

be employed as a different lens through which to view and articulate matters of concern to women. The inclusion of their voices, giving them an arena, an audience and influence, is embodied in this project and its surrounding work of further publication, engagement and dissemination.

The Northern/Irish project has sought to engage judges from both jurisdictions, holding workshops on judicial craft and liaising directly with judges on some of the divisive issues which have necessitated the emergence and proliferation of this genre of literature. These judgments do not stagnate once scripted: instead, participants are encouraged to bring them into the classroom in order to approach the teaching of law in a more trans-disciplinary and also a more holistic and authentic fashion. Students will benefit from this exercise as they will have received a more insightful, pedagogical approach, which can enhance the connection between the law and justice. Academics can be proactive about this and examine how to incorporate parts of the *Feminist Judgments* into their courses. I can confirm, for instance, when reading this book, that I can include some judgments in Sociology of Law to enhance students' perspectives and also to broaden their awareness of academic works at an early point. Perhaps we will witness a common law of feminism emerging on the island once the boundaries of injustices against women cease to be promulgated by the courts and other branches of the law. Precedent and inspiration can be sought from other jurisdictions from beyond the UK. Bringing feminist judgments to the heart of the judiciary is an achievable goal, as can be seen from the UK experience. The book's set-up is all positioned at the beginning: in conformity with the UK version of this project, there is no conclusion and the book ends abruptly on the last judgment without further ado. Perhaps it is that, by p.643, all has been said and it now remains for lawyers and others to pick up this work and bring it forward, hopefully to the heart of justice in the two jurisdictions of Ireland. This book is wonderfully insightful and is an essential and highly recommended companion reader to one-sided cases which do not truly do justice.

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Niamh Howlin and Kevin Costello (eds), *Law and the Family in Ireland: 1800–1950*. Palgrave, London, 2017. xiv+272pp. £75.00 (hardback), £24.99 (paperback), £16.66 (ebook). ISBN: 9781137606358

The study of legal history, at first glance, may seem to be something of a luxury for the modern lawyer, struggling to keep abreast of emerging legislative and judicial trends. There is, nonetheless, an immense value in such research. It readily illustrates how law, policy and culture are not static, that legal responses can vary dramatically over time and space, and that rights and remedies one now takes for granted were often hard won over decades, sometimes centuries.

Legal-historical research also demonstrates that social phenomena that one might mistakenly perceive as modern in origin in fact recur across time.

The editors of this impressive collection have gathered an enriching and stimulating compendium of papers on the history of law as it relates to the family. Collectively, the essays provide a fascinating insight into legal and social responses to family life over several centuries.

The collection will undoubtedly be of particular interest to family lawyers, but anyone interested in legal history, issues of class, property, religion, gender and the welfare of children will enjoy this illuminating text. Thoroughly researched, and rich in its analysis and critique, the text's introduction and 12 chapters are impressively clear, succinct and accessible. The authors and editors do the reader a great service in cross-referencing their papers, such that the various chapters—though addressing separate, stand-alone themes—complement each other admirably.

Marital breakdown and responses thereto feature prominently in several chapters. Various authors highlight, in particular, how desertion, informal separation, and possibly migration often acted as surrogates for formal legal mechanisms addressing marital dysfunction.

In “Marriage Breakdown in Ireland, c.1660–1857” (Ch.2), Mary O’Dowd expertly charts legal and ecclesiastical responses to relationship breakdown during that period, vividly demonstrating “that the image of a society bound by a puritan code of sexual morality is not an accurate depiction of Irish society before the mid-nineteenth century” (p.23). Of particular note is the phenomenon of “elopement notices” announcing spousal desertion in local newspapers. O’Dowd also illustrates how cohabitation outside marriage and bigamous unions were not unheard of at the time.

In “Divorce Irish Style’: Marriage Dissolution in Ireland, 1850–1950” (Ch.7), Diane Urquhart cogently surveys the limited, cumbersome and expensive legal options that were available to free spouses from unhappy marriages during that period. She concludes that “[f]or those whose marriages broke down, were incompatible, abusive, or unhappy, the legal solutions to protect, support and ultimately allow lives to be rebuilt were severely lacking in Ireland in the period from 1850 to 1950 and beyond” (p.124).

Deirdre McGowan perceptively explores the impact of class difference and economic security in approaches to marital dysfunction in “Class, Criminality and Marriage Breakdown in Post-Independence Ireland” (Ch.8). For rural families, marriage was “principally an economic transaction” (p.126), with concerns around the transmission of land and inheritance predominating. Unhappy rural spouses rarely resorted to legal remedies, relying instead on pragmatic, discreet workarounds such as informal separation. Cushioned by economic security, middle-class families also generally managed to keep their marital difficulties out of the public eye. In sharp contrast, marital breakdown among poorer urban families was much more visible and problematised, with State intervention in the form of criminal prosecution for desertion, neglect and bigamy, and widespread institutionalisation of children and deserted wives.

The text also addresses the intricacies of marriage formation. In “The Comeback of the Medieval Marriage *Per Verba de Praesenti* in Nineteenth-Century Bigamy Cases” (Ch.3), Maebh Harding expertly navigates the muddy waters of marriage formation prior to 1844. She focuses particularly on the status of mixed marriages formalised by dissenting Protestant ministers and the debate as to whether a simple exchange of promises *per verba de praesenti*, without formal solemnisation in the presence of episcopally ordained clergy, created a valid marriage.

Kevin Costello highlights the gender dimensions of marriage in “Married Women’s Property in Ireland, 1800–1900” (Ch.5), focusing on the common law doctrine of coverture, whereby a married woman’s property and income came largely under the control and ownership of her husband on marriage. Her capacity to contract, to sue and be sued, and ability to raise credit were also severely compromised. Costello cogently examines the limited impact of the use of marriage settlements and trusts to offset the rigours of coverture. He also charts efforts to abolish coverture, culminating in the Married Women’s Property Act 1882, though married women’s financial independence generally remained elusive for some time after coverture’s abolition.

Any perception that our forebears were universally temperate and restrained in their sexual lives is readily dispelled throughout the text. In her essay “Adultery in the Courts: Damages for Criminal Conversation in Ireland” (Ch.6), Niamh Howlin explores the dimensions of criminal conversation (“*crim con*”), a civil remedy whereby a husband could seek damages from a man who committed adultery with the former’s wife. Abolished in England and Wales in 1857, this remedy (remarkably) survived in Ireland until 1981. Howlin expertly traces the evolution of the action, and the changes over time in the rationale for awarding damages.

Michael Sinnott examines another since-abolished civil remedy in his erudite paper on “The Action for Breach of Promise of Marriage in Nineteenth-Century Ireland” (Ch.4). Like *crim con*, this action became, in Sinnott’s words, “an enforcement mechanism of social structures of nineteenth century Ireland” (p.65). Sinnott explores the elements of the action as well as the criteria for awarding damages thereunder.

Gender features prominently in both Howlin’s and Sinnott’s contributions. In relation to both actions, the extent of damages often depended on the age, femininity, perceived virtue, and attractiveness of the woman. Though theoretically open to men, the action for breach of promise was almost invariably pursued by jilted women, for whom marriage was an important determinant of social and economic status. By contrast, only husbands could sue for *crim con*, suggesting glaring double standards and possibly a view that wives were effectively the “property” of their husbands.

Lindsey Earner-Byrne examines social and legal responses to intrafamilial abuse in post-independence Ireland in “Behind Closed Doors: Society, Law and Familial Violence in Ireland, 1922–1990” (Ch.9). While highlighting the inadequacies of State responses to family violence and the abuse of children in the early decades after independence, Earner-Byrne insightfully observes how

“the Irish State could be aggressively interventionist if the family in question was poor” (p.149). She exposes, in particular, the extensive incarceration of children in, for instance, industrial schools, often due to poverty and family neglect.

In “Murder in the Irish Family 1930–1945” (Ch.10), Karen Brennan offers a scholarly, forensic examination of 27 cases of alleged homicide where the victims were family members of the accused. Though appropriately cautious in her conclusions, she examines some of the factors that characterised these proceedings, including a high rate of insanity-related disposals, the low rate of convictions of women in the sample, and the impact of the death penalty on outcomes in such cases.

In “Interrogating the Charge of Concealment of Births in Nineteenth-Century Irish Courts” (Ch.11), Elaine Farrell highlights the appalling impact of the stigma formerly surrounding births out of wedlock, driving some women to kill their newborn children and conceal the birth. Farrell expertly exposes the inconsistencies in the disposal of prosecutions for concealment of birth pre-1861, and uncertainty in the interpretation and application of the relevant legislation. Notably, a strict interpretation of the offence’s elements saved some women from conviction.

In a similar vein, in “The Fate of the ‘Illegitimate’ Child: An Analysis of Irish Social Policy, 1750–1952” (Ch.12), Simone McCaughren and Fred Powell offer a powerful and damning account of the manner in which non-marital children and their mothers were stigmatised, ostracised, and often institutionalised, treated as the very embodiment of social deviance and sexual immorality. McCaughren and Powell cogently demonstrate, in particular, how an obsession with preserving religious faith and morality, and concerns around property and inheritance, largely displaced child welfare concerns in the development of policy, particularly around adoption.

In “Embedding the Family in the Irish Constitution” (Ch.13), Thomas Mohr observes that while the 1937 Constitution is replete with directive principles and values-based propositions on the family, marriage and education, the much sparser 1922 Constitution largely avoided such value statements, focusing instead on the mechanics of governance. The result is that some provisions of the 1937 Constitution, though possibly more colourful than those of its succinct and sparing predecessor, have “aged badly” (p.234), such that the 1937 document has garnered a reputation for being out of touch with modern sentiment. Despite this apparent divergence, however, Mohr demonstrates how the drafters of the 1922 Constitution were no less conservative when it came to family values and gender roles than their successors.

This collection provides a myriad of illuminating insights into the history of law as it relates to the family. The essays are thoroughly researched, providing rich historical detail and perceptive critiques, in a stimulating and accessible manner. The book highlights the human experience of marriage, family life and childbirth, interrogating past legal and social responses that all too often did little to improve the quality of life for struggling families.

The essays prompt one also to reflect on modern legal and social approaches to families in crisis, which, while certainly not ideal, are undoubtedly more humane, less judgmental, more pragmatic and a good deal less gendered than in past centuries. While this collection brilliantly dissects and exposes the practices of times past, it will certainly cure the reader of any nostalgia he or she might have had for a supposed past “golden age” of family life.

In sum, the authors and editors of this learned and enjoyable book deserve much praise and warm commendations.

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Thomas Murray, *Contesting Economic and Social Rights in Ireland: Constitution, State and Society 1848–2016*. Cambridge University Press, Cambridge, 2016. x+396pp. £69.99 (hardback). ISBN 9781107155350

*Contesting Economic and Social Rights in Ireland: Constitution, State and Society 1848–2016* is an important new work on the struggle to protect socio-economic rights in Ireland that examines a neglected part of our social and constitutional history, and that showcases the impressive breadth and depth of the author’s research. Dr Murray’s essential thesis is that the Constitution was a site of social conflict, where different understandings of how to constitutionalise socio-economic rights contended for primacy but where the minimalist version of these rights espoused by the conservative and nationalist constitutional projects prevailed over the more expansive views of such rights advocated by social democratic and radical projects. Building on that, he seeks to move the debate on socio-economic rights in this country from its focus on the legitimacy of their constitutional entrenchment or judicial recognition, to a critical analysis of the broader ethico-political processes and relations out of which these decisions arise. An important feature of his book is that he relates this domestic conflict to a world systemic politics, arguing that the effectiveness of socio-economic rights in the constitutional order varies primarily according to that order’s core or peripheral position in the capitalist world order and the local balance of contending “anti-systemic forces”.

Dr Murray is unquestionably correct when he contends that conservative and nationalist constitutional projects hollowed out the understanding of socio-economic rights contended for by voices on the left such as Clement France, an American labour lawyer, who served on the committee appointed by the Provisional Government in 1922 to draft the Constitution of the Irish Free State. Even the more modest views of Catholic commentators such as Alfred Rahilly, another member of the drafting committee, failed to secure a commitment to socio-economic rights in the 1922 Constitution, the right to elementary education apart, and this approach carried over into the present Constitution where initial proposals for justiciable socio-economic rights were downgraded