IN THE LAW OF THE FATHER

Women and the Law in Ireland

Report of a Seminar

2/3 May 1986

Editor: Ailbhe Smyth
UCD Women's Studies Forum
## CONTENTS

<table>
<thead>
<tr>
<th>Page</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Seminar Programme</td>
</tr>
<tr>
<td>2</td>
<td>Opening Address: Nuala Fennell, T.D., Minister of State for Women's Affairs and Family Law Reform</td>
</tr>
<tr>
<td>11</td>
<td>Keynote Paper: Senator Mary Robinson</td>
</tr>
<tr>
<td>17</td>
<td>Seminar Report</td>
</tr>
<tr>
<td>23</td>
<td>Checklist of materials relevant to the study of Women and the Law in Ireland</td>
</tr>
<tr>
<td>29</td>
<td>About UCD Women's Studies Forum</td>
</tr>
</tbody>
</table>
**PROGRAMME**

**FRIDAY 2 MAY**

7.00 - 8.00 p.m. Registration/Reception

8.00 - 8.30 p.m. Opening Address by the Minister of State for Women's Affairs and Family Law Reform, Mrs Nuala Fennell TD

8.30 - 9.30 p.m. Keynote Paper and brief discussion, Senator MARY ROBINSON, Senior Counsel

**SATURDAY 3 MAY**

9.30 - 10.00 a.m. Registration

10.00 - 10.45 a.m. Keynote paper
    ANNE BOTTOMLEY, Lecturer in Law, North East London Polytechnic

10.45 - 11.15 a.m. Discussion

11.15 - 11.45 a.m. Coffee

11.45 - 1.00 p.m. Discussion Groups

1.00 - 2.00 p.m. Lunch

2.00 - 3.15 p.m. Discussion Groups

3.15 - 3.30 p.m. Tea

3.30 - 5.00 p.m. Panel and Audience Discussion, with
    Monica Barnes T.D.
    Nell McCafferty
    Caroline McCamley
    Senator Catherine McGuinness
    Sylvia Meehan
    Patricia O'Donovan

    Chair: Ailbhe Smyth
DISCUSSION GROUPS

Women in the Legal Profession
  with Breda ALLEN, Anne DUNNE, Ailbhe SMYTH (WSF)

Social Welfare
  with Rosheen CALLENDER, Eilis Ni DHUIBHNE (WSF)

Reproductive Freedom
  with Rita BURTENSHAW, Pauline JACKSON (WSF)

Feminist Campaigns
  with Gaye CUNNINGHAM, Mary FLYNN (WSF)

The Impact of EEC Membership on Irish Legislation
  with Ann GOOD

Illegitimacy: The Status of Children Bill
  with Mary HIGGINS

Women as Legislators
  with Monica BARNES, Niamh BREATHNACH, Ailbhe SMYTH (WSF)

Employment Equality
  with Caroline McCAMLEY, Mary FLYNN (WSF)

Family Law
  with Mary O'NEILL, Mary O'TOOLE, Angela BOURKE (WSF)

Violence Against Women
  with Ann O'DONNELL, Monica CULLINAN (WSF)

Divorce
  with Karen O'CONNOR, Attracta DUNLOP (WSF)

Women on Trial
  with representatives from the Campaigns Against the Kerry Tribunal Report, Women Against Strip-Searching, Pauline JACKSON (WSF)
IN THE LAW OF THE FATHER

Women and the Law in Ireland

THE ISSUES

'All citizens shall, as human persons, be held equal before the law......'

(Art. 40.1)
Bunreacht na hEireann
(Constitution of Ireland) 1937

There is no doubt that since the early 1970s, the legal status of women in Ireland has changed significantly - but has it changed enough? Does the law, in principle grant women the same rights as men? Does the legal system, in practice, treat women and men equally? And given the continuing differences in the material and social conditions of the lives of women and men - is equal treatment always fair to women? Has the achievement of improved legal rights had a real impact on the everyday lives of the majority of women? In what ways does the law in 1986 continue to enforce or reinforce the traditional roles of women in Ireland? What have been the major forces instrumental in bringing about legislative reforms relevant to women? How have women fought for legal change - and to what extent have feminist campaigns been effective? What do women practitioners, teachers and consumers of law see as the most urgently needed changes now? How can we work fruitfully to achieve them?

THE OBJECTIVES

The major aim of the seminar is to stimulate informed and critical discussion of the interactions between Women and the Law. Approaching the topic from a variety of perspectives, we will seek to explore the particular issues and problems facing women as subjects of the law, as consumers, as lawyers, law teachers, and legislators.

FORMAT

While key issues will be addressed by invited speakers on Friday evening and Saturday morning, a major emphasis of the seminar will be the exchange of experience, information and views in discussion groups on specific themes.

Proposed themes include: Employment equality issues; social welfare legislation; marriage and family law; reproductive freedom; violence against women - the limits of legislation; lesbian rights; women as (equal) citizens or: do we need an Equal Rights Amendment?; the EEC and its impact on legal change for women; feminist campaigns for legal change; women on trial; women in the legal profession.
WOMEN AND THE LAW IN IRELAND

Opening Address

Mrs Nuala Fennell, T.D., Minister of State for Women's Affairs and Family Law Reform.

I would like to begin by thanking the organisers of this Seminar for inviting me along here this evening to officially open the proceedings. Not only am I delighted to oblige by declaring the Seminar open but I must also say that I am particularly pleased with the topic that you have chosen to discuss here this evening and tomorrow. I would dare to say that never before have women in Ireland been more conscious of the law and how it affects them - in their homes, with their families, in their places of work and in simply going about their ordinary everyday lives. On a personal note, may I say that it is a source of encouragement to me as Minister of State for Women's Affairs to see the high level of interest and commitment that exists among groups - like the UCD Women's Studies Forum - towards exploring the many issues and problems that affect women.

I understand that the major aim of this Seminar is to stimulate informed and critical discussion of interactions between women and the law. It will also, I hope, identify what you the participants feel are the areas of the law in need of further reform. What I hope to do in my address this evening is to give you some food for thought and from a positive point of view, to cover just a few of the many areas where I feel that women do have equality in law in Ireland or where we are working towards that goal through current legislative proposals.
I would like to begin by saying a few words about an important piece of legislation which is at present being debated in the Dáil. It deals with domicile and it is important because it abolishes a legal rule that is discriminatory of women and has been a source of grievance to women for many years.

Domicile is a rather complicated legal concept which is used by the law to establish for certain legal purposes which country's legal system the Irish courts should apply in deciding questions arising in certain legal areas where some foreign element is involved - these are mainly areas of family law. They include marriage and divorce, wills, succession to property etc.

Broadly speaking a person is domiciled where he or she has a permanent home in the sense that he or she intends to reside in that country permanently or for the indefinite future. It indicates much more than the place where you happen to be living at the moment, even though you may intend to live there for some future time.

The concept of domicile has been criticised in various respects. But the aspect of it which has attracted most criticism, and which I want to deal with this evening, is the way in which it is applied to married women. Under the present system every person of full age and reason, with one exception, is treated as capable of his or her own actions and intentions of determining his or her own domicile. That capacity has always been denied to a married woman - she is deemed by the law to take the domicile of her husband irrespective of her own situation and intentions.

That rule is clearly discriminatory and has long been a source of legitimate grievance to women and, indeed, also to men who believe that the law should not needlessly make distinctions between people.
It produces some strange results. A married woman is regarded as being domiciled in the country where her husband is domiciled even if she is separated from him and even if she has never visited or lived in that country and never intends to. In these circumstances, a woman can find important legal questions relating to her regulated by the laws of a country with which she has no real connection. I should say that a Supreme Court judge has suggested that the rule may be unconstitutional but that aspect has not in fact come specifically before the Courts for decision.

The Bill at present before the Dail will end that discrimination. Once it is enacted into law, the domicile of a married women will be determined in the same way as the domicile of any other sane adult.

The Bill also makes some necessary consequential changes in relation to the domicile of minor children. Minor children usually take the domicile of their father. Where the parents are living apart and the child has its home with the mother and has no home with the father, the child will, under the Bill, have the domicile of the mother. Of necessity the Bill also makes changes in the law relating to the recognition of foreign divorces. (1)

I hope I have succeeded in giving you some idea of the complicated issues that arise in this very complicated legal area. I know that you will agree that the Bill before the Dail, in abolishing a discrimination against women, is a very desirable measure.

I might also mention the proposed legislation on the ownership of the family home. As you will no doubt be aware the Government have decided in principle to introduce legislation to give each spouse equal rights of ownership in the family home and contents. Under present law where a family home is in the legal ownership of one spouse, the other spouse may acquire a share in the ownership through contributions made
towards its purchase. The position is clear where the contributions are direct money payments towards, say, the deposit or the mortgage repayments. Difficulties may arise, however, where the contributions, while made in money, are made towards the general family fund. Entitlement to a share in such cases will depend on the particular circumstances of each case. Where a dispute arises the Court may fix the appropriate shares of each spouse. However, no share in the ownership of the family home is earned by the non-pecuniary contribution which a spouse - usually the wife - makes towards the family welfare by looking after the house and caring for the family and it is this more than any other feature that has given rise to the need for a change in the law.

The Government's decision that each spouse should have a share as of right in the ownership of the family home during marriage is based on the view of marriage as a partnership in which each spouse has a vital role in promoting the well-being of the family unit and is also in line with a basic principle underlying the Succession Act, 1965 which gave each spouse a legal right to a share of the other's estate.

The form the legislation will take is that co-ownership will be the general rule in all cases but, in exceptional circumstances, where its application would cause injustice it will be possible to have co-ownership set aside by a court. We are giving consideration to the extent, if any, to which married couples would have a right by agreement to opt out of the provision and to make their own arrangements about ownership.

This legislation, which we expect will be ready for introduction in the Oireachtas before the end of the year, will be a very important extension of the protection given to spouses by the Family Home Protection Act 1976 which, while it gave the non-owner spouse the right to veto the sale or mortgaging of the home (unless overruled by the Court) did not give that spouse any share in the ownership of the home.
In the area of family law there have been very significant changes in our laws which, though framed to apply to each spouse equally, are obviously aimed primarily at the protection of women and children.

The Succession Act is a case in point. It gives a surviving spouse a legal right to a one-half share or one-third share of the estate of the other spouse (depending on whether or not there are children) where a will is made and a two-thirds share or the full estate (depending again on whether or not there are children) where no will is made. Apart from certain unusual cases the surviving spouse is entitled to appropriate the family home in satisfaction of that share.

Our Family Home Protection Act of 1976 prevents the family home from being sold over the head of the wife.

The Family Law (Maintenance of Spouses and Children) Act 1976 contains a modern code relating to maintenance providing, inter alia, for attachment of earnings as a means of enforcing maintenance payments.

The Family Law (Protection of Spouses and Children Act) 1981 enables an order to be obtained barring one spouse from the family home where the safety or welfare of the other spouse or any children so requires.

We have also seen recently the abolition of the archaic actions for criminal conversation and for enticement and harbouring of a spouse, all of which were seen as offensive to women.

A Bill at present going through the Oireachtas will eliminate differentiation as between men and women in the conditions for the acquisition of citizenship by alien spouses of Irish citizens.

The law on citizenship is contained in the Irish Nationality and Citizenship Act, 1956. Under that Act the foreign wife
of an Irishman can get Irish citizenship by declaration. All that is required is that the foreign wife lodge a declaration to the effect that she is accepting Irish citizenship as her post nuptial citizenship. The position of foreign men married to Irish women is different however. They can not get citizenship as a right. If they wish to get Irish citizenship they have to go through the process of naturalisation. A concession is given to them however, compared with applicants for naturalisation generally in that more favourable conditions are applied to them as regards residence in the State. Whereas, aliens generally have to have five years residence when applying for naturalisation the foreign husbands of Irish women are allowed to become Irish citizens by naturalisation after two years residence.

Many Irish women married to foreigners feel that the current position is unfair to their families. Since I entered politics in 1980 I have had representations from many Irish women living abroad seeking help to resolve difficulties in the way of their return to this country. The difficulty they spoke about is that they could not return to the country as the husband could not obtain citizenship unless he had been resident in the State for 2 years. The lack of citizenship in turn led to extreme difficulty as regards getting a job as the vast majority of jobs are reserved for Irish citizens and citizens of E.E.C. countries ahead of citizens of other States. Accordingly, the unequal treatment as between foreign wives and foreign husbands was a real difficulty for many families who wished to return to Ireland.

Many European countries had legislation similar to our 1956 Act. There has been a move in recent years, however, to change the legislation in E.E.C. countries in so far as it relates to the acquisition of citizenship by foreign spouses of nationals. Whereas, varying conditions have been legislated for from country to country the one consistent factor has been that unequal treatment as between men and women has been eliminated in this regard or is in the process of being eliminated.
I am very happy that the unequal treatment in the area of citizenship will be eliminated in the near future. The change will be important to the individual families who benefit from it and, also, it is one more legislative move ensuring that none of our laws maintain obvious unequal treatment as between men and women. (2)

As I said at the outset, it was my intention to give you some food for thought and to outline just a few of the many areas where great strides have and are continuing to be made in the law in this country as it affects women. But the job is by no means complete and I look forward, with interest, to hearing in due course what proposals for further reform are born at this Seminar.

I would like to close by thanking you once again for inviting me to be with you and I wish you a most enjoyable, stimulating and successful Seminar.

NOTES

1. The Domicile and Recognition of Foreign Divorces Act was passed by the Oireachteas later in 1986 (Ed.).

2. The Irish Citizenship and Foreign Nationality Act was also passed by the Oireachteas in 1986 (Ed.).
Let us start by recognising the importance and many-sided nature of law. It is a hidden infrastructure which conditions our society and pervades almost every aspect of our lives. People have different perceptions of law, but on the whole tend to underestimate its scope and influence. However, if we run through a quick checklist - the Constitution, the Courts, the Government, the Oireachtas, legislation, the common law, the civil service, the gardai, the prison system and the legal profession - it becomes obvious how significant law is and how deeply it penetrates into every aspect of our lives.

Since law has such a significant and far-reaching role in our society, this gives rise to the next set of questions: who has been making the law? who has been interpreting the law? who has been administering the law? who has been enforcing the law? who has been providing legal services? The answer is the same in each case: either exclusively or predominantly, men. No woman had a hand in drafting the Constitution. The vast majority of T.Ds. and senators have been, and continue to be, male. In recent times there has been one woman in the Government, a ratio of 1:15. Ireland inherited the common law system which had been compiled by male judges, and most of the judges who interpret our Constitution and laws are men. Men are dominant at the senior levels of the civil service, in the gardai, in the legal profession and even among trade union officials.
Well, does it matter?

The extent to which it matters can best be illustrated by looking at how law has affected women in an historic perspective. At the beginning of the 19th century, when Britain and Ireland were joined in the Act of Union, women had virtually no rights at all. They were the chattels of their fathers and subsequently of their husbands. They could not vote. They could not sign contracts. When married, they could not own property. They had no rights over their children and no control over their own bodies. Their husbands could rape and beat them without any interference from the law. Those women who worked were forced to join the lowest levels of the labour force for unequal wages.

From that grim starting point considerable progress has been made in eliminating the obvious areas of sex discrimination and victimisation. Indeed, Ireland recently signed the U.N. Convention for the elimination of all forms of discrimination against women, and we hope to have cleared the decks in the near future to ratify that Convention! However, whilst acknowledging the importance of the progress which has been made, it is necessary to pose the further question:

Is it significant for women in Ireland in 1986 that men are still dominant as lawmakers, as members of the Government, as judges, as senior civil servants, as law enforcers and as legal practitioners?

I believe the answer is yes, and that the significance is greater than many women appreciate. It is not simply a question of wanting more women per se involved in the various bodies. It is because the male domination at all levels affects the very ethos and culture of our society. It reinforces sex stereotyping and role conditioning. Those with control over the levers of power have little reason to want to change the establishment. At the moment it is male perceptions and male priorities which predominate. Are they necessarily the same as the perceptions and the priorities of women?
One way of testing that is to imagine an Ireland where women shared equally in the Government and administration of the State. If half the Oireachtas and half the members of the Government were women, would the priorities remain the same? Most men would probably doubt whether it would make a significant difference, whereas most women would see immediately that there would be a different order of priorities. Social legislation and family law reform would have a much higher rating. Unemployment and under-employment would be looked at from a different perspective and lead to more imaginative solutions. Business lunches and expense accounts might come under a colder scrutiny as would the whole ordering of the working week. It is hard to believe that child care facilities and creches would remain such a neglected area.

Another way of putting it to the test is to examine the approach adopted to the scope and interpretation of two basic concepts in the Constitution: the protection of the family and the guarantee of equality under the law. Articles 41 and 42 recognise the family as the fundamental unit group of society and guarantee it special protection. However, the family in question is the family based on a valid subsisting marriage. These provisions have been interpreted to exclude from the definition of family the single mother and her child or children. A whole jurisprudence has been built up on this concept of the constitutional family. The child of a constitutional family has more rights under the Constitution than a child who was not fortunate enough to be born into a constitutional family, and so on. The constitutional family is the traditional model family: husband, wife and children. The Constitution recognises that the wife in this model family "by her life within the home . . . gives to the State a support without which the common good cannot be achieved". But what kind of limbo does this create for the other families in the State? What about the large number of single mothers and their children? What about couples who live together without marrying, either by choice or because one or other
is already married? This approach of confining family rights only to the family based on a valid subsisting marriage is contrary to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and it is contrary to the interests of a significant number of women and their children.

The second concept, equality before the law (Article 40.1) has been characterised by one High Court judge as "... probably the most difficult and illusive concept contained in the constitution". Equality was interpreted as being confined to equality as a human person, and not equality in relation to being involved in a trade or profession. As a consequence, it was not the guarantee of equality under the Constitution, but rather the obligations on Ireland of membership of the EEC which led to the enactment of equality legislation in the mid-70s.

**Devising an effective strategy**

Given that the numerical situation is unlikely to change in the short term, in that men will probably be dominant in the power structures for the foreseeable future, can an effective strategy be devised to redress this imbalance? The answer is yes, but the approach must be strategic and effective. The following factors are relevant to the formulation of such a strategy:

- It is vital that a sufficient number of women recognise that the domination by men in the power structures of our society does matter.

- That it is an imbalance which affects the ethos and priorities of that society, and that it must be altered in a concerted manner.
- That knowledge is power. Unless women's groups and women more generally have access to knowledge of the laws and institutions which affect them, they cannot seek to exert effective influence.

- Because women are outnumbered in the various power structures, it is all the more important that they develop skills of effective lobbying in order to influence priorities and bring about change.

- Consideration should be given in appropriate circumstances to the use of the test case to accelerate legal change. Women's organisations could consider establishing a legal fund to help support test cases in appropriate areas.

- Women activists in the trade union movement should examine their ambivalence towards lawyers and the courts. However understandable their reservations in that regard, equality law cannot be fully effective until there is a healthy jurisprudence developed both in the Labour Court and on appeal on a point of law to the High Court.

- In recent years there has been a welcome development of women's studies in third level colleges and extra-curricular courses throughout Ireland. An important component in such courses should be a basic grounding in law.

- Women judges and lawyers could be more active in challenging any traditions of their profession which are blatantly sexist.

**Conclusion**

Until now the broad approach of the women's movement has been to seek the removal of existing discrimination against
women or victimisation of women. From now on the strategy
must become more positive. Women must learn to harness
the existing resources in an effective and strategic manner
in order to compensate for their lack of numbers in the power
structures themselves. For centuries women were the victims
under discriminatory laws. Now that same instrument of law
can be invoked by women as a powerful ally in seeking social
change.
Aims

Since the early 1970's, there has been a series of significant legislative reforms affecting both the legal status and the everyday lived realities of women in Ireland. The purpose of the seminar was to examine and to critically evaluate the multiplicity of ways in which women's lives and the law intersect and interact.

Assessing the extent and real impact of law reform is not an easy task, as the process of reform appears to happen in a piecemeal, fragmented way, and at a painfully slow pace. UCD Women's Studies Forum considered it important that women should have the time and space to reflect on this process and its consequences for our lives, in an integrated and systematic way.

We particularly wanted to develop our understanding of the role of the law in maintaining and reproducing the subordinate status of women and - optimistically - to think seriously about the kinds of strategies we need to adopt and pursue to combat the current "backlash" against women, all too evident in the past couple of years in our courts.

Attendance

The seminar was attended by about 70 women from a variety of backgrounds. There were a number of solicitors, barristers and a member of the judiciary. Many women active in self-help, single-issue and campaigning groups participated, as did several politicians and teachers of law. A large number of women attended the seminar because they want and need to know more about the legal system, and to work actively to bring about much-needed change.
In her opening address, Nuala Fennell, T.D., Minister of State for Women's Affairs and Family Law Reform, reminded us of legislative initiatives in recent years which have made a real difference to women's lives - particularly in the areas of employment, maternity protection and family law. Many of these initiatives, she emphasized, are "as good and, in many instances, better than exist in other countries". The Minister outlined further reforms by the Oireachtas which would develop the programme to eliminate legal inequalities between women and men. Unfortunately, some of the Bills to which she referred were not in fact enacted before the Coalition Government fell in February 1987.

Senator Mary Robinson gave an inspiring, powerful speech in which she told us forcefully that 'women must learn to harness the existing resources in an effective and strategic manner in order to compensate for their lack of numbers in the power structures themselves. For centuries, women were the victims of discriminatory laws. Now that same instrument of law can be invoked by women as a powerful ally in seeking social change'.

In a deeply thoughtful and thought-provoking paper, Ann Bottomley, head of the Law Department in North East London Polytechnic, spoke about the problems inherent in Family Law. She urged us to think carefully about the long-term effects of many of the reformist measures we have been fighting for - some of which we have gained, others not. She insisted that we cannot afford to move forward on single issues, in isolation, without developing a clear sense of where the total package will lead us. She reminded us of the urgent need - a basic principle of feminism - to rethink the family and marriage in order to transform, not simply reform, these fundamental institutions.
Discussion

Many of the issues raised by both Mary Robinson and Anne Bottomley were discussed in more detail in a series of small groups on a broad range of topics.

Sadly, our discussion of divorce - and the contributions of the panellists who brought the proceedings to a stimulating conclusion - clearly had no impact on the people of Ireland at large. In May, we were full of hope and enthusiasm, energy and dynamism. It will be difficult for us to maintain the momentum in the aftermath of the bitter defeat of the divorce referendum.

Still, we must continue. Monica Barnes, T.D., insisted that women must establish their priorities and lobby in an organised and cohesive way in the run-up to the next General Election. The Women's Studies Forum will certainly continue to provide an environment where issues can be debated and analysed by all women, to bring about change in the lives of all women in our society. We finished with this simple but important thought:

'Obviously, no one thinks that changing the laws alone can change the world. But without changes in laws and their implementation, the world will never change'. (J. Scott).


<table>
<thead>
<tr>
<th>Year</th>
<th>Act/Act (Legislation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971</td>
<td>Courts Act (Financial rights of unmarried mothers).</td>
</tr>
<tr>
<td>1977</td>
<td>Employment Equality Act. Unfair Dismissals Act (Protection for employees, including pregnant women, against Unfair Dismissal).</td>
</tr>
<tr>
<td>1979</td>
<td>Health (Family Planning) Act (strictly limited availability of Family Planning Services and Contraceptives).</td>
</tr>
<tr>
<td>1980</td>
<td>Finance Act (special provision in relation to the taxation of married people).</td>
</tr>
</tbody>
</table>
Social Welfare (Amendment) Act (Maternity Allowance for women employees).

1983: 8th Amendment to the Constitution: "The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and as far as is practicable by its laws to defend and vindicate that right".
Finance Act (Changes in the taxation of separated couples).

Finance Act (Abolition of capital acquisitions tax on inheritance from one spouse to another).

1986: Electorate voted, in a referendum, against the deletion from the Constitution of the article banning divorce.
Domicile and Recognition of Foreign Divorces Act (Establishing independent domicile for married women)
Irish Citizenship and Foreign Nationality Act (Enabling foreign husbands of Irish women to acquire Irish citizenship on same grounds as foreign wives of Irish men).

CONSTITUTIONAL CASES

1972: Mrs Mary McGee's action for damages against the Attorney General and the Revenue Commissioners relating to the Seizure of Contraceptives by Customs officials overruled by High Court.

1974: Supreme Court ruling in favour of Mrs McGee, on the basis that the ban on the importation of contraceptives was unconstitutional.
Mairin de Burca and Mary Anderson take a case to the Supreme Court claiming that the 1927 Juries Act was unconstitutional.
1976: Supreme Court ruling in favour of Ms de Burca and Ms. Anderson on the basis that the conditional exclusion of women from jury lists was unconstitutional.

1979: European Court of Human Rights
- Ruling in favour of Josephine Airey, who claimed that the Convention on Human Rights had been breached as she did not enjoy an effective right to access to the High Court to seek a judicial separation. A Civil Legal Aid Scheme was subsequently introduced in 1981.

- Supreme Court ruling in favour of Murphy, who had taken a case against the Attorney General, claiming that certain sections of the Income Tax Act 1967 were unconstitutional insofar as they discriminated against married couples.

1982: High Court ruling in favour of Roisin Conroy, granting entitlement to Unemployment Assistance to married women who are separated.

- High Court rules that a child born to a woman and a man other than her husband can have the name of the actual father recorded.

1985: High Court ruling against Eileen Flynn. The court found that the dismissal of Ms. Flynn from her teaching post was not unfair. Ms. Flynn's dismissal arose because of her relationship with a local married man with whom she cohabited and by whom she became pregnant.

1986: European Court of Human Rights ruled that the non-provision of divorce does not violate human rights but that the inferior legal status given to children of unmarried parents is in breach of the Human Rights Convention.

CHECKLIST OF MATERIALS RELEVANT TO THE
STUDY OF WOMEN AND THE LAW IN IRELAND

IN THE LAW OF THE FATHER

In preparing for the seminar I collected a fair number of books, articles, pamphlets and other materials. I came to the conclusion that although academic lawyers in Ireland have been, with rare exceptions, disgracefully but not unsurprisingly dilatory in paying serious attention to the interaction of gender and the law, Irish women have amassed a considerable body of information about the legal system and its impact on our lives and have recently begun to analyse in more depth the patriarchal roots of the Laws of the Father.

I hope this checklist of materials may be of some use to women who want to pursue this analysis further.

Ailbhe Smyth
GENERAL

Oxford Basil Blackwell
Comprehensive analysis of the way in which the law treats women in the U.K. at work, in the family, in matters of sexuality and fertility.

London Routledge and Kegan Paul
Collection of essays by British feminist lawyers, researchers and legal institutions.

BROWN MILLER Susan (1973) Against our will
Harmondsworth Penguin Books
The classic study of rape.

CARLEN Pat (1983) Women's Imprisonment
London Routledge and Kegan Paul

EDWARDS Susan (1981) Female Sexuality and the Law
Oxford Martin Robertson
- (Ed) (1985) Gender, Sex and the Law
London Croom Helm
Collection of discussion papers covering a wide variety of issues and problems including transsexualism, UK immigration laws, employment, victimized women, sentencing of women offenders and so on.
- (1986) Women on Trial Manchester University Press

HADJIFOTIOU Nathalie (1983) Women and Harassment at Work
Detailed and practical account of workplace activities for tackling sexual harassment.

HEIDENSOHN Frances (1985) Women and Crime
London MacMillan
Wide-ranging account of the issues, problems, experiences and research concerning female crime from a feminist perspective.


MACKINNON Catherine (1979) Sexual Harassment of Working Women
New Haven Yale University Press
- (1983) 'Feminism, Marxism, Method and the State: Toward feminist jurisprudence' in Signs vol.8

MARSHALL I.H., WEBB V., HOFFMAN D. (1985/6)
'A Review of Explicit and Implicit Propositions about Women as Terrorists' in RFR/DRF vol.13 no.4.

London Croom Helm

O'DONOVAN Katherine (1981) 'Before and After: The Impact of Feminism on the Academic Discipline of Law'
in SPENDER Dale (Ed) Men's Studies Modified Oxford Pergamon Press
PATULLO Polly (1983) Judging Women
London N.C.C.L.
Pamphlet examining sexist attitudes and anti-women bias within the legal profession and the judiciary in Britain.

RIFKIN Janet (1980) 'Toward a Theory of Law and Patriarchy'
in *Harvard Women's Law Journal* vol.3.

SACHS Albie and WILSON Joan (1978) Sexism and the Law: A Study of Male Beliefs and Judicial Bias
Oxford Martin Robertson
Refers to both U.K. and U.S. and includes examination of women in the legal profession.

SCUTT Jocelynne and GRAHAM Di (1984) For Richer for Poorer: Money, Marriage and Property Rights
Victoria Penguin Books

SMART Carol (1976) Women, Crime and Crimonology
London Routledge and Kegan Paul

SMART C and SMART B (1978) Women, Sexuality and Social Control

London Routledge and Kegan Paul

Resources for Feminist Research/Documentation sur la Recherche féministe (RFR/DRF)
vol.13 no.4 1985/86 Special Number: Women and the Criminal Justice System

Women's Studies International Forum
vol. 9 no.1 1986
Special Number: Women and the Law
IRELAND

AIM (1985) Family violence; The Family Home; The Law and Church Annulments; Legal Separation Agreements; Judicial Separation (Divorce a mensa et thoro); How can I get maintenance? Marriage code
Series of leaflets compiled and published by AIM Group for Family Law Reform

ARNOLD Maris and KIRBY Paddy (1982) "The Abortion Referendum" - The Case Against Anti-Amendment Campaign

BARRY Ursula (1986) Lifting the Lid: Handbook of Facts and Information on Ireland Deals with a wide range of areas including employment, social welfare, taxation, social control, family law, legal aid, crime and so on.

CHERISH (1983) Singled Out: Single Mothers in Ireland

CLISSMAN and GOOD Anne (1986) 'Family Law' (Interview) in Council News no.2 Dublin C.S.W.

- (1986) Council News No.2 Summer Focus: Women and the Law


DEPARTMENT OF SOCIAL WELFARE Summary of Social Insurance and Social Assistance Services Free Booklet obtainable from the Dept. of Social Welfare.


- (1986) 'Family Law and Social Policy' in Studies vol.75 no.298.

Information leaflets on various aspects of Equality legislation are available from the E.E.A.


GANNON Ita (1985) 'Against Prostitution' in STEINER-SCOTT (Ed.) Personally Speaking Dublin Attic Press
HEDERMAN Mary (1980) 'Irish Women and Irish Law' in The Crane Bag vol.4 no.1 Special Issue Images of the Irish Woman

INSTITUTE OF PUBLIC ADMINISTRATION Yearbook and Diary (annual) Dublin I.P.A.


IRISH FEMINIST REVIEW (1984)
Dublin Women's Community Press

IRISH WOMEN'S Guidebook and Diary (annual)
Dublin Attic Press

JACKSON Pauline (1983) The Deadly Solution to an Irish Problem: Back Street Abortion (Pamphlet)
Dublin Women's Right to Choose Campaign.
- (1986) Industrialization and Reproductive Rights Florence Working Papers of the European University Institute

JOINT Oireachtas Committee on Women's Rights (1984)
First Report - Education
- (1986) Portrayal of Women in the Media (Third Report)
Dublin Stationery Office


MINISTER OF STATE FOR WOMEN'S AFFAIRS (1984)
Working for Women; 100 Years of the Irish Women's Movement; Women and the Law; Guide to Pre-School Facilities; Information for Widows; Marriage and Family Law (Pamphlets/Leaflets) Dublin Stationery Office


RAPE CRISIS CENTRE Annual Report - (1983) Submission from Dublin R.C.C. on Rape Legislation and Investigative Procedures to the Oireachtas Joint Committee on Women's Rights Dublin R.C.C.


UCD Women's Studies Forum (Forthcoming) In the Law of the Father: Seminar Report Dublin UCD W.S.F. forthcoming


UCD WOMEN’S STUDIES FORUM

was founded in 1983 by women staff and students with the primary objective of stimulating and developing women-centred research, teaching and learning. The Forum provides women throughout the College and in the wider community with the opportunity and space needed to explore ideas and opinions, to pursue research interests, and to develop resources for both teaching and scholarship.

The Women’s Studies Forum seeks to reach across and beyond the traditional dividing lines - between disciplines, between students and teachers, between staff in different sectors in the university. Very importantly, the Forum seeks to reach out and join with women in the wider community, whose insights, experiences and diverse practice are crucial to its growth.

The Forum organises fortnightly Research Seminars, regular lunchtime talks and discussions, an annual series of literary readings, and also holds three or four one-day seminars on specific themes during the course of the year.

Women’s Studies Forum events are normally open to both women and men, students and all staff, and to the general public.

For further information about events and the work of the Forum please contact:

UCD Women’s Studies Forum
Arts Building
University College Dublin
Belfield
Dublin 4
Tel. (01)693244 ext. 8129