

Review of *Le « moment 1900 ». Critique sociale et sociologique du droit en Europe et aux États-Unis* (dir. Olivier Jouanjan et Élisabeth Zoller), Paris, Éditions Panthéon Assas, 2015, 381 p., ISBN : 979-10-90429-64-2, 27 euros.

When it comes to the history of legal thought in the contemporary era, French historiography has been somewhat ground-breaking in the past decade. Numerous studies have thoroughly renewed this field of research, involving the study of authors, networks, scholars' production, scientific journals, etc. Among this vast reappraisal, the '*moment 1900*' has been at the heart of scientific concern, not only in the legal field. Studies in intellectual history have been analysing this historical turn in philosophy, history, art and literature. Was it really necessary to issue yet another book about it? After having read Olivier Jouanjan and Élisabeth Zoller's volume, the answer is a plain 'yes'. Their book actually resulted from a colloquium held in Paris in May 2015, and one is compelled to acknowledge its very high scientific quality. Both in Europe and the United States, the 1900s are well known as a period of intense transformation in legal thought and practice, under the general impression that law was failing to address the urgent needs of a rapidly changing society. The volume therefore aims to investigate the different reactions of both legal thought and practice to the formalism of the 19th century. Olivier Jouanjan's inspiring introduction puts all the papers into perspective and attempts to distinguish three different ways for jurists to deal with social facts and emerging social sciences.

The volume clearly renews the vision we had of the '*moment 1900*', for at least three different reasons. Firstly, a few contributors stress that the 1900s were not only a time of significant changes in legal thought; it also was a time of great changes in legal practice. This has been a blind spot of French historiography until now. Consequently, a few articles focus on the impact of social criticism and social sciences on the judges' work, both in France (Geneviève Koubi) and in the United States (Wanda Mastor, Élisabeth Zoller). Wanda Mastor wonders about the influence of sociological jurisprudence on the American Supreme Court. Élisabeth Zoller prefers to draw a comparison between French and American judges in the 21st century as to their respective treatments of social facts.

The second reason to welcome such a book is that it focuses not solely on the French case, but ventures to treat the question from an international point of view. Therefore, both Europe and the United States are studied. As for Europe, Germany is well represented by three papers. Olivier Jouanjan analyses in depth the debate about legal methodology regarding public law in the 1920s in Germany. Aurore Gaillet reminds us of a somewhat forgotten author, Philipp Heck, who, under the influence of Ihering, promoted a doctrine of '*jurisprudence des intérêts*' to fight formalism. Hugues Rabault engages with the figure of the German sociologist Niklas Luhmann, who strove to open legal theory to sociology. While Germany is thoroughly studied, such is not the case with the United Kingdom, which unfortunately is the object of a lone paper. Aurélie Duffy-Meunier's very interesting contribution focuses on the creation of the London School of Economics in 1895

by the socialist Fabian society. Inspired by the French *École libre des sciences politiques* (ancestor of Sciences Po), LSE promoted socialist reforms. Aurélie Duffy-Meunier analyses how LSE fought Albert Venn Dicey's traditional way of teaching constitutional law.

Yet, the majority of the papers focus on the United States, which should not be surprising. Élisabeth Zoller reminds us that in the US the gap between law and society was so wide that jurists were keener to accept sociological methods than their European colleagues. When it comes to the United States, the various authors always attend to the intellectual connections and interactions between European and American scholars. Carol Greenhouse, for instance, concentrates on the American reception of French sociologist Émile Durkheim around 1900, analysing his correspondence, his replies to the American reviews of his books, his reading of the American pragmatists, etc. David Rabban, for his part, investigates Roscoe Pound's sociological jurisprudence, both in its European roots and its American applications.

The third reason to praise this book is its editors' willingness to take the measure of what persists of the '*moment 1900*'. French readers will particularly appreciate Yannick Ganne's paper, which takes stock of the sociology of law in American legal life. He emphasizes how the sociology of law has become more and more an empirical sociology, shaped by field work and thus granted limited space in law schools.

Therefore, Olivier Jouanjan and Elisabeth Zoller's volume contributes to widening our vision of this '*moment 1900*' geographically, thematically and chronologically, which we thought we knew well. However, it suffers from a few weaknesses. Firstly, the title of the book (*'critique sociale et sociologique du droit'*) raises questions. What exactly is the nature of the link made by the volume's editors between social facts and sociology? The title leads one to believe those two questions are to be put on the same level. Yet social facts are a symptom: society changes under many circumstances. Sociology, on the other hand, could respond to those changes, enabling legal methodology to adjust itself to new worlds and to devise more adequate legal answers. This dichotomy is not sufficiently explicit in the papers. Moreover, from a French point of view, it seems that Durkheim is over-represented in the volume at the expense of other sociological schools, such as the empirical schools of sociology, which have attracted far more jurists than Durkheim. Whereas Durkheim's sociology has helped a few scholars *rethink* law, Frédéric Le Play's empirical sociology, for instance, intended to help jurists *act* upon society. Therefore, the book suffers a huge lack: the social reformists, who counted many jurists among their ranks. From a wider perspective, many of the papers present a very classic history of ideas, though somewhat disconnected from its context. This can easily be explained by the fact that many of the authors are not legal historians, but professors of public or private law who are not masters of historical technique. French historiography has recently renewed its methods: instead of writing a history of legal ideas from an internal point of view, it tries to promote what the French call intellectual history, which entails connecting ideas to their social, political and economic context and researching the circulation of ideas and the materiality of legal thought (in the form of books, libraries, scientific journals, translations, national and international networks, etc.). One regrets that the volume does not move further in this promising direction.

Thus, most of the papers gathered in this volume, as serious, interesting and thorough as they may be, reflect on the *manifestations* of the '*moment 1900*', without really analysing its *essence*. In this regard, only Frédéric Audren's stunning paper fully embraces the question of the nature and the meaning of this particular moment. According to him, the '*moment 1900*', praised even now by French scholars, is merely a *reconstruction* orchestrated by scholars of the 1920s and 1930s, eager to

regain the legitimacy squandered by World War I. Although their epistemological project was very different from the jurists of the 1900s, they ensured that their predecessors were mythologised. Accordingly, Frédéric Audren questions the existence of this golden age of legal thought. He does not really deny its truth, but helps us understand how and why it has persisted and even became a myth. It goes without saying that the author takes a huge step forward in analysing this '*moment 1900*': by decrypting the paths of its *memory*, he fully reaches its *history* or, rather, its *historicity*.

To conclude, this very worthwhile volume is of value to both European and American scholars who wish to reflect upon their own history and take the measure of their legacy.

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