private. Although this boundary between the private and public shifts over time, the existence of the distinction and the notion of boundary are rarely questioned.

The dichotomy between private and public as unregulated and regulated has its origins in liberal philosophy. The 17th century liberal tradition as represented by Locke posits a distinction between reason and passion, knowledge and desire, mind and body. This leads to a split between the public sphere in which individuals prudently calculate their own self-interest and act upon it, and a private sphere of subjectivity and desire. As Roberto Unger describes it: 'In our public mode of being we speak the common language of reason, and live under laws of the state, the constraints of the market, and the customs of the different social bodies to which we belong. In our private incarnation, however, we are at the mercy of our own sense impressions and desires.'[74] The liberal conception is of man as a rational creature making rational choices and entering the political sphere for his own ends.

Nineteenth century liberal thought, as expressed by John Stuart Mill, continued the tradition of the private/public split. In his feminist work *On the Subjection of Women* the solution for Mill was the grant to women of full equality of formal rights with men in the public sphere. From public equality, he believed, would follow a transformed family, a 'school of sympathy in equality' where the spouses live 'together in love, without power on one side or obedience on the other'. Yet he did not propose the merging of the two spheres but rather sanctioned the division of labour in which women remain in the realm of subjectivity and the private. Thus he argued: 'When the support of the family depends, not on property but on earnings, the common arrangement, by which the wife superintends the domestic expenditure, seems to me in general the most suitable division of labour between the two persons'.[75] Women's role was to remain that of loving and softening men in the domestic realm. Mill's views on household management overlooked the connection between economic power and dominance in the home. Economic inequality leads to an imbalance of power. The division of labour whereby one spouse works for earnings and the other for love encapsulates the public/private split.

The Wolfenden Committee Report on Homosexual Offences and Prostitution provides an excellent example of the implementation in law of the liberal view of the distinction between public and private. The committee accepted as unproblematic the idea of 'private lives of citizens'. It stated that the function of criminal law in relation to homosexuality and prostitution was 'to preserve public order and decency, to protect the citizen from what is offensive and injurious, and to provide sufficient safeguards against exploitation and corruption of others'.[76] Individual freedom of choice and action in 'matters of private morality' was upheld in the report:

> Unless a deliberate attempt is to be made by society, acting through the agency of law, to equate the sphere of crime with that of sin, there must remain a realm of private morality and immorality which is, in brief and crude terms, not the law's business. To say this is not to condone or encourage private immorality. On the contrary, to emphasise the personal and private nature of moral or immoral conduct is to emphasise the personal and private responsibility of the individual for his own actions, and that is a

74 R Unger, *Knowledge and Politics* (NY: Free Press, 1975), p 59.

75 JS Mill, *On the Subjection of Women* (London: Dent, 1929), p 263.

76 Cmnd 247 (1957), para 13.

> responsibility which a mature agent can be properly expected to carry for himself without the threat of punishment from the law.[77]

This is a classic statement of liberal philosophy[78]...

The Unregulated Family

The retreat of the family from society in the 18th century has been described by Philippe Aries. A zone of private life developed, not just for the nobility, but for the middle class and eventually for all. 'The family began to hold society at a distance, to push it back beyond a steadily extending zone of private life,[79] and became a place of intimate relations, in which it was safe to be oneself, where personalities were enlarged and expressed. This development mirrored and was part of the location of paid work outside the home. In the 19th century the public sphere, which had earlier been a place in which men realised their social and cultural being, now became identified with the market for commodities. This change in the public sphere has led the family to be regarded as the last outpost of *Gemeinschaft*.

The values of *Gemeinschaft* are those of self-sacrifice in the interests of the community but the context in which these are expressed is one where social roles are ascribed according to gender. Men who pass freely between public and private, but who are primarily located in the public, are socially expected to act as rational, calculating, economic individuals, whose actions are guided by self-interest. Women, who are seen primarily in the context of reproduction, home and family are expected to retain the values of *Gemeinschaft*. The private, regarded in legal ideology as unsuitable for legal regulation is ordered according to an ideology of love.

The thesis to be elaborated in this book is that ideas of privacy established in legal decisions preclude intervention in the family. The common law assumption that 'the house of everyone is his castle'[80] is an early and useful bulwark in the defence of civil liberties. But it may also conceal a power struggle within the family. This remains unrecognised and the judicial posture is one of defence of freedom, as the following passage makes clear:

> I for one should deeply regret the day, if it ever came, when Courts of Law or Equity thought themselves justified in interfering more than is strictly necessary with the private affairs of the people of this country. Both as regards the conduct of private affairs, and domestic life, the rule is that Courts of Law should not intervene except upon occasion. It is far better that people should be left free.[81]

Free for what? is the question. Insofar as this type of rhetoric involves upholding the values of liberty and the restraint of police powers it is no doubt admirable. But it also masks physical abuse and other manifestations of power and inequality within the family.

In discussions of the privacy of marital relations or of the boundaries of state intervention, the home, the family and the married couple remain an entity that is taken for granted. The couple is a unit, a black box, into which the law does not

77 *Ibid*, para 61.

78 Katherine O'Donovan, *op cit*, pp 6–9.

79 P Aries, *Centuries of Childhood* (Johnathan Cape, 1973), p 385.

80 *Semayne's Case* (1604) 77 ER 194.

81 *In re Agar-Ellis* (1883) 24 Ch D 317 at 335.

purport to peer. What goes on inside the box is not perceived as the law's concern. The belief is that it is for family members to sort out their personal relationships. What this overlooks is the power inequalities inside the family which are of course affected by structures external to it. This ideology of privacy and non-intervention has been articulated by legislators, by the judiciary and by legal scholars.

The reluctance of Parliament to legislate on areas of family life denoted private can be illustrated from a wide variety of materials concerning relations between the spouses and those between parent and child. Twentieth century debates on equal ownership of the matrimonial home have foundered on Parliament's unwillingness to lay down a legislative principle of equality. In 1980 when a Law Commission Bill on co-ownership of the matrimonial home was introduced in the House of Lords, the Lord Chancellor made it clear that there was no government support.[82] Nineteenth and early twentieth century debates on child protection and incest demonstrated a great reluctance on the part of parliamentarians to legislate on 'that d——d morality' which was regarded as a private, internal and domestic affair.[83]

The judiciary also have repeatedly expressed reluctance to intervene in the private. Lord Evershed, a former Master of the Rolls, expressed his view thus:

> It was in the year 1604, not far removed from the date when Shakespeare wrote the lines from *The Taming of the Shrew* that, according to Coke's report of the judgement in *Semayne's Case*, it was judicially laid down that the house of everyone is to him as his castle and fortress. More than three centuries later Atkin LJ, in a famous judgment, said: The parties themselves are advocates, judges, courts, sheriff's officer and reporter. In respect of these promises each house is a domain into which the King's writ does not seek to run, and to which its officers do not seek to be admitted.[84]

The Shakespearian lines referred to express a husband's ownership of his wife. Petruchio: 'I will be master of what is mine own; she is my goods, my chattels; she is my house, my household stuff, my field, my barn, my horse, my ox, my ass, my anything.' The promises regarded by Atkin LJ as internal to each house were promises of financial support made by a husband to his wife. The case in question stands as legal authority for the non-enforcement of promises made by spouses, and probably by immediate members of the family, unless sealed and witnessed.[85]

This legal ideology is described as follows by a legal scholar: 'English practice has been to refrain from formulating general principles as to how families should be managed'.[86] The view is that the ongoing family and marriage should be left alone, so long as conflict does not cause breakdown. But some scholars extend their opinions to prescription:

> The normal behaviour of husband and wife or parents and children towards each other is beyond the law – as long as the family is 'healthy'. The law comes in when things go wrong. More than that, the mere hint by anyone

82 *Hansard* (HL), vol 405 (1980), col 147.

83 *Hansard* vol 191 (1908), col 279.

84 Lord Evershed, 'Foreword' to RH Graveson and FR Crane (eds), *A Century of Family Law*, 1957), p xv, Sweet & Maxwell.

85 *Balfour v Balfour* [1919] 2 KB 571.

86 J Eekelaar, *Family Security and Family Breakdown* (Penguin, 1971), p 76.

> concerned that the law may come in is the surest sign that things are or will soon be going wrong.[87]

State Intervention

It is a standard liberal view that intervention by the state in family life is to be avoided if at all possible. The Victorians believed that 'to undermine parental responsibility was to undermine family stability and thus the stability of society itself'.[88] The 'sanctity of the domestic hearth' was not to be invaded by law or state. Family law continues to be imbued with a belief in non-intervention. But discussions of non-interference whether expressed in legal ideology or in state policy usually refer only to direct intervention. What is overlooked is that structures external to the family have a significant effect on it, and that state policy in areas such as employment, taxation and social security affects what goes on in the family. Furthermore, informal mechanisms of intervention through education, medicine, psychiatry and welfare policies have existed since the Tudor Poor Laws.

Elizabethan Poor Law legislation created a public responsibility for support of the poor which was placed on the parish as an official duty. State concern became that of minimising the cost of this expenditure to the parish. The liability of the immediate family for the maintenance of relatives was legally established and defined. This state intervention constructed new ideas about family and community responsibility. On the one hand it defined what a family is and its rights and duties of financial support. But it also changed the ideas about mutual community aid which had once devolved not only within the household but also upon a wider circle of kin and neighbours: what had been done out of sympathy and neighbourliness now became a legal duty which was resented. It has been suggested that this change symbolised a weakening of personal and kin ties outside the immediate family.[89]

This early example is intended to show that, although the state is reluctant to intervene directly, policies in areas which impinge on the family and which are expressed in legislative, judicial and administrative provisions construct a particular family form. The nuclear family in which there is a division of labour between wife and husband is an expression of these policies.

Conventional academic discussion of state intervention in family and personal life is based on the premise that legislation which directs the management of these areas is not only a problem, but the only problem. The effects of formal legal intervention are said to be the undermining of the stability of the family, the weakening of family bonds, the atomising of individual family members, and the destruction of the family as a political bulwark against excess of state power.[90] Critics of the state hold the family up as a universal good. What they overlook is that the nuclear family which they so admire reflects a particular culture within a particular set of social relations: it is the family form of the 19th century

87 O Kahn-Freund and KW Wedderburn, Editorial Foreword to J Eekelaar, *op cit*, p 7.

88 I Pinchbeckd and M Hewitt, *Children in English Society* vol 2 (Routledge, 1973), p 357.

89 39 Eliz I, c 3 (1597); 43 Eliz I, c 2 (1601). See J TenBroek, 'California's Dual System of Family Law' Part I (1964) 16 *Stanford Law Review*, 257.e.

90 See eg MDA Freeman, *The Rights and Wrongs of Children (*London: Frances Pinter, 1983) p 245; J Goldstein *et al*, *Beyond the Best Interests of the Child* (London: Free Press, 1973) pp 49–52.

bourgeoisie. 'People everywhere and for all time have not participated in market relations out of which they have constructed a contrastive notion of the family.'[91]

An even more serious omission in the analysis of direct state intervention as unmitigatedly bad is that it ignores the influence of state policy in areas which impinge on the private. Policies on employment, welfare, housing, education, medicine, transport, production, planning, crime, in fact on almost everything, influence family life. How could it be otherwise? The whole fabric of the personal life is imprinted with colours from elsewhere. Not to acknowledge this, and to pretend that the private is free, leads to a false analysis.

The Feminist Critique of the Private

The anthropologist Michelle Rosaldo has argued that the assignment of women to the domestic sphere and of men to the public sphere is characteristic of all societies. This provides a thread linking all known human societies, from the most primitive to the most complex, and which underlines the universal oppression of women, despite the variety of forms this takes in different societies.[92] Although Rosaldo later suggested that 'gender is not a unitary fact determined everywhere by the same sort of concerns, but, instead, the complex product of a variety of social forces,'[93] her analysis provided a universal explanation. All cultures, she argued, distinguish between male and female, and assign appropriate behaviour and tasks to each as a sexual division of labour. No matter what form this takes, men's tasks and roles are given importance, authority and value, whereas those assigned to women are of lesser significance. 'Men are the locus of cultural value.'[94]

According to Rosaldo's analysis cultural value is attached to activities in the public sphere, whereas the domestic sphere is differentiated as concerned with activities organised immediately around one or more mothers and their children. Although advanced and capitalistic societies are extreme in this regard, the dichotomy between domestic and public is found in all societies. Male authority is based partly on an ability to maintain distance from the domestic sphere. Those societies that do not elaborate the opposition of male and female seem to be the most egalitarian. 'When a man is involved in domestic labour, in child care and cooking, he cannot establish an aura of authority and distance. And when public decisions are made in the household, women may have a legitimate public role.'[95]

Although this analysis locates women's subordination in culture, it permits a foundation of that culture in an interpretation of biology. The radical feminist, Shulamith Firestone, offered 'a materialist view of history based on sex itself'.[96] Using Friedrich Engels's original insight that the first division of labour was that between men and women, and that the first expropriation of labour was by men of women's reproduction of the species, Firestone reinterpreted materialism to signify the physical realities of female and male biology. The substructure is biology, the superstructure is those political and cultural institutions which

91 J Collier, M Rosaldo and s Yanagisako, 'Is There a Family?' in B Thorne and M Yalon (eds), *Rethinking the Family* (NY: Longman, 1982), p 35.

92 M Rosaldo, 'Women, Culture and Society', in M Rosaldo and L Lamphere, *Women, Culture and Society* (Stanford UP, 1974).

93 M Rosaldo, 'The Use and Abuse of Anthropology' (1980) 5 *Signs*, p 401.

94 M Rosaldo, 'Women, Culture and Society', *op cit*, p 20.

95 *Ibid*, p 39.

96 S Firestone, *The Dialectic of Sex* (NY: Bantam Books, 1970), p 5.

ensure that biological differences determine the social order. Firestone acknowledged that these differences did not necessitate the domination of females by males but asserted that reproductive functions did. She identified four elements of biological reproduction which lead to women's subordination: childbirth, dependency of infants, psychological effects on mothers of child-dependency, division of labour between the sexes based on 'natural reproductive difference'. Her revolutionary project was to abolish current methods of biological reproduction through the substitution of artificial methods and the socialisation of childcare.

Subsequently feminist theorists criticised Firestone for misappropriating the term materialist and for failing to examine women's relationship to economic production. It is generally agreed, however, that her insistence on the ideological association of women and the private sphere as a major source of women's subordination was an unique contribution to feminist theory.

The insistence on the idea that women belong in the private sphere is part of the cultural superstructure which has been built on biological foundations. Identifying these elements and disassembling the whole gave rise to the important insight that gender is socially constructed. Conceptually the distinction between sex and gender brought out the distinction between biological sex and social and cultural expectations and roles based on gender. Feminist analysis, relying on medical research into gender identity, broke the link between biology and culture by showing that one is not necessarily connected to the other.

The focus on the social construction of women's difference from men had an immediate consequence in terms of law. Feminists and liberals were agreed in questioning differential treatment of women and men in legislation. In particular in the United States, a whole series of challenges to gender-based legislative classifications took place. Each court success, and there were many in the 1960s and 1970s, was regarded as a victory for women.[97] Since social attitudes of employers and those providing such services as credit, housing and education were perceived as denying women equal opportunity, legislation was passed in Britain and the United States making discrimination on grounds of sex illegal.[98] The aim was to eliminate women's differences as a source of subordination so far as possible by opening up the public sphere and assimilating women to men. But in their alliance with liberal reformers feminists seemed to forget that element of the analysis of difference that identified the private sphere as the location of women's oppression.

With the focus on sexual division came the celebration of women's difference. The woman-centred analysis which developed from the mid-1970s studies women's culture, held up by some as a model for all persons. This meant an examination of mothering, of women's virtues, of female sexuality, of female experience as values for the culture as a whole, and a critique of masculinity. Celebrating women's difference as a source of strength rather than of oppression became an accepted mode of analysis. Important and perhaps even essential though this stage in the development of feminist theory was, it seemed to lose

97 Eg *Reed v Reed* 404 US 71 (1971); *Frontiero v Richardson*, 411 US 677 (1973).

98 In Britain the Equal Pay Act 1970 and the Sex Discrimination Act 1975 made up an 'equality package'. In the US the equal protection clause of the Fourteenth Amendment to the Constitution has been the basis for court litigation. Title VII of the Civil Rights Act 1964 and the Equal Pay Act 1963 also form part of American anti-discrimination legislation.

contact with the major early feminist dissection of the myths surrounding gender.

There is a curious similarity between the positions of the feminist theorists of the 1960s and early 1970s who focused on eliminating women's differences and those from the mid-1970s onwards who celebrated difference. Both streams accepted the dichotomy between public and private. The first group favoured eliminating the differences between women and men, but not necessarily the division between private and public. The second group celebrated women's private existence.

Yet there is within feminist analysis a slogan 'the personal is political' which emphasises the falsity of the public/private dichotomy. Male hegemony has been identified as a continuum in relations between the sexes in all spheres. In the private arena, according to this analysis, relations of domination and subordination are masked by the ideology of love. In the public sphere economic and cultural factors hide the reality. Gender relationships are power relationships.

This account of the feminist critique of the private thus far is a resume of radical feminist thought since the mid-1960s. There is also within feminist theory a Marxian analysis which places class alongside gender in its account of women's oppression. This tradition has been stronger in Britain than the United States. Within Marxian feminism what I have presented as a public/private dichotomy is designated as the sexual division of labour. Relationships within the family are on a material site 'located in the relations of production of capitalism and their private, intensely individual character draws on the ideology secured by the bourgeoisie as well as pre-capitalist notions of gender and sexuality'.[99] Marxian analysis correctly identifies notions of the private with the capitalist mode of production and the separation of work and home, for as Marx said of the alienated worker: 'he is at home when he is not working, and when he is working he is not at home.'[100] Yet the historical evidence is that gender divisions pre-dated capitalism, and these were socially constructed by feudal law.

Recently a series of questions about the state have been raised by the feminist lawyer Catharine MacKinnon. Pointing out that feminism has a theory of power but no theory of the state, she argues that the 'state's formal norms recapitulate the male point of view on the level of design'.[101] Her view is that the liberal state's claim to objectivity rests on its allocation of public matters to itself to be treated objectively, and of private matters to civil society to be treated subjectively'. But feminist consciousness has exploded the private.... To see the personal as political means to see the private as public.'[102] MacKinnon criticises both Marxism and liberalism for transcending the private and for failing to confront male power and its expression in state and law.

The meaning of the slogan 'the personal is political' has not been examined in detail in relation to law. Although feminists have produced a literature depicting the relative powerlessness of women as a sex category, this insight has not been documented in relation to law, although some work has begun in the United

99 M Barrett, *Women's Oppression Today* (London: Verso, 1980), p 212.

100 K Marx, *Economic and Philosophical Manuscripts of 1844* (London: Lawrence and Wishart, 1973), p 110.

101 CA MacKinnon, 'Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence' (1983) 8 *Signs*, 635, at 655.

102 *Ibid*, p 656.

States.[103] Feminist legal analysis in Britain has been content with the liberal position of opening up access for women to the public sphere through sex discrimination legislation.[104] The importance of the private has not been recognised, perhaps because lawyers cannot see that not regulating is as significant as regulating. Yet we need a detailed understanding of how the particular gender/social order is constituted by law.

The Importance of law

Feminist analysis has largely succeeded in disassembling the structure of current gender arrangements, if not on a universal basis, at least in the West. What has been lacking however has been an account of how various social, economic and legal structures combine in creating, ordering and supporting the present system. In particular law has remained resistant to analysis. Because it appears immanent, that is embedded in the seemingly natural, law's role is difficult to isolate. Understanding how existing legal structures appear natural and necessary is not a process of justification; rather it is essential to a full analysis of the gender order.

Unravelling law's part is not easy. It is not just external and institutional but also has an internal aspect whereby it forms part of individual consciousness. In its external aspects law may be coercive, but legal institutions also structure, mould and constitute the external world. Law influences the world as well as responding to it. In my view law is historically and culturally contingent. The form it takes depends on the particular conditions in which it occurs. A generally accepted theory is that the law adapts to and reflects shared social values. This ignores the active part played by law in shaping perceptions of these values.

In an essay published in 1971 Professor Robert Summers identified law as a set of techniques for the discharge of social functions. He gave examples of five basic techniques used in modern law. These are the penal, 'which serves the function of crime prevention; grievance remedial, which is designed to provide compensation for injury; administrative, which is for regulation; public-benefit-conferral, which is for distributive ends; and private, which is for arranging to facilitate personal choice'.[105] Of these only the penal is obviously coercive. Summers's typology enables us to see how law is not merely coercive but takes on a number of different guises in its construction of the social order. The limitation of this account is that it takes a purely instrumental view of law. This ignores the symbolic or ideological aspect, which is also important.

The internal aspect of law is its acceptance by individuals as natural and necessary in the form it takes and the values it expresses. It is internalised and most people are unconscious of its contingency. This helps to explain why the current social/gender order is accepted by those subordinate within that order. Here law as ideology plays an important part. In using the term ideology I am referring to the symbolic statement a particular legal principle or rule makes. In popular consciousness this is generally accepted as a statement of what is fair, or

103 See K Powers, 'Sex Segregation and the Ambivalent Directions of Sex Discrimination Law' (1979) *Wisconsin LR*, 55; F Olsen, 'The Family and the Market: A Study of Ideology and Legal Reform' (1983) 96 *Harvard LR* 1497; N Taub and EM Schneider, 'Perspectives on Women's Subordination and the Role of Law' in D Kairys (ed), *The Politics of Law* (NY: Pantheon Books, 1983).

104 See eg Carol Smart, *The Ties That Bind* (London: Routledge, 1984).

105 RS Summers,'The Technique Element in Law' (1971) 59 *California LR* 733.

at least what is unchangeable. Teasing out the content of a particular principle or rule is not easy. As the immanent critique of the apparently natural character of law shows, the infusion of law in the social fabric makes isolation difficult. The term ideology stands also for those beliefs that legitimate or justify legal statements of values and perspectives, and consequent practices. Making explicit the implicit content and premises is what the analysis of law as ideology attempts.

How does the imminent critique and the analysis of law as ideology relate to a dissection of current gender arrangements in Britain and the United States? In constructing legal distinctions on biological differences law constitutes both gender and the social order. In relation to the issues explored in this book law rarely shows its coercive side. Yet its external and instrumental techniques, other than coercion, order the regulation of gender categories, sexuality, marriage, taxation, social security and the mapping out of a private zone.

Although I have used the Summers typology to show how law functions, I do not share his instrumental views. For me the great significance of law is that it addresses the ineluctable problems of what people are and how they live, and it prescribes answers. These answers reveal a great deal about the kind of society prescribed. Law is not autonomous. It is part of the social order whose functions it serves. But it is also symbolic. We need to know what it means in people's lives.[106]

106 Katherine O'Donovan, *op cit*, pp 11–20.

CHAPTER 6

GENDER: EQUALITY/SAMENESS/DIFFERENCE

Gender, and its legal construction, is a focal point for feminist analysis. As will be seen from the case-law relating to transsexuals in the first part of this chapter, the law insists that – for certain purposes but not others – whilst medical science and technology can realign a person's physical attributes to bring them more in line with the person's psychological gender, the law will not recognise this change for the purposes of the law of marriage. Law thus *defines* gender. The manner in which law achieves this is revealed in Ormod LJ's judgment in *Corbett v Corbett*.[1] The case of *Corbett* has been followed in two cases which have come before the European Court of Human Rights under the European Convention on Human Rights and fundamental freedoms: *Rees v United Kingdom*[2] and *Cossey v United Kingdom*.[3] In the extract which follows, Professor Katherine O'Donovan examines the rationale for the decision in *Corbett v Corbett*.[4]

The gender issue is, however, far wider than the construction of gender by law. In every field of law and legal practice, the law is itself gendered. That is to say, that the law – whether developed through the courts under the common law, or enacted in legislative provisions, reflects the gender of those who have created it: men. Contract law, the criminal law, employment law, family and social welfare law, property law, the law of torts – in fact every aspect of law and legal reasoning – and jurisprudence – reflects the maleness of law.

From a feminist perspective, the law – in its predominantly male guise – excludes, marginalises and silences women. The law excludes women by adopting male standards and perceptions. For example, as will be seen from the readings, the law relating to rape, that most violative of male crimes, is cast in terms of sexual intercourse not violence. From the law's perspective what is of crucial importance in a rape trial is the conduct of the victim: did she, or did she not consent. Thus it is the victim's behaviour and personality and lifestyle which is critical to the finding of guilt or innocence. How can this be explained? Why is it that the law of rape, and the criminal proceedings related to rape, does not focus primarily on the conduct of the alleged rapist? As rape law is currently constructed, the victim of rape is very much the victim also of the legal system.[5] As another introductory example of this phenomenon, the law relating to pornography[6] is cast in terms of 'obscenity', not violence or the subordination or degradation of women or sexual harassment or sexual discrimination.

1 [1971] P 110; [1970] 2 All ER 654, *infra*.

2 [1986] 9 EHRR 56, *infra*.

3 [1991] 2 FLR 492, *infra*.

4 *Sexual Divisions in Law* (Weidenfeld & Nicolson, 1985), Chapter 3.

5 See further Chapter 9.

6 On which see Chapter 10.