

Kent Academic Repository

Full text document (pdf)

Citation for published version

Rackley, Erika and Auchmuty, Rosemary (2018) Women's Legal Landmarks: Celebrating Feminist Legal History. University of Reading and University of Kent

DOI

Link to record in KAR

<https://kar.kent.ac.uk/72176/>

Document Version

UNSPECIFIED

Copyright & reuse

Content in the Kent Academic Repository is made available for research purposes. Unless otherwise stated all content is protected by copyright and in the absence of an open licence (eg Creative Commons), permissions for further reuse of content should be sought from the publisher, author or other copyright holder.

Versions of research

The version in the Kent Academic Repository may differ from the final published version.

Users are advised to check <http://kar.kent.ac.uk> for the status of the paper. **Users should always cite the published version of record.**

Enquiries

For any further enquiries regarding the licence status of this document, please contact:

researchsupport@kent.ac.uk

If you believe this document infringes copyright then please contact the KAR admin team with the take-down information provided at <http://kar.kent.ac.uk/contact.html>



WOMEN'S LEGAL LANDMARKS: CELEBRATING FEMINIST LEGAL HISTORY

Erika Rackley and Rosemary Auchmuty

Women's legal history in the UK and Ireland is full of landmarks, turning points in law's response to women's lives and experiences. 2019 marks the centenary of women's formal entry into the legal profession. This was a key legal landmark for women. But it was not the first. Nor was it the last. Feminists have long had recourse to law as a key means of achieving equality. From 'Votes for Women' to #repealthe8th, the East End of London to Greenham Common, whether it has involved Sunday morning kidnappings, cows on Chiswick High Road, marital property, family allowances, tax reform, women bishops or image-based sexual abuse, women, feminists and women-led organisations

have been there campaigning and making the arguments for change.

The Women's Legal Landmarks Project was a unique interdisciplinary collaboration involving feminist scholars engaging in the process of 'landmarking' key legal events, cases and statutes for women in the UK and Ireland. By identifying and celebrating the legal landmarks for women that have been – and continue to be – significant in women's fight for justice and equality, we are able to reflect on how far women have come – and still have to go.

WOMEN'S LEGAL LANDMARKS

c. 940 Cyfraith Hywel (The Laws of Hywel Dda) advanced and recognised the rights of women in medieval Wales.



1854 A Brief Summary of the Most Important Law Concerning Women by Barbara Leigh Smith Bodichon offered a concise, unadulterated account of the main provisions governing the legal status of women.

1918 Representation of the People Act 1918 gave the Parliamentary vote to all men over 21 and women over 30 who met (or whose husband met) minimum property qualifications.



1918 Maternity and Child Welfare Act 1918 introduced arrangements for attending to the health of expectant and nursing mothers, and for children under five years of age, in England and Wales.

1919 Article 7 of the Covenant of the League of Nations stated that its Secretariat would be open to both women and men.

1958 Life Peerages Act 1958 provided for the appointment of women as life peers enabling women to sit in the House of Lords for the first time.

1964 Married Women's Property Act 1964 enabled a wife to share housekeeping money (and any property derived from that money) equally with her husband, allowing married women without independent income to acquire their own money.

1967 Abortion Act 1967 allowed women in England and Wales and Scotland to have a termination in certain defined circumstances.

1975 Sex Discrimination Act 1975 protected women and men from discrimination 'on the grounds of sex' and, in certain instances, marital status.

1976 Opening of the first Rape Crisis Centre

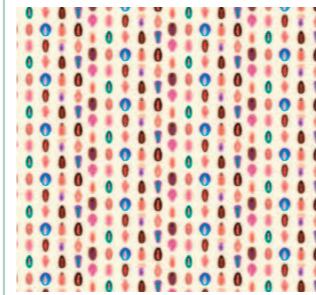


1976 Sexual Offences (Amendment) Act 1976, s 4 provided anonymity for rape complainants.

1977 Housing (Homeless Persons) Act 1977 enabled women to make a direct and legally enforceable claim upon the state when facing a housing crisis.

1985 Prohibition of Female

Circumcision Act 1985 made it a criminal offence to practice, or aid and abet the practice of, FGM, except for specific medical purposes.



1988 Finance Act 1988, s 32 ensured that the income of a woman living with her husband was not treated as his income for income tax purposes.

1995 Fifteenth Amendment of the Constitution Act 1995 removed the ban on divorce from the Irish Constitution.

Grounds for divorce: Under the terms of the Fifteenth Amendment, 1995, a court may grant a decree of divorce in circumstances where:
(i) at the date of the institution of the proceedings, one another for a period of, or periods amounting to, not less than one year, or periods amounting to not less than two years, or periods amounting to not less than three years, or periods amounting to not less than four years, or periods amounting to not less than five years, or periods amounting to not less than six years, or periods amounting to not less than seven years, or periods amounting to not less than eight years, or periods amounting to not less than nine years, or periods amounting to not less than ten years, or periods amounting to not less than eleven years, or periods amounting to not less than twelve years, or periods amounting to not less than thirteen years, or periods amounting to not less than fourteen years, or periods amounting to not less than fifteen years, or periods amounting to not less than sixteen years, or periods amounting to not less than seventeen years, or periods amounting to not less than eighteen years, or periods amounting to not less than nineteen years, or periods amounting to not less than twenty years;
(ii) there is no reasonable prospect of a reconciliation;

1999 Youth Justice and Criminal Evidence Act 1999, s 41 excluded evidence and questions on a complainant's sexual history unless specific requirements were met.

1999 *Islam v Secretary of State for the Home Department; R v Immigration Appeal Tribunal and Another, ex parte Shah* recognised gender as a protected characteristic and women as a particular social group within the meaning of the United Nations Convention Relating to the Status of Refugees (1951).

2005 UK Ratification of the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women (OP-CEDAW).

2009 Policing and Crime Act 2009, s 14 created a strict liability offence in England and Wales to pay for, or promise to pay for, the sexual services of a person who has been coerced, deceived, forced or threatened by a third party into prostitution.

2011 Concluding Observations of the UN Committee against Torture, Recommendation to Ireland Regarding the Magdalene Laundries.



2015 Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 was the first legislation in the United Kingdom to explicitly and specifically address violence against women as opposed to 'domestic violence' generally.



2016 Abusive Behaviour and Sexual Harm (Scotland) Act 2016, s 2 criminalised some forms of image-based sexual abuse.

c. 940

1900

1950

1975

1985

1995

2005

2018

1857 Matrimonial Causes Act 1857 gave women in England and Wales legal standing to use the civil courts to seek a decree of divorce or nullity.

1882 Married Women's Property Act 1882 enabled a married woman to hold, acquire and dispose of her property.

1888 Match Women's Strike at the Bryant and May factory in Bow, East London, advanced women's claims to a fair wage and better conditions of work.



1919 Sex Disqualification (Removal) Act 1919 enabled women to enter the legal profession and to become JPs.



1928 *DPP v Jonathan Cape and Leopold Hill (the Well of Loneliness trial)* marked a high point of the legal and social visibility of lesbianism, with discussion extending beyond the courtroom into daily newspapers.

1944 Education Act 1944 abolished the so-called marriage bar – a practice that had been an obstacle to the employment of married women teachers.

1948 British Nationality Act 1948 allowed a British woman to retain her nationality when she married a foreign man.

1967 National Health Service (Family Planning) Act 1967 enabled women in England and Wales to obtain contraceptive advice and services freely on the NHS, regardless of their marital status or reason.

1968 Dagenham Car Plant Strike was a key step toward the enactment of the Equal Pay Act 1970.



1971 Opening of the first Women's Refuge



1978 *Davis v Johnson* confirmed that a husband's proprietary right to occupy the matrimonial home could be suspended, in the event of his physical abuse of his wife or partner.

1979 Health (Family Planning) Act 1979 legalised the selling and importing of contraceptives, in certain circumstances, in Ireland.

1980 *Williams & Glyn's Bank v Boland* established that wives could have overriding beneficial interests in the family home.

1981-2000 Greenham Common Women's Peace Camp



1990 Criminal Law (Rape)(Amendment) Act 1990, s 5 formally erased a husband's immunity from prosecution for marital rape in Ireland.

1992 *R v Ahluwalia* allowed evidence of 'battered women's syndrome' to support the defences of diminished responsibility and provocation in homicide.

1994 *Webb v EMO Air Cargo (UK) Ltd (No 2)* established that dismissing a pregnant woman was contrary to the Sex Discrimination Act 1975.

2002 Sex Discrimination (Election Candidates) Act 2002 allowed political parties in the UK to use positive discrimination to tackle persistent under-representation of women in Parliament and other elected bodies.

2003 The National Assembly for Wales became the first legislative body in the world to have an equal number of men and women members.



2012 Electoral (Amendment) (Political Funding) Act 2012 introduced a political gender quota in Ireland.



2014 Bishops and Priests (Consecration and Ordination of Women) Measure 2014 enabled women to be consecrated as bishops.



2017 Appointment of the first Woman President of the UK Supreme Court, Brenda Hale.



2018 Thirty-sixth Amendment to the Irish Constitution repealed the '8th Amendment' which imposed near absolute ban on abortion in Ireland.

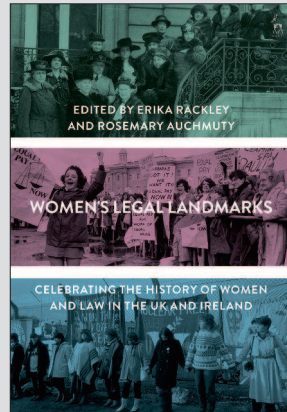


About the Women's Legal Landmarks Project

The Women's Legal Landmarks Project was a unique interdisciplinary 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.

Find out more

Women's Legal Landmarks: Celebrating the History of Women and the Law in the UK and Ireland edited by Erika Rackley and Rosemary Auchmuty is out now.



Or visit our website:
<https://womenslegallandmarks.com>



About the project organisers and editors

Erika Rackley is Professor of Law at Kent Law School and **Rosemary Auchmuty** is Professor of Law at the University of Reading.

Get in touch

Erika Rackley:

e.rackley@kent.ac.uk

Rosemary Auchmuty:

r.auchmuty@reading.ac.uk

Twitter: @womenslegallandmarks

@erikarackley

@RAuchmuty

Acknowledgements

We are grateful for the support of the Society of Legal Scholars, *Social and Legal Studies*, the Leverhulme Trust, the British Academy, the Institute of Advanced Legal Studies, the LSE, and the Universities of Birmingham, Bristol, Durham, Kent and Reading.

Photo credits

- 1 **c. 940: Cyfraith Hywel (The Laws of Hywel Dda)**
Digitised Latin book of the Laws of the Hywel Dda from Llyfrgell Genedlaethol Cymru – The National Library of Wales
(<http://hdl.handle.net/10107/4400109>) licence/version/3/)
- 2 **1888: Match Women's Strike**
Matchgirl Strikers via [Public Domain]
Wikimedia Commons [Public Domain Mark 1.0]
(https://upload.wikimedia.org/wikipedia/commons/3/32/Matchgirl_strikers.PNG)
- 3 **1918: Representation of the People Act 1918**
Representation of the People Act 1918 from the Parliamentary Archives
- 4 **1919: Sex Disqualification (Removal) Act 1919**
Normanton's Collar, c.1920 from the LSE Women's Library Collection
- 5 **1968: Dagenham Car Plant Strike**
Dagenham Car Plant Strike from The Telegraph
(<http://www.telegraph.co.uk/women/womens-politics/11739947/At-last-a-final-victory-for-Dagenham.html>)
- 6 **1971: Opening of the first Women's Refuge**
(<https://www.pexels.com/photo/adult-black-and-white-body-dark-271418/>)
- 7 **1981-2000: Greenham Common Women's Peace Camp**
Greenham from MayDay Rooms
(<http://maydayrooms.org/event/under-the-moon-5/>) [CC BY-NC-SA 4.0]
- 8 **1985: Prohibition of Female Circumcision Act 1985**
Variety of Vaginas by Teysha LeManski (used with permission)
- 9 **1995: Fifteenth Amendment of the Constitution Act 1995**
Grounds for divorce information on divorce referendum creator and copyright belongs to the Houses of the Oireachtas [CC 4.0 International License (<http://www.oireachtas.ie/parliament/about/copyrightand-re-use/>)] disclaimer by the Houses of the Oireachtas applied
- 10 **2003: National Assembly for Wales**
Image DaiPhoto / istockphoto.com
- 11 **2011: Concluding Observations of the UN Committee against Torture, Recommendation to Ireland Regarding the Magdalene Laundries**
Magdalene Laundries photo by Cyril Byrne for the Irish Times
(<https://www.irishtimes.com/news/ireland/irish-news/manifestly-unfair-treatment-of-magdalene-laundries-workers-ombudsman-finds-1.3302709>)
- 12 **2012: Electoral (Amendment) (Political Funding) Act 2012**
Image journal.ie
- 13 **2014: Bishops and Priests (Consecration and Ordination of Women) Measure 2014** Diverse Magazine
- 14 **2017:** Lady Hale, UK Supreme Court (used with permission)
- 15 **2018: Thirty-sixth Amendment to the Irish Constitution** Sinead McEneaney (used with permission)
- 0 **Cover: 'Woman not incubator'** Dublin, Ireland - September 29, 2012: Dublin March for Choice 2012, Young woman holding informational poster during supporting of the legalization of abortion in Ireland.
Image Sebastian Kaczorowski / istockphoto.com