

# Why Do We Need Feminist Law?

Ebooklet

Volume 1



Feminist Law Society

Valuing Everyone Equally

# Why Do We Need Feminist Law?



Feminist Law Society

2020

## FEMINIST LAW SOCIETY AIMS

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- To examine the law and legal profession through a feminist lens.
- To educate ourselves and others on how to incorporate equal practice into study, research, legal work, and everyday life.
- To provide others with the tools to recognise, address, and understand the realities of inequality.
- To create and use resources that are inclusive of diverse learning styles and needs.
- To promote and signpost to examples of good feminist legal practice
- To work collaboratively with feminist law campaign groups and organisations to achieve shared aims in facilitating social, cultural, policy and legislative change.
- To highlight and tackle the gender-based myths and stereotypes that permeate society and that, subsequently, influence outcomes within our legal systems

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Link to playlist.

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## ICON KEY



Once clicked, the following symbols will take you to an external source



Audio / Podcast



Video



Case Law / Judgment



Legislation



Web Page: Article / Document



Tweet



Facebook



Instagram



Music

Playlist details of the music linked to every star on each page is on page 17



Spotify

### Reader guidance:

**Grey boxes**, on each page, exclusively contain bills, legislation, case law, judgments and key commentary.

**The main body of each topic page** is, ideally, read from the top to the bottom of the page, and across rows, from the left to the right of the page, as English text would ordinarily be read.

**Organisations that use resources in video and in audio formats have been given priority.** For instance, if a law firm has produced a podcast about a topic area, then that law firm gets a mention as well as the podcast to which we have provided a hyperlink. If an organisation has a video/audio page to cover important areas of a topic, that web page on their site will be hyperlinked to, instead of their home page.

**The sources of all of the quotes throughout this booklet can be found by following the external links that are hyperlinked to the neighbouring icons.** Or, you can simply copy-and-paste the quote directly into a search engine to find the source online.

**For those who prefer to listen to music while they study**, the star icons on each page are hyperlinked to a song that relates to the topic area.

**\*Please be aware that subject matter could be experienced as triggering for some users.**

Hovering a cursor over each icon will display the URL of the correlating external link



# Feminist Law Society

Valuing Everyone Equally

## ABOUT

This ebooklet was created and edited by:

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**Westminster Law School** is a hub of knowledge, support and inspiration for any aspiring legal professional, but it has been especially so for those of us who founded the **University of Westminster Feminist Law Society** there in 2019.



The Head of the Law School, **Elizabeth Duff**, always has her office door open and is always hugely receptive, encouraging and kind. This continued support from Elizabeth played a huge part in giving us confidence to form the Society.



Not far from Elizabeth's office is the office of the commendable **Dr Harriet Samuels**. Along with Elizabeth, Harriet was another inspirational player in the formation of the UoW Feminist Law Society.



The UoW Feminist Law Society **Programme of Feminist Law Lectures** was inspired by the balanced, skilled and inclusive delivery of modules such as criminal law by **Dr Oliver Phillips**.



At the time of writing, valued Westminster Law School supervising solicitor and senior lecturer, **Anna Steiner** and equally valued senior lecturer, researcher and director of the University of Westminster Legal Advice Clinic, **Hannah Camplin**, are developing a crucial project in collaboration with the **Centre for Women's Justice** and **Rape Crisis** at the **Legal Advice Clinic**.



The Academic Liaison Librarian at Westminster Law School, **Lorna Rosbottom**, has herself been a most valued resource. Before founding both the UoW Feminist Law Society and **Feminist Law Society Ltd**, **Maria Gallagher** approached Lorna with the idea to create a Virtual Bookshelf that consists of feminist law resources in varying formats, and Lorna has supported Maria in making it a reality. It is with the most thoughtful and valued consistent support from Lorna, since early 2019, that the **Feminist Law Society Virtual Bookshelf** © can be found on Westminster's Talis Aspire platform. It is freely and publicly available to all.



In the spirit of accessibility, Feminist Law Society has consistently tried to make feminist law accessible for those with varying levels of knowledge and understanding, as well as those with diverse learning styles. We hope to have achieved this with this ebooklet by using varying formats and by keeping information simple and concise. We have endeavoured to avoid linking to resources that are behind paywalls.

Hopefully, this introductory ebooklet will give you some ideas and answers about why we still need feminist law because together we can accelerate society's understanding of the ever urgent need for feminist law and continue to assist the progression of equality in all areas of the law.

Yours faithfully,

Feminist Law Society

# FIRST 100 YEARS

## Sex Disqualification (Removal) Act 1919



### Centenary: Stories Of Women in Law



First 100 Years: 2018 stories compilation



First 100 Years: Lady Hale



First 100 Years: Baroness Chakrabarti



First 100 Years: Spark21 2017 Keynote by Lord Neuberger



First 100 Years: Dame Linda Dobbs

'Before the passing of the **Solicitors Act 1843** [SA 1843], women were by the common law of England under a general disability, by reason of their sex, to become attorneys or solicitors.' (Joyce J. cited in **Bebb v Law Society** [1913] EWHC 1).

Gwyneth Bebb sought to establish and assert her 'right to be examined by the Law Society with a view to her entering the profession of solicitors' (Swinfen Eady L.J) and further asked 'for a declaration that she was a "person" within the meaning of the Solicitors Act, 1848'.

**Section 2 of the SA 1843** outlines the requirements for a 'person' to be permitted to act as an Attorney or Solicitor, and **Section 48 of the SA 1843** outlines the meaning to be taken from the word 'person' (XLVIII).

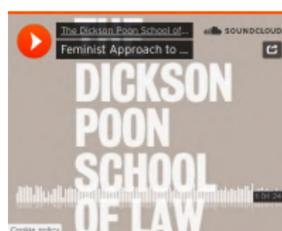
Citing section 48 of the Act in *Bebb v Law Society* at the Court of Appeal, Cozens-Hardy M.R highlighted that 'every word importing the masculine gender only shall extend and be applied to a female as well as a male unless there be something in the subject or context repugnant to such construction' (Cozens-Hardy M.R). It was, subsequently, asserted that there was 'something in the subject repugnant to the application of that section inasmuch as women never had been solicitors.' (Phillimore L.J.).

The judges in the Court of Appeal, declaring that they were unable to depart from well-established precedent at common law, that being that 'no woman has ever been an attorney-at-law' (Cozens-Hardy M.R), while also alleging that the Solicitors Act 1843 conferred 'no fresh and independent right, because it [did] not destroy a pre-existing disability' (ibid), unanimously dismissed the appeal, asserting that 'any change from the ancient practice [ ... ] must be effected by Parliament' (Swinfen Eady L.J.).

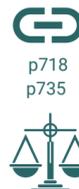
'The message? That's just the way it is.' (A woman is not a "person": A review of *Bebb v The Law Society* 1914 by Laura Vignoles 2018).

It was only when the **Sex Disqualification (Removal) Act 1919** came into force, that women were finally permitted to enter into the legal profession.

The **First 100 Years** project was created by **Dana Denis Smith** to raise awareness of the issues faced by women during the past century and 'celebrates, promulgates and, most importantly remembers, the pioneering women of the legal profession from 1919 to the present day.'



The Verdict: Law & Society. A Feminist Approach to Practicing Law by Harriet Wistrich at King's College London



p718  
p735



# PUBLIC SEXUAL HARASSMENT

Gemma and Maya Tutton



## Equality Act 2010

Section 26



### 'What is the nature of the problem?'

#### What is sexual harassment of women and girls in public places?

A range of definitions of sexual harassment are used by researchers and in law in different jurisdictions. The **Equality Act 2010** defines it as “unwanted conduct of a sexual nature” which has the purpose or effect of “creating an intimidating, hostile, degrading, humiliating or offensive environment”.

Laws do not, however, necessarily reflect the full breadth of the problem. Women and girls experience a wide range of behaviours as sexual harassment, including behaviour that is unwanted but not necessarily unlawful as well as sexual assault and other criminal offences. In this inquiry we have considered all types of behaviour that women experience as sexual harassment, regardless of whether it could be considered an offence.'



## Campaign to Make Street Harassment Illegal In the UK



linktree



Like many others, sisters **Gemma and Maya Tutton** have been subjected to street harassment. The first time Gemma was sexually harassed in the street, she was 11 years old.

Together, they started a campaign that seeks to protect women, girls, boys and men alike from being harassed in the streets by making public sexual harassment a criminal offence.



@OurStreetsNow

**'Public sexual harassment (PSH) is the most common form of violence against women and girls. Yet it is belittled, ignored and normalised. We want to change that.'**



Parliament TV

#### Sexual harassment of women and girls in public places

Women and Equalities Committee  
27 June 2018: 9.56am - 12.16pm

**'The campaign "Our Streets Now" include[s] anyone who experiences misogyny within our movement. Trans\* and gender-diverse individuals are victims of high levels of public sexual harassment.'**

### PETITION:



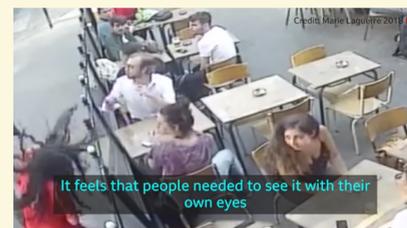
Plan International UK



@PlanUK



'Plan International estimates that 66% of girls and young women have been sexually harassed in public.'



Marie Laguerre 2018

'Report it to Stop It'



'Text 61016 or call 101'

\*\*Your mobile service provider may issue a small charge'

**hollaback!**



linktree



Global



London



@iHollaback

'Hollaback! is a global, people-powered movement to end harassment in all its forms, working to ensure equal access to public spaces'



BBC Sounds



'Gina Martin, Nihal Arthanayake and **Gemma and Maya Tutton** discuss society's normalisation of street harassment, the impact on those it is perpetrated against and pose solutions that we can all facilitate.'

# UPSKIRTING & FILMING WITHOUT CONSENT

Gina Martin & Emily Hunt



## 'Bill to make upskirting criminal offence blocked ...'



The Independent



Ministry of Justice UK



'It is a testament to the power of a good argument whose time has come. All these women are right that we should not wait around for this legislation, but we should make sure that it works.' (Stella Creasy MP)



## 'Woman who was told man that filmed her naked without consent could not face charges wins fight for justice'



The Independent

## Cardiff sex-filming ruling 'clarifies' voyeurism law



BBC News



See: R v Richards [2020] EWCA Crim 95

'CWJ director Harriet Wistrich said, "We would like to know why the CPS chose to argue opposite points in two separate cases."'

## 'Filming partner without their consent during sex ruled a criminal offence'

'In a highly unusual development in a criminal case, the court allowed someone not directly involved in events to intervene in the hearing to develop arguments that consent should be the primary issue when considering cases under the **2003 Sexual Offences Act.**'



'Third party interventions are important if feminists are to hold on to the gains they have made through the legislative process. Interventions also offer an opportunity to build a litigation strategy that will help shape the development of the case law under the **Human Rights Act 1998.**'



## Voyeurism (Offences) Act 2019



'Prior to the creation of the new offences contained in the Voyeurism (Offences) Act 2019, no specific offence of upskirting existed.'

The new offences apply in instances when:  
 a. Without consent, a person takes pictures beneath a person's clothing to observe their genitals or buttocks, whether covered or uncovered by underwear  
 b. The offender has a motive of either gaining sexual gratification or causing humiliation, distress or alarm to the victim

Offenders face up to 2 years in jail, with the most serious put on the sex offenders register.'



## R v Richards [2020] EWCA Crim 95

During his submissions, Ms Hunt's Counsel, stated that 'the provisions of Article 8 of the European Convention underpin the suggestion that a person can have a reasonable expectation of privacy even in respect of a place in which other people are consensually present. Furthermore, under the relevant jurisprudence a person's image and the control of it is a chief attribute of an individual's personality which [ ... ] should enjoy protection'



'How can one woman change the law?'

## Reconstructing the Law of Voyeurism and Exhibitionism

London School of Economics and Political Science - 2016



## Follow:

Gina Martin   
@ginamartinuk

Emily Hunt   
@emilyinpublic

# EQUAL PAY

## Samira Ahmed: BBC



### Equality Act 2010



#### Employment Tribunal Judgment (2019)

#### Samira Ahmed v BBC



'The unanimous judgment of the tribunal is that by virtue of the sex equality clause the terms relating to pay in the claimant's contracts for presenting "Newswatch" from 1 October 2012 to 30 September 2018 are modified so as not to be less favourable than the terms relating to pay in Jeremy Vine's contracts for presenting "Points of View" from 2008 to July 2018.'

### Equal Pay Bill [HL] 2019-21

A bill to make provision for a right for employees:

- to obtain information relating to the pay of a comparator;
- to reform remedies and time limits relating to equal pay;
- to provide a right to equal pay where a single source can rectify unequal pay;
- to amend the statutory statement of particulars to include equal pay;
- to provide for requirements on certain employers to publish information about the differences in pay between male and female employees and between employees of different ethnic origins; and for related purposes



'The [Equality] Act [2010] gives a right to equal pay between women and men for equal work. This covers individuals in the same employment, and includes equality in pay and all other contractual terms.'



### 'A woman's place is in her Trade Union'



#### 'Dagenham Women's Strike'

'How Ford's striking women drove the Equal Pay Act'



Jayaben Desai BBC /Getty



Reddebek

'Grunwick dispute: What did the "strikers in saris" achieve?'



'Women work an average of 63 unpaid days because of the gender pay gap.'



### 'Britain's Equal Pay Scandal'



BBC Panorama - 2018



'BBC facing huge bill for equal pay cases after Samira Ahmed verdict.'



The Guardian

### Follow:

Unison  
@unisontheunion  
Women's Equality Party  
@WEP\_UK  
#EachForEqual  
#EqualPay



The Fawcett Society  
'... I'm calling for women to have the legal "Right to Know" if they are being paid less than a male colleague for doing equal work.'



@fawcettsociety  
#RightToKnow  
Petition:



'We have to walk the talk'

Rt Hon Harriet Harman QC MP



Video by Cllr Siju Adeoye via Twitter

# DOMESTIC ABUSE

## Evidence - Based Repeated Pattern Of Escalation to Homicide



### 'CWJ submission to Domestic Abuse Bill Committee 21 May 2020 The need for an offence of non-fatal strangulation'

**TIMELINE:**  
Key UK Developments  
Relating To  
Violence Against  
Women and Girls

**Dr Jessica Taylor - Psychologist and Activist**  
Friday at 10:47

In 2019

- 114 women killed by men
- 40% of men were partners/ex
- 17% of men were family
- 7% of men were strangers
- 36% of men were unconfirmed

6 men killed by a partner/ex  
5 partners were male  
1 was female

Men killed 114 women  
Women killed 1 man

(ONS,2020)  
DV isn't equal.

hww.facebook.com  
/jessicaforenpsych

**RIGHTS of WOMEN**  
helping women through the law

'Domestic abuse killings "more than double" amid Covid-19 lockdown'

'COVID-19 Domestic Abuse During The Crisis'

Get legally speaking .com

'Eight stage relationship progression to homicide'

MPs call for register to monitor serial domestic abusers and stalkers

'Men's violence against women is a leading cause of premature death for women globally but research in the UK and Europe is limited and unconnected. The Femicide Census significantly improves upon currently available data by providing detailed comparable data about femicides in the UK since 2009, including demographic and social factors and the methods men selected to kill women. By collating femicides, we can see that these killings are not isolated incidents, and many follow a repeated pattern.'

CONTENT WARNING  
This film contains accounts from the families of women who have been killed by men and may be triggering or upsetting to viewers.

'Can you give me a link to counting dead men?'

**'TALK RADIO – IS SOCIAL MEDIA NORMALISING CHOKING?'**

@Wecantconsentto

'Harriet Harman MP today in #DomesticAbuseBill debate, on the horror of rough sex defences and men now literally getting away with murder. We've got another version of she drove me to kill her, it was her fault'

'Rough sex defence will be banned, says justice minister'

FJG FISHER JONES GREENWOOD SOLICITORS

LEGAL LIVES – Episode 2: Domestic Abuse Voices of Hope

**RIGHTS OF WOMEN: GUIDE TO DOMESTIC VIOLENCE INJUNCTIONS**

GOV.UK: APPLY FOR AN INJUNCTION

**Domestic Abuse Bill 2019-21**

GOV.UK

'The government has set out an enhanced version of the landmark Domestic Abuse Bill to Parliament, which will go even further to support and protect victims and punish perpetrators.'

Stocker v Stocker [2019] UKSC 17  
A perpetrator of domestic abuse brought a libel claim against his victim because she had written on Facebook that he had 'he tried to strangle [her]'.

Family Law Act 1996 Part IV (as amended by DVCVA 2004)

Domestic Violence Crime and Victims Act 2004

Section 76 Serious Crime Act 2015 made coercive control a criminal offence.

**#YouAreNotAlone**

@NCDV\_Official

@GalopUK

@RespectUK

@ManKindInit

@womensaid

@RefugeCharity

@EVAWuk

# THE 'REASONABLE MAN' WHO KILLS

## The Historic Sexist Nature Of Defence Available For Murder



### Partial Defences To Murder

#### Voluntary Manslaughter

#### Coroners and Justice Act 2009

ss 55, 56

Diminished Responsibility s 52

&

Loss of Control s 54



#### R v Challen [2019] EWCA Crim 916



Challen's appeal was allowed on grounds of new evidence relating to her having been subjected to decades of coercive control and a new diagnosis of disorders that were undiagnosed at the time of the killing and trial.

*'Assuming that Dr Adshead's diagnosis is correct, coercive control is then said to be relevant because of the interplay between the disorders and the effect of coercive control.'* HALLETT LJ

The court was satisfied that Challen's diagnosis may be relevant to both available partial defences. This undermined the safety of Challen's murder conviction. A retrial was ordered and, three months later, the trial was dropped.



N.B. Case law that predates the 2009 Act no longer applies

### 'sudden loss of control' vs 'slow burn' cumulative anger

Historically, the gendered legal issue was: 'sudden loss of control' vs 'slow burn' cumulative anger which had been interpreted in ways which excluded the experiences of battered women.

#### R v Ahluwalia [1992] EWCA Crim 1



'[T]he Court accepted that the time lapse could be seen as a "boiling over" period and as a factual matter that could be left to the jury to determine. [Ahluwalia] won her appeal on the grounds of diminished responsibility based on new psychiatric evidence of her long-standing depression due to her experiences of violence and abuse.'



#### Ahluwalia's experience was made into a film:



Google Play 'Provoked' (trailer)



'Unable to bear the brutality and repeated rapes by her alcoholic husband, Kiran Ahluwalia, a Punjabi housewife and mother of two in London, sets him on fire and kills him.'

#### 'Emma Humphreys - An Inspiring Legacy'

#### R v Humphreys [1995] 4 All ER 1008



Directed by Pratibha Parmar and edited by Nicholas Fernandez



**'THE CHARACTERISTICS OF THE "REASONABLE MAN"**  
The second ground on which the appeal was successful has created an important precedent. It concerns the aspect of the defence of provocation, where the jury are directed to consider the characteristics of the "reasonable man". This is an area of law that has expanded over the last twenty years. The "reasonable man" is the yardstick by which the jury is supposed to consider what constitutes reasonable behaviour, as opposed to an unreasonable reaction to an act of provocation.'

#### Legally, when is it 'reasonable' to kill?

Statute directs when it is 'reasonable' (2004) to kill. However, the 'defence seemed to be designed for men exploding in anger' (Wistrich 2019), rather than for women who had experienced the slow, relentless, psychological torture of ongoing domestic abuse.



BBC iPlayer BBC Two - 2020

#### Documentary

#### The Case of Sally Challen



Centre for Women's Justice - Vimeo  
Baroness Helena Kennedy introduces Sally Challen's son, David, a domestic abuse campaigner.



@TheHKF



@David\_Challen

#### Government consultation on murder defences (2008)



#### MISJUSTICE HOW BRITISH LAW IS FAILING WOMEN



HELENA KENNEDY



### Support, fund and follow

JUSTICE FOR WOMEN



@justice4women



@SBSisters

Women in the Law UK



Talking Law



# MYTHS, CONSENT & THE BENCH

## The Family Court



### #TheCourtSaid

**Mr Justice Hayden stated, during a safeguarding hearing in the Court of Protection,** 'I cannot think of any more obviously fundamental human right than the right of a man to have sex with his wife...' (2019) [↔](#)

Shadow policing Minister, Louise Haigh, 'used her parliamentary privilege to challenge Judge Robin Tolson QC's remarks' as it was unjust on the ground of 'procedural irregularity and [...] errors of law' as to require a retrial according to Ms Justice Russell DBE (2020) [↔](#)

@LegalActionGrp  
LAG  
[↔](#)

House of Commons (2019)

@CrisMcCurley  
[↔](#)

House of Commons (2020)

@LouHaigh

Voices of Family Law

**'Spotlight on child protection in family courts'**

A panel of experts will review how the family courts protect children and parents in cases of domestic abuse and other serious offences' (2019)

**Specifically, the work will:**

- examine the courts' application of Practice Direction 12J – this relates to child arrangement cases where domestic abuse is a factor
- examine the courts' application of 'barring orders' which prevent further applications being made without leave of the court under the Children Act 1989
- gather evidence of the impact on the child and victim where child contact is sought by someone alleged to have, or who has, committed domestic abuse or other relevant offences'

[↔](#)

'One stereotype is that rape must involve physical resistance on the part of the complainant. Such myths are multi-layered and interrelated. [...] [T]his belief is intertwined with the belief that rape must involve serious physical injury. The *criminal offence of rape does not require physical resistance or perpetration of physical violence.*'

[↔](#)

**'Cuts to legal aid and soaring complex caseloads for dedicated social workers are all part of a family court system under incredible pressure. There needs to be the political will and resource to fix the structural problems in order to keep our children safe.'**

(Louise Haigh 2019)

[↔](#)

**Assessing risk of harm to children and parents in private law children cases – progress update** [↔](#)

'I speak to victims of domestic abuse, coercive control, stalking, rape. Going into the family courts re-traumatizes them and their child, and puts them at harm.'

Claire Waxman  
Victim's Commissioner for London

Victoria Derbyshire  
**Claire Waxman**  
**Victims' Commissioner**

**Harriet Wistrich**  
**discusses**  
**'a culture of disbelief'**

Time stamp: 16:15

BBC Sounds  
Woman's Hour

**JH v MF**  
**[2020] EWHC 86**

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The case concerned an appeal from the Central Family Court following a fact-finding trial in proceedings for a child arrangements order. The mother alleged that she was the victim of domestic abuse by the father, including allegations of rape.

'[T]he trial judge concludes that JH should have physically resisted. He also suggests that "physical coerc[ion]" is necessary for a lack of consent, which is incorrect.'

[↔](#)

**Sexual Offences Act 2003**  
**Section 1**

Assessing Risk of Harm to Children and Parents in Private Law Children Cases: Final Report June 2020

[↔](#)

**'Family judges to take online sexual consent course'**

[↔](#)

Blue Seat Studios

**'Sexual consent is simple. We should all be clear what constitutes rape'**

# CYPRUS GANG RAPE CASE

'They asked me to say that it wasn't a rape' [↔](#)



## European Convention on Human Rights



### Article 6 Right to a fair trial

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

'The Foreign Secretary has vowed to raise the "deeply concerning" case with Cypriot authorities after the 19-year-old woman was convicted of lying about being gang raped by up to 12 Israeli youths during a stay in the resort of Ayia Napa in July.'



## #IBelieveHer

'Cyprus rape case explained: Timeline of events...'



'insight and analysis of Cypriot justice'



@Beyond\_Contempt



LBC 97.3 FM

'The Cyprus rape case has been a "trial by social media" – the video is "everywhere" which wouldn't have happened 10 years ago, says LBC's Rachael Venables.'



'Patriarchal power structures, existing for millennia, will not go quietly. This is going to be a long struggle and one of the first steps in it should be pushing for an overhaul of judicial systems to remove gender bias from laws and courtrooms.'



In the arrivals hall, the teens loudly celebrated their release by opening champagne bottles, chanting "the Brit is a whore."



BBC Victoria Derbyshire via @Beyond\_Contempt  
Twitter: 7 Tweet/ video thread

"In this case, her human rights have been violated & I find it shocking that neither Europe, the embassy, or our Government, feel able to make sure that her rights are being observed"



Kate Manne, Bloggingheads.tv  
**Down Girl: The Logic of Misogyny | Robert Wright & Kate Manne [The Wright Show]**



AFP News Agency  
**'Protest in London in support of British woman in Cyprus rape claim case'**



'Ayia Napa false rape claim trial: Briton files appeal against conviction'



AP Photo/Philippos Christou  
"I Believe Her" trends on Twitter after woman found guilty of lying in Cyprus gang-rape case'



'What the Cyprus rape case tells us about justice in Europe'



Go Fund Me  
**Help Teen Victim Get Justice In Cyprus**



'Although the Defence team is very disappointed with the decision of the Court having put a lot of effort into the lengthy trial process and after bringing expert evidence before the Court we are not surprised by the result given the frequent refusal during the trial of the Judge to consider evidence which supported the fact that the teenager had been raped. Shutting down questioning from our Cypriot advocates and the production of evidence into the trial on a handful of occasions the Judge stridently stated "this is not a rape case, I will not consider whether she was raped or not".'



# RAPE PROSECUTION IN THE UK (England and Wales)

## Failing Victims Of Sexual Violence



### 'CPS faces allegation of dropping rape cases to boost prosecution rates'



'The CPS and Ministry of Justice's own figures show that while rapes reported to the police have nearly tripled (up by 173%) between 2014 and 2019, the number of cases charged and sent to court is actually down by 51%'

**Charges, prosecutions and convictions for rape have all fallen in the past year**

Volumes are at lowest levels since reporting began and down at least 25% since 2017-18

■ 2018 ■ 2019

Category	2018	2019
Charges	~2,800	~1,600
Prosecutions	~4,200	~2,900
Convictions	~2,500	~1,800

Guardian graphic | Source: Crown Prosecution Service, Violence Against Women and Girls report 2018-19

'The Crown Prosecution Service conducted a secret internal review that exposed its failings in rape cases – but failed to share it with inspectors who were conducting an official inquiry for a major government investigation into rape'

### Sexual Offences Act 2003

#### Section 1 Rape

---

### CONSENT

#### s 74

[A] person consents if he agrees by choice, and has the freedom and capacity to make that choice.

#### s 75

Evidential presumptions about consent

#### s 76

Conclusive presumptions about consent

**Kaitamaki v The Queen**  
[1985] AC 147

Consent can be withdrawn. Subsequently, the slightest and continuing penile penetration, in the absence of consent, constitutes rape.

**R v Olugboja**  
[1982] 2 QB 320

Submission in the absence of force, fear or fraud does not constitute consent.

---

### Human Rights Act 1998

#### Article 3

Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

#### ARTICLE 8

Right to respect for private and family life

Everyone has the right to respect for his private and family life, his home and his correspondence.

Three Girls, Netflix

@sammywoodhouse1 @nazirafzal @MaggieOliverUK

**The Maggie Oliver Foundation**  
transforming pain into power

'The Home Office had sent out, to all police forces in 2008 telling them not to investigate these crimes because they were saying that these kids were making a lifestyle choice, that they were choosing to be abused'

Maggie Oliver, Katie Piper's Extraordinary People

Parliament Live TV - Rape Crisis  
Time stamp: 11:04:38

@VictimsComm

**'Information Commissioner's Office**

Mobile phone data extraction by police forces in England and Wales Investigation report June 2020'

Harriet Wistrich Sky News 2019

**Help stop women being denied justice after rape**

Pledge now:

'Men are more likely to be raped than be falsely accused of rape'

'When rape cases don't make it to trial'

**VICTIMFOCUS**  
CHALLENGE | CHANGE | INFLUENCE

@DrJessTaylor

**Dr Jessica Taylor**

Freely accessible thesis about victim blaming:

'Logically, I know I'm not to blame, but I still feel to blame: Exploring and measuring victim blaming and self-blame of women who have been subjected to sexual violence'

**'Holding the state to account for violence against women and girls'**

@HWistrich

# NON-DISCLOSURE AGREEMENTS

## How Victims are Still Being Legally Silenced in the UK



### PUBLIC INTEREST DISCLOSURE ACT 1998



#### PROTECTION FOR WHISTLE BLOWERS

'Protected Disclosures PART IVA, s43B: Disclosures qualifying for protection



'[A] "qualifying disclosure" means any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following—

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.'

### EMPLOYMENT APPEAL TRIBUNAL



**Munchkins Restaurant Ltd & Anor v. Karmazyn & Ors [2010]**

Manager had sexually harassed female employees leading to their constructive unfair dismissals.

## #MeToo



CBC News: The National

'Weinstein's former assistant, [Rowena Chiu] breaks NDA after 20 years of silence'



BBC Newsnight

'Emma Thompson: Harvey Weinstein top of harassment ladder'



Stitcher



Time

### Tarana Burke

'The phrase [Me Too] was first used more than a decade ago by social activist Tarana Burke as part of her work building solidarity among young survivors of harassment and assault.'



@TaranaBurke

'To make culture change, we've got to be brave.'



▶ 43:31

UCL Centre for Ethics & Law  
Sexual Harassment, NDAs and the role of Lawyers: Karon Monaghan in conversation with Zelda Perkins



@k21fem

## TIME'S UP

'The following is a statement in response from 23 #Silencebreakers.'



@TIMESUPNOW

'Harvey Weinstein found guilty of rape in watershed case'



BBC News District Attorney Cyrus Vance Jr: "Weinstein is a vicious, serial sexual predator"

'Harvey Weinstein's Stunning Downfall: 23 Years in Prison'

'Sexual harassment isn't just a problem for celebrities. It's happening in ordinary workplaces everywhere. It affects us too...'



Time's Up UK

'Non Disclosure Agreements are legal blackmail used frequently by companies to mask abhorrent behaviour'



'Guidance and model policy'



## #UsToo

'Over half of women have experienced sexual harassment at work. But 4 out of 5 don't feel able to report it to their employer.'



PETITION:

### 'SEXUAL HARASSMENT IN THE WORKPLACE AND NON-DISCLOSURE AGREEMENTS'

'This podcast focuses on some of the issues and risks surrounding sexual harassment in the workplace'



GOWLING WLG



'... two thirds of LGBT+ workers have experienced [sexual harassment in the workplace]...'



### PREGNANT THEN SCREWED

Maternity Discrimination Gagging Orders



@PregnantScrewed

### 'Sexual harassment at work: 10 myths busted'



'We eagerly await the Government's own findings and encourage them to tackle the current cover-up culture as a matter of urgency.'



### 'CONFIDENTIALITY CLAUSES

Response to the Government consultation on proposals to prevent misuse in situations of workplace harassment or discrimination.'



# UNDERCOVER POLICING – 'SPYCOPS'

## 'Spycops' in Sexual Relationships With Political Activists



### 'raped by the state'



Undercover Research

### 'Spycop Targets: A Who's Who:'



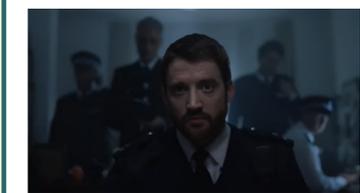
### Campaign Opposing Police Surveillance:

**'Spycops in context:'**

'Similarly, Special Branch has long functioned to bolster patriarchal relations. For one, the Branch actively worked against the Suffragettes, possibly extending the number of years it took for women to win the vote'

'Women activists were treated as disposable sources of information and reputation-boosters for infiltrating officers, deceived, lied to and abandoned: a paradigmatic example of state-enforced misogyny.'

**#Spycops**



Police Spies Out of Lives



University of Manchester School of Law Cops Campaign

### 'Police spy should face charges for sexual relationship with activist, court told'



'[Newland] was accused of impersonating a man and was convicted of sexual assault and sentenced to eight years in prison. Here we have an illustration of the law operating in a clearly [...] grotesquely discriminatory way. What is the distinction between a woman impersonating a man and a police officer impersonating an activist?' (Wistrich, Cops Campaign).

### Human Rights Act 1998

**Article 3**  
No one shall be subjected to inhuman or degrading treatment

**Article 8**  
Right to respect for private and family life

**Sexual Offences Act 2003**  
s74 Consent

**Sexual Offences Act 2003**  
s76 Conclusive presumptions about consent

**R (Monica) v DPP**  
[2018] EWHC 3508 (QB)

**R v Gayle Newland**  
Chester Crown Court  
Sentencing Remarks  
12 November 2015

'This is an application for judicial review of the decision of the [DPP...], confirming an earlier decision not to prosecute ex-DC Andrew Boyling for the offences of rape, indecent assault, procurement of sexual intercourse and misconduct in public office.' The 'Discussion' of 'Ground 1' (para 48 - 87) of the application, within the 'Judicial Review of Prosecutorial Decisions', explores the existing extensive case law relating to rape, consent and deception.

Newland pretended to be a man in order to deceive a woman into engaging in an intimate relationship and was convicted of three counts of assault by penetration contrary to the Sexual Offences Act 2003, s2. This finding confirmed the absence of consent due to this deception. The course of conduct described, in the sentencing remarks of His Honour Judge Dutton, is not dissimilar to the conduct of a state – sanctioned 'Spycop'

'Materials that may have been relevant to undercover policing inquiry were shredded by Metropolitan Police personnel'



@copscampaign

### 'INSTITUTIONAL SEXISM IN METROPOLITAN POLICE'



What's next?  
Evidence hearings for Tranche 1 to start in June 2020



### UNDERCOVER POLICING INQUIRY



@ucpinquiry

# MAKING MISOGYNY A HATE CRIME IN THE UK (England and Wales)



## HATE CRIME (MISOGYNY) BILL 2019 - 21



'A Bill to make motivation by misogyny an aggravating factor in criminal sentencing; to require police forces to record hate crimes motivated by misogyny; and for connected purposes.'

'The term "hate crime" can be used to describe a range of criminal behaviour where the perpetrator is motivated by hostility or demonstrates hostility towards the victim's disability, race, religion, sexual orientation or transgender identity.'



The Law Commission is conducting a review of hate crime legislation.



\*Consultation paper is due mid-2020

'Classifying misogyny as a hate crime means that hateful attitudes to women in our society are being challenged ...'



North Yorkshire Police



'75% of women have experienced harassment and violence in the UK.'



Sadiq Khan calls for misogyny to be recognised as hate crime

Independent



Serena Williams And Misogynoir: The Meaning Of Sexism And Racism Towards Black Women - Newsweek



'**Misogynoir** is a word used to describe how racism and anti-Blackness alter the experience of misogyny for Black women, specifically. It alludes to specifically Black women's experiences with gender and how both racism and anti-Blackness alters that experience diametrically from White women (as anti-Blackness and White supremacy make White women the "norm" in terms of intersectional experiences with gender, even as solely via gender, misogyny harms all women) and differently from non-Black women of colour (as though they face racism, the dehumanization associated with anti-Blackness is more than racism or sexualized objectification alone, but speaks to the history of Black bodies and lives treated as those of non-persons).'



Zalika Miller, Reisha, Tasha and Lin Mei on their way to Dstrkt nightclub in the West End Photograph: Lin Mei

'London nightclub Dstrkt was accused of turning away two young black women for being "too fat" and "too dark" ...'



Gradient Lair

## Dr Shola Mos-Shogbamimu



This is why I resist | Shola Mos- Shogbamimu | TEDxLeicesterWomen



@SholaMos1



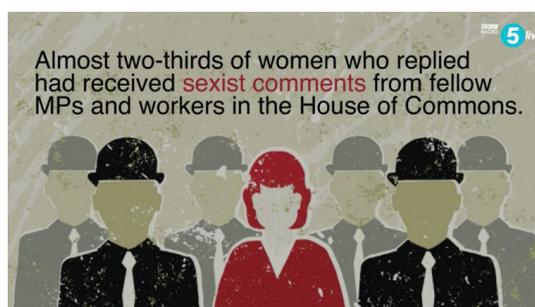
'All forms of abuse are committed disproportionately against women and girls, and the perpetrators are usually men. Violence against women and girls is part of what is stopping women achieving equality.'



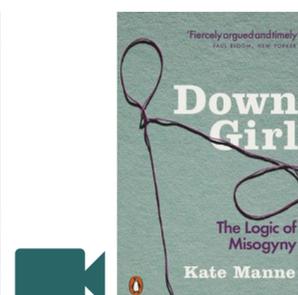
Write to your local MP now and ask for their help to make this become law  
Enter your postcode to contact local MP:



'In 2017, it was reported that more than half of female MPs had been threatened with violence by the public.'



BBC Five Live



Penguin/ Audible Studios

Down Girl:  
The Logic of  
Misogyny  
Audiobook



# FEMINIST LAW SOCIETY VIRTUAL BOOKSHELF ©

## #FemLawSocVirtualBookshelf



This ebooklet is completely free. The sole purpose of this resource is to educate, signpost and inspire others about some of the current issues in feminist law in an introductory, rather than an in-depth, way.

The inspiration for, and subsequent main focus of this ebooklet, and the Virtual Bookshelf, is to make feminist law accessible for those with different learning styles and accessibility needs. It is especially for those who can experience common barriers to learning that are created by the need to use technology and educational resource formats that are often designed by those who don't have any insight into these specific barriers.

We are incredibly grateful to all of the individuals, groups, organisations and campaigns that have inspired us to include them in this current collection of resources.

Please share this booklet and the resources, campaigns, stories, cases and judgments included within by using the hashtags provided on the grey, side panel of this page, to help us to continue to promote various examples of feminist law.

It is inevitable that two Graduate Diploma in Law students alone would not be able to include as diverse a range of groups, issues and resources that we would have liked. Our intention is not to exclude, erase or invalidate anyone's lives or lived experiences. The hope is that, through suggestions and contributions, future editions will, naturally, be much more inclusive of a wide range of hugely relevant feminist law issues, campaigns and discussions. We would love for the evolution of this resource to be reader/ law-student/ legal-practitioner led by emailing: [info@feministlawsociety.org.uk](mailto:info@feministlawsociety.org.uk)

Be part of the current feminist law movement:  
**#ThisIsWhyWeNeedFeministLaw**

### #WhyDoWeNeedFeministLaw

#FemLawSocEbooklet

#FemLawSocVirtualBookshelf

#FemLawSoc

#FeministLaw

#ValuingEveryoneEqually

#GoodFemLaw

#AccessibleLaw

#AccessibleFeminism

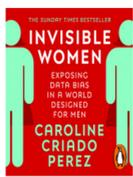
#DiversifyingLaw

#MythTackling

#WhyDoWeNeedFeministLaw

#ThisIsWhyWeNeedFeministLaw

## Feminist Law Society Virtual Bookshelf ©



'Women's Rights Are Human Rights'



<https://feministlawsociety.org.uk/virtual-bookshelf>



@femlawsoc

To add freely accessible feminist law resources in varying formats to the virtual bookshelf, use the hashtag

**#FemLawSocVirtualBookshelf**

# CITED ORGANISATIONS



Action Aid	Gov.uk	Refuge
AFP News	Gradient Lair	Respect Men's Advice Line
Aljazeera	Hansard	Rights of Women
Amazon	Hart Publishing	Soundcloud
Apple Podcasts	Hollaback!	Southall Black Sisters
Assets Publishing Service	H.O.P.E	Spotify
Audiobooks.com	House of Commons	SpyCops
BBC	iono.fm	Stitcher
BBC Five Live	Independent Office For Police Conduct	Talking Law
BBC iPlayer	iNews	TEDx
BBC Motion Gallery	Instagram	The Canary
BBC Newsnight	Information Commissioner's Office	The Fawcett Society
BBC Panorama	International Bar Association	The Guardian
BBC Sounds	Justice Abroad	The Independent
Bloggingheads TV	Justice for Women	The Law Society
Blue Seat Studios	Karen Ingala Smith	The Law Society Gazette
British and Irish Legal Information Institute	King's College London	The Maggie Oliver Foundation
Campaign Opposing Police Surveillance	Law Commission	The New York Times
Canva	LBC News	The Times of Israel
CBC News	Legal Action Group	Time
Centre for Crime and Justice Studies	Legislation GOV UK	Times's Up UK
Centre for Women's Justice	Linktree	Trades Union Congress
Change.org	Listening books	Transparency Project
Citizens UK	London School of Economics and Political Science	Twitter
Courts and Tribunals Judiciary	Louise Haigh MP	UCL Centre for Ethics & Law
Crown Prosecution Service	Man Kind Initiative	UK Parliament
David Challen	Megaphone	Undercover Policing Inquiry
Dr Jessica Taylor	Ministry of Justice UK	Undercover Research
Dr Shola Mos-Shogbamimu	National Centre for Domestic Violence	Unison
End Violence Against Women	Netflix	United Nations
Equality and Human Rights Commission	Newsweek	University of Gloucestershire
Evening Standard	North Yorkshire Police	University of Westminster Feminist Law Society
Facebook	Nylon Films	University of Westminster Legal Advice Clinic
Femicide Census	One Pump Court	University of Westminster Student's Union
Feminist Law Society	Our Streets Now	Victim Focus
Feminist Law Society Virtual Bookshelf	Parliamentlive.tv	Vimeo
First 100 Years	Penguin Audible Studios	Voices of Family Law
Fisher Jones Greenwood Solicitors	Personnel Today	We Can't Consent To This
Galop	Plan International	Westminster Law School
Get Legally Speaking	Police Spies Out Of Lives	Women's Aid
Go Fund Me	Politics Home	Women's Equality Party
Google Play	Pregnant Then Screwed	YouTube
Google Podcasts	Rape Crisis	

# WHY DO WE NEED FEMINIST LAW?

## Volume 1 Playlist



**Playlist details of the music linked to every star on each page.**

**FIRST 100 YEARS** - page 3

'**March of the Women**' · [Suffrage Sinfonia](#) ·  
Alice Farnham ·

Ladies of the Kantos Chamber Choir

© A Decca Records Recording; © 2019 Universal Music  
Operations Limited

**PUBLIC SEXUAL HARASSMENT** - page 4

'**Hey Girl**' from [NMV](#) by [Tacocat](#)

'**Too Many Creeps**'

By [Bush Tetras](#) of [Wharf Cat Records](#)

**UPSKIRTING & FILMING WITHOUT CONSENT** - page 5

'**Upskirting Bill**' by [Emily Laing](#)

**EQUAL PAY** - page 6

'**Independent Women, pt. 1**' [Destiny's Child](#)

by Cory Rooney, Beyoncé, Poke, Samuel Barnes

[2000 SONY BMG MUSIC ENTERTAINMENT](#)

**DOMESTIC ABUSE** - page 7

'**You Don't Own Me**'

Written by

John Madara and David White performed by [Lesley Gore](#)

'**Run For Your Life**' by [The Beatles](#)

© 2009 Calderstone Productions Limited (a division of Universal  
Music Group)

Producer: George Martin

Composer Lyricist: John Lennon Composer Lyricist: Paul  
McCartney

**THE REASONABLE MAN WHO KILLS** - page 8

'**Cell Bound Blues**' by [Ma Rainey](#)

[Vol. 2-Oct 1924-Aug 1925 \(1998\)](#)

'**Man Down**' by [Rihanna](#)

Songwriter(s) Shama Joseph Timothy Thomas Theron Thomas  
Shontelle Layne Robyn Fenty

[Def Jam](#)

**MYTHS, CONSENT & THE BENCH** - page 9

'**Boys Will Be Boys**' by [Stella Donnelly](#) - [Thrush Metal](#)

**CYPRUS GANG RAPE CASE** - page 10

'**A rapist in your path**' [Created by feminist collective Las  
Tesis](#) - [The Guardian](#)

**RAPE PROSECUTION IN THE UK** - page 11

'**Off Duty Trip**' by [The Raincoats](#),

**NON - DISCLOSURE AGREEMENTS** - page 12

'**His Story**' by [TLC](#)

[Oooooohhh-on the Tlc Tip](#)

**UNDERCOVER POLICING – 'SPYCOPS'** - page 13

'**Ring The Alarm**'

Live at the [229](#) EP

[Smiley and The Underclass](#)

**MAKING MISOGYNY A HATE CRIME IN THE UK** - page 14

'**Nasty Gal**' by [Betty Davis](#)

**FEMINIST LAW VIRTUAL BOOKSHELF** - page 15

'**Talkin' About A Revolution**' by [Tracy Chapman](#)

© 1988 Elektra/Asylum Records for the United States and  
WEA International for the world outside of the United  
States.

**LINKS TO CITED ORGANISATIONS** - page 16

'**Sueperman's Big Sister**' by [Ian Dury and the Blockheads](#)  
[Demon Music Group](#)

**WHY DO WE NEED FEMINIST LAW?**

**VOLUME 1 PLAYLIST** - page 17

'**Know Your Rights**' by [The Clash](#)

© 1982 Sony Music Entertainment (UK) Ltd.

**BACK PAGE**

'**Typical Girls**' by [The Slits](#) [Cut](#)

© 2009 Universal-Island Records Ltd.



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# Feminist Law Society

Valuing Everyone Equally



All volumes of this booklet will be published on

[www.feministlawsociety.org.uk](http://www.feministlawsociety.org.uk)

**Download this ebooklet:**



<https://feministlawsociety.org.uk/feminist-law-ebooklet-1>

If you feel that we have missed important feminist law issues that you would like to see included, and you would like to contribute to future editions of this ebooklet, please email Maria Gallagher at:

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