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Résumés (ateliers)
Abstracts (parallel sessions)

LUNDI 11 JUILLET / MONDAY 11 JULY

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1A. Droits reproductifs — Salle 2

Présidence de séance/Chair
Marie-Xavière Catto, Université Paris 1 Panthéon-Sorbonne

Émilie Biland-Curinier, Sciences Po Paris, FR et **Jeanne Hersant,** Université catholique du Chili, CL

« La filiation dans la nouvelle loi chilienne sur le mariage. Une victoire en demi-teinte pour les lesboféministes »

Les droits conjugaux et parentaux des personnes homosexuelles et bisexuelles ont connu des changements majeurs tout récemment au Chili. Depuis le 10 mars 2022, les couples de même sexe peuvent se marier, adopter conjointement des enfants ou encore devenir parents, dès leurs naissances, d'enfants conçus par procréation médicalement assistée. Ces changements interviennent après la révolte populaire de la fin 2019, qui a débouché sur l'élection d'une assemblée constituante paritaire, représentant largement la gauche et les mouvements sociaux. Significativement, cette assemblée constituante vient d'inscrire dans le projet de future constitution deux revendications phare du mouvement féministe : le droit à l'avortement (autorisé de manière très restrictive depuis 2017) et l'éducation sexuelle intégrale qui comprend la prévention de la violence sexuelle et de genre (promotion du consentement dans les rapports sexuels, reconnaissance des diverses identités et expressions de genre, lutte contre les stéréotypes de genre). Ces changements s'ancrent toutefois dans une dynamique de plus long terme, engagée dès les années 2000 : dès 2003, les mouvements gays et lesbiens revendiquaient l'union civile entre partenaires de même sexe, qui n'a été adoptée qu'en 2015. Au cours des vingt dernières années, ces mouvements (Movilh, Agrupación Lesbica Rompiendo el Silencio, Fundación Iguales, ODT, etc.) ont multiplié les répertoires d'action : dans la rue, avec les *marchas por la diversidad sexual* ; dans la sphère militante et politique, en cherchant des allié·es parmi les organismes de défense des droits humains, ainsi qu'au sein des pouvoirs législatif et exécutif ; dans les tribunaux en accompagnant des personnes homosexuelles – principalement des femmes cis – qui cherchaient à faire valoir leurs droits à se marier, à avoir la garde de leurs enfants après un divorce hétérosexuel, à adopter, ou encore à être reconnus comme deux parents. Alors qu'en 2012, la Cour interaméricaine des droits de l'homme a condamné l'État chilien pour discrimination envers une mère, Karen Atala, à laquelle les tribunaux avaient retiré la garde de ses filles en raison de son orientation sexuelle, en 2017, la Cour suprême a confié à un père en couple avec un homme la garde exclusive de ses fils. Depuis 2016, des mères non biologiques ont obtenu judiciairement des droits de garde ou de visite sur les enfants portés par leurs (ex)compagnes. Enfin, en 2020 et 2021, au moins quatre couples de femmes ont été reconnus comme les mères de leurs enfants par des tribunaux de la famille de première instance. Cette dynamique de changement social repose avant tout sur la visibilisation des mères lesbiennes, manifeste dans la couverture médiatique dont elles font l'objet. Entre 2011 et 2021, nous avons recensé près de 500 articles parus dans trois titres de la presse écrite nationale chilienne (*La Tercera*, *El Mercurio* et *La Nación*) qui traitent principalement de projets de loi longtemps débattus, mais qui restituent également les histoires familiales et les procédures judiciaires de ces femmes, en donnant largement la parole aux groupes militants qui les soutiennent, et quoique plus rarement, à elles-mêmes. Il s'agit là d'une inflexion manifeste au regard de la longue invisibilisation des lesbiennes au sein de la société chilienne et de leur marginalisation au sein du mouvement homosexuel, structuré par des hommes. Il faut dire que ces couples, en plus de disposer, pour

beaucoup, d'un statut social assez voire très élevé, se conforment à la double norme de conjugalité et de maternité (en tout cas dans l'image publique produite par les médias et les groupes militants). Par contraste, les autres formes de parentalité minoritaire (par des hommes, des personnes trans et/ou hors de la conjugalité à deux) demeurent très peu visibles. En fait, l'intégration de la maternité partagée entre femmes à l'agenda revendicatif de plusieurs types de groupes (LGBTIQA+, féministes, droits humains) répond à l'engagement de certaines mères lesbiennes au sein de ces groupes. Mais elle n'est pas uniforme, témoignant des divergences, voire des concurrences, entre ces groupes tant au niveau des stratégies revendicatives que des représentations de la maternité lesbienne (selon que les groupes cadrent cet enjeu en termes de droits LGBTIQA+, de droits des femmes ou de droits humains et selon le type d'expertise qu'ils mobilisent). Dans ce contexte politique où les changements législatifs sont longs et incertains, mais où plusieurs juridictions, nationales et supranationale, peuvent être saisies pour revendiquer la 'double maternité' (*doble maternidad*), les tribunaux occupent une place centrale dans ces répertoires d'action militants. Dès lors, cette communication interrogera les rapports entre mères, militant·es et avocat.es qui se cristallisent à l'occasion de ces affaires ainsi que les représentations contrastées de la maternité lesbienne qui sont construites par les parties et par les tribunaux. Cette communication propose une analyse sociologique de ces affaires, fondée sur des entretiens avec les acteurs et actrices qui y sont impliqué·es (militant·es, avocat·es, mères), sur l'examen des documents judiciaires afférents (requêtes, jugements, *amicus briefs*) et sur leur couverture médiatique, afin de contribuer aux études féministes sur les droits reproductifs et les minorités sexuelles.

Lus Prauthois, Université Paris-Dauphine, FR

« D'une controverse à la routinisation de l'adoption de son propre enfant : les droits reproductifs partiels et ambigus des couples de mères entre 2013 et 2021 en France »

En France, les couples de femmes ont obtenu le mariage et l'adoption en mai 2013 mais elles ont dû attendre jusqu'en août 2021 pour avoir le droit de faire une procréation médicalement assistée en France. Pendant ces huit années, elles parvenaient à construire des familles – principalement en ayant recours à la PMA à l'étranger ou à des dons de sperme sans aide médicale notamment - mais elles subissaient une asymétrie entre une mère reconnue juridiquement et l'autre non. Cette dernière pouvait alors adopter son enfant, et cette procédure judiciaire était conditionnée au mariage et à l'accord de sa conjointe. Ainsi, le regard des études féministes des droits reproductifs se déplace, non plus sur les enjeux relatifs à procréation ou à l'adoption, mais plutôt sur l'accès à un statut juridique de parent. Ce décalage entre les droits relatifs aux techniques de procréation et ceux relatifs à l'établissement de la filiation a créé des zones d'incertitudes juridiques qui ont alimenté des controverses au début de l'application de la loi dite du « mariage pour tous ». La question était alors : doit-on prononcer l'adoption d'un enfant qui a été conçu par une PMA à l'étranger ou est-ce un détournement de cette institution ? Qui plus est, est-ce dans l'intérêt de cet enfant de ne pas avoir de père ? Ces enjeux ont suscité des discussions dans certains tribunaux jusqu'à l'avis de la Cour de cassation du 22 septembre 2014, indiquant que la PMA à l'étranger n'était pas un obstacle à l'adoption dans ce cas, puis cette procédure d'adoption s'est routinisée sauf au tribunal judiciaire de Versailles. Cette communication vise à expliquer comment ces nouveaux droits reproductifs partiels et ambigus ont conduit à des controverses, puis ont été routinisés au sein des juridictions françaises. Elle s'appuie sur une enquête qualitative et quantitative comprenant l'analyse d'une base de données de près de 140 dossiers judiciaires d'adoption par des couples de même sexe, 58 entretiens avec des magistrat·es, avocat·es et mères homo/bisexuelles, ainsi que des observations d'audiences et de formation d'avocat·es.

Vânia Simões, Nova School of Law, PT

« Le rôle de la Convention d'Istanbul dans le combat contre les violences obstétricales en Europe »

La Résolution du Conseil de L'Europe nº 2306/2019, du 3 octobre 2019, sur la Violence Gynécologique et Obstétricale, a reconnu officiellement cette forme de violence à l'égard des femmes dans l'espace européen. Cette Résolution mentionne que, malgré l'absence de mention directe de cette forme de violence contre les femmes dans la Convention d'Istanbul, celle-ci est incluse dans la Convention de mode tacite. Il existe plusieurs de formes de violence à l'égard des femmes qui ne trouvent pas de consécration directement dans la loi et/ou dans la Convention d'Istanbul, comme la prostitution ou le féminicide. Malgré l'absence de consécration juridique ou de disposition expresse dans la Convention d'Istanbul, cela ne signifie pas que la Convention ne tienne pas compte indirectement/tacitement des

divers types de violence à l'égard des femmes. Ainsi, la Convention d'Istanbul utilise des catégories de violence à l'égard des femmes pour faire allusion à toutes les formes de violence, comme la violence physique, morale, sexuelle et institutionnelle. Cette reconnaissance de la violence gynécologique et obstétricale par la Résolution 2306/2019 du Conseil de L'Europe ne suffit pas pour combattre la violence obstétricale, cependant elle représente un important pas pour la cause. Il faudrait une intégration de cette catégorie de violence dans la Convention d'Istanbul pour que les victimes bénéficient des mesures concrètes de prévention et de récupération des victimes. Depuis 2016, plusieurs pays européens cherchent à criminaliser la violence obstétricale dans leur pays, sans succès, comme l'Italie ou le Portugal. Plus récemment, en Espagne, en Italie et au Portugal, les organisations professionnelles des médecins de chacun de ces pays ont rédigé des documents officiels, arguant que la Violence Obstétricale n'existe pas dans leur pays. Le rôle du Conseil de L'Europe, à travers la Convention d'Istanbul, serait essentiel dans le combat contre cette forme de violence dans le cadre européen, étant donné que les associations des droits des femmes ont des difficultés à faire des démarches dans leur pays au niveau légal. La violence obstétricale est reconnue en tant que violence contre les femmes en Amérique du Sud, depuis l'adoption de ces pays de la Convention de Belém do Pará, important instrument d'éradication de la violence contre les femmes, comparable à la Convention d'Istanbul. La violence obstétricale est sanctionnée au Brésil, au Mexique, en Argentine, au Venezuela et presque dans tous les pays d'Amérique du Sud, grâce à la Convention de Belém du Pará. Dans ces pays, la terminologie "violence obstétricale" est déjà normalisée dans le lexique de la société en général.

1B. Gendering law — Salle 6

Présidence de séance/Chair
Rosemary Auchmuty, University of Reading

Keren Lloyd Bright, The Open University, UK
"Style and substance: deciding on how and what to write about a challenging subject (Gender identity and prisons in England and Wales)"

I recently authored a book chapter about prisoners and gender identity. It is entitled: 'Gender identity and prisons in England and Wales: The development of rights and rules; checks and balances.' This is a contentious subject which gives rise to heightened emotions and polarised debate between different sections of society. All too often the adversarial flames are fanned by the media and empathy for those on the opposite side of the debate is woefully lacking. The conference presentation is a self-reflective account about treading carefully through the legal issues. This includes the avenues chosen for research; the stylistic decisions made during the writing process; and the impact for feminism and citizenship.

Annick Masselot, University of Canterbury, NZ
"Feminist perspectives on natural disasters: framing the legal response with a gender-sensitive lens"

What do natural disasters have to do with gender? Quite a lot in fact. Based on the experience of the Canterbury Earthquakes, Covid-19 and other natural disasters, this paper argues that disaster emergency management and responses must necessarily be underpinned by considerations of gender equality. Natural disasters take place in context of structural inequalities. The gender impact of natural disasters leads to gender unequal outcomes, which are in turn further amplified by disaster emergency responses. Fundamental values, such as gender equality, are typically compromised during disaster management emergency and recovery. Gender equality is frequently dismissed as a luxury for time of plenty, while efficiency and cost are often raised as objections to include gender considerations into emergency responses. This paper argues that counter-intuitively, gender-based decisions contribute to strengthened emergency responses outcome and cost efficiency. More importantly, humanity's very way of life and, potentially existence, depends fundamentally on our ability to make gender-based decisions at all times, including in time of natural disaster emergency.

Augusto Meireis, Lusiada University, PT
"The impact of gender in anti-corruption processes"

In 2015 the 2030 Agenda for Sustainable Development was adopted by the all UN Member States and the urge to fulfill the 17 SDGs provides a common harmonized plan for the future of humankind. Achieve gender equality and

empower all women, eradicating all forms of discrimination and violence based on gender is one of the UN Sustainable Development Goals, target by 2030. Corruption lays at risk the normal functioning of democratic institutions and promotes the asymmetry and inequality between people and the full exercise of their rights. Gender disparities are increased or, at least, social inequalities are perpetuated, and, ultimately is a major obstacle for women to gain full access to their (human) rights. While many forms of corruption affect both women and men, corruption disproportionately affects vulnerable populations, especially women, who represent a higher share of the world's poor. Reducing corruption is a top priority of many States, organizations and international actors', and without a shadow of a doubt, making the link between gender and corruption may help to develop a better understanding of corrupt practices and craft more effective strategies to target them. Systematic collection of data on gender and corruption is a prerequisite to fully understand and monitor the gendered impact of corruption and to design, implement and evaluate more targeted, effective and gender-sensitive programs. Recognize, condemn and adopt an effective criminal framework that addresses harassment and sexual extortion (‘sextortion') as a gendered form of corruption and violence. Promote women's participation in public, economic and political life. Women's engagement in anti-corruption efforts can contribute to improve accountability, build sustainable integrity systems and establish governance frameworks that are more responsive to women's needs”. Our aim is to analyze the impact of gender in anti-corruption processes, recognize and address specific gendered forms of corruption that disproportionately affects women, and specifically address them mainly, how policy-makers should address forms of corruption that affect women most, including sexual extortion that should be recognized as a form of corruption and become a specific area of anticorruption efforts.

Metka Potocnik, University of Wolverhampton, UK

“Recording silenced voices: a feminist approach to intellectual property”

Some areas of law have a clear need for a feminist analysis. Other areas however, such as international trade, or intellectual property law, do not “need” a feminist analysis, as all legal provisions are gender-neutral, and all law is equally applied, right? Wrong. The law of intellectual property (IP) seeks to protect authors, inventors and traders in their creative or market distinctive endeavours. IP law has been examined through a feminist lens by some researchers (mostly in the United States), but a systemic feminist investigation of IP law is virtually non-existent. Feminist chapters do not exist in IP textbooks, nor is feminist jurisprudence considered a possible justification for IP (i.e. copyright, trade marks or patents). Instead, academics “traditionally” use the natural rights theory; the law and economics approach; or a neoliberal justification of IP law. At the same time however, IP law is constantly reviewed, in search of a better balance of interests between the owners of IP rights and the society at large (and its various groups of stakeholders). Especially voices coming from the developing countries speak of “colonisation” or the over-expansion of IP. Against this backdrop, the present research paper asks to what extent are IP norms gender-neutral; and if they are not, to what extent can a feminist theoretical framework reset the balance of interests between IP holders and the broader society? To address this question, this project relies on a feminist toolbox of methodology, primarily on “intersectionality” and “lived experience of female artists” as methods of investigation (semi-structured interviews). The aim is to explore the effect of “gender-neutral” IP norms, particularly “objective standards”, which are often referred to in IP law, such as “author,” “person skilled in the art” or “average consumer.” The paper will report its findings from forty-one interviews with women and gender minority artists.

1C. Equality and rights — Salle 214

Présidence de séance/Chair
Patrícia Jerónimo, European University Institute

Jackie Gulland, University of Edinburgh, UK
"Work, care and the welfare state: the hidden labour of older women"

The welfare state has always had the concept of work at its centre. The classic Beveridgean welfare state which was built around the idea of the archetypal worker (the male breadwinner and a dependent wife and children) has long disappeared. We now have a welfare state model which assumes that everyone is a potential worker. Increasing conditionality for unemployed people, lone parents and disabled people has now become the norm. Activists and scholars have questioned this extension of conditionality: whether it is ethical, whether it is discriminatory, whether it meets explicit or implicit policy objectives. There are fewer voices questioning the concept of 'work'. Feminists have long argued that childcare is 'work' but the solution to meeting the needs of parents in our work-centred welfare state is usually to subsidise child care costs to enable parents to do 'real work'. Meanwhile this commodified child care is carried out by low paid women. Similar patterns are now appearing for people who act as unpaid carers for adults. While unpaid carers are praised for their dedication, little support is available from the state. Where meagre state support is available, it carries similar expectations that carers should seek commodified care so that they can carry our 'real work'. Commodified adult care and support is carried out by low paid and racialised minority women. The Covid-19 pandemic has increased the work of unpaid carers as state supported services fell away and lockdowns forced family members to take on even more responsibilities. Meanwhile, the conditionality targets are shifting towards older people. As state pension age is raised for everyone, people in their sixties have become the target of work-related conditionality, while their own health issues and caring responsibilities increase. For lower paid women, those with health issues and caring responsibilities, raising of retirement age has negative consequences. No longer able to meet these caring responsibilities or manage their health while in receipt of state retirement pensions, these women are now required to find paid work or meet increasingly conditional tests for receipt of unemployment and incapacity benefits. This paper discusses how the hidden socially reproductive labour (caring for grandchildren, other adult relatives, voluntary and community work) carried out by these women is affected by these changes.

Lorena Ossio, Universidad Católica Boliviana, BO **"Women's rights to social security in Latin America"**

There are different ways of undertaking the task of "gendering" the right to social security. This paper will locate the work within the equality guarantee and ensure that the right to social security is realized in a gender equal way. In private pension systems women receive lower pensions than men because of family-related non-employment periods (in which gainful employment is completely given up for child-raising or care-giving responsibilities) this plays a major part in women's employment biographies. In opposite to public systems, in private systems there are no compensated exits from the labor market to raise their children. Further Women have lower contribution density than men due to pension calculation based on the fund accumulated in the individual account and sex-differentiated mortality tables

(having a lower capitalized fund and a higher life expectancy, the resulting women annuity was lower than that of men). The privatized pension system of has brought more disadvantages, especially for women. In contrast to other Latin America countries, the change of system was mandatory in Bolivia, without the option of choosing better conditions and even without a minimum pension. In this paper we will analyse the pension rules, approved in 2010, by the Bolivian Plurinational Assembly as an example for Women´s rights in Latin America and the situation of indigenous women. The new pensions system comprised of : a) contributory for old-age-disability-survivor pensions financed by contributions alone; b) semi-contributory covering the same risks but financed by contributionsand a new solidarity fund; and c) non-contributory for a universal pension (Renta Dignidad). The legal reform kept the special regime for the armed forces administration of the military scheme.This paper engages with international and national frameworks for assessing social security law and policy from a women´s rights perspective.

Valentine M Moghadam, Northeastern University, US **"Citizenship and family law in Tunisia and Iran: domestic and international influences"**

This paper examines the campaign for women's equal inheritance rights in Tunisia, the sole country to have emerged from the 2011 Arab Spring with a procedural democratic transition. Under Islamic law, daughters receive half the family inheritance allocated to sons. Although Tunisia's 1956 family law had emancipatory features, equal inheritance was not among them, and in the 1990s it came to be advocated by feminist groups. The Committee on Individual Liberties and Equality / Comité des libertés individuelles et de l'égalité (COLIBE), formed in August 2017 by President Essebsi, produced a report the following year that recommended equal inheritance, among other legal and policy reforms. The recommendations were condemned by conservatives within parliament and the public, largely on traditional religious grounds. COLIBE was put on the back burner for various reasons (including the current president's lack of interest), but it enabled a learning process that could lay the foundation for its future revival and adoption. Sources of data and information include the author's longstanding research on and in Tunisia, academic sources on Tunisia's political and economic situation, press accounts, a close reading of the COLIBE report, and a June 2019 seminar on the COLIBE process by one of its members. The paper begins by providing an overview of the formation and evolution of Tunisia's feminist movement, the Arab Spring and the 2014 constitution, and women's contributions to the democratic transitions. Turning to COLIBE, the paper highlights key elements of the final report, including its goal of aligning Tunisian domestic law with the constitution and with international law, and it describes how the proposals are justified on doctrinal, sociological, and international law grounds. As such, the COLIBE report's structure echoes that of a 2003 study for family law reform by the Collectif 95 Maghreb-Egalité, a transnational feminist network of scholar-activists from Algeria, Morocco, and Tunisia. Why equal inheritance for women is important - for economic/financial as well as civil rights reasons – also is explored. As for why survey results show that equal inheritance appears not to be supported by the larger Tunisian population, the paper points to a combination of the country's economic stagnation, political dysfunction, and a mobilized Islamic opposition. The study of the Tunisian feminist campaign for equal inheritance offers at least three lessons of a wider relevance. First, as many feminist scholars of the Middle East have shown, the struggle for women's citizenship rights (and especially family law reform) entails complex but necessary institutional and societal alignments involving government agencies, civil society partners, courts, and public opinion. Second, such legal reform or policy shifts, however rational and well-argued, can trigger strong resistance from a well-mobilized opposition, especially in the context of a polarized political culture. Third, wide societal support for legal reforms such as women's equal inheritance requires an economic environment that is stable and instills confidence.

Jan Kober, Charles University, CZ

"Gordian dreams: the name rights of women between equality and tradition"

The paper presents an analysis of contemporary problems in the field of legal regulation of names (surnames) of women and of other family members. The inconspicuous but ubiquitous legal and gender problem of the fair legal regulation of name and of fair practice in this field has been an object of recurrent considerations (historically reaching back to Olympe de Gouges). Over the last hundred years, starting with the post-WW1 feminism and with the Soviet reforms of family law in the 1920s, the legal regulation of name has undergone very slow but profound changes, leading from the obligatory change of surname of a woman to surname of a husband to more liberal concepts. On the

other hand, in many countries legislation has been created (or preserved) in conjunction with the legal regulation of the child's surname so as to demotivate women to benefit from more liberal provisions. The paper compares legal regulations mainly in the countries of continental Europe. On the basis of his analysis, the author proposes that introduction of new legal models of regulation of child's name might be essential for the use of legal regulation of women's names and makes some alternative proposals in this regard. The paper also examines the role of the 1979 Convention on the Elimination of All Forms of Discrimination Against Women for legal regulation of name, which has not yet been fully appreciated. The paper also notes the special problems related to name in some languages having special suffixes for the names of women. Like the inhabitants of the ancient town of Gordium observing their knot, we may dream that the observed problems have their solution(s).

2A. Violence — Salle 214

Présidence de séance/Chair
Ariane Amado, Université libre de Bruxelles

Annick Gnazalé, Université Alassane Ouattara, CI
« Femme-viol-justice : quand le silence se fait complice de l'inégalité sociale »

Notre proposition interroge le silence autour du viol, phénomène qui touche essentiellement les femmes. Cette proposition est extraite de notre recherche doctorale sur la « Sociohistoire de la pénalisation du viol en Côte d'Ivoire ». L'objectif général étant de comprendre l'histoire sociale de la pénalisation du viol et ses limites en Côte d'Ivoire. Les données sur lesquelles repose cette étude sont de type qualitatif. La collecte a été faite à Abidjan et à Bouaké, auprès d'institutions chargées de la répression du viol, d'organisations de la société civile, de chefs de communautés, de victimes et d'auteurs de viol. Les données ont été recueillies à partir de recherches bibliographiques, documentaires, d'entretiens semi-directifs et d'observation directe. L'étude a révélé deux formes de silence autour du viol en Côte d'Ivoire : un silence institutionnel perceptible dans le Code pénal d'aout 1981, et un silence socioculturel construit autour de la représentation sociale de la femme. Le Code pénal resté en vigueur d'août 1981 à juin 2019 ne définissait pas le viol. Par conséquent, la qualification du viol était laissée à l'appréciation des magistrats. Ceci a longtemps favorisé une décriminalisation du viol, correctionnalisé systématiquement en attentat à la pudeur. Le silence socioculturel, à l'origine du silence institutionnel, est étroitement lié à la représentation sociale de la femme. D'après notre étude, la femme souffre d'une représentation sociale défavorable au traitement du viol par le système judiciaire étatique. Elle est représentée comme un être concupiscent, cupide, dépourvu d'éthique sexuelle. Son consentement est implicitement donné par sa représentation sociale. Cette image dévalorisante, émanant autant de gens ordinaires que d'acteurs du système judiciaire, tend à décriminaliser le viol et en faire partager la responsabilité à la victime.

Sabir Kadel, Commission de réforme des lois de Maurice, MU
« La femme comme auteure de viol »

La femme fut longtemps soumise à une responsabilité pénale différente de celle des hommes ; les jurés d'assises se montrant cléments envers les femmes criminelles, prononçant parfois des acquittements ou, le plus souvent, leur épargnant des sentences trop sévères. Loin de représenter une avancée pour le droit des femmes, ces pratiques témoignaient au contraire d'une attitude paternaliste qui veut que la femme, comme l'enfant, soit souvent une « irresponsable », qu'elle agisse sous les coups des émotions, ou encore que son état de femme ne lui permette d'endurer certaines peines au même titre que les hommes. Encore aujourd'hui, une telle disparité sentencielle n'a pas disparu. Ainsi, en ce qui concerne la légitime défense, on reconnait ce fait justificatif avec plus de « souplesse » à la femme victime de violences conjugales, comme en atteste le cas de l'affaire Jacqueline Sauvage. Cependant, dans un domaine particulier, c'est la loi elle-même qui édicte une inégalité d'imputation légale. En effet, selon une doctrine persistante, une femme ne peut être reconnue coupable de viol, mais seulement de complicité de ce crime. La loi du

23 décembre 1980 changera la donne, mais seulement si l'acte commis l'a été sur une autre femme. Du moins jusqu'à la loi du 3 août 2018, qui insère au premier alinéa de l'article 222-23 du Code pénal, après le mot : « autrui », les mots : « ou sur la personne de l'auteur ». Cette reformulation stylistique, absconse pour le profane, permet l'inculpation de la femme pour viol sur un homme, puisque l'acte de pénétration pourra être fait sur sa personne. Nous verrons ainsi que le droit, en privilégiant la femme criminelle, la relègue à un état d'irresponsabilité infantile, et comment la femme n'accède à une véritable égalité citoyenne que quand elle peut se voir condamner au même titre que les hommes.

Josiane Toussé Djou, Université de Yaoundé II Soa, CM

« Femmes violentes, hommes battus – entre réalité et mythe en Afrique »

Quelles que soient les formes sous lesquelles elles se manifestent, les violences conjugales sont une réalité existante dans toutes les couches sociales camerounaises. Alors que nous évoluons dans une société où la domination masculine est le principe, une approche théorique défend que les femmes soient aussi violentes physiquement et psychologiquement que les hommes. En effet, la violence familiale a un nouveau vêtement. Dans ce sens, cette étude se situe dans le champ des recherches en genre qui optent pour la domination de la femme au sein du foyer conjugal. Elle entend apporter une contribution sous cette nouvelle forme de la violence subie par le genre masculin au Cameroun. Plus particulièrement, la recherche s'intéresse à la façon dont ces hommes ont vécu ou vivent la violence conjugale. La problématique ausculte le renversement des rapports de domination dans un foyer conjugal. La question principale qui se pose est la suivante : Quels sont les mythes et réalités des violences subies par les hommes ? En d'autres mots, quels types de violence connaissent les hommes dans le foyer conjugal ? Quelles en sont les causes ? Quels sont leurs comportements face à ces violences ? Pour répondre à ces interrogations, la recherche a été réalisée entre septembre et décembre 2018 dans deux grandes villes camerounaises, en l'occurrence Yaoundé et Douala et dans un village de l'Ouest Cameroun, Batcham. La collecte des données s'est faite à travers une enquête qualitative via des interviews semi-directifs, des focus groups et l'observation indirecte ; couplée de la recherche documentaire sur des cas de violence conjugale. L'enquête qualitative a été effectuée d'une part avec des hommes qui ont été exposés directement ou indirectement à la violence conjugale et, d'autre part avec des femmes auteurs de violences. À travers une démarche épousant une perspective ethnographique et socio-anthropologique, l'analyse des données issues des investigations révèle que de nombreux hommes ont été victimes de violence physique, morale et psychologique dont les causes épousent des trajectoires diversifiées. Mots-clés : Foyer conjugal, genre, masculinité, violence, Cameroun.

2B. Borders — Salle 2

Présidence de séance/Chair
Keren Lloyd Bright, The Open University

Chantal Bostock, University of New South Wales, AU

"The impact of family deportation on victims of family violence"

Under section 501 of the Migration Act 1958 (Cth), the visas of long-term residents may be cancelled, leading to their detention, removal and exclusion from Australia. Departmental decision-makers and the Administrative Appeals Tribunal, which independently reviews primary decision-making, are bound by a Ministerial Direction, which provides guidance on the factors which must be taken into account when considering whether to cancel a visa or revoke a visa cancellation. Changes to the law in 2014 led to a substantial increase in the number of visa cancellations. In addition, there have been recent changes to the Directions, reflecting that "the Government has serious concerns about conferring on non-citizens who engage in family violence the privilege of entering or remaining in Australia". In this paper, I explore the effect of these recent changes on women as victims of domestic violence. I argue that while this tough new stance on domestic violence is laudable in theory, the law has become a particularly blunt tool, with devastating consequences for women in practice.

Heli Askola, Monash University, AU

"Gendered citizenship, borders and transnational family care"

This paper analyses the gendered and exclusionary nature of citizenship with a focus on transnational family life, shaped by both the relationship between 'the state' as a bounded community and 'the family' as a site of gendered care-giving as well as discourses about normalcy and national belonging. While it is sometimes argued that transnational family lives are now increasingly accepted as part of the inevitable diversification of family life, in reality rules about immigration and citizenship exert great control over how citizens must conduct their transnational family lives and who gets to count as 'family' (and under what conditions). Questions about state power have been become even more urgent during the COVID-19 pandemic, as border closures throughout the world have disrupted established patterns of transnational family care. This paper uses Australia as a case study. Australia was one of many states that closed international borders at the start of the pandemic. Unlike most other states, which relaxed their restrictions, Australia kept its borders almost completely closed for nearly two years. This has had significant impact on, for example, new mothers whose overseas-based parents have been unable to come to Australia to support their children and provide care for newborns. This common practice among many migrant groups, such as Indian-Australians, was made impossible by the government's decision to not allow entry for any temporary visa holders, including grandparents. This paper analyses the gendered, racialised and class-based logics of exclusion that underpin such border restrictions as well as the #ParentsAreImmediateFamily campaign that agitated against them. The paper draws from work on citizenship stratification, gendered care-giving as well as transnational family practices, belonging and activism. It argues that the pandemic closure disrupted the usual ways in which citizens with migrant backgrounds

navigate rigid policy expectations regarding the ‘family unit'. This resulted in the intensification of exclusionary effects, many of them gendered, and revealed the state's continuing desire and renewed ability to dictate how citizens' conduct their family lives.

Kelly Saunders, University of Canberra, AU

“Care, work and citizenship: a (feminist) ethnography of futures in the Australian Capital Territory”

Gender inequalities globally and in Australia seem intractable, attracting only minor adjustments to policy and legal frameworks (Newsome 2021) or inertia. My doctoral research uses anthropology of the future (Salazar, Pink et al. 2017) to imagine new futures for combining care and work. The research borrows from climate futures scholarship to build detailed visions of desirable futures (Willow 2021) as a means of opening up (Grosz 1998) and social change. The focus is on repositioning care to take up its significant and rightful place in Australian society, drawing from the work of feminist scholars such as Joan Tronto, Nancy Frazer and Nell Noddings. It seeks to connect future-orientated notions of caring societies to possible legal and political landscapes for citizenship, expanding current categories and accepted norms of participation and responsibility (Bosniak 1999). The work is motivated by the need to undertake positive community building research which prepares people for the breakdown of current environmental, social and political norms. (Pietsch and Flanagan 2020). It will focus on leaders across sectors in the Australian Capital Territory (the federal capital) as a site of nation building and national identity. Given the stage of my work (Year 2), I plan to outline my literature review and proposed methodology. References Bosniak, L. (1999). "Citizenship denationalized." *Ind. J. Global Legal Stud*. 7: 447. Grosz, E. (1998). "Thinking the new: Of futures yet unthought." *symplokē* 6(1/2): 38-55. Newsome, L. (2021). "Gender and citizenship in Australia: Government approaches to paid parental leave policy 1996–2017." *Social Politics: International Studies in Gender, State & Society* 28(2): 477-500. Pietsch, T. and F. Flanagan (2020). "Here we stand: temporal thinking in urgent times." *History Australia* 17(2): 252-271. Salazar, J. F., et al. (2017). *Anthropologies and futures: researching emerging and uncertain worlds*, Bloomsbury Publishing. Willow, A. J. (2021). "The World We (Re) Build: An Ethnography of the Future." *Anthropology and Humanism*.

2C. Reproductive rights — Salle 6

Présidence de séance/Chair
Elizabeth Lévy, Université Paris 1 Panthéon-Sorbonne

Itzé Coronel Salomón, Autonomous University of Sinaloa, MX
and **Conzuelo Gutiérrez,** Autonomous University of Occident, MX
"Reproductive rights and reproductive justice: lessons from Sinaloa"

On September 7 last year, the decision of the Supreme Court of Justice in Mexico which decriminalized abortion after a historic decision voted unanimously by the ministers, brought feelings of hope for the entire Latin-American region, where the interruption of pregnancy is legal only in Argentina, Uruguay and Cuba, showing that Latin America can emerge as a response to the retrograde wave that has taken place recently in some conservative states of the USA. By doing this, the court opened a favorable precedent for the legalization of abortion in a country where, with or without laws in favor, between 750,000 and 1 million abortions are performed each year. On March 8th this year the Congress of the State of Sinaloa has approved the decriminalization of abortion up to 13 weeks of gestation. The States that already have this right are still a minority, merely seven of the 32 territories of the Mexican federation. This win for reproductive rights had a road paved with difficulties, given that the previous legislature had fast track approved a reform to the local constitution modifying an article where life was protected from the moment of conception. In a climate of pressure from pro-life religious groups, who came to publicly threaten with excommunication from catholic church to all those congressmen and women who had voted for decriminalizing abortion, even so, the current legislature achieved this historic milestone of reproductive justice for the women of Sinaloa. Many reproductive rights activists now prefer the framework of reproductive justice in opposition to a human rights one. Legal organizations, traditionally associated with the reproductive rights movements refer to reproductive justice as their ultimate objective. Activists in Sinaloa and across Mexico have claimed that women cannot be treated as underage citizens anymore.

Marisa Almeida Araùjo, Lusiada University, PT
"An intersectional analysis on race, gender and reproductive rights"

The twenty-first century is still offering – old and new – forms for inequalities and exclusion. Complex issues arise from biotechnologies, in particular from Assisted Reproductive Technologies (ART) that, in many cases, can create new systems of exploitation and alienation and new clauses can be added to "the sexual contract". The called "repronationalism" underlines how biotechnology is part of a country's national identity, shaped (also) through reproductive policies. From the testimony of several demographic transitions or the increase of diversity in family formation, we either have now a new interpretation of "family" outside its traditional concept and related to (Michel Foucault's) biopower. Test tube families are more than ever a growing reality in a new biotechnological era. Nowadays parental aspirations are considered not only in terms of planning a child but, also, in terms of technological solutions and the various options of ART. The new biotechnological solutions, based in a consumer-relation, are changing the way people understand fertility, parenthood, reproduction, and, at the end, family.

However, if the reproductive autonomy is enhanced on one side on the other, the spread of reproductive technologies and transactions in reproductive services, especially across borders, can reproduce capitalist relations of production as "racialized" gendered relations, as Vora and Iygar state. Gender disparities are increased or, at least, social inequalities are perpetuated and ultimately is a major obstacle for women to gain full access to their (human) rights. As stated in the United Nations General Assembly, 2014, "[u]niversality is the core attribute of human rights and intergenerational justice. It compels us to think in terms of shared responsibilities for a shared future." The aim of this work is to analyse the legal-ethical issues raised by ART and the new forms of "bio colonialism" that causes imbalanced power relations, considering the differences between the "buyers" and "sellers", based on race, cast, ethnicity or class, and politic-economic asymmetries. Long-standing gender and racial challenges remain undermining human rights and, in many cases, creating a true «social death» (using Orlando Patterson's expression). Key Words: Human Rights; Women's Rights; Reproductive Rights; Reproductive Justice; Gender; Race; Intersectional studies.

Anne Légier, Université Paris Cité, FR

"Protecting Access to Abortion Care in the US after Dobbs v. Jackson Women's Health Organization: emerging legal and medical strategies"

On June 24th, 2022, the United States Supreme Court overturned *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992), putting an end to nearly fifty years of constitutional protection for abortion rights.
By sending abortion regulation back to the states, the *Dobbs v. Jackson Women's Health Organization* ruling set in motion a new reality for women seeking abortions, health care providers and lawmakers across the nation.
In this presentation, we will try to look at the abortion-rights landscape in a post-*Roe* America. What are the immediate practical consequences of the decision? What are the strategies emerging at the local and federal level to protect abortion access, healthcare, and reproductive rights?

Alexandrine Guyard-Nedelec, Université Paris 1 Panthéon-Sorbonne, FR

"Abortion and devolution intertwined — reproductive rights, parliamentary democracy and citizenship in the UK"

In this paper I intend to look at how the abortion rights debate in the UK plays out in the legislative field and leads to an interesting interplay of scales. The most striking example is that of the decriminalisation of abortion in Northern Ireland by the Westminster Parliament in the summer of 2019. This last resort decision was made in the face of the political deadlock preventing any decision at Stormont – which some have analysed as a dangerous precedent for devolution. In such unprecedented situations, the UK Supreme Court, although not the most prominent player of parliamentary democracy, has a significant role to play, as do the European Convention on Human Rights and the United Nations. Indeed, the UKSC had to deliver a judgment to try and determine whether Northern Irish women were being discriminated against compared with other female citizens of the UK wishing to get an abortion (*R (on the application of A and B) v Secretary of State for Health* [2017] UKSC 41). No doubt citizenship was at the heart of this case. A cluster of multiple actors thus seem to emerge – and interact within a cluster of political considerations. The developments in abortion rights in Scotland also usefully illuminate the way in which this issue both reveals and activates parliamentary practices. Here as well, the issue prods the constitutional arrangement of devolution. A game of inter-national alliances is set up in which the local Assemblies, Westminster and Downing Street seem to triangulate. However, with the growing role of the judiciary and the fundamental rights turn, I suggest that courts more than parliaments may shape future developments in abortion rights in in the years to come.

3A. Égalité — Salle 6

Présidence de séance/Chair
Émilie Biland-Curinier, Sciences Po Paris

Catherine Le Bris, CNRS, FR et **Pierre-Edouard Weill,** Université de Brest, FR

« La Charte européenne sur l'Égalité femmes-hommes dans la vie locale ou la promesse d'une citoyenneté locale et inclusive »

Cette communication part d'un constat : celui du relatif succès que connaît la Charte européenne sur l'égalité femmes-hommes dans la vie locale (CEEFHVL). En effet, cet instrument comptait 1 688 collectivités territoriales signataires en 2018. Toutefois, ce succès est contrasté : les parties à cet instrument sont inégalement réparties en Europe et alors que 268 collectivités territoriales françaises l'ont ratifiée, tel est le cas de seulement 5 autorités locales au Royaume Uni. Cette Charte révèle une tentative de promotion d'une citoyenneté à la fois locale et inclusive. Élaborée au sein du Conseil des Communes et Régions d'Europe (CCRE) et adoptée par celui-ci en 2006, elle a été portée par des élues locales issues de différents pays d'Europe investies dans la lutte contre les inégalités de genre. La Charte se présente comme un instrument « invitant les collectivités territoriales à utiliser leurs pouvoirs et leurs partenariats en faveur d'une plus grande égalité pour toutes et tous ». Elle témoigne de l'essor du *gender mainstreaming*, c'est-à-dire de l'intégration d'une dimension de genre à tous les domaines d'action publique. La Charte comprend différents articles en ce sens et implique, de la part du signataire, l'adoption d'un « plan d'action ». Ce plan, qui doit être mis en œuvre sur le territoire de l'autorité locale, fixe des priorités en matière d'égalité femmes-hommes et vise à mobiliser les ressources nécessaires à cette fin. La CEEFHVL est un instrument de *soft law*, non obligatoire. C'est également un instrument transnational et non pas international dans la mesure où il a pour signataire des autorités locales et non pas des autorités centrales compétentes pour engager l'État. La double nature de la charte - non obligatoire et transnational - en fait un instrument inédit et atypique dans la lutte contre les inégalités de genre. L'adoption d'une telle Charte par l'autorité locale peut contribuer à la conscience des droits (« *rights consciousness* »). Elle peut aussi susciter une dynamique locale visant à renforcer l'égalité femmes-hommes. Toutefois, se pose la question de sa mise en œuvre. Cette Charte, en effet, ne peut faire l'objet d'un recours en cas de violation de ses dispositions. Dans ce contexte, elle ne peut être qu'une façade et se profile le risque d'un *equality washing*. L'objet de notre communication est ainsi d'examiner les implications et la portée de cet instrument. Elle interroge ses logiques de création, définit les caractéristiques des collectivités signataires et leur répartition dans l'espace européen, examine sa nature et sa portée juridique, et brosse une esquisse des réformes locales, souvent limitées, prises en application d'un tel instrument de *soft law*.

Özgün Celebi, Koç University, TR
« Observations sur le droit au divorce à la lumière du principe d'égalité homme-femme en droit turc »

Basé sur le principe d'égalité des sexes, le Code civil turc accorde aux époux des droits égalitaires en matière de divorce. Les causes légales de divorce ont été prévues sans égard au sexe de l'époux. Néanmoins, la formation de la volonté d'initier la procédure est dépendante des conséquences futures du divorce, et sur ce point, l'égalité entre les femmes et hommes est loin d'être acquise. L'expérience montre que la vie après le divorce s'avère particulièrement difficile pour les femmes. D'une part, de l'attachement de la société turque à la répartition traditionnelle des tâches dans la vie de couple et de la renonciation des femmes mariées à la participation à la vie économique pour s'occuper des tâches ménagères et des enfants, découle la question de la survie économique pour les femmes divorcées. D'autre part, la frustration vécue par les hommes qui ne souhaitent pas divorcer se transforme, dans une société traditionnelle, accordant habituellement le dernier mot aux hommes, facilement et tragiquement en actes de violence, débouchant parfois sur le meurtre de leur ex-épouses pendant ou suivant la procédure de divorce. Ces problèmes de survie économique et de sécurité hantant majoritairement les femmes, il nous semble légitime de les voir comme les modes d'expression d'un problème plus général, ayant trait à l'indépendance de la femme après le divorce et donc à sa libération des liens d'un mariage qui ne fonctionne plus. Pour remédier au problème de survie économique après le divorce, le droit turc accorde à l'époux qui risque de tomber dans la pauvreté le droit d'obtenir une pension alimentaire. Bien qu'elle soit réglementée sans égard du sexe du demandeur, en raison de manque d'égalité dans le domaine du travail, l'institution sert en pratique à apporter un minimum de support économique aux femmes divorcées. Quant au problème de sécurité, le droit turc prévoit des mécanismes administratifs pour combattre la violence exercée sur les femmes par leurs époux ou ex-époux. Néanmoins, l'expérience des femmes montre que ces mesures ne fournissent pas de véritable remède aux problèmes de survie rencontrée par les femmes après le divorce, et la volonté législative, concentrée actuellement sur les techniques de la préservation de l'union de famille, semble passer à côté de ces questions que fait surgir la rupture de l'union. Le principe d'égalité échoue donc en matière d'accès au divorce, puisque les conséquences du divorce pour les femmes, bien différentes de celles qui sont rencontrées par les hommes, empêchent les femmes de trouver le courage d'initier la procédure. Ainsi, l'objective de notre exposé sera de mettre en évidence les raisons pour lesquelles les protections légales susmentionnées demeurent inefficaces en Turquie et de discuter des possibilités de révisions pour augmenter la chance des femmes mariées d'effectivement jouir du droit de divorcer sur un terrain d'égalité avec les hommes.

Mariella Palmieri, Université de Picardie, FR
« Libération de la parole des femmes et production du droit »

À la croisée des enjeux entre philosophie et droit, cette communication se propose d'analyser les effets de la libération de la parole des femmes sur la production de normes juridiques, qui ouvre ainsi l'accès à la citoyenneté. Le droit et les théories dominantes du droit ont été depuis toujours une production masculine, sexiste et sexuée. Or, la libération de la parole des femmes est un acte de critique politique, et la prise de parole publique se présente à la fois comme un acte de déconstruction de l'acquis et une tentative de construction d'un nouveau type de relations interpersonnelles. L'irruption sur la scène publique de la parole des femmes oblige à des changements politiques et juridiques. Il s'agit d'un acte politique qui met en évidence le rapport conflictuel entre les femmes, le droit objectif et les droits subjectifs. La parole des femmes déconstruit l'universalisme neutre du droit positif par le bais d'un acte politique concret, réel, situé. À partir des luttes pour le droit de vote, pour le droit à l'avortement jusqu'à la lutte contre les violences faites aux femmes, la parole des femmes a produit des méthodologies, des stratégies et des positionnements autour de la question de la relation entre subjectivité et droit, en ouvrant ainsi la voie pour l'accès à la citoyenneté. Cette communication vise, donc, à mettre en évidence la dialectique entre l'acte politique de libération de la parole des femmes et la production de normes juridiques, à travers une analyse des enjeux entre subjectivité féminine et féministe et production de droit.

3B. #MeToo — Salle 214

Présidence de séance/Chair
Lise Gotell, University of Alberta

Carolina Pereira Lins Mesquita, Federal University of Rio de Janeiro, BR **"MeToo and the decisions: diary and analysis of the sexual crimes of the spiritual surgeon 'John of God'"**

The title is a reference to "me too", a movement popularized internationally since 2017 in the form of hashtag on social networks. It first appeared when the US press published accusations of sexual harassment of actresses against film producer Weinstein. The expression stems from another movement, "the silence breakers". According to the report "In the spirit of #me too" the 2018 Nobel Peace Prize was awarded to two activists who dedicate their lives to fighting rape and sexual violence as a weapon of war. It has also appeared in the context of political, legal and religious disputes: the Congolese gynaecologist Mukwege and Murad from the Yazidi minority. She became a voice of women who survived the sexual slavery imposed by the extremists of the Islamic State. In this paper, the identification with "me too" is not limited to sexual crime and the fact of breaking the silence, it also alludes to the professional environment in which it occurred. The aim of this writing is to discuss the sexual assault by Joao de Deus which I was a victim of, during my fieldwork in Abadiânia, Brazil. He was the key subject in my PhD thesis developed at the Sociology and Law Department at Universidade Federal Fluminense. In addition to "breaking the silence", the objectives are to launch analytical interpretations and theoretical reflections on the crime of rape in Brazil and the risks that women researchers are subjected to when undertaking fieldwork. It is not my purpose to present conclusive truths but to instigate reflection and reach interlocutors to better understand gender relations, power, citizenship and the work of women researchers in a risk context. This investigation is an autoethnography that articulates two types of research: the field study with participant observation and the bibliographic review in the scope of sociology, anthropology and law.

Cathérine Van de Graaf, University of Cologne, DE
"What about the presumption of innocence?' Legal consciousness and himpathy in Facebook users' comments on Flemish #MeToo Scandal"

In November 2017, after receiving multiple complaints of sexual harassment, the Flemish Radio and Television Broadcasting Organization terminated its collaboration with one of Flanders' most popular TV personalities, Bart De Pauw. What followed was an explosion of opinions from both well-known and ordinary persons. The focus of this paper is on the latter: Facebook users responding to newspaper articles. In order to gather information about their legal consciousness as a result of the aforementioned scandal, their comments are analysed using critical discourse analysis. The term legal consciousness refers to the ways in which 'the law' is invoked to evaluate and define certain behaviours that occur outside of a legal framework (Ewick and Silbey 1998). Legal consciousness is apparent in the

reactions of social media users with references to the presumption of innocence, (the absence of) a right of defence, the period that has elapsed since the events in question and the absence of any evidence. Despite the fact that the women in question have not made a claim in conventional judicial institutions, their complaints are still evaluated in such a framework. At first sight, one would confirm the paradox identified by Gash and Harding that law stands in the way of the objectives of an awareness movement and encourages victims of sexual abuse to remain silent (2018). However, a remarkable conclusion here it that is not the law that obstructs women from coming forward but rather perceptions of the law. In this context, it appears that commenters are plagued by 'himpathy' (Manne 2017) with a fixation on the harasser's fall from grace whereby procedural rules are merely used as a decoy. Because the alleged perpetrator was the first to speak, he succeeded in disseminating his version of reality and the role of law in it as the dominant discourse. His popularity with the general public ensures that the 'court of public opinion' turns against the victims and the public broadcaster in the alleged perpetrator's favour (Herman 2015, 8).

Holly Doel-Mackaway, Macquarie University, AU

"Girls Citizenship – Children's Participation in Law and Policy to End Male Violence"

Male violence against girls is one of the most significant barriers to girls' citizenship and the realisation of substantive equality. Soft terms such as 'domestic violence' or 'gender-based violence' dominate public discourse and obfuscate the fact that most perpetrators of violence are male. Male violence threatens girls' life prospects and health (UNICEF, 2006) and prevents the fulfillment of girls' rights under the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of Discrimination Against Women (CEDAW). Male violence is a 'global pandemic' affecting 1 in 3 women during their lifetime (World Bank, 2017: 5); and is both a criminal justice problem and a public health threat given its high prevalence and the multiple and severe health consequences (Tang, 2009: 227). The mandate on governments to take steps to eliminate violence against women and children (VAWC) is being 'increasingly recognised as a priority for the international community' (Klugman, 2017: 1). Countless legislative measures have been implemented globally to combat VAWC with varying degrees of success (Venganai, 2015). However, very little attention has been given to how children and young people themselves could collaborate with governments in the design of legislative and policy measures to eliminate such violence (Merry, 2006). Article 12 of the CRC requires governments to engage children in decision-making processes that will affect them, and this includes involving children as full citizens in law and policy-making processes. This paper details findings from qualitative research undertaken with children and young people in Nepal that investigates how children and young people can participate as change agents in shaping anti-violence legislation and policies. The research methodology is informed by feminist legal theory (Fineman, 2005; Bartlett, 2018) and a child rights-based approach to research (Lundy, 2007). The paper concludes that the involvement of children and young people in governmental processes to end male violence offers an innovative and underutilised avenue to strengthen such laws and policies and increase girls' citizenship rights.

3C. Culture and identity — Salle 2

Présidence de séance/Chair
Alexandrine Guyard-Nedelec, University Paris 1 Panthéon-Sorbonne

Sophia Ayada, University College London, UK
"Is anti-stereotyping necessarily the way forward for 'real' equality? An investigation of the CJEU gender equality jurisprudence"

Over the last two decades, feminist legal scholars and activists witnessed and welcomed the fight against gender stereotypes becoming a necessity widely recognized by political and law-making European institutions. Fighting gender stereotypes has been presented as the top-one priority in a series of soft law instruments, in – but also out of – gender equality and anti-discrimination law as a consequence of gender mainstreaming. Eventually, this necessity to end gender stereotyping reached European courts, which acknowledged existing concerns regarding the role of gender stereotypes as a limit to gender equality. They developed a new form of legal reasoning, based on the refusal of the inscription of, and reliance upon, gender stereotypes in national legislations. According to anti-stereotyping, "real" equality cannot be achieved without the elimination of gender norms that weight on women's choices, because these norms, based on wrong preconceptions regarding their abilities, deny one's agency and free choice. This contribution proposes to question the often commonly accepted assumption that anti-stereotyping always plays a positive role on women's emancipation. Taking the CJEU jurisprudence as a case study, it highlights that, in practice, anti-stereotyping has been relied upon by men applicants, who very often defended a formal vision of equality that legitimised the protection of their own rights. By contrast, in the (few) occasions women tried to make use of the argument, the Court generally rejected it bluntly. This analysis suggests that anti-stereotyping developed in the CJEU jurisprudence as an androcentric legal argument, that in turn shaped the Court's political conception of equality. Equality is accordingly understood in relation to the protection of individual merit and free will, rather than to a group-based and systemic understanding of discrimination.

Elena Ghidoni, University of Deusto, ES
"Women's legal subjectivity: reflections on the role of stereotypes and their intersectional dimension"

Feminist legal theory has put at the core of its concerns that of unveiling the false neutrality of the law and problematizing the construction of legal subjectivity. It exposed how neutrality, objectivity and universality are in fact hiding a specific subject (male, rational, white, middle-class, heterosexual and able-bodied) as opposed to a "non-subject" or "other" constructed as inferior. These dichotomic constructions have been used as rationales to exclude and oppress women in many areas of social life. Despite women nowadays being formally recognized as citizens and having progressively overcome a number of barriers that hindered their enjoyment of fundamental rights and freedoms, several traces of their original erasure from legal subjectivity remain and make them "less subjects" and "less citizens". Moreover, gendered divisions can intersect with other axes of oppression and produce complex and changing forms of inequality. Stereotypes are among the mechanisms that work to perpetuate women's oppression

and can also adapt to and take up intersectional forms. International human rights law has recognized stereotypes as a form of discrimination and legal scholarship has been focusing on strategies to identify them and assess their harms in terms of human rights violations. While the implications of stereotyping in the legal domain have been observed at many levels, this paper narrows the focus on its impact on judicial reasoning. It aims at exploring how stereotypes work both at the individual level, by serializing and diluting the characteristics of an individual into a homogeneous category, and at the group level, by reinforcing and justifying the social subordination of certain groups. Through examples from the ECtHR case law on migration, the paper highlights how stereotyping contributes to and reinforces women's subordination. Embracing an intersectional perspective helps unveil the operations of gender stereotypes and their complex nature.

Patrícia Jerónimo, European University Institute, IT

“Gender and culture in the courtroom: notes from southern Europe”

In the ongoing debates about the interplay between gender and culture in the practice of domestic courts in Europe and North America, the main focus continues to be on women of (real or perceived) foreign origin and on the way ‘their culture' hinders their social integration and/or enjoyment of fundamental rights. As pointed out by Leti Volpp, among others, this focus contributes to ‘an exaggerated perception of ethnic difference' and to a highly problematic equation of gender violence with ethnic/cultural difference. By reviewing court rulings from three Southern European countries with notorious patriarchal traditions – Portugal, Spain and Italy – this paper aims to contribute to a better understanding of the way in which cultural arguments from the ‘host culture’ are being used by defendants and judges in cases involving some form of gender violence (e.g. domestic violence, rape, forced and voluntary adolescent marriage) and of how this use compares with that of cultural arguments from ‘other cultures’. The paper is an opportunity to present and discuss preliminary results of a research project funded by the Portuguese Agency for Science and Technology (FCT), under the title ‘Equality and cultural difference in the practice of Portuguese courts: Challenges and opportunities for an inclusive society (InclusiveCourts)’, running from 2018 until 2022.

Talya Deibel, Bilkent University, TR

“Patria potestas, sovereignty and lost identities: a transhistorical analysis of women’s subjectivity in law”

This study aims to explore women's subjectivity from a historical perspective, drawing on the concept of ‘*patria potestas*’ as the power of sovereignty of man over his subjects existed in Roman society. The goal of such an approach is to add depth to the flat ontologies that characterize an overemphasis on the duality of subjects and objects, a characteristic of many of the discussions on the subordination of women. It is argued that overemphasizing the historical hold of such dualisms implies a regressive stance and society reflects a modern history characterized by domination and power dynamics. This includes women's rights and critiques of gender inequality, specifically in regard of how the status of “in-between” scattered social realms are (mis-)understood. Roman law on which our modern illustrations of subjectivity and civitas are based, revolved around the ‘status’. The status of liberty (*status libertatis*), the civic status (*status civitatis*), and the family status (*status familiae*) defined the subjectivity of the people living in the stratified society of Rome. This resulted in a situation wherein only free male citizens of Rome were considered as ‘persons’ while women, who mostly fell under the *potestas* of the head of the *oikos*, were not seen as capable of having rights. *Patria potestas* was based on the mastery and control relationship where women were placed within the traditional subject (persona)-object (res) dichotomy. Such conception of subjectivity and identity existed in Roman law changes our understanding of the binary object-subject models, as well as its critique as suggested by, for example, Haraway or Hayles in their discussion of posthumanism as a frame wherein to analyze gender relations. Understanding women's identity in modern age requires us to be more historically nuanced about the concept of ‘*potestas*’ and how ‘status’ is embedded in our legal frameworks and political designs.