Mathias Möschel

REGINE or "Gender Goes Legal in France"

Romanica Silesiana 8/1, 59-69

2013

Mathias Möschel
Université Paris Ouest Nanterre La Défense

REGINE or "Gender Goes Legal in France"

Abstract: Like in other French scientific disciplines, gender has a hard time establishing itself as a legitimate approach in French legal studies. Nevertheless, whereas one can observe some changes occurring in social sciences and the humanities, French legal academy has been particularly impenetrable to feminist legal theory and gendered approaches to legal analysis. This article will first explain why this is the case and then describe how a new project, entitled REGINE, intends to address and overcome some of the obstacles.

Key words: feminist legal theory, France, legal analysis, REGINE.

In the country which gave birth to Olympe de Gouges and Simone de Beauvoir, it may come as a surprise that feminist legal theory and the analysis of how law contributes to the construction of gender and gender stereotypes are not considered part of traditional French legal scholarship or teaching. Feminist legal theory is met at best with indifference, at worst with outright hostility. Undoubtedly, the wariness of any discourse that subverts traditional French universalism and humanism has delayed the emergence of "gender" as a legitimate category of analysis in legal scholarship too. In the legal realm such notions became engrained and transformed into a rhetoric of French republicanism and citizenship which allegedly does not allow distinctions on the basis of groups.

Nevertheless, in social sciences and the humanities one can start observing some (slow) changes occurring over the past 15—20 years thanks to the works of Geneviève Fraisse (1992, 1996), Christine Bard (1995, 1999, 2012), Christine Delphy (2001, 2010), Eric Fassin (2009), Réjane Sénac-Slawinski (2007, 2008), Françoise Héritier (1995, 2010) Elsa Dorlin (2008a, 2009), and Eléonore Lépinard (2007), just to mention some of the most known, to the publication of anthologies (Bereni *et al*. 2008; Dorlin 2008b) and of gender-specific journals such as the *Cahiers du genre*, *Genre, sexualité & société*, *Genre & histoire*, and *Travail, genre et sociétés*, and to the translations from English of some key

(feminist) publications and authors (Davis 1983; Butler 2005, 2006; Pateman 2010; Fraser 2012; Fausto Sterling 2012; Offen 2012). French legal scholarship is still lagging behind this evolution, in spite of the potential closeness and possible contamination via French Canadian feminist legal theory in form of the publications, work and interpretations by Louise Langevin (1995a, 1995b), Marie-Claire Belleau (2001, 2005), and Canadian Supreme Court justice, Claire L'Heureux-Dubé (Liu 2000).[1] Certainly there are sporadic publications questioning specific bodies of law from a gendered/feminist perspective (Dhavernas 1978; Dekeuwer-Défossez 1985; MacKinnon 2005; Lochak 2010) and the occasional translation into French of some feminist legal theorists' main works (Crenshaw 2005; MacKinnon 2007; Charlesworth 2013). They do not however offer any kind of theoretical systemization and remain on the whole isolated publications on specific topics which neither had the potential nor the ambition to develop a broader and more lasting dynamic within French legal academia.

So what explains this additional delay? We posit that on top of the general reluctance of French scholarship to accept gender theory as a legitimate scientific domain, additional obstacles that are not necessarily present in other social sciences and in the humanities have further delayed the use of gender as a legitimate prism through which to analyse law and its effects on women and men. These obstacles have already been observed and identified with regard to other legal approaches originating mainly in the common law world, namely for Law and Economics (Grechenig and Gelter 2008) and for Critical Race Theory (Möschel 2007). One of the main hurdles resides in the profound differences between legal systems belonging to the common law tradition (mainly the United Kingdom and the United States) and those belonging to the civil law tradition (mainly continental European states). Often it is said that the former are characterized by their use of judge-made law whereas in the latter statutory law prevails. However, the real differences lie in the way these legal traditions developed. Common law emerged in a very specific historical moment and context, out of the political action of William the Conqueror and the creation of royal courts. Thus, from its inception the common law was politically legitimated and backed and the main training for future lawyers occurred by practicing law and being associated with what later became known as the Inns of Court. Legal training in universities only came much later. By contrast, the (modern) civil law tradition developed in medieval universities (Bologna) with the "discovery" of ancient Roman law. In other words, it arose in a non-politicized, scientific setting. These deep differences still play a role today and explain why law in the civil law tradition is viewed as a *scientia iuris*, an objective and neutral legal

[1] See Justice Claire L'Heureux Dubé's opinions in the Canadian Supreme Court cases introducing a feminist legal perspective on certain assumptions about female sexuality made in sexual assault cases: *R. v. Seaboyer*, [1991] 2 5CR 577 (dissenting) and *R. v. Ewanchuk* [1999] 1 5CR 330.

science. Entire codes have been elaborated on this body of doctrinal and scientific knowledge that was always presented as a-political, objective and scientific (Gambaro and Sacco 1996). Approaches such as feminist legal theory undermine and dismantle this rhetoric of objectivity and neutrality. It politicizes law and is viewed as a threat to the dogmatic construction and systematization of civil law legal systems. This explains why, much more than in common law and in other social sciences and in the humanities, feminist legal theory has had a hard time to enter the French academic market.

A second reason why the resistances to gender are compounded in legal scholarship has to do with gender not fitting easily into the internal scientific boundaries, with the existing categorization of legal domains and with the way this categorization determines an academic career in law. In fact, gender as a transversal, horizontal aspect crossing all lines of a legal system does not fit well into the vertical subdivision into different areas of law where the main distinction runs between public and private law. The former is considered to include those areas where the state is a main actor (i.e. administrative law and constitutional law) and the latter where private individuals are the principal actors (i.e. civil law, commercial law, employment law). Legal training and specialization occurs along those fields rather than transversally and the system provides little incentive to research or write outside of one's traditional domains of specialization. This is mainly due to the fact that in order to enter an academic career one needs to pass a bureaucratic state exam (*qualification* and *concours d'agrégation*) either in those areas deemed to be private law or in those deemed to belong to public law. Publications made outside of one's domain of specialization count little in the evaluation of one's resume. Whereas nothing prevents the inclusion of a gendered perspective into one's area of specialization, the systematization of law and the consequent institutionalization discourages and prevents transversal approaches such as the one feminist legal theory offers.

Related to what has been described here above and not necessarily limited to French legal scholarship, is the more rigid and conservative approach of academic settings in general, especially when compared to the United States where feminist legal theory has developed with most impetus. In the first place, one should mention the rigid structure of university curricula in France. In fact, legal education at universities is under the influence of the government as far as to the content and format of the curriculum. Thus, changes in the legal curriculum need to be approved by the state and it becomes therefore difficult to introduce innovations. This "government controlled" model stands in contrast with the United States model which is "profession controlled" in as far as the ABA, AALS and the State Supreme Courts have the overview over legal education (Ostertag 320).[2]

[2] Even though Ostertag's article focuses on the German system, the structural approach is similar to other continental European and French law schools.

Thus the bureaucratic structure of most public European universities makes it harder to introduce new courses into conventional law study programs and professors cannot simply propose a new course within their academic structure but have to go through a whole cumbersome bureaucratic procedure, unless they intend to organize some more informal smaller seminar-type of instruction method. In the second place, the differing structure of selection of law review articles in the United States and in Europe may influence the speed at which new ideas are spread. In fact, in the United States students are heavily involved in the article selection process of law journals and law reviews. On the contrary, in Europe it is mostly professors who tend to get involved in this kind of activity. Whereas the former do not have any vested interest or approach to defend, the latter may oppose an approach strongly contrary to one's own view, thus tending to reject potentially innovative articles and preventing a faster spread of new and critical ideas (Grechenig and Gelter 306).

In November 2011 some of this changed. Stéphanie Hennette Vauchez (Université Paris Ouest Nanterre La Défense), Diane Roman (Université François Rabelais de Tours) and Marc Pichard (Université Paris Ouest Nanterre La Défense) obtained funding from the Agence nationale de la recherche and from the Mission de recherche Droit et Justice for a project which will last for a total of three years (i.e. terminate end of October 2014). REGINE (Recherches et Études sur le Genre et les Inégalités dans les Normes en Europe) as the project was called,[3] is the first structured and strategic attempt aiming at introducing and establishing feminist legal theory in French legal research and at demonstrating that gender inequalities manifest themselves not only within law but are also created by the law. This means on the one hand, to make known the impact of feminist legal theory on international and European law and to extend its applications to the French legal system by looking at whole areas of French law through a gendered lens, thus analysing whether and how law produces gender (in)equality. On the other hand, the project tries to intervene more specifically at the level of teaching and the transmission of this legal methodology through research, publications and/or actions destined not only to innovate legal teaching but also to include associations in the reflection about the relationship between law and gender.

In practice and chronologically, the project is based at Université Paris Ouest Nanterre La Défense. In February 2012, Mathias Möschel who has worked mainly on comparative law and Critical Race Theory, joined the team as a permanent post-doctoral researcher on the project and so far approximately 50 legal academics from all over France and covering practically all relevant legal

[3] See the website: http://www.regine.u-paris10.fr/ [last accessed on 15 September 2013]. The acronym also happened to have the same name as a French singer and businesswoman, Regine Zylberberg, simply known as Regine.

domains have decided to become associated in the research agenda of REGINE. Another point that should be made before entering into the details of the project itself is that the term "feminist legal theory" does not have one specific and monolithic view of "feminism." Indeed, the different researchers associated in the project reflect the richness and diversity in positions and opinions within what has become known as "feminism." Moreover, in the view of REGINE, race theory and queer legal theory are included in the analysis of how law affects and influences individuals on the grounds of different criteria beyond sex/gender.

The project itself is organized along three different lines of research. The first one analyses the impact of feminist legal theory on foreign national legal systems and its effects on international and European law. The main idea in order to overcome some of the resistances within the legal academy is to use comparative and international law as an entry point for feminist legal theory. Given a certain tendency of French lawyers towards legal positivism (i.e. something is seen as legal only when it is black on white), the best way to speak to such an audience is by demonstrating that in other legal systems and at other legal levels feminist legal theory is already black letter law and that it has a concrete impact on legal practice and interpretation. This was done by organizing a sort of kick-off conference in December 2011 for those members of the legal community that had expressed their interest in the project and during which some founding pieces of feminist legal theory were distributed and discussed,[4] by inviting international feminist legal theorists to come to France,[5] and by organizing a larger conference, called "Ce que le genre fait au droit" on 19 September 2012 at the Université Paris Ouest Nanterre La Défense.[6] During that event some foreign experts[7] discussed the relevance of gender to their research and members of REGINE elaborated on the epistemology and the methodology of feminist legal theory and its relevance and central concepts such as "stereotypes" and "indirect discrimination" that are so far relatively unknown to French legal scholarship

[4] *Séminaire de lecture*, Paris 15—17 December 2011.

[5] See e.g. the conferences at Université Paris Ouest Nanterre La Défense on 8 November 2011 by Prof. Louise Langevin (Université Laval) presenting on "Liberté contractuelle et relations conjugales font-elles bon ménage"; on 1 June 2012 by Prof. Reva Siegel (Yale Law School) presenting on "Race Equality: Antisubordination, Anticlassification, or Antibalkanization"; on 16 May 2013 by Prof. Anne Saris (UQAM) presenting on "Le droit confronté aux multiples facettes de l'embryon congelé: analyse comparée de la doctrine civiliste française et québecqoise"; and on 19 June 2013 by Prof. Abigail Saguy (UCLA) presenting on "Le harcèlement sexuel: entre discrimination et violences faites aux femmes."

[6] The proceedings of the conference are published as: REGINE, *Ce que le genre fait au droit*, Paris: Dalloz, 2013.

[7] These were in alphabetical order: Ruth Rubio-Marín (European University Institute, Florence), Sally Sheldon (Kent University), Julie Suk (Cardozo School of Law), Madhavi Sunder (University of California, Davis) and Kendall Thomas (Columbia Law School).

and practice.[8] What is more, the conference also included an example of re-writing of a decision on sexual harassment by the French Constitutional Court, the *Conseil constitutionnel*,[9] from a gendered point of view.[10] This rewriting of a French decision builds on similar experiences made abroad (Hunter, McGlynn and Rackley 2010; Brems 2012). The conference turned into a big success with the attendance of more than 100 people from university, civil society organizations and even representatives of the government's equality body. Last but not least, by writing the first French commentary on the United Nations' Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979,[11] generally considered as a sort of international bill of rights for women, one additional argument is to show that gender is already part of French black letter law because as a ratified treaty it has become an international obligation of the French state.

The second line of research tries to systematically analyse the different branches of the French legal system from a gender perspective. In particular, the focus here is on the hypothesis that gender inequality is not only tolerated or ignored by law but that French law actually fosters or entrenches such inequalities. Like in the first line of research, a particular attention is given to the anticipation of some of the objections and skepticism that might be leveled against such an object of research. Some of the main expected arguments are that such an approach is partial and not legal, scientific, objective and neutral (as legal scholarship should instead be). Moreover, especially when differentialist feminism is involved, the identitarian and communitarian threat might be raised. Other resistances might come from what we would define as "friendly fire" and mainly stem from left-wing Marxist scholars that see such feminist legal theory as originating in a capitalist context and reflecting a liberal-individualistic vision of the state and society.

In order to address and counter at least some of these potential objections, a series of safeguards were built in. First of all, we needed to make sure that most

[8] See for more details on the conference as well as the video recordings, the REGINE website: http://www.regine.u-paris10.fr/page/rencontres-evenements-46.html#blc1 [last accessed on 15 September 2013].

[9] Decision no. 2012-240 QPC of 4 May 2012. The decision can be found in English at the following internet address: http://www.conseil-constitutionnel.fr/conseil-constitutionnel/english/priority-preliminary-rulings-on-the-issue-of-constitutionality/decisions-of-the-constitutional-council-qpc/2012/decision-no-2012-240-qpc-of-4-may-2012.114585.html [last accessed on 15 September 2013].

[10] Some members of REGINE also decided to re-write the French constitution from gendered perspective. The result of this "constitution épicène" can be found at: http://www.regine.u-paris10.fr/fichier/documents/pdf/27_%2812--06--constitution-epicene%29.pdf [last accessed on 15 September 2013].

[11] Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, U.N. Doc. A/Res/34/180 (1980).

areas of law were covered and not just the "usual" constitutional, family and labour law. This would ensure the possibility that a broader claim could be made about French law with regard to gender. And indeed, REGINE has managed to generate sufficient interest to associate on a voluntary basis researchers from all domains and all over France.[12] Second, a small group of REGINE researchers met for a month in March 2012 elaborating a methodology of reading French law through a gendered perspective. This consisted first of all in consciously not following the traditional categorization of law often seen as reproducing a male dominated view of the world, where especially the public/private law divide has worked to the detriment of women (e.g. Boyd 1997). As a result, we grouped five different areas of interest (*mixité et pouvoirs*; *corps et personnes*; *argent*; *expression* and *intersectionalité*) under which to analyse French law and elaborated a grid through which to read French legislative provisions and decisions (*grille de lecture*). The results were then presented to the broader group of REGINE in June 2012 and were further refined pursuant to the discussion. More than the detailed debates on whether to qualify French provisions and decisions as gender-specific or gender-blind, as based on a gender stereotype or trying to combat such stereotypes, the discussion itself sensitized the group to the issue of gender inequality by and through the law. After that, each member of REGINE had to identify a quite specific domain within her/his own area of expertise and empirically analyse whether the case law (intended in the broadest sense) supports the hypothesis that French law has gendered consequences and uses/furthers certain gender stereotypes. The studies that are envisaged concern *inter alia* the decisions on images of women taken by the French regulatory authority of various electronic media, the role that gender plays in the acquisition of nationality, the gendered impact of taxation rules in couples, gender in wills and estates, domestic violence, the attribution of first and family names, and the contribution of law to the creation of two sexes. The main aim in each of those studies is to *empirically* demonstrate the ways in which gender influences and underpins French legislation and decision-making not only in "typical" areas of family law and criminal law, but also in less obvious domains ranging from administrative law and tax law to torts law. A first presentation of the outcome of this research is scheduled for a big conference taking place at La Sorbonne entitled "Le droit français au prisme du genre" on 7—8 November 2013. This will hopefully convince some French lawyers that there is something that a gendered analysis of law can tell lawyers.

In view of a more permanent establishment of feminist legal theory in France that goes beyond the publication of one book and the organization of a couple of conferences, one of France's most important mainstream law reviews,

[12] See again the REGINE website: http://www.regine.u-paris10.fr/page/equipe-41.html [last accessed on 15 September 2013].

Recueil Dalloz, has accepted an annual *panorama du genre*, a sort of yearly overview of the most relevant decisions and measures from a gender perspective, written by members of REGINE. The reason for choosing such a journal was strategic. If the goal is to convince French lawyers about a gendered analysis of law, then the only way to do so is by reaching out to them in widely read law journals instead of in more specialized, niche reviews such as *Travail, genre et sociétés* that are mostly read by those that are already convinced about certain underlying assumptions of feminist legal theory. While the latter journals remain absolutely crucial to the development of a French feminist legal scholarship, publishing a *panorama* in a widely read law review will allow reaching out to a broader public. The first issue appeared in May 2013.[13]

The third and more theoretical line of research aims at reformulating certain main legal concepts. REGINE indeed has at its core a commitment to detach feminist legal theory from women's issues as far as possible, in order to convince its audiences that what is at stake here is global and structural — and not merely sectorial. Thus, such concepts as democracy, representation, legitimacy, market, human rights, fairness and/or body are posited as potentially altered and redefined in a gendered perspective. Again some of the initiatives are scientifically anchored and intended at demonstrating that feminist legal theory can contribute to the theoretical and practical re-elaboration of certain legal terms by unveiling their gendered impact or relevance. One could for example think about the terms "sexual harassment" introduced by Catherine MacKinnon (1979) which enlarged our contemporary definition of discrimination; or "femicide"/"feminicide"[14] to identify misogynist murders and which have been introduced especially in Latin American countries as a new crime.[15] In turn, the re-elaboration of legal terminology from a gendered perspective should contribute to the further entrenchment of such an approach in legal scholarship, thus also ensuring the strategic aims of REGINE.

Allowing ourselves to make a preliminary assessment, we would say that the start to this project has been quite a success. The experts working on issues related to REGINE are increasingly invited to present at different confer-

[13] Panorama: "Droit et genre," REGINE, *Recueil Dalloz*, 23 May 2013, no. 18, 1235—1248.

[14] The origins and the authorship of this term are not completely clear. It seems that it already existed in 19th-century England to signify "the killing of a woman." Its modern feminist meaning can be traced back to author Carol Orlock who planned to write a book on the term without ever doing so and Diana Russell then used it in a publication describing the proceedings of the International Tribunal on Crimes Against Women, that took place in Brussels, Belgium in 1976: Diana E.H. Russell and Nicole Van de Ven (eds.), *Crimes Against Women: Proceedings of the International Tribunal* (les femmes, 1976).

[15] See e.g. Argentina, Costa Rica, Guatemala, Mexico, Nicaragua, and Peru.

ences around France,[16] aside from organizing conferences themselves.[17] The first *panorama* which was published recently in the *Recueil Dalloz* constitutes an important venue from which to circulate ideas on feminist legal theory in French law. Nevertheless, beyond the carefully planned activities and ways of proceeding, serendipity also played its part. In fact, the election of a socialist president in May 2012 (i.e. almost coinciding with the beginning of the project) made sure that gender equality (*parité*) and policies favouring women are placed high on the political agenda of the new socialist government. A project like REGINE, which specifically looks at the way in which law and policy impact women's lives looks like an excellent interlocutor. Thus, the Cabinet of the Minister for Equality, Najat Vallaud-Belkacem, invited the founders of REGINE to come and speak with them in late 2012. Moreover, gender related issues also seem to have garnered some clout at the EU level for example through the European Commission's initiative to introduce mandatory gender quotas for corporate boards[18] or through the European Parliament's initiative to propose a directive on violence against women for which some members of REGINE drafted a feasibility study. In other words, REGINE seems to intervene at a political conjunction both at the national and at the international level when the women's question (Bartlett 837) is being asked more often and with more insistence and when it becomes increasingly clear that full democracy is neither imaginable nor possible without the full participation of women at every level and instance of power.

Clearly not all hurdles are taken and we are certainly not saying that once REGINE is over, gender will have obtained a permanent spot in French legal academia. Yet, we are confident that REGINE will have managed to put feminist legal theory on the agenda of French legal scholarship and thus contributed within the legal domain to the establishment of gender as a legitimate category of analysis.

[16] See e.g. Diane Roman's and Juliette Gaté's presentation at the conference entitled "Effectivité des droits et vulnérabilité de la personne" on 22 and 23 November 2012 at the Université du Sud, Toulon-Var and Marc Pichard's presentation at the conference entitled "Nouvelles familles dans la société française, hier, aujourd'hui et demain : une approche anthropologique, sociologique et historique" on 12 January 2013 at the Maison des Associations de Lyon 4.

[17] See e.g. Juliette Gaté who organized a conference entitled "Droit des femmes et révolutions arabes" on 29 June 2012 at the Université du Maine.

[18] See the answer provided by some members of REGINE to the public consultation on gender imbalance in corporate boards in the EU launched by the European Commission on 5 March 2012: http://www.regine.u-paris10.fr/fichier/documents/pdf/30_tee-regine-consultation-publique.pdf [last accessed on 15 September 2013].

Bibliography

Bard, Christine, 1995: *Les Filles de Marianne. Histoire des féminismes 1914—1940*. Paris: Fayard.

Bard, Christine, 1999: *Un siècle d'antiféminisme*. Paris: Fayard.

Bard, Christine, 2012: *Le féminisme au-delà des idées reçues*. Paris: Le Cavalier Bleu.

Bartlett, Katherine, 1990: "Feminist Legal Methods." *Harvard Law Review*, vol. 103: 829—888.

Belleau, Marie-Claire, 2001: "Les théories féministes : Droit et différence sexuelle". *Revue trimestrielle de droit civil*: 1—33.

Belleau, Marie-Claire, 2005: "Un féminisme distinct québécois?" *Revue de droit de l'Université de Sherbrooke*, vol. 35, no. 2: 425—446.

Bereni, Laure et al., 2008: *Introduction aux Gender Studies. Manuel des études sur le genre*. Bruxelles: De Boeck.

Boyd, Susan B., 1997: *Challenging the Public/Private Divide. Feminism, Law, and Public Policy*. Toronto: University of Toronto Press.

Brems, Eva (ed.), 2012: *Diversity and European Human Rights. Rewriting Judgments of the ECHR*. Cambridge: Cambridge University Press.

Butler, Judith, 2005: *Trouble dans le genre: Le féminisme et la subversion de l'identité*. Paris: La Découverte.

Butler, Judith, 2006: *Défaire le genre*. Paris: Éditions Amsterdam (nouvelle édition augmentée 2012).

Charlesworth, Hillary, 2013: *Sexe, genre et droit international*. Paris : Pedone.

Crenshaw, Kimberlé, 2005: "Cartographies des marges: intersectionnalité, politique de l'identité et violences contre les femmes de couleur". *Cahiers du genre*, vol. 39, no. 2: 51—82.

Davis, Angela, 1983: *Femmes, race et classe*. Paris: Des femmes.

Dekeuwer-Défossez, Françoise, 1985: *Droits de femmes*. Paris: Dalloz.

Delphy, Christine, 2001: *L'Ennemi principal 2. Penser le genre*. Paris: Syllepse.

Delphy, Christine, 2010: *Un universalisme si particulier. Féminisme et exception française 1980—2010*. Paris: Syllepse.

Dhavernas, Odile, 1978: *Droits des femmes, pouvoir des hommes*. Paris: Seuil.

Dorlin, Elsa, 2008a: *Sexe, genre et sexualités*. Paris: P.U.F.

Dorlin, Elsa, 2008b: *Black feminism: Anthologie du féminisme africain-américain 1975—2000*. Paris: L'Harmattan.

Dorlin, Elsa, 2009: *La matrice de la race: généalogie sexuelle et coloniale de la nation française*. Paris: La Découverte.

Fassin, Eric, 2009: *Le Sexe politique. Genre et sexualité au miroir transatlantique*. Paris: Éditions de l'EHESS.

Fausto Sterling, Anne, 2012: *Corps en tous genres. La dualité des sexes à l'épreuve de la science*. Paris: La Découverte.

Fraisse, Geneviève, 1992: *La raison des femmes*. Paris: Plon.

Fraisse, Geneviève, 1996: *La différence des sexes*. Paris: P.U.F.

Fraisse, Geneviève, 1998: *Les femmes et leur histoire*. Paris: Gallimard.

Fraser, Nancy, 2012: *Le féminisme en mouvements. Des années 1960 à l'ère néolibérale*. Paris: La Découverte.

Gambaro, Antonio, Sacco, Rodolfo, 1996: *Sistemi Giuridici Comparati* (1st ed.). Torino: UTET.

Grechenig, Kristoffel R., and Gelter, Martin, 2008: "The Transatlantic Divergence in Legal Thought: American Law and Economics vs. German Doctrinalism." *Hastings International and Comparative Law Review*, vol. 31: 295—360.

Héritier, Françoise, 1995: *Masculin/Féminin. La pensée de la différence*. Paris: Odile Jacob (2 volumes).

Héritier, Françoise, 2010: *La différence des sexes*. Paris: Bayard.

Hunter, Rosemary, McGlynn, Claire, and Rackley, Erica (eds.), 2010: *Feminist Judgments. From Theory to Practice*. Oxford: Hart.

Langevin, Louise: "Avant-propos — L'influence du féminisme sur le droit au Québec". *Cahiers de droit*, 1995a, vol. 36: 5—8.

Langevin, Louise, 1995b: "Responsabilité extracontractuelle et harcèlement sexuel: le modèle d'évaluation peut-il être neutre?" *Cahiers de droit*, vol. 36: 99—124.

Lépinard, Eléonore, 2007: *L'égalité introuvable. La parité les féministes et la République*. Paris: Presses de Sciences-Po.

Liu, Mimi, 2000: "A 'Prophet With Honour': An Examination of the Gender Equality Jurisprudence of Madam Justice Claire L'Heureux-Dubé of the Supreme Court of Canada." *Queen's Law Journal*, vol. 25: 417—478.

Lochak, Danièle, 2010: "Dualité de sexe et dualité de genre dans les normes juridiques". *Mélanges Andrée Lajoie*. Eds. Pierre Noreau, Louise Rolland. Montréal: Themis, pp. 659—687.

MacKinnon, Catherine, 1979: *Sexual Harassment of Working Women*. Yale: Yale University Press.

MacKinnon, Catherine, 2005: *Le Féminisme irréductible*. Paris: Des femmes.

MacKinnon, Catherine, 2007: *Ce ne sont que des mots*. Paris: Des femmes.

Möschel, Mathias, 2007: "Color Blindness or Total Blindness? The Absence of Critical Race Theory in Europe." *Rutgers Race & the Law Review*, vol. 9, no. 1: 57—127.

Offen, Karen, 2012: *Les féminismes en Europe. 1700—1950*. Rennes: Presses Universitaires de Rennes.

Ostertag, Juergen R., 1993: "Legal Education in Germany and the United States — A Structural Comparison." *Vanderbildt Journal of Transnational Law*, vol. 26: 301—340.

Pateman, Carole, 2010: *Le contrat sexuel*. Paris: La Découverte.

Sénac-Slawinski, Réjane, 2007: *L'Ordre sexué — La perception des inégalités femmes-hommes*. Paris: P.U.F.

Sénac-Slawinski, Réjane, 2008: *La Parité*. Paris: P.U.F., coll. «Que sais-je?».

Bio-bibliographical note

Mathias Möschel is a post-doctoral researcher with the REGINE project at the Université Paris Ouest Nanterre La Défense. His research and publications focus mainly on the complex relationship between law and race, gender and sexual orientation from a comparative, critical and contextualized point of view. In 2011 he defended a PhD thesis on Critical Race Theory in Europe at the European University Institute of Florence (Italy).