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# The Inconspicuous Impact of Feminist Pressure through Law

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**Abstract:** Law reformers tend to be remembered as those responsible for transforming the law; but for their involvement, the law may not have changed as it has. Yet when evidence of this is not apparent, we might discard as remote campaigns which were in fact very important. These campaigns may have been neither immediately nor directly successful, but had, what I have termed, 'inconspicuous impact'. Inconspicuous impact is an effect upon the law that did ultimately lead to change, but not in a linear or short-term fashion. The effect is inconspicuous because it relates to efforts to change the law that are not typically viewed or credited as having contributed to reform, perhaps because those efforts were initially or ostensibly unsuccessful. The inconspicuousness of impact is especially characteristic of feminist efforts to reform the law through legal channels since historically, feminists have struggled to gain a sympathetic ear among members of the executive or judiciary. This has often left feminist pressure groups outside of formal law-making processes, but they have nevertheless been lawmakers in an indirect sense. This article is about why, and how, we should pay attention to the more subtle ways in which feminists have contributed to law's development. Using examples from the attempts of one feminist pressure group to use law as a tool for change – the Married Women's Association – I identify reasons why impact can be inconspicuous and why this should lead to revisionist accounts of legal history. I argue that this approach compels us to look in different places, widen our intellectual bandwidth, and rethink what constitutes law reform.

**Key words:** law reform; feminist legal history; family law; pressure through law; inconspicuous impact.

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## 1. *Introduction*

I went through my law degree with a sense that women were mostly subjects, not agents, of law. That they had contributed little of value to reforming it. My understanding was that the law was what judges said it was. And, of course, these judges were almost always Lords and Lord Justices. To me, Lady Hale was a sort of unicorn, because she was on the front lines of law reform, both in the Law Commission and later as President of the Supreme Court.

It seemed grim to me that the law was mostly applied and made by men. This appeared especially so in my home country of Northern Ireland. After all, it was only in 2015—6 years after I had completed my law degree—that Justice Keenan and Justice McBride became the first women to be appointed as high court judges in Northern Ireland. To me, law reform certainly did not seem to be a feminist, or even female, accomplishment.

Then, at the very start of my PhD viva, my external examiner Rosemary Auchmuty[1] thrillingly shattered this rather depressing illusion. To quote from her examiner's report:

> [Y]ou could usefully take note of the … feminist activism, which predated the 'Second Wave' but demonstrated that the women's movement never fully disappeared after the granting of the vote. [This is] documented in Dorothy Stetson, *A Woman's Issue: The Politics of Family Law Reform in England*.[2] The book has been routinely ignored by English legal historians because of legal scholars' unfortunate tendency only to read insider legal accounts (i.e. those by English male lawyers, not American female historians). This tends to produce a tale as divorced from context as the judgments in your cases.

Feminists, I discovered, were far from simply being long-term implacable opponents of the law. They were also activists interested in using the law as a means of change.

Of course, whether they succeeded in doing so is another question entirely. Indeed, determining *how* feminist activism has impacted the law is complex, not least because impact is an elusive term. Formal changes in law result directly from precedent, and thus from pronouncements made by judges, or from Law Commission recommendations taken

[1] Who also co-edited *Women's Legal Landmarks* (Hart 2018) with E Rackley: a collection that made the importance of women and the law irrefutable.

[2] D Stetson, *A Woman's Issue: The Politics of Family Law Reform in England* (Greenwood Press 1982).

forward by government, or from political policies translated into Acts of Parliament.

Intentionally or not, we are therefore attuned to a particular narrative of what it means to influence law reform. Law students are trained in the rules of causation and told to look for evidence of direct links between conduct and effect.[3] Textbook accounts tend to portray law reformers as those directly responsible for transforming the law; those for whom we can say but for their involvement, the law would not have changed as it has.[4]

But this is not the whole story. Impact and influence are also informal. This was brought to the fore when the Garrick Club, an almost 200-year-old elite private members club, was pressurized into admitting women in 2024. Sixty members, including several senior judges, had been 'named and shamed' in the *Guardian* and a 2022 petition had called for the Garrick Club to admit women because failing to do so was contributing to the 'gross underrepresentation of women at the top of the legal profession'.[5] When Lady Hale, then a Supreme Court judge, criticized the Club in 2011, she too argued that these networks had a detrimental impact upon judicial diversity.[6] The exclusion of women from such powerful networks mattered. Still, it took more than 12 years following Lady Hale's remarks for change to happen, for as she noted astutely at the time, her colleagues simply did not 'see what all the fuss is about'.[7] While elusive and difficult to pin down, elite male-only spaces can influence law and policy. But when it is not seen as a problem by

[3] Within the context of UK universities, this thinking is channelled further by the Research Excellent Framework (REF), a government-sponsored scheme that assesses the impact of academic work. For analysis of what counts as impact according to the REF, see: J Conaghan, 'Legal Research and the Public Good: The Current Landscape' (2023) 43 Legal Studies 569; L McNamara, 'Understanding Research Impact in Law: The Research Excellence Framework and Engagement with UK Governments' (2018) 29 King's Law Journal 437.

[4] To be clear, this is not a generalization about legal scholarship, within which there are numerous noteworthy challenges to such reductive accounts. See, eg, the book series *Landmark Cases in Law* (Hart).

[5] A Gentleman, 'Judges Didn't See What the Fuss over Garrick Club Was about – They Do Now' *Guardian* (25 March 2024) <https://www.theguardian.com/uk-news/2024/mar/25/judges-didnt-see-what-the-fuss-over-garrick-club-was-about-they-do-now>. The petition can be viewed at <https://www.womenatthegarrickclub.org/>. For more on judicial diversity, see E Rackley, 'A Short History of Judicial Diversity' (2023) 76 Current Legal Problems 265.

[6] L Hodgson, 'Barriers Make "Diversity of Minds" in the Legal Profession Impossible' *The Law Society Gazette* (20 October 2011) <https://www.lawgazette.co.uk/analysis/barriers-make-diversity-of-minds-in-the-legal-profession-impossible/62734.article>.

[7] Gentleman (n 5).

those in power, it can be extremely difficult to achieve direct impact. On the other hand, Lady Hale's observations were important, for they laid the groundwork for future reform. Attitudes did not change in isolation, and this pressure mattered.

If we only have a limited, formal understanding of what it means to influence law reform, we risk discarding as too remote campaigns which were in fact very important. Indeed, so many interventions that may not have been immediately or directly successful, had nonetheless, what I term, 'inconspicuous impact' on law and law reform.

I define inconspicuous impact as an effect upon the law that ultimately leads to change, but not in a linear or short-term fashion. The effect is inconspicuous because it relates to efforts to change the law that are not typically viewed or credited as having contributed to reform, perhaps because those efforts were initially or ostensibly unsuccessful. The inconspicuousness of impact is especially characteristic of feminist efforts to reform the law through legal channels since historically, feminists have struggled to gain a sympathetic ear among members of the executive or judiciary.[8] This has often left feminist pressure groups outside of formal law-making processes, but they have nevertheless been lawmakers in an indirect sense.

Feminists throughout history have never been a monolithic or homogenous group,[9] but in this context, I refer to feminism as a perspective that brings to the fore gendered power, and women's subordination within law. Feminist pressure through law[10] is therefore the collective use of law and legal mechanisms by women and men to dismantle aspects of the law that perpetuate gendered inequality of power.[11]

In this paper, I argue why, and how, we should pay attention to the more subtle ways in which feminists have contributed to law's development. There is a need not only to recognize the inconspicuous impact of feminist pressure groups, but also that inconspicuous impact can be

[8] Stetson (n 2) 215.

[9] R Delmar, 'What is Feminism?' in J Mitchell and A Oakley (eds), *What is Feminism?* (Blackwell 1986).

[10] I refer to this as feminist 'pressure through law' throughout, borrowing Harlow and Rawlings' terminology. They define pressure through law as 'use of law and legal techniques as an instrument for obtaining wider collective objectives': C Harlow and R Rawlings, *Pressure Through Law* (Routledge 1992) 1. See also the literature on 'legal mobilization', which as Abbot and Lee note, refers to 'the use of law in NGO efforts to shape social change': C Abbot and M Lee, *Environmental Groups and Legal Expertise: Shaping the Brexit Process* (UCL Press 2021) 8.

[11] R Auchmuty, 'Feminism and Family Property' in M Briggs and A Hayward (eds), *Research Handbook on Family Property and the Law* (Elgar 2024) 406, 408.

used as a tool to re-evaluate the very mechanisms of law and its reform. I first explore in more depth what inconspicuous impact means, and how it differs from other more visible contributions to law reform. The next part of this paper then reflects upon what inconspicuous impact looks like. I outline five reasons why this impact can be inconspicuous: it often raises the unthinkable, it can be untimely and non-linear, it can arise from failure, and be uncredited, and finally, it is often piecemeal. Through examples of one feminist pressure group's attempts to use law as a tool for change—the Married Women's Association (MWA)—I argue that uncovering inconspicuous impact can lead to revisionist accounts of legal history. For a continued focus upon strictly legal sources creates what Susan Geiger has referred to as a process of disappearance:

> Women's political actions and history are 'disappeared' in a cumulative process whereby successive written accounts reinforce and echo the silence of previous ones.[12]

Where the norm is for women's impact upon law to be washed from gender-neutral law reports, statutes, and government reports, this over time builds into a cumulative tide, whereby feminist contributions are written out of legal history and replaced by dominant, androcentric narratives.[13] Understanding and elevating the enduring importance of such contributions means ensuring that inconspicuous impact counts in our assessment of how law came to be as we know it. As I explore in the last sections of this paper, this compels us to look in different places, to widen our intellectual bandwidth, and to rethink what constitutes law reform, and impact on law reform.

## 2. *What Is Inconspicuous Impact?*

History has always been about excluding people, and *legal* history is no different. As Carol Harlow and Richard Rawlings have put it:

> Like all disciplines, law is selective. Lawyers read cases for specific purposes, deleting from the record information which is not strictly relevant. In this way, much of the context of important and controversial cases is lost to posterity or survives only as ephemeral press reports. As lawyers we

[12] S Geiger, *TANU Women: Gender and Culture in the Making of Tanganyika Nationalism, 1955–1965* (Heinemann 1997) 10.

[13] J Allman, 'The Disappearing of Hannah Kudjoe: Nationalism, Feminism, and the Tyrannies of History' 2009 21 Journal of Women's History 13–35, 15.

> have to remember what the court decided but forget who the characters were and why the case came to court in the first place.[14]

Law that is distilled into principles, rules, and codes tells us little about the experiences of those who are impacted by it and also how it came about. This process of filtering out wider context means that law as practised has a veneer of neutrality.[15] Yet law is inherently political, to the point that academics have long questioned whether law reform is too important to be left to lawyers.[16] In truth, this has never been left to lawyers. It is only those with a narrow mindset about what counts as influence and impact that think this. But the result of this reductive view is that the impact of those beyond the lawyers and policymakers can be rendered invisible, producing accounts of law reform that do not acknowledge all those who have impacted reform.

The extent to which feminists have contributed to law reform is difficult to trace. That is, when an Act is introduced, to what extent can we say that feminist campaigners deserve the credit, and that change would have happened regardless of their efforts? Conclusive evidence that a test case, or lobbying activity, or failed private member's bill moved the needle towards reform is very hard to prove and is perhaps unknowable. This gap in knowing can be acutely uncomfortable for those acclimatized to operating within the boundaries of law's provable certainties.[17] Histories of reform in student textbooks are typically cursory and teleological, providing a misleading impression of the complexities underpinning law's development. It is much easier for textbook accounts of law reform to imply that changes improving the legal status of women have occurred simply as part of a process of modernization.[18] Gathering the evidence to prove otherwise is an inevitably spurious task.

[14] Harlow and Rawlings (n 10) 290.

[15] N Lacey, 'Feminist Legal Theory Beyond Neutrality' (995) 48 Current Legal Problems 1. For more on how statutory and non-statutory reform takes place, see: M Dyson, J Lee, and S Wilson Stark (eds), *Fifty Years of the Law Commissions: The Dynamics of Law Reform* (Hart 2016).

[16] P North, 'Is Law Reform Too Important to Be Left to Lawyers' (1985) 5 Legal Studies 119.

[17] As noted by: D Sugarman, 'From Legal Biography to Legal Life Writing: Broadening Conceptions of Legal History and Socio-legal Scholarship' (2015) 42 Journal of Law and Society 7, 14–15.

[18] R Auchmuty, 'The Married Women's Property Acts: Equality Was Not the Issue' in R Hunter (ed), *Rethinking Equality Projects in Law: Feminist Challenges* (Hart 2008). For analysis of law reform and the language of modernization more broadly, see: J Lee, '"Not Time to Make a Change?" Reviewing the Rhetoric of Law Reform' (2023) 76 Current Legal Problems 129.

How, then, do we determine the impact of feminist pressure through law? This has been attempted by the American historian Dorothy Stetson, whose aforementioned work exposed stories of law's inexorable modernization as myth. She put textbook accounts to the test by measuring the impact of feminist campaigners on family law from 1857 to 1970, using a method that bordered on the scientific. For Stetson, feminist individuals, groups, or their representatives had to be identifiable within pivotal moments when decisions were ultimately taken about whether reform would be taken forward.[19] They had to be present at the time the reform was occurring, whether that was in legislative spaces such as parliamentary committees, administrative spaces such as law reform bodies including the Law Commission, or coalitions of policymakers. Direct participation was key. Then, she assessed the congruence between feminist demands and actual policy. This meant that if feminists' demands were not taken forward, their campaigns did not register on Stetson's barometer of impact.

Using this methodology, Stetson found that English feminists were most active and influential on policies which were defined as equal rights issues, rather than in changing gendered roles for men and women.[20] Furthermore, women were most effective when conflict resolution took place in Parliament rather than in administrative structures, where the government was more likely to have complete control.[21] Therefore the setting in which they asserted feminist pressure through law mattered. Those who realized this were more likely to see their demands being implemented into policy.

Stetson's uncovering of feminist influence upon law was remarkable, not least because so few accounts of family law reform have taken this approach.[22] She broke new ground by having the idea of developing a methodology for tracing feminist impact. As a result, although I argue for an approach that differs from that developed by Stetson to make visible feminist impact through law, I am indebted to her work. I seek not to dismiss it, but to build upon it, and to push for a broader and more nuanced conception of what counts as impact.

Because Stetson focuses upon crucial moments in feminist activism, where demands are reflected in law reform, and where feminists are present in institutional spaces at crucial moments, she is highlighting

[19] Stetson (n 2) 13.
[20] ibid 227.
[21] ibid 51.
[22] Notable exceptions include C Smart, *The Ties That Bind* (Routledge 1984).

conspicuous impact. Even if this impact has been ignored in textbook accounts, it is conspicuous because it fits the mould of what lawyers would consider to be a successful campaign—one that has impacted law reform in a demonstrable and immediate manner.

This is not the type of impact considered in this paper. The reason I focus on inconspicuous impact—in other words, impact that is not credited as having contributed to reform—is to argue for a broader, more contextual understanding of law's evolution. As the feminist campaigner Lena Jeger MP once put it:

> Much of history is a story of elusive, intangible shifts in mores, in changes in public habits and opinions and attitudes which defy analysis … It may be that the successful campaign is successful only when it coincides with the imperceptible tide. But are the imperceptible processes of themselves ever successful in the practical course of progress? Can they ever manage without the campaign? I think not.[23]

Jeger's insight is an important, yet neglected aspect of how we understand law reform. Sometimes, it is necessary to look at the campaigns which were ostensibly unsuccessful to trace how ideas about the law have been shaped and influenced over time. This is especially important when thinking about feminist engagement with the law.

Many feminists have long been ambivalent about the use of law to effect change,[24] because their work has seemed so fruitless when measured according to conventional understandings of success. Indeed, in a century of family law reform, Stetson could uncover only brief moments where reform aligned directly with feminist aims.

But this perspective does not reflect how feminist pressure through law can be inconspicuous. It is often inconspicuous because feminist aims tend not to align with law's non-feminist (and sometimes anti-feminist) agenda. When the aims of the campaign are compared to the reform, the compromise ultimately reached can look quite different from what the group initially sought to achieve. But this does not mean that such campaigns had no bearing on, to borrow Jeger's term, the 'imperceptible tide' of law reform. Indeed, a narrow view of successful intervention in law reform, based upon the Act that passed, and the case that was won, produces an impoverished conception of impact. In the sections that

[23] L Jeger, 'Power in Our Hands' in H Huskins-Hallinan (ed), *In Her Own Right* (Harrap 1968) 148.

[24] See, eg, C Smart, *Feminism and the Power of Law* (Routledge 1989); M Fineman, 'Challenging Law, Establishing Differences: The Future of Feminist Legal Scholarship' (1990) 42 Florida Law Review 25.

follow, I will argue that there are various reasons why our view of success is narrowed, and why some forms of impact, while important, are inconspicuous, and therefore overlooked.

## 3. *Five Reasons Why Impact Can Be Inconspicuous*

As this section seeks to demonstrate, it is not enough to uncover previously overlooked campaigns. Rather, we need to understand why and how we often discount from stories of law reform the work of campaigners to assert pressure through law. And doing this requires diagnosing why so often, efforts to reform the law are inconspicuous. In this section, I suggest five reasons why this may be so: that inconspicuous impact often raises the unthinkable, it can be untimely and non-linear, it can arise from failure, be uncredited, and is often piecemeal. This is demonstrated through examples of my work on the MWA,[25] a group that sought from 1938 to the late 1980s to transform women's status in marriage, so a wife could be the equal of her husband-in-law. The Association was a single-issue pressure group that predominantly used law as an instrument of change, drafting bills and funding cases in court.[26] Far from being credited as having contributed to the shape of family law in the twentieth century, its work has largely been overlooked.

Examples could be drawn from across the history of feminist efforts to assert pressure through law. But in this paper, I am focusing upon the MWA because of its links to family law. This is because family law is an apposite site to trace feminist activism given the impact it has had upon women's rights more generally. Indeed, family law provides a lens through which to consider employment or equality law (equal pay), criminal law (sexual violence), healthcare law (abortion), and more. The work of the MWA can be located at the intersection of all these areas, and so a more universal story about law reform can be extrapolated from the examples in this paper.

Throughout much of the twentieth century, women were married, potentially married, or had formerly been married. Moreover, women's rights inside the family have historically affected their rights outside it

[25] S Thompson, *Quiet Revolutionaries* (Hart 2022).

[26] Several lawyers played leadership roles within the organization, including Helena Normanton and Ambrose Appelbe. The legal support structure this would have provided is considered to be strategically significant by experts on social movements: C Epp, *The Rights Revolution: Lawyers, Activists, and Supreme Courts in Comparative Perspective* (University of Chicago Press 1998).

too.[27] One example of this is the family wage, whereby men—single or married—were paid an inflated wage because they were expected to support the family as breadwinners. Since this was not expected of women, they were paid much less. In some professions, being married would mean they would not have a job at all, since they were fired. And so, the fight for equal pay needed to rail against a deeply entrenched idea that women simply did not need as much money as men.

Asserting that women did not need money as men did was to ignore the practical and social realities of women's poverty. Even though women tended to be responsible for managing the household expenses, the money used to purchase groceries, furniture, clothes, and everything necessary for family life in law belonged to the husband if that money came from his income.[28] Women were administrators without legal power, and with no right or recourse to know the details of their husbands' earnings. An everyday reality for deserted wives was financial destitution.

This motivated the campaigns of the MWA, to focus upon married women's property rights during the marriage and on relationship breakdown. Homing in on reforming these matters showed a commitment to elevating women's financial and legal status more broadly, since the consequences of separation and desertion left so many women destitute throughout the 1940s, 1950s, and 1960s, when the group was most active.

But as this section will discuss further, reform through legal methods can be fraught with difficulty when that reform is not only about the redistribution of property, but *feminist* redistribution of property. The MWA was told repeatedly that the legal rules they sought to change were neutral and fair, yet through their campaigns they exposed law's gendered assumptions about the roles of husband and wife.[29] In so doing, their impact was inconspicuous, because their campaigns often floundered, or did not lead directly to change, but nevertheless highlighted inequalities within marriage that were harnessed in later decades, producing reform that was transformative.

[27] Stetson (n 2) 3–4.
[28] H Land, 'The Family Wage' (1980) 6 Feminist Review 55.
[29] Thompson (n 25) 98–105.

## A. *Inconspicuous Impact Often Raises the Unthinkable*

Throughout history, feminist campaigns to reform the law have been rejected by Lord Chancellors, MPs, and successive governments because the demand is viewed as too controversial, or even outrageous. Or more simply, it is often because the demand is not seen as a problem in the first place. When these ideas are dismissed, they are not viewed as having influenced reform, and so pragmatic approaches to reform are often considered to be more effective. Yet demands that were unthinkable to those in power at the time can nevertheless be impactful, laying the groundwork for more subtle shifts over time.

One such example was the MWA's calls for married women to have a legal right to know about and share in their partner's income. In 1939, the MWA's first president, Edith Summerskill MP, was met with ridicule and impudence when raising the issue in parliament:

> I remember asking the Prime Minister a question in this House showing that in the household where she is not getting a fair share of the family income, and where she feels that she cannot feed her children properly, the wife should have the right to know what her husband earns in order that she could establish a legal right to a share of the family income. The Prime Minister treated the matter with the utmost flippancy and the House roared with laughter.[30]

When judges or government officials decide that feminist campaigns are controversial, this is generally a good sign that they are unlikely to be taken forward. But the controversial campaign that does not fit with the government's reform agenda can nevertheless have inconspicuous impact on law reform.

'Wages for Wives' was a provocative, radical demand made by the MWA in the early days of the group. A simple, eye-catching, and controversial idea, it asserted that a housewife's labour should be valued literally under the law and for her to be paid a wage by her husband. She would be able to negotiate payment for her domestic and caregiving labour, and instead of receiving a housekeeping allowance from her husband—which at that time she would have no proprietary right in[31]—she would instead receive money as a worker.

Calls for a housewife's wage were subversive and disruptive. This was especially so in the context of the late 30s and early 40s because they tore

[30] HC Deb 24 October 1939, vol 352, col 1260.
[31] Reformed by the Married Women's Property Act 1964.

down the divide between the public sphere of employment and the private sphere of the family home, to demand recognition of the housewife like any other worker. If housework were recognized as work that was valuable and skilled, it was possible that housewives would have greater strength and bargaining power in marriage.

The concept of wages for wives was absorbed into different factions of the MWA in two ways. One faction promulgated a policy of 'agreed allocation', whereby wives would negotiate a wage with their husbands in exchange for their domestic labour. This was led by Helena Normanton—the first woman to practise as a barrister and one of the Association's Presidents—but was challenged by several leading members of the group, who argued the policy was patronizing and akin to wives receiving 'pocket money'. For them, 'wages for wives' could lead to the valuation of women's work in new ways, but the slogan was overly simplistic.[32] Instead, a new marriage law was necessary, which gave wives a legal entitlement to share in the fruits of the marriage, in recognition of marriage as an equal partnership. While the house and everything in it often belonged to the husband in law, because he bought it, the Association believed that this strict separation of property did not accurately represent the entangled, interdependent ways in which spouses used and managed property and finances. Put simply, valuing women's work meant joint legal ownership of the family finances. And so, the translation of wages for wives into practical demands for law reform was controversial even within the MWA.

The attempts of both factions to assert pressure through law were rejected outright by policymakers and legislators time and time again. Helena Normanton's demand for wages or 'allowance' for wives was submitted as a memorandum to Royal Commission on Marriage and Divorce and was rejected unanimously in its 1956 report.[33] The government subsequently refused to consider the proposal, and MPs did not want to sponsor a Bill put forward by breakaway MWA members seeking to make the 'allowances for wives' model law.[34]

But the MWA's other attempts to furnish married women, if not with a wage, at least rights to property in marriage, were also met with horror. In 1943, Edith Summerskill asked the government whether they were prepared to amend the law to give wives a right to share in the

[32] Anon, 'Not Properly Understood: Mrs Normanton Defends Her Report' *Beckenham Advertiser* (13 March 1952) 5MWA/2/1, TWL.
[33] ibid.
[34] This is detailed in Thompson (n 26) 150–55.

family income.[35] This was deemed to be 'novel and dangerous' by Claud Schuster, who was Permanent Secretary to the Lord Chancellor's Office and hugely influential in the direction of policy at this time.[36] The Association's Bill for equal partnership in marriage, which encapsulated their demands for joint ownership of property during marriage, failed to gain any traction in the 1940s and 1950s. Finally, in 1981, it was again rejected by the Lord Chancellor on behalf of Prime Minister Margaret Thatcher. The proposal was considered to 'provoke strong opposition' and 'would be regarded by many as an unjustifiable interference in the family relationship'.[37] There was no chance of the Bill for equal partnership in marriage being taken forward by the government.

Clearly, therefore, the idea of wages for wives—whether literally, or in the sense of domestic labour generating entitlement to marital assets—was much too radical to influence law reform in a direct sense. It was never taken seriously by those in power. But the idea was influential in a more inconspicuous way, *because* it was controversial. Insisting that women's work in the home had economic value transgressed the boundaries of the public/private divide. Demanding 'hard cash' for housewives[38] would have revolutionized the management and ownership of capital during marriage, while giving economic power to otherwise disempowered married women.[39]

The impact of this demand is difficult to measure, but it is significant that members of the Association were encouraging others to think about women's work in new ways. Housework was not a woman's duty, to be exchanged in return for a wedding ring; it was real work. The housewife was not an invisible and unemployed citizen, she was a member of the working population deserving of recognition by the labour movement. Her work was highly skilled, arduous and had social value.[40] To assert this more strongly, the group attempted to set up a trade union for housewives. This so-called 'Housewives Union' failed to obtain trade

[35] MWA Annual Report 1944, 7TBG/1/32, TWL.

[36] Memo from Claud Schuster, May 1943, LC02/2777, TNA.

[37] Thompson (n 26) 102.

[38] Juanita Frances quoted in a leaflet by the Humanist lobby, as cited in BH Lee, *Divorce Law Reform in England* (Peter Owen 1974) 201.

[39] This would have been the case for both middle and working-class women. While working-class women also worked outside the home, their subordination was maintained by a combination of limited options in a low-waged service economy alongside the relegation of their work in the home to the private sphere, outside economic and political discourses.

[40] C Blackford, 'Ideas, Structures and Practices of Feminism 1939–64' (PhD thesis, University of East London 1996) 90–93.

union (TUC) recognition several times. Even so, as an unofficial union, housewives in a legally precarious position with potentially insufficient funds to meet the needs of the family could connect with others in a similar position requiring help and support.

As a result, this new way of thinking about domestic work had inconspicuous impact because it changed how women sought to use and challenge the law for their own benefit. Constance Colwill, an academic lawyer who was one of the first female barristers and was a legal adviser to the MWA in court, argued that the Housewives' Union bolstered the legal recognition of housewives. If women could be encouraged to view themselves as joint treasurers and equal partners of the family income, they could effect change, for, in being aware of the legal ramifications of marriage, married women would be better equipped to challenge it.[41] From this perspective, feminist pressure through law can be a form of protest. As former suffragette and Vice President of the MWA Teresa Billington-Greig put it:

> Wages for wives was the first slogan [of the MWA], coined or publicised by the Press and much disliked by an increasing number of [MWA] supporters. Personally, I think it did more good than harm! It emphasised that in a world full of wage-workers there was one enormous section of workers who got no wages at all – the taken for granted habit became a matter for question.[42]

In Dorothy Stetson's conceptualization of impact, she matched feminist demands with the policy or statute that was ultimately enacted. By this metric, controversial feminist proposals often do not impact the law. Demands for wages for wives, or a new marriage law, were likely to fail because they were provocative and so had no hope of government support.[43] Indeed, MWA proposals were dismissed unreservedly as 'dangerous', impractical, and paternalistic.[44] Yet paradoxically, ideas considered to be controversial or unthinkable can also produce more visible, effective propaganda than proposals more palatable to reformers. Prudent reform can be narrowly constrained in the issues it addresses. To be uncontroversial in the 1940s, reform would have had to avoid

[41] C Colwill, 'Advantages of Housewives Trade Union' MWA Newsletter, November 1942, 7TBG/1/32, TWL.

[42] Teresa Billington-Greig handwritten notes, undated, 7TBG/2/J08, TWL.

[43] Cf the work of Hilson, who explores strategies used by groups considered to be confrontational and counter cultural: C Hilson, 'New Social Movements: The Role of Legal Opportunity' (2002) 9 Journal of European Public Policy 238.

[44] (n 37).

court interference in what has been designated the private sphere—inside the family home. Just because a demand is unthinkable when it is made does not stop it from creating change in more subtle, indirect ways. Identifying this impact simply requires changing the lens through which we identify influences upon law and policy.

### B. *Inconspicuous Impact Can Be Untimely and Non-linear*

Tracing the impact of feminist pressure through law also requires taking a zoomed-out view of legal development, instead of focusing upon whether the campaign was successful in impacting law at that moment in time. Exploring feminist impact across time contrasts with the temporality imposed upon feminist campaigners and the women's movement by historically misleading descriptions such as 'First Wave', 'Second Wave', and 'first'. For instance, Caroline Derry has observed that labelling women as firsts 'imposes a particular temporality upon its subject: they are frozen in an instant, the moment at which they are the 'first' to do something'.[45] This narrative contributes to women's arrested development, obscuring and ignoring 'difficult histories and potential futures'.[46] Focusing upon the moment in which that woman was the first to do that thing—whether this is sitting in parliament, representing a client in court, being awarded a university degree—isolates her within that moment, neglecting what Derry refers to as 'the often-miserable aftermath'.[47]

Indeed, the familiar metaphor of feminist 'waves' has powerfully obscured histories of women's attempts to reform the law. The Second Wave activities of feminists in the 1960s and 1970s are labelled as such to credit the influence of those First Wave suffragettes. Yet this problematically undermines the significance of the work done before the so-called First Wave—particularly throughout the nineteenth century—and after. As Joyce Freeguard notes:

> When looking at their history, Second Wave Feminists did not think that women of the 1950s fought against gender inequality. Instead they search for their history in large-scale movements, in particular the suffragettes.

[45] C Derry, 'Beyond Firsts: Feminist Biography and Early Women Barristers' in Victoria Barnes, Nora Honkala, and Sally Wheeler (eds), *Women, Their Lives, and the Law: Essays in Honour of Rosemary Auchmuty* (Hart Publishing 2023) 43, 47.

[46] ibid.

[47] Derry (n 46) 49. See also E Grabham, *Brewing Legal Times* (University of Toronto Press 2016).

> They could see no such movement in the 1950s – or indeed in the 1920s, 1930s or 1940s.[48]

The 1940s and 1950s have often been characterized as a period of unabated decline for the women's movement.[49] Historian Sheila Rowbotham, who grew up in the 1950s, describes women then as 'creatures sunk' into 'very deadening circumstances' from which she was 'determined to escape'.[50] To Rowbotham it seemed there was a 'political feminist hiatus'. But the work of the MWA is one notable challenge to this view of the women's movement.[51]

The group's early policy of wages for wives, and later campaigns for women's work to generate economic value in the family assets, is seldom connected—and often disassociated from—feminists of the Second Wave. Yet in the 1970s, the concept of wages for housework re-emerged as a key demand of the Women's Liberation Movement. This was considered 'new and revolutionary' at the time even though it had been campaigned for by the MWA in the early 1940s, and the concept even featured in earlier campaigns from the nineteenth century.[52] While the underpinning feminist ideology differed across time,[53] the disconnect between the Second Wave and the work of post-war feminist groups shows how categorization within feminist history can contribute to the relative invisibility of the MWA, and the inconspicuousness of their work.

Moreover, historians have long expressed ambivalence about the utility of categorization. For instance, Russell Sandberg has observed that

[48] J Freeguard, 'It's Time for Women of the 1950s to Stand Up and Be Counted' (PhD thesis, University of Sussex 2004) 192.

[49] C Beaumont, 'The Women's Movement, Politics and Citizenship 1918–1950s' in I Zweiniger-Bargielowska (ed), *Women in Twentieth-Century Britain* (Routledge 2001) 273–74.

[50] S Rowbotham, *Woman's Consciousness, Man's World* (Pelican 1973) 3.

[51] See also work of historians such as: D Spender, *There's Always Been a Women's Movement This Century* (Harper Collins 1983); B Caine, *English Feminism 1780–1980* (Oxford University Press 1997); Caitriona Beaumont, 'What *Do* Women Want? Housewives' Associations, Activism and Changing Representations of Women in the 1950s' (2017) 26 Women's History Review 147.

[52] C Perkins Gilman, *A Study of the Economic Relation Between Men and Women as a Factor in Social Evolution* (Small, Maynard, & Company, Boston 1898) 14.

[53] Wages for Housework campaigns of the 1970s demanded wages from the state. They emphasized the reliance of capitalism upon the domestic sphere and adopted an anti-work stance, suggesting those responsible for reproductive labour—housewives—could and should exercise power in refusing to do this work. Earlier wages for wives campaigns were not rooted in Marxist ideology and wages were to be paid by husbands, not the state. See E Callaci, *Wages for Housework: The Story of a Movement, an Idea, a Promise* (Allen Lane 2025).

periodization can simplify and consolidate, preventing 'the whole of history happening at once' yet can also be reductionist.[54] Through the process of simplifying, the complicated, often messy aspects of campaigning and influences upon reform are diminished. This can mean the origins of ideas that ultimately influenced the law are inaccurately attributed to those directly responsible for reform, or to those who most recently verbalized those ideas. Indeed, feminist demands to reform the law are often influenced by historical campaigns, and the continuity of demands to reform the law can only be traced properly by recognizing the inconspicuous impact of so many overlooked activist efforts.

As well as making visible the continuity of feminist networks, emphasizing the untimeliness of feminist work enables us to look differently at the strategies used to effect change.[55] This not only uncovers the legal pragmatism employed by feminists over time, but also highlights the conservative and increasingly neoliberal forces constraining feminist efforts to reform the law today. Thus, recognizing these forces and embracing the untimeliness of ideas can lay bare new possibilities for overcoming the impasse feminists have faced historically when attempting to reform the law.[56]

The ideas of the MWA were certainly untimely in their impact. Their calls to extend married women's property rights to reflect marriage as an equal legal and economic partnership were consistently rejected. Even female MPs such as Jean Mann, who was sympathetic to the plight of deserted wives, considered the MWA proposals as inviting unwarranted legal intrusion into private family life, as the Association reported: 'She would not consider any legislation which would encourage more snoopers in homes, nor would she consent to a law which would make a gainfully employed wife the victim of a possibly shiftless and dissolute husband'.[57]

Mann's perspective fails to appreciate the potential of the MWA demands. Their proposals were not aimed at controlling how spouses manage their assets; it was an attempt to codify the idea that women should know what their husbands earn, have a say in how the income they help generate is spent, and have a legal right in their own family home. This idea eventually *was* considered seriously by the Law

[54] R Sandberg, *Subversive Legal History* (Routledge 2021) 111.

[55] K McNeilly, 'Are Rights Out of Time? International Human Rights Law, Temporality, and Radical Social Change' (2019) 28 Social and Legal Studies 817.

[56] ibid.

[57] Deputation to House of Commons, *Wife and Citizen*, February 1949, 7TBG/1/32, TWL.

Commission in 1988,[58] in a report that came about as a direct consequence of one of the MWA's only legislative successes.[59] The MWA's influence was seen in the Law Commission's report proposing new rules governing property ownership during marriage, including automatic co-ownership of some assets, although this report did not culminate in reform. That this report was published almost 50 years after the MWA was formed helps to explain why the impact of their work has largely gone unnoticed.

Aspects of the MWA's new marriage law also re-emerged alongside debates about financial provision for married women in the late 1960s and early 1970s. While the group's proposals might have been radical in the 1940s, by the 1970s they were a viable option, when the question of married women's property rights was brought to the surface alongside reform of divorce. Discussions over the MWA's policy of joint ownership of the home influenced MP Edward Bishop before he introduced the Matrimonial Property Bill in 1969, and his Bill was inspired by the group's proposed new marriage law.[60] This Bill was important because it played a key role in pushing the government towards agreeing to reform the financial consequences of divorce in 1970. And the spirit of equal partnership continues to be significant to debates about financial remedies law today. Despite a different social context, there is still a gulf in financial outcomes for spouses on divorce which is divided on gender lines. And statistics show that women are still left significantly poorer than men when their marriage has broken down, with mothers more likely to make career sacrifices than fathers.[61] Modern marriage continues to have echoes of the past. Legal historians have a role in recognizing this, and in re-evaluating the past, to uncover the continuing importance of decades-old feminist attempts to assert pressure through law.

In short, the nature of impact can change over time, and historical efforts to reform the law should not be relegated to an obscure corner of legal history. Thus, to recognize inconspicuous impact, we must not isolate feminist campaigns within the time they were active. For as we will see next, even in their failure, their influence can be important.

[58] Law Commission, *Family Law: Matrimonial Property* (Law Com No 175, 1988).
[59] Specifically, the Married Women's Property Act 1964, considered in the next section.
[60] Thompson (n 26) 196.
[61] H Fisher and H Low, 'Recovery from Divorce: Comparing High and Low Income Couples' (2016) 30 International Journal of Law, Policy and the Family 338.

## C. *Inconspicuous Impact Can Arise from Failure*

It is often said that success has many fathers, but that failure is an orphan. In the context of feminist reform efforts, success certainly has many mothers, as behind legal landmarks improving women's status there has always been a history of communal and coordinated action. But failure has its own power. When Mrs Dorothy Blackwell lost her case against her husband, which was funded and supported by the MWA, it was of course an ostensible failure. Yet it became one of the MWA's richest sources of propaganda. For a failed case does not always point to flaws in the campaign; rather, it can expose flaws in the very fabric of the law. Thus, the inconspicuous impact of Dorothy Blackwell's case is an example of collective action that, decades later, led to legislative reform.[62]

When Dorothy Blackwell left her husband, he took her to court for her entire savings of approximately £103. He claimed this money legally belonged to him, because it comprised of savings from housekeeping money that he had given his wife to buy groceries and other household goods. The source of the money was contested. Dorothy Blackwell had worked hard to help pay off the mortgage, taking in lodgers and selling crocheted goods. But ultimately, the house she hosted lodgers in belonged to her husband, and the materials she used to crochet with might have been bought with housekeeping money too. She owned nothing, and when her husband took her to court, the judge ordered her to hand over all the money she had saved.

This was because of the doctrine of separate property, a hard-won right which had been brought in by the Married Women's Property Acts (MWPA) of 1870 and 1882, meant that a wife could own and dispose of property as if she were single. But when strictly enforced, this doctrine failed to reflect the economic reality that spouses often shared property. Since the work done by women in the home was unpaid, separate property did little to address the economic position of housewives who were not employed outside the home. And ultimately, in the mid-twentieth century, wives were often left with very little property indeed. In taking

[62] Indeed, recent decades have seen a proliferation in the literature on strategic litigation and more broadly, the role of interest groups in law-making: Abbot and Lee (n 11) 28; L Vanhala, 'Anti-Discrimination Policy Actors and Their Use of Litigation Strategies: The Influence of Identity Politics' (2009) 16 Journal of European Public Policy 738; L Vanhala, 'Is Legal Mobilization for the Birds? Legal Opportunity Structures and Environmental Nongovernmental Organizations in the United Kingdom, France, Finland, and Italy' (2018) 51 Comparative Political Studies 380.

on Dorothy Blackwell's case, the MWA had a concrete example of how the law was letting women down in the 1940s.

The MWA was unsuccessful in using this case to change the law from inside the courtroom. The judge made this abundantly clear in his response to Dorothy Blackwell's counsel: 'You haven't got a leg to stand on … If you want the law altered you must get Parliament to do it'.[63] In some ways, this response must have been unsurprising. After all, housework was not valued in law. But as the MWA's activism and the public's reaction after the case made clear, there was a yawning gulf between law and married couples' *perceptions* of the law.[64] Strictly marking out marital property as 'his' and 'hers' was at odds with the expectations of spouses at the time. Furthermore, judges' insistence in adhering to these strict property laws operated against the person without the property—the housewife.

Outside the courtroom, and on the ground, Dorothy Blackwell's case had much more significance for family law reform. Her story embodied many of the inequalities between husband and wife that the MWA sought to expose, so could be used to garner sympathy for the economic vulnerability of housewives more generally. The MWA also helped make visible the experiences of Dorothy Blackwell and other subjugated women: 'Let us go forward determined that the voice of married women will be heard more fully in local, National and International Councils, as well as in the home'.[65]

By making Dorothy Blackwell the relatable face of the MWA's reform campaign, the group could effectively translate a collective sense of discontentment into support for its policies. The power of her individual story helped launch a campaign calling for the MWPA 1882 to be amended so that married women could have a legal right in housekeeping money. This culminated in the Married Women's Property Act 1964, which gave wives a half-share in money or property derived from housekeeping allowance. Significantly, this Act was the first time such work could be legally recognized as having economic value. But the feminist activism behind this reform is not acknowledged in contemporary accounts of the Act. The impetus behind the 1964 Act is linked instead to the Report of the Royal Commission on Marriage and Divorce in

[63] Anon, 'Judges Tell Wives Rights of Husbands' Daily Mirror (29 October 1943) 5.
[64] PD Cummins, 'Mrs Blackwell and Mrs 1964' Catholic Citizen (15 June 1964) 46, 5MWA/1/3/1, TWL.
[65] MWA Annual Report 1944, 7TBG/1/32, TWL.

1956 with no mention of the MWA, even though the Association had provided crucial evidence on the matter to the Royal Commission.[66]

Thus, it is hardly surprising that the impact of Dorothy Blackwell's case is unacknowledged too. Not only did she lose her case in court, but it also took more than 20 years for the campaign her circumstances inspired to change the law. To recognize the inconspicuous impact of her case and the MWA's connected campaign, we must alter our view of what counts as law reform, what counts as success, and *why* a case was lost. An argument ineffectively prosecuted in the courtroom may not be redundant, but may instead be constrained by precedent, and the parameters of existing legislation. It may be that argument illuminates the shortcomings of the law. And perhaps it is that failed case, more than the successful one, that highlights the need for legislative change.

Recognizing the impact of ostensibly fruitless reform efforts also means going beyond treating the activities of feminist networks—successful or not—as isolated endeavours. One way of doing so is to broaden the lens through which we research cases used to assert pressure for reform. Instead of focusing only upon the precedent-making cases, and the judgments as contained within law reports, looking at a wide range of sources, including newspaper reports, can provide a different perspective on the story of a case and its actors.

Much of Dorothy Blackwell's story is excluded from the case report.[67] Not only does the one-page judgment omit important contextual details about how she amassed her savings, and the reasoning of the appellate judges when deciding in favour of the husband ('if women were permitted to save out of their housekeeping allowance, and then keep the proceeds, women would be tempted to give their husbands tinned meat rather than roast meat')[68] but the case's connection to the MWA's campaign to reform the law is made invisible.

## D. *Inconspicuous Impact Can Be Uncredited*

Of all the possible explanations for the impact of feminist networks' pressure through law going unnoticed by legal historians, it is likely

[66] Law Commission, Transfer of Money Between Spouses – the Married Women's Property Act 1964 (WP No 90, 1985) para 4.1 citing: *Report of the Royal Commission on Marriage and Divorce* (Cmd 9678, 1956).

[67] [1943] 2 All ER 579.

[68] 'Judges Tell Wives Rights of Husbands', Daily Mirror (n 62). Goddard LJ's comment was later recalled in the House of Lords when the Married Women's Savings Bill was being debated: HL Deb 5 July 1963, vol 251, col 1153.

the most probable explanation is relatively simple: that their work is uncredited.

One illustration of this is the MWA's indirect, yet vital role in the passage of the Maintenance Orders Act 1958, which enabled maintenance to be deducted directly from the payor's earnings when he had failed to pay. This Act is not considered to be a feminist legal landmark. Maintenance made women subordinates of their ex-spouses, dependent upon their money with no ability to assert a legal right in the family property. MWA chair Juanita Frances referred to it as 'damned maintenance'.[69] Indeed, as the academic Carol Smart put it, the question of whether individual husbands should support their ex-wives after divorce 'does not allow for a feminist answer'[70] within the existing legal framework. Yet in many marriages, it was the only way to ensure women's financial protection. Wives had no rights to property they had not directly acquired, and so without access to maintenance after divorce, most married women would be left destitute.[71]

Prior to the introduction of more comprehensive financial remedies in the 1970s,[72] maintenance was a lifeline for women. But in many cases, husbands failed to pay it. When enforcement proved difficult, many women were left destitute. The MWA pressed for reform throughout the 1950s. Edith Summerskill twice sought to address the issue through a Private Member's Bill in 1951 and 1952. The Women's Disabilities Bill included a clause providing that if a spouse defaulted in payment of a maintenance order, and was employed, the Court could make an order requiring his employer to make payments to the Court in respect of the money due to the applicant. Put simply, if a husband did not pay maintenance, the debt could instead be 'attached to' or deducted from his wages. After the Bill floundered twice, the MWA switched tack, and raised the issue in its submission of evidence to the Royal Commission on Marriage and Divorce. But the Commission rejected this reform in its 1956 report, reasoning that:

> [I]n our opinion a power to attach wages would not in practice deal effectively with the man who deliberately evades his obligations to his wife and family, the man who will go to prison rather than pay the maintenance ordered by the court. It is this man who constitutes the real problem; the

[69] Lee (n 39).
[70] C Smart, *The Ties That Bind* (Routledge 1984) 223.
[71] See F Zweig, *Women's Life and Labour* (Victor Gollancz 1952).
[72] Pursuant to the Matrimonial Proceedings and Property Act 1970, consolidated in the Matrimonial Causes Act 1973.

> existing law is usually able to deal with the other types of defaulter, such as the man who is merely careless or improvident. But the man who at present will go to prison rather than pay is just the man who would be likely simply to give up his job if his wages were attached.[73]

Legal academic Otto Kahn-Freund commented at the time that this 'gloomy' prediction was unjustified, especially given that the attachment of wages procedure worked well in Scotland.[74] The MWA did not agree with the Commission's conclusion either, almost immediately launching a campaign for reform. Amidst lobbying activities and public meetings, the group drafted another Bill, which differed from the Women's Disabilities Bill because it focused solely upon the issue of maintenance. The Maintenance Orders (Attachment of Income) Bill provided that courts could order the defaulting husband's employer to deduct maintenance arrears from his wages and to have it paid into court for the wife.[75] MWA members wrote to MPs asking them to sponsor the Maintenance Bill should they be drawn in the ballot for Private Member's Bills. Joan Vickers MP of the National Liberal party (which later merged with the Conservative Party) came sixth in the ballot[76] and agreed to adopt the Bill.[77]

The reform was controversial because it was viewed by trade unions as a threat to the principle of the security of the wage packet and was therefore setting a 'potentially dangerous precedent'.[78] That is, the employee would not be guaranteed payment of his earnings without deductions. This tension between protecting the payee's right to maintenance and the payor's right to an inviolable wage appeared to be what ultimately stalled and killed this iteration of the Bill.

But hope for reform was not lost. After Joan Vickers' failed attempts with the MWA Bill, Fergus Morton—Chairman of the Royal Commission of Marriage and Divorce—changed his mind. After persuading the Home Secretary Rab Butler that the advantages of reform

[73] *Report of the Royal Commission on Marriage and Divorce* (Cmd 9678, 1956) para 1107.

[74] O Kahn-Freund, 'Maintenance Orders Act 1958' (1959) 22 MLR 175, 179.

[75] Pursuant to clause 9 (1a and b), the Bill included earnings from all types of employment with the exception of the self-employed, who would instead receive a custodial sentence. Before making payments, the employer would have been allowed to deduct 6d on each one of the payments to cover his expenses: HC Deb 1 March 1957, vol 565, col 1540.

[76] Normally the first seven MPs to be drawn in the ballot could take the Bill forward.

[77] As reported in MWA Minutes of Executive Committee meeting, 4 December 1956, 7TBG/1/31, TWL.

[78] JC Wood, 'Attachment of Wage' (1963) 26 MLR 51, 51.

outweighed the disadvantages, the government decided to reform the issue. The Home Secretary introduced the Maintenance Orders Bill in late 1957. It became law in 1958 and came into effect in 1959.

The Maintenance Orders Act 1958 was significant because it attacked the public/private divide that had helped reinforce and protect the sanctity of the male pay packet. It is remarkable that most of the Royal Commission opposed attachment of wages in 1956, when only a year later Morton decided they had been mistaken. That the MWA helped turn the tide on this matter, even in the face of staunch opposition from trade unions, is no small feat. This open acceptance of a principle once strongly opposed is another reminder of how controversies today can become orthodoxies tomorrow.[79]

The collective work of the MWA, their first President Edith Summerskill, and Joan Vickers was undoubtedly instrumental in reforming maintenance law. In the short term following the introduction of the 1958 Act, fewer individuals were imprisoned for non-payment of maintenance.[80] Longer term, the Act provided more discretion to the court to enforce maintenance orders, and attachment of earnings is still possible today, having been reformed by the Attachment of Earnings Act 1971[81] and the Maintenance Enforcement Act 1991. Thus, while the importance of this reform is often overlooked, it nevertheless marked important progress in tackling an issue notoriously fraught with difficulty. As the MWA put it, the more stringent maintenance enforcement under the 1958 Act represented 'the first assault on the sanctity of the pay packet' and 'the first step towards equal partnership has been taken'.[82]

Yet their impact has been forgotten. In academic journals such as the *Modern Law Review*[83] the failed attempts of Summerskill and Vickers are omitted in discussions of the 1958 Act.[84] And explicit acknowledgement of the MWA's role is nowhere to be found. This shows that accounts of

[79] R Probert, 'The History of 20th-Century Family Law' (2005) 25 Oxford Journal of Legal Studies 169, 179.

[80] HC Oral Answers To Questions, 18 June 1959, vol 607, Question 19 (David Renton): 'the Maintenance Orders Act which came into force in February this year has had an immediate and striking effect, because the prison population of persons committed in respect of maintenance orders has dropped from about 900 at the beginning of this year to 345 on 2nd June'.

[81] This reform meant that the husband could not change jobs to avoid his maintenance obligations. Instead, the obligation would attach to the new employer.

[82] 'Attachment of Wages and Salaries Act', MWA Newsletter, December 1959, 7TBG/1/33, TWL.

[83] See, eg, Kahn-Freund (n 75); and Wood (n 79).

[84] However, they were acknowledged by Lord Simon: HC Deb 12 December 1957, vol 579, col 1591.

how legal reform happened can be skewed, helping us understand how the MWA's story has been virtually obliterated from histories of family law. But there are many other stories just like the activism behind the Maintenance Orders Act 1958.[85] And so, a more complicated question than *whether* such campaigns are uncredited is *why*.

One reason might be that feminists didn't care about getting the credit, they just wanted to get the reform through. When asked about this in 1975 by historian Brian Harrison, MWA chair Juanita Frances said:

> Looking at the past I feel it's boring. People who want to go back [and say] 'oh look we've achieved this!' – to me it's insignificant and any person or organisation are just cogs in a wheel. We do what we can but it doesn't rest on us if we go under and somebody else will come along.[86]

Like other members of the MWA, Frances knew her feminist history, and that the influence of women's collective action often went uncredited. But in the Association's newsletters, the group was vocal about its accomplishments, even if, as they put it, their work was characterized more by 'ricochets' than 'bullseyes'.[87] The 'bullseyes' were marked clearly by a new statute or precedent. The ricochets were the ostensible failures, that did in fact leave their mark.

Another reason is that the MWA's work is obscured from contemporaneous accounts. Even if we widen the net of what counts as law reform, we cannot go back in time and change the purview of legal academics from the past. When Royal Commissions, Law Commissions, Lord Chancellors, Members of Parliament, and others directly responsible for implementing policy are solely credited with reform in the textbooks and articles of the time, our understanding of how law is reformed is incomplete. This is especially true of laws impacting women. Yet if we accept these contemporaneous sources as authoritative and exhaustive accounts of reform, the work of feminist campaigners is made even more inconspicuous.

[85] E Rackley and R Auchmuty, *Women's Legal Landmarks* (Hart 2018).

[86] Brian Harrison interview with Juanita Frances, 14 November 1974, 8SUF/B/022, TWL.

[87] Quoting VS Pritchett 'the long drawn out campaign for emancipation of women has been more noticeable for its ricochets than its bulls' eyes': MWA Annual General Meeting, 11 May 1972, Secretary's Report for year ended 30 April 1972, 5MWA/3/1, TWL.

## E. *Inconspicuous Impact Is Often Piecemeal*

It is not difficult to see why piecemeal reform is generally criticized when juxtaposed with comprehensive change, since this tends to involve comparing short-term fixes to long-term solutions. As Lord Diplock once put it in a House of Lords debate:

> I venture to think that the law, as it has to be administered in the courts, is not improved by one single piecemeal alteration which runs counter to the general principles applicable…Merely to deal with this piecemeal is to make the position worse than it was.[88]

Reform of an issue through a series of statutes, even with the aim of eventual consolidation, risks creating uncertainty and inconsistency, which Lord Toulson has described as resembling 'a sea of floating objects of bewildering number and complexity'.[89] Yet despite its shortcomings, piecemeal reform is a common feature of English law, because as Lord Bingham observed, comprehensive reform often faces many 'insuperable' obstacles, such as lack of parliamentary time.[90] That the painstaking and heuristic piecemeal approach is so often the pragmatic option underscores how sclerotic and even intransigent law reform can be. This can be especially so when reform relates to feminist issues.

Indeed, as we have seen, the MWA did not get very far with its more radical ambitions, such as its initial demands for wages for wives and its later attempts to enact a 'new marriage law'. But it did manage to influence legislation in a more *ad hoc* way. It produced and lobbied for draft bills that went on to become the Maintenance Orders Act 1958 introducing attachment of wages, and the Married Women's Property Act 1964 introducing joint ownership of housekeeping savings, the latter of which motivated the Law Commission to consider reform of property ownership during marriage in the 1980s. The group's President Edith Summerskill was instrumental in the passage of the Matrimonial Homes Act 1967[91] which gave deserted spouses a legal right of occupation in the

[88] Law Reform (Miscellaneous Provisions) Bill HC Deb 20 April 1957, vol 317, col 1540.

[89] Lord Toulson, 'Democracy, Law Reform and the Rule of Law' in M Dyson, J Lee, and S Wilson Stark (eds), *Fifty Years of the Law Commissions: The Dynamics of Law Reform* (Hart 2016) 127.

[90] B McDonald, 'Law Reform in Private Law: The Role of Statutes in Supplementing or Supplanting the Common Law' in M Dyson, J Lee, and S Wilson Stark (eds), *Fifty Years of the Law Commissions: The Dynamics of Law Reform* (Hart 2016) 297, 302.

[91] Notably with the support of Lord Denning: A Denning, *The Due Process of Law* (Butterworths 1980) 220.

matrimonial home.[92] This was hugely significant for those many women who did not legally own their home and had previously been made homeless when their husband deserted them. Yet given these reforms addressed only a tiny aspect of married women's grievances, they can easily be dismissed as piecemeal alterations. For instance, while the 1967 Act could provide a lifeline to women who would otherwise have been made homeless, it did not provide wives with proprietary interests in their homes. In hindsight, therefore, though hard-won, piecemeal reform can appear neither radical nor controversial.

Certainly, the reforms spearheaded by the MWA did not get to the root of the problems with which they were most concerned. Writing in 1970, the academic Otto Kahn-Freund aptly summarized the problem: 'However important and beneficial, all this legislation is patchwork, a series of responses to the needs of the moment. The problem of matrimonial property has never been tackled systematically'.[93] Realistically, the MWA's patchwork of reforms was never going to fix the broader problem of married women's financial inequality in marriage. They were barely 'band-aids', superficially and temporarily patching up the gaping holes in the law's protection for women, let alone antidotes to the problems the MWA sought to address.

MWA members were keenly aware of this. Yet through repeated rejection of their more wide-ranging proposals, they had learned that when asserting feminist pressure through law, a piecemeal approach gave them the best chance of success. It was strategic. As the Association's Vice President, the prominent former suffragette Teresa Billington-Greig explained:

> Our legislators are seldom moved by the arguments of principle or logic and they appear to be especially afraid of doing too much for any victimised class at one time. So that slow progress by piecemeal legislation comes to be forced on the reformers. The MWA has discovered and acted on this discovery.[94]

Viewed in the context and circumstances in which the MWA was working, their piecemeal achievements were extraordinary given the relatively

[92] Provided the wife had registered a charge in the Land Register. The MWA launched an initiative to help raise awareness that married women needed to do this in order to be protected.

[93] O Kahn-Freund, 'Recent Legislation on Matrimonial Property' (1970) 33 MLR 601, 604–05.

[94] Draft of Teresa Billington-Greig speech, 1958, 7TBG/1/31, TWL.

small size and available resources of the Association, showing the benefits of a pragmatic approach to reform.[95]

It is notable that the MWA's strategy relied heavily on the Private Member's Bill procedure, the Association viewing it as their best way of getting their draft bills before Parliament. Rebecca Probert has pointed out that 'one of the most startling aspects of family law reform in the 20th century' is just how many reforms were instigated by this procedure.[96] It *is* startling, because the procedure depends 'quite literally, on the luck of the draw'.[97] Even once the MWA had been fortunate enough to have an MP agree to sponsor their draft Bill *and* be successful in the Private Member's Bill ballot, it was very easy for a dissenter to block it. All that was needed procedurally was for one MP to shout 'object' and as the MWA put it, a 'single member of Parliament holds up a progressive measure'.[98] This also helps explain why the MWA faced much more disappointment and setback than success in its efforts to have reform brought forward; piecemeal, or otherwise. But as Summerskill explained, Private Member's Bills were MWA members' only option when their campaigns were ignored in government:

> Successive Governments, fearful of jeopardising the male vote, lack the moral courage to tackle legal disabilities which stem from custom and prejudice. Consequently these are dealt with in a piecemeal fashion by Private Members' legislation … The noble and learned Lord [Diplock] … complained at this being piecemeal legislation. I invite him to examine over the last few years the legislation which seeks to remedy injustices suffered by women, and he will find that it has been done in precisely the same way, by Private Members' legislation.[99]

For feminists using the law as a tool for reform, the Private Member's Bill procedure—while unpredictable, dependent on the vagaries of Parliament and easily defeated—can work. But the issues being addressed must be narrowly circumscribed, and the campaigners often must compromise on their broader demands. Had the MWA waited for comprehensive and perfect reform of the law, they would likely find it would not happen.[100]

[95] Speaking about the MWPA 1964 in Parliament, Summerskill stated: '[The Act] means little, but that was all I could get Parliament to accept at that time because that was all that was recommended by the Royal Commission on Marriage and Divorce which sat to discuss these matters': HL Deb 4 November 1971, vol 325, col 167.
[96] Probert (n 80).
[97] ibid.
[98] MWA Bulletin, April 1965, 5MWA/1/3/2, TWL.
[99] HL Deb 20 April 1971, vol 317, col 550.
[100] As noted by Eirene White MP when agreeing with Summerskill: ibid, col 553.

If lawyers are to appreciate fully the impact of feminist pressure through law, understanding this context is vital, for it explains why a piecemeal approach is so essential for feminist campaigners. Lord Diplock's apparent dismissal of piecemeal reform obscures the impact of feminist networks' efforts to improve women's position under the law. It also makes the more subtle potential of such reform inconspicuous. For one powerful but often overlooked aspect of feminist piecemeal reform is that its shortcomings can highlight the need for further change. The 1958, 1964, and 1967 Acts were all precursors to more revolutionary changes to women's property rights on relationship breakdown.[101] It is of course unknowable whether these changes to property rights would have happened without those piecemeal preambles. But in neglecting to see the continuity between the demands of feminist networks, their piecemeal compromises, and later legal landmarks, we are reinforcing the invisibility of feminist pressure through law.

## 4. *Why Inconspicuous Impact Matters*

So far, this paper has explored why impact may be rendered inconspicuous. However, arguing that the work of campaigners has been overlooked is not in itself reason for legal historians to revise histories of law reform. As a result, it is vital to explore why recognition of inconspicuous impact matters. First, it challenges reform blindness, demonstrating that direct impact may not be the only effective impact (and that sometimes indirect impact is more effective and is a better way of seeking change). Second, it reveals law's potential as a mechanism for feminist reform. Finally, it shows how a narrow definition of impact contributes to the disappearing of feminist pressure through law.

### A. *Reform Blindness Is Challenged*

That indirect impact can be as effective as direct impact is, on its face, a paradoxical claim. It is obviously better for feminist campaigners to have legislation taken forward that they had a direct role in drafting.[102]

[101] Including financial remedies under the Matrimonial Causes Act 1973 and the Family Law Act 1996, Part IV, which introduced occupation orders.

[102] For further discussion of direct and indirect forms of impact, see: AS Binderkrantz, 'Interest Group Strategies: Navigating Between Privileged Access and Strategies of Pressure' (2005) 53 Political Studies 694.

But much can be lost in the process of translating feminist demands into legal policy. The assertion of feminist pressure through law is characterized by compromise which ultimately can lead to better outcomes. And when feminist aims are directly implemented, those in power might use this as reason to refuse more fundamental change.

Susan Atkins and Brenda Hoggett (as Lady Hale then was) have captured this frustration of feminist aims and ambitions seeming beyond reach:

> even when there appeared to be progress, this did not necessarily mean that the values underpinning legislation were necessarily translated into action by the courts and other agencies. Progress was not consistent and gains made could be lost or forgotten. Despite progress on many fronts, this trend is still evident today.[103]

Indirect impact, which is often uncredited and rendered inconspicuous, can be influential in different ways. While it might not always be possible to point to a statute as proof of impact, inconspicuous influence has the potential over time to shift the Overton window towards a position more favourable to women's interests under the law.

This impact is often long-term and is therefore more difficult to ascertain. But we should not be blind to it. The scientific concept of 'change blindness' can help expose why histories of law often entirely neglect the impact of feminist pressure through law. Change blindness is based on the psychological finding that visual changes become very difficult to detect when the viewer is focusing on something else.[104] When that change is subsequently pointed out, it can seem obvious, to an almost disorientating degree. Change blindness has been used to show why eyewitness testimony so often can be an unreliable form of evidence.[105] And it is proof that sometimes things are not as they appear.

An analogy can be drawn between change blindness and perceptions of law reform. Indeed, there is a strong argument for counting the MWA's

[103] S Atkins and B Hoggett, *Women and the Law* (Blackwell 1984) xxiii. An example of this point can be seen in the aftermath of the Domestic Violence and Matrimonial Proceedings Act 1976 and *Davis v Johnson* [1978] 2 WLR 533. As Susan Edwards has pointed out, despite these measures, judges continued to be reluctant to oust a man from the family home in domestic violence cases: 'Davis v Johnson (1978)' in Rackley and Auchmuty (n 2).

[104] T Masuda and RE Nisbett, 'Culture and Change Blindness' (2006) 30 Cognitive Science 381.

[105] KJ Nelson, C Laney, NB Fowler, ED Knowles, D Davis, and EF Loftus, 'Change Blindness Can Cause Mistaken Eyewitness Identification' (2011) 16 Legal and Criminological Psychology 62.

Maintenance Orders (Attachment of Income) Bill as reform, even though it would not be considered as such by conventional accounts. As we have seen, this Bill was killed by trade union opposition, but the lobbying to have it passed provoked a damascene conversion in government attitudes, and the MWA's Bill—albeit uncredited—was then made law under a different name. Once we know this sequence of events, it seems overly technical, bordering on the semantic to dismiss the MWA's Bill as being irrelevant to reform. For, despite its initial failure, it was ultimately successful under another guise. But like so many other forms of inconspicuous impact, we are blind to reform and the different forms it can take when we focus narrowly on legislation. I call this problem 'reform blindness'.

Reform blindness is a way of understanding inconspicuous impact, because if we are blind to change, and to subtle shifts that might not be considered reform but do change perceptions of law and the issues law regulates, then we are never going to recognize the indirect impact driving such change. One example of this is being blind to the shifts that enabled women's non-financial contributions to be recognized in law.[106] Erika Rackley and Rosemary Auchmuty tell us historians are wrong to attribute reform like this to changing attitudes, because feminists had a role in achieving that change.[107] But this is difficult to do if we do not recognize inconspicuous impact, and neglect to view, for example, the MWA's failed attempts to have unpaid domestic work valued as part of reform processes. When we focus narrowly on legislation, we are blind to this change—and are blind to reform.

Overcoming reform blindness is important, for widening the timeframe to appreciate the significance of feminist networks' work can help to overcome issues of temporality and categorization when interrogating the historical relationship between women and the law. Instead of shrinking and distorting women's lives into moments of achievement, connections can be drawn between feminist pressure through law across time, to emphasize and explore the 'untimeliness' of feminist networks and the individuals within and without them.[108] Elizabeth Grosz has argued that most feminist theory is devoted to analysing the past and

[106] Specifically, s25(2)(f) Matrimonial Causes Act 1973: 'the contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family'.

[107] E Rackley and R Auchmuty, 'The Case for Feminist Legal History' (2020) 40 Oxford Journal of Legal Studies 878, 881.

[108] E Grosz, 'The Untimeliness of Feminist Theory' (2010) 18 NORA: Nordic Journal of Feminist and Gender Research 48.

the present. In the context of legal history, feminist focus is—unsurprisingly—on the past. But in going beyond collecting stories of direct impact, a focus on inconspicuous impact can help map the future too.[109] Understandings of why and how patriarchal power is expressed through the lives and experiences of feminists' relationships not only provide important context to histories of law reform. Rather, these understandings can be harnessed to provide a framework for the future, to understand how things can be done differently and 'what could be but does not yet exist'.[110]

In adopting this lens, it is possible to see how women have always used their knowledge of feminist history to guide them in their efforts to change the future, and to understand better the material forces constraining their efforts to reform the law. Looking at networks and individuals across time uncovers continuity amongst feminist ideas and strategies, which can also be extended into understanding law reform in future.[111] And so, it is vital to go beyond representing feminist activities—successful or not—as isolated endeavours.

### B. *Law's Potential as a Mechanism for Feminist Reform Is Revealed*

That some feminists are sceptical about the effectiveness of pressure through law makes sense. Throughout history, judges and policymakers with the power to improve women's position have rejected their demands. Feminists have been left on the periphery, and their attempts to reform the law are characterized mostly by setback. Many prominent commentators have therefore concluded that pressure through law simply does not work. As Carol Smart put it: 'feminist legal theory is immobilised in the face of the failure of feminism to affect law and the failure of law to transform the quality of women's lives'.[112]

Thus, feminists such as Smart and others have warned against turning to the law as a solution to women's inequality.[113] After all, law is a 'manifestation of power in society'.[114] It is complicit in patriarchy[115]

[109] Rackley and Auchmuty (n 108).
[110] Grosz (n 109).
[111] E Rackley and S Thompson, 'Feminist Constellations in Law' (forthcoming).
[112] Smart (n 25) 5.
[113] Smart (n 25); Fineman (n 25). See also anti-carceral feminists such as L Olufemi, Feminism, Interrupted. Disrupting Power (Pluto Press 2020); A Srinivisan, *The Right to Sex* (Bloomsbury Publishing 2021).
[114] V Munro, *Law and Politics at the Perimeter* (Hart 2007) 65.
[115] ibid 68.

and so it cannot be used to dismantle it. As Smart argues, when feminists resort to the strategy of pressure through law, they risk strengthening law's power in return for a small chance at success: 'while some law reforms may indeed benefit some women, it is certain that all law reform empowers law'.[116] By working within law's parameters, feminists are forced into uncomfortable compromises, where the payoff is not worth it. In Smart's view, securing longer-term feminist goals is unlikely through law, and so using it as a tool for change is nearly always futile.[117]

The problem with this perspective is that it also obscures inconspicuous impact. In framing legal strategies to effect gender equality as inevitably and invariably fruitless, there seems little point in historians digging into the recesses of law reform processes to find where feminist campaigners have left their mark. For they are likely to resurface empty-handed.

But law's potential can be viewed differently when success and impact are redefined. As I have argued, feminist networks' unsuccessful reform can be stepping stones to realizing their bigger goals. Inconspicuous impact is one way of understanding how feminists have pursued strategies that in fact are effective but are not recognized as such. It is often said that politics is the art of the possible,[118] and both law and feminism are political at their core. As Harlow and Rawlings have put it, one of the most potent myths about the legal profession is that law is apolitical: 'In their bones most lawyers probably realise that this credo is at best a partial truth'.[119] However, while Parliament routinely seeks the views of lawyers, women historically have had to push their agenda from the margins, often with few political resources.[120] Feminists have learned this in their attempts to assert pressure through law; to pursue the piecemeal, pragmatic reform over the all-encompassing change, and to work with historically conservative legal practices instead of against them.

This demonstrates why the notion of 'feminist law reform' is sometimes oxymoronic yet is often vital. Indeed, the MWA's relationship with law was an ongoing struggle of compromise and negotiation, without much, if any, credit for their work when gains were made. But the efforts of this pressure group were important. By demanding that spouses should have a right to know what their partner earns, and that

[116] Smart (n 25) 161.
[117] ibid; Munro (n 114) 68.
[118] Commonly attributed to Otto von Bismarck: <https://politicaldictionary.com/words/art-of-the-possible/>.
[119] Harlow and Rawlings (n 10) 290.
[120] Stetson (n 2) 219.

one spouse should not have complete monopoly over the money in the relationship, the MWA ultimately helped to change the conversation about what equal partnership in marriage looks like. The many marriages today where these characteristics loom large shows the road to equality still goes on.

Since legal processes are not inherently feminist, it follows that feminists tend not to have much power to influence the law.[121] Yet even though feminist campaigners have historically been 'outsiders' to law-making, ironically, this can be how feminist ideas derive a very particular sort of power.[122] That is, searching for inconspicuous impact allows us to re-evaluate how law deals with ideas outside its domain, in turn enabling law to be understood differently.[123]

Analysing law as a social system helps to explain why impact is so often understood, or indeed misunderstood in legalistic, straightforward ways.[124] The system of law looks at the story of past processes and distorts it in a way that makes other forms of impact inconspicuous.[125] As Russell Sandberg has put it, law colonizes, neutralizes, and marginalizes non-legal ideas, and so any story of reform is told in law's language of cases, legislators, and administrative processes.[126] This in turn informs our perception of law reform. But as we have seen, looking at forms of impact that have been indirect or achieved outside formal law-making helps reveal the limitations of a purely legalistic approach.[127] From this perspective, inconspicuous impact can be a useful tool. It can help us take a step outside the law's understanding of impact, to unmask law's process of colonization.[128] If we are aware of law's process of colonization, this can also inform how we view law reform. As Enright et al.

[121] L Green, 'Gender and the Analytical Jurisprudential Mind' (2020) 83 MLR 893.

[122] This can be compared more broadly to other forms of activism. See, eg, Abbot and Lee (n 10) 11, who note in the context of environmental law that 'outsider' groups such as Extinction Rebellion can provide a different perspective on law's institutional limitations. For consideration of interest groups as insiders or outsiders, see W Grant, *Pressure Groups, Politics and Democracy in Britain* (Philip Allen 1989); W Grant, *Pressure Groups and British Politics* (Macmillan 2000).

[123] See J Conaghan, 'Reassessing the Feminist Theoretical Project in Law' (2000) 27 Journal of Law and Society 351.

[124] R Sandberg, *Rethinking Law and Religion* (Elgar 2024) 231–32, citing N Luhmann, *Introduction to Systems Theory* (Polity 2013); N Luhmann, *Law as a Social System* (Oxford University Press 2004).

[125] M King and C Thornhill, *Niklas Luhmann's Theory of Politics and Law* (Palgrave 2003) 129.

[126] Sandberg (n 124) 183.

[127] ibid.

[128] King and Thornhill (n 125) 54.

have put it, drawing attention to 'feminist law work' can enable law, its formal processes, and what it means to 'do law' to be reimagined.[129] Inconspicuous impact is one way such work can be brought to the fore, while also providing a means to translate extra-legal ideas and their importance for law. This, in turn, reveals a more nuanced and complex interplay that would otherwise be lost.

Such complexity also supports Vanessa Munro's suggestion that law is duplicitous: 'despite its patriarchal methods and discourses', it 'can hold out the prospect for meaningful feminist reform, at least in some contexts'.[130] There are so many stories of such meaningful reform waiting to be uncovered. Legal scholars simply need to know where to look.

## 5. *Conclusion*

As legal academics, many of us tend to ask similar questions of our scholarship, and of the law. How and why is law reformed? Which mechanisms operate to reform the law? What impacts and effects legal change? The answers to these questions vary depending on where we look. For law is not only found in judgments, courtrooms, and statutes. Adopting a feminist perspective can lead us to search underneath the procedures and decisions of institutions to uncover how feminist networks sought to challenge and change the law.[131] This serves to enrich and complicate our understanding of what has shaped it. Feminist impact is not reserved for a subset of legal principles that relate specifically to women's legal protection. Every corner of the law can be viewed from a feminist perspective, because even ostensibly neutral provisions have the power to discriminate and oppress.

Such ubiquity must be borne in mind when resurrecting and elevating the previously disregarded ways in which feminists have impacted the law. Following the story of the controversial campaign, or the demands that fell on deaf ears at the time they were uttered, or the piecemeal, ostensibly trivial statute or provision can inspire new insights into law reform and how historically, feminists have strived to change it. It normalizes women's role in shaping the law, while challenging notions of success and failure when evaluating campaigns for reform. It shows that

[129] M Enright, K McNeilly, and F de Londras, 'Abortion Activism, Legal Change, and Taking Feminist Law Work Seriously' (2020) 71 NILQ 359, 385.
[130] Munro (n 114) 73.
[131] Enright, McNeilly, and de Londras (n 129).

inconspicuous impact can be an effective means of reforming law by stealth. That we should not be blind to the unsuccessful reform, because it helped later reform to happen. Moreover, reappraising events that were not considered important at the time can lead to the reframing of current legal problems too. We are likely to come to the disorientating realization that much of what we thought was new originated in reform campaigns many years ago.

The problem with inconspicuous impact is that it is harder to spot and to credit. After all, impact is an elusive concept.[132] And feminist impact even more so. But we can start by challenging institutionalized ideas of what impact means, drawing upon a broader range of non-legal sources to inform our work, and taking a long view of law's evolution that debunks myths of modernization and progress. By delineating a subset of feminist work and defining it as inconspicuous, we can continue the work of other feminist scholars in finding and resituating the forgotten and neglected voices of law reform. This approach can extend beyond feminist endeavours too, illuminating the work of those indirectly responsible for legal change related to race, gender, and disability.

While most of this paper has argued that we should acknowledge the inconspicuous impact of feminist pressure through law, I want to end by turning this assertion on its head: what happens when we do not do so? When impact is defined narrowly, this contributes to the disappearance of feminist work through history. Unless revised and reassessed, contemporaneous accounts' silence about this work is echoed in our own scholarship. Consequently, our research is tainted by omissions at best and inaccuracy at worst. It risks becoming, to return to Auchmuty's words in my PhD viva report: 'a tale as divorced from context as the judgments in your cases'.

[132] As Abbot and Lee (n 10) 10 note, assessing a campaign's impact is complex, because other factors intervene, success 'is rarely complete', and the outcome 'may not necessarily be viewed as success'.