.

99 ibid, p 7, 11.

Institutional histories have for the most part assumed that women only come into the history of law as objects of legal regulation (and often fail to distinguish them from men in that context) until they were permitted to become law-makers themselves in the early twentieth century. This is not the case. Once we uncover women's stories, we discover that women have never been purely subjects or victims of law, even though we often meet them in those roles. From mediaeval times, as Tim Stretton and others have shown,[100] women have engaged with law, as landowners, litigants bringing actions in law and equity, wives resisting the loss of their home or mothers their children,[101] and writing legal texts.[102]

There is plenty of evidence that long before women were formally welcomed at Westminster, they had been Poor Law guardians, school governors, and prospective parliamentary candidates.[103] Similarly, women acted as attorneys (or similar) well before their formal admission to the legal profession in 1919;[104] this was argued by Counsel for Miss Bebb in *Bebb v Law Society* and documented by first-wave feminist historians including Charlotte Carmichael Stopes.[105] We know that women were carrying out legal business in the mid-nineteenth century in firms they set up themselves, often employing men to give official imprimatur but effectively acting as lawyers in all but name. Eliza Orme, for example, started practising as a 'lawyer' in 1875 alongside Mary Richardson, many years before she graduated with a law degree in 1888 – the first woman in England to do so.[106]

And, of course, as Andrew Lewis and Michael Lobban note, 'it must not be forgotten that lawyers are not necessarily the prime movers in the legal process'.[107] Throughout history there are examples of women and women's groups engaging with law and law reform. Often the campaigns have focused on specific issues: equal pay, reproductive freedom, political representation and so on. Some of these are now familiar. It would be hard to write about the origins of the Equal Pay Act

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100 Tim Stretton, *Women Waging Law in Elizabethan England* (Cambridge UP, 1998); Spring, n 46.

101 eg Mary Poovey, 'Covered but not Bound: Caroline Norton and the 1857 Matrimonial Causes Act ' (1988) 14 *Feminist Studies* 467.

102 See eg Conaghan, n 88; Maud Crofts, *Women Under English Law* (NCCL, 1925, reprinted Gale, 2010) Helena Normanton, *Everyday Law for Women* (Nicholson and Watson, 1932).

103 Helen Taylor, eg, became the first woman prospective parliamentary candidate some 35 years before the first women MPs: see Janet Smith, 'First Woman Prospective Parliamentary Candidate, Helen Taylor, 1885 Helen Taylor' in *Women's Legal* Landmarks, n 1, p 77.

104 Indeed, Brehon law had allowed for women brehons (or lawyers) such as Brigh Brugaid (c 50 AD): See Máiréad Enright, '"Involuntary Patriotism": Judges, Women and National Identity on the Island of Island' in Enright, McCandleless and O'Donoghue, n 79, p 27.

105 Charlotte Carmichael Stopes, *British Freewomen: Their Historical Privilege* (Swann Sonnenschein, 1894) p 35ff.

106 Leslie Howsam, 'Eliza Orme (1848-1937)', *Oxford Dictionary of National Biography*. See further Mary Jane Mossman, *The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Professions* (Hart, 2006).

107 Lewis and Lobban, n 35, p 25.

1970 without acknowledging the strike by women workers at the Dagenham Ford Plant,[108] or the success of the campaign in 2018 to repeal 'the 8th Amendment' without identifying the impact and role of feminist activism,[109] or – perhaps most obviously – the extension of the franchise without the suffragettes. At other times, the impact of women's campaigning and advocacy has been more tangential (but no less significant). It was the women who lived in the peace camp at Greenham Common, for example, who not only invented the word 'bender' to describe a tent-like construction made up of sheets of plastic spread over bent branches, but also established that people living in one could vote.[110]

v. Avoiding heroine narratives

A century on, the names of Eliza Orme, Gwyneth Bebb, Helena Normanton, Carrie Morrison and others have gained a measure of recognition thanks to the centenary year celebrations, as feminists attempt to recover the lives of pioneer legal women in order to provide much needed role models for aspiring young women lawyers in a still very masculine profession.[111] A substantial amount of information about these women that had been ignored and was in danger of being lost has now been placed in the public domain, and we are all beneficiaries of it. But pioneer narratives are not without pitfalls.[112] One such is the *heroine trap* found in the stories of inspirational women which have long filled the non-fiction shelves of children's libraries:[113] stories of women 'who didn't set out to be thought of as "great"' but rather who 'follow[ed] their hearts, talents and dreams … [and] didn't listen when people said they couldn't do something';[114] women who succeeded against all odds, and who negotiated – and defeated – patriarchal hostility to make some important

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108 See eg Dawn Watkins, 'Dagenham Car Plant Strike, 1968' in *Women's Legal Landmarks*, n 1, p 291; Glenda Cooper, 'Fifty years after we fought for equal pay, it's really sad that we're still talking about it' *Telegraph* 8 March 2018.

109 See eg Ruth Fletcher '#RepealedThe8th: Translating Travesty, Global Conversation, and the Irish Abortion Referendum' (2018) 26(3) Fem L S 233.

110 *Hipperson and Others v Newbury Electoral Registration Officer* [1985] QB 1060. See further, Elizabeth Woodcraft, 'Greenham Common Women's Peace Camp, 1981–2000' in *Women's Legal Landmarks,* n1, p 366.

111 See further 'Avocating for Change: Transforming the Further of the Legal Proession through Greater Gender Equality' (International Women in Law Report, Findings from International Women's Roundtables (Law Society, June 2019).

112 On feminist legal biography, see further Rosemary Auchmuty and Erika Rackley 'Feminist Legal Biography: A Model for all Legal Life Stories' *forthcoming.*

113 See, eg, Jennie Chappell's turn-of the-century-century tomes *Four Noble Women and their Work* (Partridge, 1898; reprinted Wentworth Press, 2019)*, Noble Work by Noble Women* (Partridge, 1900)*, Women of Worth* (Partridge, 1908)*,* and *Women Who Have Worked and Won* (Partridge, 1904), and, more recently, Kate Pankhurst's 'Fantastically Great Women who Changed the World' (Bloomsbury, 2016) or who 'Made History' (Bloomsbury, 2018) and the crowd-funded *Good Night Stories for Rebel Girls: 100 Tales of Exterordiary Women* edited by Elena Favilli and Francesca Cavallio (Particular Books, 2017).

114 Pankhurst, ibid, 'Changed the World', p 2.

contribution to 'mankind'. Women like Florence Nightingale, Joan of Arc, Frida Kahlo, and Marie Curie.

Feminist efforts to uncover women's lives have led to a situation where, as Rosemary Ann Mitchell warns, 'The attempt to discover and memorialise female worthies became, in many cases, an attempt to put women back, not merely on the historical stage, but into leading roles'.[115] The danger is that if you set out with the intention of casting someone as a heroine or a role model, you are going to craft a life story to suit. As the small print of one collection of *Girls who Changed the World* acknowledges,[116] what you end up with is not that person's life story but a fiction or fairy tale which is almost as ahistorical and untruthful as the old history-without-women of the past. And when you set up pioneering women as role models, you tend not only to diminish the class advantages and social capital that facilitated the success of women like Florence Nightingale, but set up young readers for failure and disappointment when, with fewer advantages and less social capital, their best efforts fail to produce even less ambitious results.

There are many stereotypical narratives for pioneer women, each designed to inspire, but just as likely to produce the opposite effect. As well as the *heroine* and the *role model*, there is the *straightforward narrative of success* – she did this, and this, and this – with never a hint of disappointment or setback. There is the *tale of progress* – she was the first to attain this goal, and it has been upwards and onwards for women ever since. And, worst, there is the *misplaced familiarity*, evidenced by calling women by their first names in a narrative where men are always dignified by their surnames: a custom that second-wave feminists identified as infantilising of women, and one that leads an author to imagine she 'knows' her subject as a friend and shares her very thoughts and feelings. The truth is that, whenever we write about someone else – however much we know (or think we know) about her, however much she has told us directly (through interviews or autobiographies) or indirectly (through diaries and letters, or other people's recollections) – we can never fully understand what her life was like for her or why she did – or didn't do – certain things. We cannot 'know' for certain what our subject thought, or would have thought or how she would have acted on a given issue. Or why she succeeded where others had failed, or whether she did in fact achieve her goal or had to make do with a lesser one. We can only assess the evidence and hypothesise, and present a narrative that is as informed as possible, that recognises the importance of context, relationships and connections, while at the same time acknowledges and embraces incompleteness.

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[115] Rosemary Ann Mitchell, '"The busy daughters of Clio": Women writers of history from 1820 to 1880' (1998) 7 *Women's History Review* 107, 124.

[116] Which notes 'In the profiles in this book, passages of literary narrative based on factual events were imagined by the author in an attempt to draw the reading into the life and perspective of the profiled girl' – Michelle Roehm McCann, *Girls who Changed the World* (Simon & Schuster, 2018) p vi.

These narratives present a further difficulty for feminist legal historians. For every Carrie Morrison, Cornelia Sorabji, or Gwyneth Bebb, there are others who are less familiar or not known at all. Women who came too early, or too late; women like Mary Richardson and Reina Lawrence, who worked as partners with Eliza Orme; the three friends – Nancy Nettlefold, Maud Ingram and Karin Costelloe – who applied alongside Miss Bebb to sit the Law Society exams in 1913; Ivy Williams, the first woman to be called to the English and Welsh Bar but who never practised, preferring to teach at Oxford; Mary Skyes, the second woman to be admitted as a solicitor; Agnes Twiston Hughes, the first woman solicitor in Wales; or Frances Kyle, who was called to the Irish Bar with Averil Deverell in November 1921, a year before Helena Normanton in London.

There is also, in the context of feminist campaigns involving collectives of women and groups such as the Committee for the Promotion of Legal Education for Women, something invidious about singling out of heroines. Though biographers are often tempted to cast their heroine as some how 'exceptional' or blessed among women, as Liz Stanley observes,

> in feminist and cultural political terms, people's lives and behaviours make considerably more sense when they are located through their particular path in a range of overlapping social groups, rather than portrayed as somehow different, marked out all along by the seeds of their later greatness.[117]

By ignoring feminists' situation within a wider movement, at best we risk (often following their lead) downplaying their significant achievements and sacrifices as (partly) consequence of being in the 'right place at the right time' (or some variant thereof).[118] At worst, we ignore and silence the many, many women and supportive men whose names and stories we don't know.

Second-wave feminists rightly refused to name leaders in their campaigns because they recognised how easily individuals might become targets for opponents to pick off. No one knows the names of the founders of the first Rape Crisis Centre in the UK;[119] no individual leader has ever been identified with the Greenham Common movement, for example. Di MacDonald, who joined in 1982, explains:

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[117] Liz Stanley, *The auto/biographical I: The theory and practice of feminist auto/biography* (Manchester UP, 1992) p 9.

[118] As Lady Hale has remarked on a number of occasions: see, eg, 'Personal Testimony of The Honourable Mrs Justice Hale DBE' in Clare McGlynn, *The Woman Lawyer: Making the Difference* (Butterworths, 1998) p 189; Artemis Photiadou, 'Lady Hale: Simply hoping that the women will 'trickle up' has not been good enough' *LSE Blog* (Feb 2018).

[119] Alison Diduck, 'First Rape Crisis Centre, 1976' in *Women's Legal Landmarks*, n 1, p 321.

> we had a saying: "The only stars are in the sky". That made it very difficult for the police and politicians to manage; they needed a leader to talk to, but there wasn't one. They were very frustrated and didn't know how to react.[120]

Historically, this 'picking off' of prominent women by opponents of women's rights, followed by the comprehensive demolition of their reputation, has happened over and over again; indeed, it is a major impetus for our current desire to recover lost heroines. Consider the example of Mary Wollstonecraft, whose radical ideas in *A Vindication of the Rights of Woman* (1792) were dismissed because her refusal to marry her lover and relinquish her legal rights as a single woman was interpreted in Victorian times as immorality. 'So tainted was Mary Wollstonecraft's reputation', Purvis tells us, 'that many later nineteenth-century feminists were careful not to mention her name'.[121]

Instead of crafting heroine narratives, feminist legal historians focus on the questions that really matter. Not just – *what* did she achieve? – but – *how* did she do it? Why her, and not others? Were there others? Why did she take so long to achieve what she did? Why did she achieve so little? Why did she use those tactics? Was she happy with her achievement? Was this really what she set out to do? Do different things matter to women? Did she really mean what she said, or were some of her pronouncements strategic – to win support or acceptance? And, vitally, beyond bland statements of inspiration and role model: does her life *really* have lessons for girls/women today? If so, *how*?

vi. Challenging the tale of steady and inevitable progress

Finally, feminist legal history seeks to resist and debunk the idea that legal history – and women's legal history in particular – is inherently and inexorably progressive. This myth is a feature of most institutional histories and accounts of the development of legal doctrine. Take, for example, *Edwards v A-G, Canada* [1929] AC 124 (the last 'persons' case) which is often treated

> as though it represented the culmination of the smooth and automatic unfolding of an idea. The women were praised for their perseverance, the judges for their adherenece to principle, and society as a whole for its possession of such women and such judges.[122]

Moreover, while no one would argue that there has been no progress in relation to the position of women over the last 100 years or so, feminist legal history reminds us that this progress has been

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120 Suzanne Moore et al, 'How the Greenham Common protestors changed live: "We danced on top of the nuclear silos"' *The Guardian*, 20 March 2017

121 Purvis, n 60, p 283.

122 Albie Sachs and Joan Hoff Wilson, n 96 p 40.

uneven, unequal, and incomplete. Certainly many women in the UK in 2019 have improved access to effective representation, wider employment opportunities, better personal and physical safety, and greater agency and autonomy in respect of their bodies, money, and property, than those of 1919. But this is by no means true of *all* women, nor are such advances guaranteed to endure. Indeed, some victories won in the twentieth century have receded in the twenty-first; there is little doubt, for example, that austerity measures impact more harshly on women, and on some women more harshly than others.

Progress falls unevenly, facilitated or limited by factors such as a person's class, race, sexuality, age, education, geographical location and personal circumstances. Consider, for example, the ability of women living in Northern Ireland to access abortion[123] or of working-class women to escape a violent marriage in the mid-nineteenth century.[124] Indeed, it was only in 2018, 90 years after all women were first able to vote, that those whose safety would be at risk if their name and address appeared on the electoral register, such as survivors of domestic abuse, were able to exercise this right safely.[125]

Women's legal history is thus a complex patchwork of gains and losses, failed attempts, Pyrrhic victories, compromises, and uneasy alliances. Progress is never linear, but ebbs and flows. Too often, gains are followed by a backlash in the form of a limitation, modification, or attempt to overturn the positive change. Feminist legal history requires us to take the long view, to move beyond the steps of the court or royal assent and to ask 'what happened next?'. What we then see is that apparently major legal reforms for women are often largely symbolic victories. The Prohibition of Female Circumcision Act 1985 might be seen to fall into this category: no prosecutions were made under this Act, in part because it was circumvented by taking girls abroad to carry out the practice.[126] Similarly, it took less than six months from the coming into force of the Youth Justice and Criminal Evidence Act 1999 for the House of Lords to 'read down' the restrictions on the use of sexual history evidence contained in section 41.[127] In short, while '[t]here is no denying that truncated rights for women [are] preferable to none at all or that their development promoted

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[123] See further Marie Fox and Sheelagh McGuinness, 'In the Matter of an Application for Judicial Review by the Northern Ireland Human Rights Commission (2015)' in *Women's Legal Landmarks,* n 1 p 619; Anna Cafolla, 'The end to Northern Ireland's abortion ban is a triumph for grassroots activism' *The Guardian* 22 October 2019.

[124] Russell, 'Matrimonial Causes Act 1857', in *Women's Legal Landmarks,* n 1 p 63.

[125] UK Government press release, Anonymous voter registration made easier for domestic abuse survivors, 7 March 2008.

[126] Phyllis Livaha, 'Prohibition of Female Circumcision Act 1985' in *Women's Legal Landmarks*, n 1, p 389.

[127] Sonia Kalsi, 'Section 41 of the Youth Justice and Criminal Evidence Act 1999 in *Women's Legal Landmarks*, n 1, p 489.

tangible, as well as symbolic, improvement in the status of women',[128] it is also true that legal reform is rarely the triumphal end of the story.

Feminist legal history offers a more realistic account of the unfolding pageant of the past. It reveals a tale of two steps forward, one step back, as forces of reaction consistently regroup to return the situation to the status quo, and of advances lost, often more easily than they were gained. It calls out the notion of cumulative legal progress for the myth that it is: one that encourages us to believe that things are getting better all the time; that, if things were unjust in the past, they are not only much better now, but also will continue to get better if we just wait long enough. Consider, for example, the oft-made suggestion that, given time, women will simply 'trickle up' into the upper echelons of whatever elite profession and/or institution is being discussed.[129] Feminist legal history tells that this is, plainly, *wrong*: they haven't and, absent real institutional and cultural change, they won't. The suggestion that they will, moreover, lulls us not only into a false sense of complacency, a feeling of optimism that reason and common sense will eventually prevail, but also into a stupor of inaction. It suggests that nothing that can be – or needs to be – done, when in fact the opposite is true. Feminist history tell us that advances in the position and status of women do not just happen. Rather they are the result of years – often decades – of argument, activism, and renewed activism, largely (though not solely) by women, resisted largely (but not solely) by men.

IV

FEMINIST LEGAL HISTORY AS ACTIVISM

Feminist legal history is a call to arms to anyone who cares about the position of women in law, and society generally. It is a political project. Its purpose is transformative. It looks to the past – building on the insights of women's legal history acknowledging and celebrating the lives, efforts and achievements of individual women and women's organisations and groups – as a means of challenging the injustices of the present and setting the agenda for the future.

In so doing, feminist legal history is not only about hearing women's stories, but about making women visible, freed from the confines of fairy tale and myth having never quite made it into the dominant historical accounts. Whether it is Lady Hale's passing reference to not getting a

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128 Norma Basch, 'The Emerging Legal History of Women in the United States: Property, divorce, and the constitution' (1986) 12 *Signs* 97, 102.

129 Erika Rackley, *Women, Judging and the Judiciary: From Difference to Diversity* (Routledge, 2013) pp 31-36.

particular job,[130] Helena Kennedy's account of the arrival of woman lawyers causing difficulties for the ancient sewerage system at Inner Temple,[131] or the description of Liverpool dockers waiting on the platform for Rose Heilbron to return from London where she had successfully defended three dockers against unlawful strike actions,[132] these stories are not simply about adding colour in order to retain (or recapture) the audience's imagination (though, of course, they may do this). Rather, these tales of rejection, inadequate plumbing, and impromptu guards of honour are revelatory of wider issues and attitudes. It is through these tales that we begin not only to understand their subjects and how they (and women generally) were viewed by their contemporaries, but to make links with the tales of others. After all, as Lady Hale has noted, all women judges have a toilet story.[133] At once familiar and peculiar, these tales act as catalysts connecting the individual women to their past, present and future, *and to ours*. We collate and tell the stories of women's history not only so that they are told, but in recognition of our collective history. Told properly, these stories not only correct accounts of the past, but inform and shape debates of the present and future.[134]

Feminist legal history is also about the pursuit of accuracy and completeness. It does not simply produce alternative interpretations to sit alongside the conventional texts; it is not a niche companion to, or 'perspective on', the objective canon. Instead, it aims to write women (back) into legal history and thus force the discipline to confront the issue of women's long exclusion and marginalisation. Women have always engaged with law but knowledge of their achievements quickly disappears from public awareness. As long as feminist legal history is ghettoised, and its content not incorporated into mainstream historical accounts; as long as the legal curriculum and textbooks ignore history generally, or harness it only in the service of the status quo; as long as everything a woman does is regarded as less important than the actions of men (or entirely unimportant), then the knowledge and understandings that have been uncovered, publicised and become visible in one generation can and will disappear before the next comes along.

This repeated erasure explains why it is so difficult to reconstruct women's contribution to history: not only is information about women hard to find or simply missing, but another version of what has happened has become embedded in the public consciousness, a version in which women's role has been discredited or removed, and men are presented as largely responsible for the progressive improvement in our situation. We need to tell the world how law affected women in different ways from men and about the part that women have played in law. We need to name and

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130 Katie King, 'Female Supreme Court judges from around the world share their darkest moments' *Legal Cheek*, 6 July 2018.

131 Helena Kennedy, *Eve was Framed: Women and British Justice* (Vintage, 2005, 2nd edn) p 46.

132 Rachel Cooke, *Her Brilliant Career: Ten Extraordinary Women of the Fifties* (Virago, 2013) p 282.

133 Lady Hale and Justice Ginsburg, 'The British and United States Legal Systems', Georgetown University Law Center webcast, 24 January 2008.

134 Erika Rackley, 'Judicial Diversity, the Woman Judge and Fairy Tale Endings' (2007) 27(1) L S 74-94.

describe men's role in perpetuating a system that has always worked to favour men and disadvantage women – but also to acknowledge men's occasional help in changing it.

Feminist legal history is thus part historical record, part guidebook. From its pages we learn not only the stories of women's legal history, and of the women and men who made and sometime failed to make history, but also potential strategies of feminist law reform. We learn that law reform is messy, sometimes conflicted, and never simple; unpredictable, usually time- and personality-dependent, and often flawed.[135] We learn of the need for, and effectiveness of, a multi-pronged campaign, combining legislative reform, court cases or piggy-backing on an unrelated measure or issue. We learn that 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, a full 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 exercise it. It took two-thirds of a century to get rid of the double standard, put on a statutory footing in the Matrimonial Causes Act 1857, which allowed a husband to divorce his wife for adultery while requiring that a husband's adultery be compounded by another matrimonial offence. We learn that while 'exceptional' women stand out, they rarely stand alone.[136] Instead they are surrounded and supported by (feminist) networks, professional organisations or campaigns or leading public figures.

Finally, we learn that, while law reform *alone* cannot secure real change in women's lives – it is not a panacea for the many and varied forms of disadvantage, violence and discrimination faced by women from all walks of life, of all ages and backgrounds, it has been – and can be – a tool to advance their cause. In an age of #MeToo, when women are being pursued in the courts for speaking out about sexual violence,[137] when new mothers are having to access food banks to feed their children[138] and girls are missing school for lack of sanitary products,[139] when a disproportionate number of women MPs are stepping down following abuse,[140] it is important to acknowledge, celebrate and emulate the many women and feminists who, standing alongside and on the shoulders of each other, used law as a mechanism for change and justice.

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135 For a discussion of a recent landmark see: Máiréad Enright '"The Enemy of the Good": Reflections on Ireland's New Abortion Legislation' (2018) 8(2) Feminists@Law.

136 Rosemary Hunter and Erika Rackley, 'Lady Hale: A Feminist Towering Judge' *forthcoming*.

137 *Stocker v Stocker* [2019] UKSC 17.

138 Christina O'Neill 'Springburn mums launch new baby food bank to help desperate families' *Glasgow News* 11 November 2019.

139 BBC News, 'Period poverty: Free sanitary products for schools is "huge step"'13 March 2019.

140 Frances Perraudin and Simon Murphy, 'Alarm over number of female MPs stepping down after abuse' *The Guardian*, 31 October 2019.