

MARRIAGE MAKES A MIGHTY LEGAL DIFFERENCE TO WOMEN

RIGHTS FOR MARRIED WOMEN



IN CONTEXT

PRIMARY QUOTE
Barbara Leigh Smith
Bodichon, 1854

KEY FIGURES
Caroline Norton, Barbara
Leigh Smith Bodichon

BEFORE

1736 Sir Matthew Hale, in *History of Pleas of the Crown*, rules that a husband cannot be charged with raping his wife as she has given herself to him.

1765 William Blackstone lays out the legal principles of "coverture" in *Commentaries on the Laws of England*.

AFTER

1923 Britain's Matrimonial Causes Act makes the grounds for divorce the same for women as for men.

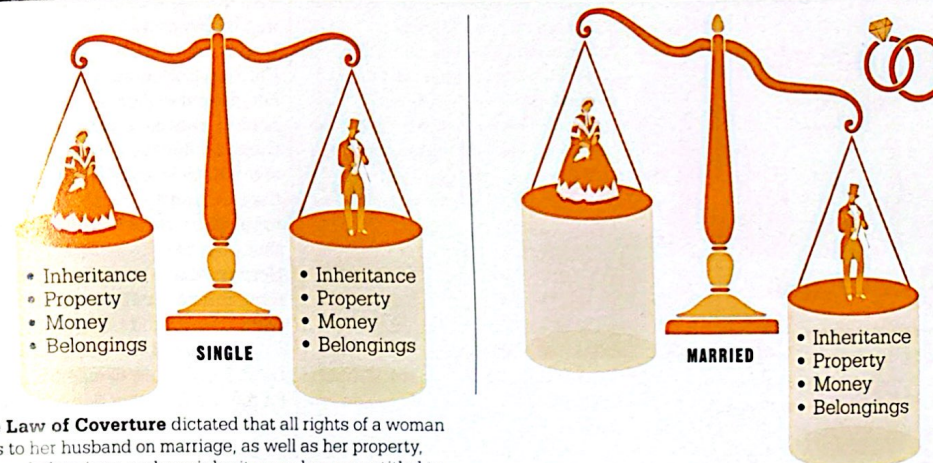
1964 The Married Women's Property Act allows women to keep half of any savings from their housekeeping allowance.

In England during the 1800s, as in the US, a married woman was the property of her husband, according to common law. Known as "coverture," this subordinate status had been the case since the Norman invasion of Britain in the 11th century. From the 1850s, two women, Caroline Norton and Barbara Leigh Smith Bodichon campaigned to overturn the law.

Legal status

Under the legal doctrine of coverture, a husband could "discipline" his wife physically and lock her up to ensure she complied with his domestic

See also: Emancipation from domesticity 34-35 • Marriage and work 70-71 • The problem with no name 118-123 • Family structures 138-139 • Protection from domestic violence 162-163



The Law of Coverture dictated that all rights of a woman pass to her husband on marriage, as well as her property, money, belongings, and any inheritance she was entitled to.

and sexual needs. Men were the sole guardians of the couple's children and could punish them, take them away from their mother, and send them away to be looked after by someone else. They also had rights to their wives' property. On marriage, the couple became one person in law, and the wife lost the rights she had as a single woman. Her husband became responsible for her acts, and she lived under his protection or cover.

The richest families ensured that their female members were able to retain their capital through equity law. Prenuptial settlements ensured the woman's capital was held in trust for the duration of the marriage and that all interest belonged to the wife. However, this arrangement was costly and so only open to the very well off.

Divorce required a private act of parliament involving three separate lawsuits and was therefore unusual. Only four women instituted divorce proceedings against their husbands

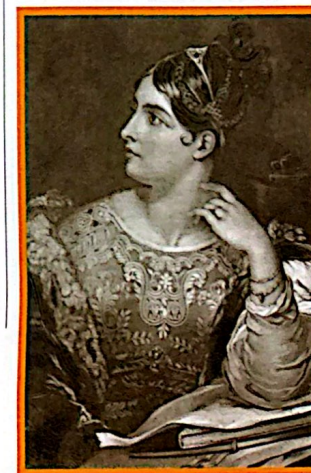
between 1765 and 1857, and for women, only gross cruelty, incest, or bigamy were grounds for divorce. Legal separation was possible but costly. Even if a couple separated, any money a wife then earned belonged to her husband, although in theory he was obliged to carry on supporting her financially. A husband could also sue men they suspected of having sexual relations with his wife for having "criminal conversation" with her.

Marital cruelty

The first challenges to the law of coverture came from Caroline Norton, a woman from an upper middle-class family, with many political, artistic, and social contacts, who earned money as a writer and magazine editor. In

Caroline Norton was a social reformer and writer, who campaigned intensively during the mid-19th century for the protection of women after suffering at the hands of her violent husband.

1835, her husband George Norton beat her so badly that she suffered a miscarriage and fled to her mother's home. She returned to find George had ended their marriage, barred her from the house, and taken her three sons away, the youngest of whom »





Barbara Leigh Smith Bodichon

The illegitimate daughter of milliner Anne Longden and radical MP Benjamin Leigh Smith, Barbara Leigh Smith was born in Sussex, UK, in 1827. When her mother died, Barbara lived with her father's family. Unusually, the girls were educated to the same standard as the boys. An advocate for girls' education all her life, at 21 she used her inheritance to create a school for girls and later founded Girton—the first women's college at Cambridge.

Leigh Smith married Dr. Eugene Bodichon in 1857. Their marriage was unconventional: they lived together in Algiers, Algeria, for half the year, where he pursued his interest in anthropology, while she spent the other six months alone in London, working as an artist. Leigh Smith died in Sussex in 1891.

Key works

1854 "A Brief Summary in Plain Language of the most Important Laws concerning Women"
1857 *Women and Work*

was aged only two. George sued the prime minister Lord Melbourne for "criminal conversation" with his wife, and although the court found Melbourne innocent, Caroline's reputation was ruined. George sent the children to live with relatives, with very limited contact with their mother. Six years later, the youngest son died in an accident, which Caroline put down to neglect.

Meanwhile, Caroline remained financially tied to her husband. He took all her money, both earned and inherited, and the allowance he was obliged to pay her often went unpaid. In social circles, her situation was widely considered a huge injustice.

Protection of women

In 1837, Caroline began a campaign to change the law around custody of children, so that nonadulterous mothers would have custody of children under seven and access to older children. She wrote several polemical pamphlets, which she circulated privately, highlighting the fact that a mother could not sue

for custody because she had no legal existence. The MP Thomas Talfourd agreed to introduce a bill in parliament, but the House of Lords rejected it by two votes. Caroline Norton responded with her pamphlet "A Plain Letter to the Lord Chancellor on the Law of Custody of Infants" (1839), which she sent to every MP, asking for their help and protection. This led to the Custody of Infants Act later that year, but it was too late for Norton, whose husband had moved their children to Scotland by then, where the act did not apply.

In 1854, Norton wrote "English Laws for Women" to advocate for reform. A further pamphlet a year later, "A Letter to the Queen on Lord Chancellor Cranworth's Marriage and Divorce Bill," detailed the injustices she had experienced at the hands of her husband and the legal system. The pamphlet

The Victoria Press in London, England, was set up by Emily Faithfull in 1860 to promote the employment of women. It printed *The English Women's Journal*, Britain's first feminist publication.



A woman takes the stand in a divorce court in the 1870s. Held only in the High Court, divorce proceedings were extremely costly and therefore reserved for the rich.

compared the situation of ordinary women with that of Queen Victoria, who was respected by all. Norton argued that Cranworth's 1854 Divorce Bill did not take women's rights in divorce seriously enough.

In all her writings, Norton asked for sympathy and protection rather than any equality with men, which she called "absurd." She stressed the prevailing view of the time: that men have a "sacred duty" to protect women.

Ladies of Langham Place

"English Laws for Women" inspired women's rights activist Barbara Leigh Smith Bodichon to advocate the education of girls. In 1854, she wrote "A Brief Summary in Plain Language of the most Important Laws concerning women." Unlike Norton's work, this pamphlet was not a polemic but a description of how various laws affected women. It laid out all the rights that women did not have.

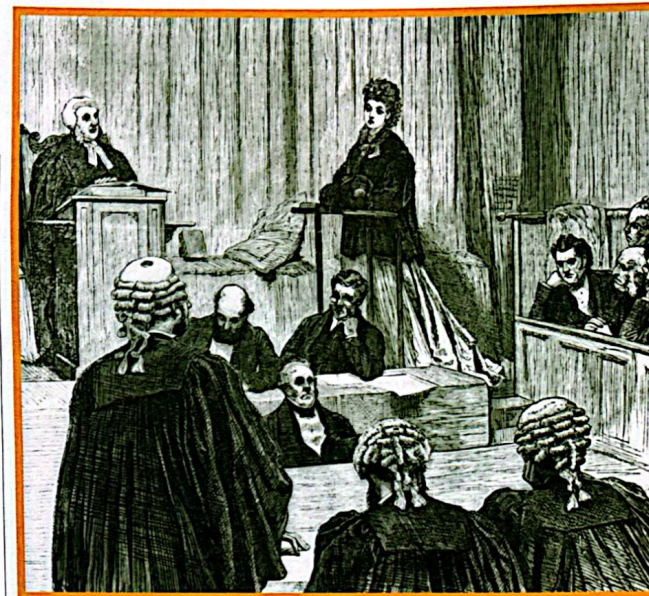
During the late 1850s, Leigh Smith helped to found the Ladies of Langham Place, the first feminist

“

An English wife has no legal right even to her clothes.

Caroline Norton

”



activist group in the UK. Its middle-class and well-educated members set up petitions to reform the laws for married women. In 1856, petitions with more than 26,000 signatures were delivered to the House of Commons; signatories included the writers Elizabeth Gaskell and Elizabeth Barrett Browning. Partly as a result of Norton and Leigh Smith's lobbying, the Matrimonial Causes Act was passed in 1857. This led to the establishment of Britain's first divorce court, the first step in the dismantling of "coverture." However, married women were still unable to own their own property.

Leigh Smith's 1857 book *Women and Work* argues that married women's economic dependence on their husbands was degrading, and that they should be free to earn their own money. Along with her friend Bessie Rayner Parkes, Leigh Smith founded and published *The*

English Woman's Journal. Between 1858 and 1864, it advocated the improvement of women's education both to make them better wives, mothers, and governesses, and also to enable them to take up independent employment.

In 1859, the Ladies moved to 19 Langham Place, the London premises of *The English Woman's Journal*. The building had a dining club, library, and coffee shop. From 1866, the Ladies of Langham Place began to fight for female suffrage. Their campaigns led to the Married Women's Property Act in 1870, which gave women the right to keep their own earnings, personal property, income from some rents and investments, and bequests below £200. Although this gave married women some security, they still had fewer rights than single women, a situation that did not change until an extension of the act in 1882. ■