

Public and Private: Feminist Legal Debates

edited by Margaret Thornton; Oxford University Press, Melbourne, 1995; 318 pp; \$29.95.

Public and Private: Feminist Legal Debates is a collection of essays by participants in the 1992 Law and Feminism series of the Research School of Social Sciences at the Australian National University. When introducing the reader to this text, editor Margaret Thornton tags the collection as an exploration by Australian feminist legal scholars of the ambiguities for women arising from the analytical separation between the public and private spheres. The thematic division of what is a very disparate collection of essays occurred when the project to publish a collection of essays was initiated and a recurring theme of the public/private dichotomy emerged among the participants' research proposals. Given this origin it is perhaps not surprising that the essays do not predominantly 'debate' the notions of public and private as suggested by the title. Feminist legal writings have often adopted the public/private dichotomy as a starting point for discussion and in some ways this book demonstrates this, continuing, reflecting and reinforcing that tradition, rather than challenging or debating it.

This is not to say, however, that *Public and Private* does not introduce a number of interesting additions to the debate surrounding the public/private dichotomy. Thornton states that the book is structured to highlight the contradictory and shifting strands of public and private. The book does achieve a crystallisation of the many ways the public/private dichotomy debate is invoked. This is exemplified in Ngaire Naffine's article, 'Sexing the Subject (of Law)', which explores the nature of legal subjectivity in the public and private spheres. Naffine draws the conclusion that claims of female inclusive subjectivity in either sphere are false; the law fails to recognise women in their particularity, especially in the private sphere, and it fails to recognise women's rights to participate in the public sphere. Similarly Regina Graycar's article, 'The Gender of Judgments: An Introduction' is a challenge to the notion of 'public' decision making (judging) divorced from the private sphere.

A number of the other articles focus on a specific area of law, examining the practical impact on women of the contradictory and shifting strands of public and private. A recurrent theme throughout a number of pieces is the increasing (re)privatisation of aspects of public life under the auspices of responsiveness to the family, the bridging of the public and private spheres, individual freedom, flexibility and gender neutrality. A number of the writers question assumptions surrounding the benefit of shifts between the public and private spheres and alert us to the ease with which feminist analysis can be manipulated to suit contemporary discourses.

Rosemary J. Owens' article, 'The Peripheral Worker: Women and the Legal Regulation of Outwork', explores the construction of work in the public and private spheres, and more particularly the way 'atypical' work relationships such as outwork are treated. Owens concludes that the construction of work remains heavily gendered and that (re)privatisation of paid work perpetuates this. Laura Bennett's article, 'Women and Enterprise Bargaining: The Legal and Institutional Framework', examines, within the economic and industrial context, the differing legal and institutional frameworks of federal and State industrial relations systems and draws out the possible implications for women of the shift from centralised wage-fixation to enterprise bargaining.

Marcia Neave's article, 'Private Ordering in Family Law — Will Women Benefit?' examines the impact on women of the privatisation of dispute resolution of family law disputes, including the promotion of co-habitation and separation agreements. Hilary Astor's article, 'The Weight of Silence: Talking about Violence in Family Mediation', takes the shift to mediation of family disputes, and questions the assumption that women within the context of mediation will be able to make public the violence that has occurred against them.

The slippery and at times uneasy division of public and private spheres is

also a common theme. This is particularly so for Gail Mason's article, '(Out) Laws: Acts of Proscription in the Sexual Order' and Jenny Morgan's article, 'Sexual Harassment and the Public/Private Dichotomy: Equality, Morality and Manners'. Both writers address the slippage of matter of a sexual nature into the private sphere, through the invocation of morality. Hilary Charlesworth's article, 'Worlds Apart: Public/Private Distinctions in International Law', also draws out different uses of the public/private dichotomy, in this case regarding the jurisdiction and the exercise (or not) of international law.

Two articles provide a more direct challenge to the way feminists have analysed the public/private dichotomy. After exploring the history of the public/private divide in her introduction to the book, Thornton in the article, 'Embodying the Citizen', proceeds to question the basis on which public structures have been challenged, suggesting that a search for a more meaningful interpretation of citizenship in the public sphere is necessary. Archana Parashar's article, 'Reconceptualisations of Civil Society: Third World and Ethnic Women', is the contribution I found the most challenging. Parashar questions the way feminists have sought to reconceptualise the public, the private and civil society and argues for a more inclusive reconceptualisation, to ensure the inclusion of women from Third World societies and ethnic minority women.

Although the collection sits somewhat uneasily together due to the differing focus of the writers, I think its loose and diverse nature does make *Public and Private* an interesting and resonating read. The majority of the articles in the collection illuminate and extend the multifarious feminist analyses of the public/private divide in varying contexts; although in other parts there is a distinct challenge to the scope and focus of the analysis itself.

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