

EVA SCHANDEVYL (ed.)

Women in Law and Lawmaking in Nineteenth and Twentieth-Century Europe

Farnham, Surrey, UK: Ashgate, 2014. xiv +279 pages

This ambitious but disparate collection of articles provides insights into topics that span the status of women (especially those who marry) in law to the advent of women lawyers and their efforts to improve the legal status of women in their respective countries (and internationally). It also documents resistance to the inclusion of women in the legal profession and the justice system. The editor's extensive General Introduction is followed by nine chapters, discussing developments in six countries (Belgium (twice), France, Germany, Greece following independence in 1821, the Russian Empire before the 1917 revolution, & contemporary Italy), with one essay that looks at the varied trajectories of women lawyers in three English-speaking countries, the USA, the UK, and Canada. To call this collection "global" seems a bit of a stretch, but its authors surely strive to maintain awareness of possible comparisons and, to some degree try to develop cross-disciplinary insights.

The book is divided into three parts : 1) History of Women in the Legal Profession (3 chapters); 2) Gender Constructions and Their Impact on Jurisprudence (4 chapters); and 3) Gendered Legal Cultures in Global Perspective (2 chapters). Each chapter has bibliographical end-notes, as well as a full bibliography, with titles in less familiar foreign languages accompanied by English translations in brackets.

Part 1 on the history of women in the legal profession opens with a co-authored chapter by Belgian scholars Aurore François & Christine Machiels. There were no practicing

women lawyers in early twentieth century Belgium (despite earlier efforts). Following establishment of juvenile courts in 1912, however, an effort to recruit women was launched to include them, but only in limited capacities, as volunteer (unpaid) probation officers. Only male magistrates could be appointed (and paid) as juvenile judges. From the outset there was strong opposition (esp. by Catholic deputies) to appointing women (especially married women) to any *paid* professional positions in the Belgian justice system; not until after World War II did this resistance soften. Following the enfranchisement of all Belgian women in 1948 and the election of women to the parliament, the passage of new laws would finally admit women to serve as magistrates, juvenile judges, police officers, etc.

Sara Kimble's excellent article on the political activism of women lawyers in France from 1900 to 1946 reveals their advocacy of legal reforms pertaining to women (especially married women's lack of rights in the Civil Code, paternity suits, married women's nationality). The attorney Maria Vérone plays an important role in Kimble's story; Vérone was a true leader – defense attorney, journalist, educator on the law, feminist, and from 1918 on president of the *Ligue française pour le Droit des Femmes*. Kimble reminds readers that in France, the first European country to admit women lawyers to the bar, the women quickly developed a critical feminist mass and, in the course of their efforts to combat gender discrimination in national laws, they fostered the building of important national and international networks of women lawyers.

In contrast, Marion Röwekamp analyzes German women's uphill struggle for admission



ASHGATE

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to the legal profession, an effort that began several decades later than in France and encountered far more hostile circumstances. Members of the all-male German legal profession were extremely protective of their economic and social privileges, and had placed additional hurdles (consisting of two state exams and an apprenticeship) in the way of anyone who had earned a university law degree before they could join the bar. Unlike the men, the women who had earned degrees had to fight for official “permission” to sign up for the state exams. Beginning this campaign in 1908 under the German Empire, the women finally succeeded in 1922 under the Weimar Republic. With the advent of the Nazi regime in 1933, however, the prospects for women in legal practice dimmed, and only the few women who by then had obtained life appointments as judges were spared from eviction from the legal profession. Jewish women lawyers were particularly victimized.

Part II could be re-titled “Looking for Women in the Shadows of Men’s Laws”. Three of the essays rely on substantive “social history” investigations, drawing on local court archival sources; the fourth draws entirely on publications by Russian legists and jurists, many of whom are making small attempts to change the disadvantaged situation of wives via recourse to civil law. Overall, these four contributions can be classified as “gender aware” (if not precisely what I would call “women’s history”). Their authors are attuned to providing a gendered analysis of laws and legal practices. Two chapters do attend to women’s participation in court appeals, mostly to resolve immediate problems (such as not getting paid for the work they have done), but they shed little light on the

individuals involved. The sources apparently do not allow these researchers to get close-up to the women plaintiffs who figure in their stories or to recapture their voices.

Mathieu Brûlé’s essay queries the extent of women textile workers’ appeals to the local *Conseil de prud’hommes* (labor arbitration board) in one city in France’s northern industrial area. His quantitative study of 4,400 cases reveals working women’s appeals for redress of grievances became more frequent after 1848, when male workers could be elected to the councils as well as employers. This essay probes the development of channels of legal redress without lawyers, male or female, or reference to laws; the grievances presented have more to do with immediate issues, such as getting paid, much like earlier local common law courts.

Dave De ruysscher [*sic*; no capital R] probes the legal dispossession of married women in the Belgian Civil and Commercial Codes, which were practically identical to the French codes that so disadvantaged wives. Examining a series of court cases brought before the Brussels court of appeal concerning married women’s economic activities in property management, sales, and contracts, the author finds that the Code’s rules that prohibited married women’s handling of property matters and going to court could occasionally be “bent” or stretched to accommodate their taking charge of economic matters for the household – or for a family (or separate woman-owned) business – as was possible in earlier customary law in Brabant. The cases cited all turn on technical points in business and contract law as it concerned married women. Parliamentarians’ efforts to reform the laws and grant married women more

authority in such cases began circa 1879 but [as in the case of women as juvenile judges in Part I] encountered stiff opposition from Catholic party legislators. Progress in reform was extremely slow; only after the war ended in 1945 and the enfranchisement of all Belgian women, did lawmakers begin to revise the articles that decreed marital authority and legally disempowered married women. Women plaintiffs appear only as shadows in courtroom settings; no women's words are quoted here, although the post-war, post-suffrage efforts of Senator Georgette Ciselet to change these laws are briefly invoked at the chapter's end.

The impressive contribution of Evdoxios Doxiadis examines the laws concerning marriage and women and changes in women's court practices in Greece as the Greek nation-state emerges from Ottoman Empire (the emergence takes up the first 16 pages of a 44-page article). The "meat" of the article that follows is based in the author's systematic examination of notarial records & communal documents in four different Greek locations, as well as family archives and early documents of the emerging Greek state. This author finds that, following the imposition by the new Greek nation-state of a hierarchical secular (and apparently more formal) court system, with courts located increasingly far away, women tended to seek justice less than under the old, more localized Byzantine system based in customary law, where justice could be administered locally.

Nadezda and Taisiya Belyakova briskly investigate the development of laws concerning marriage, divorce, and property rights (including inheritance) in Russian sources as

they affected women (mainly in marriage) from the sixteenth century to 1917. They find that in the later nineteenth century, a few male legal reformers were critical of the laws' provisions, which in particular allowed no legal recourse whatsoever for wives subjected to marital violence. It seems that the more liberal law experts had embarked on a "civilizing mission" via legal reform, but got nowhere; no reforms of the divorce laws were ever achieved. The Russian laws governing women in marriage do not provide a pretty picture, except for the fact that, thanks to the provisions of the older Byzantine system, Russian wives could and did own and control their own property, including their dowries, but in inheritance matters they remained seriously disadvantaged. The two authors do allude in passing to critiques raised by Russian feminists ("women's struggle against patriarchal authority," etc.), but quote none of their criticism (which would have made this telling of the story more interesting). It is as if, in this particular story about man-made law and male jurists and priests, there was no space for women at all, only for victims. Only subsequent to the Bolshevik revolution did legal changes beneficial to wives come about. It was high time !

Women do not appear in any of these four essays as lawyers, or even as amateurs knowledgeable in the law, and there is no mention of the advent of trained women lawyers in Belgium, Greece, or Russia or of the probable effect that their absence might have had in the developing jurisprudence, especially in comparison with the advent of women lawyers in France and Germany and of the quest for women judges in Belgian juvenile courts, discussed in Part I.

The two relatively short essays in **Part III** (“Gendered Legal Cultures in Global Perspective”) are well-crafted and informative and focused on the practices of women lawyers, but they bear little relationship to one another. The essay by Mary Jane Mossman reaches outside the boundaries of the European framework on which this book is predicated to discuss what she sees as “paradoxes” insofar as some women lawyers in the English-speaking world (here including the USA and Canada as well as Great Britain) continued to advocate for women’s rights whereas others preferred to seek success and advancement within the legal profession by sticking to “men’s issues”. The final chapter by Maria Rita Bartolomei, subtitled “Legal Cultures in Transition: The Role of Italian Jurist Women,” offers a contemporary sociological study in which the author is attempting (through a series of interviews) to probe both the attitudes of women lawyers in today’s Italy concerning their attitudes toward domestic violence cases and the attitudes of plaintiffs to the possibilities and/or obstacles that the law and justice system might offer them.

To be truly useful, a collection of essays should be tightly knit together; that is the editor’s job. In her introduction this editor has tried hard to construct arguments that suggest a fit, but in the end the very diversity of the contributed chapters betray her best intentions. It seems clear that this volume did not develop in the direction originally intended; the wide variety of essays tell us more about the wretched status of women in the law in old Europe than about “women in law and lawmaking” as the volume title would suggest.

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