

WE ARE ALL E.T.s¹

André-Jean Arnaud

Comme un vol de gerfauts hors du charnier natal...² (De Heredia 1893)

If I have one especially strong recollection of the Tokyo RCSL³ 1995 Annual Meeting, it is of the embarrassment I felt as my western colleagues launched themselves, wave on wave, upon the magnificent buffet prepared by our hosts, while the latter attempted to attend unruffled to the speeches of welcome. At a congress devoted to 'Legal culture: encounters and transformations', one could not do better than remark to the organisers how pertinent was the general theme which they had chosen.

Other, happier memories of this meeting remain, notably a number of enriching papers presented at workshops. That which Professor Chiba was good enough to help me to organise on the subject of 'Terminological Issues in the Sociology of Law' had as its object to engage participants in a debate on the universalised use of local legal concepts. The initial idea emerged from the working group on 'Building a Thesaurus of Sociolegal Studies', set up at the Oñati Institute for the Sociology of Law and recognised by the RCSL. The Thesaurus was to be compiled in the English language, as the common medium of communication today. But the transposition of certain 'descriptors' peculiar to other languages into terms or expressions in English

¹ The author expresses his gratitude to Gordon Woodman for his work in translating this paper.

² 'Like a flight of gyrfalcons leaving their natal charnel-house...'

³ Research Committee on the Sociology of Law of the International Sociological Association.

was found in practice to pose fundamental problems.⁴ Searches for the English equivalents of concepts in French, German, Italian and Spanish, these being the languages of the researchers in this working group, sometimes produced modifications of the substance of the concepts. In the process of compiling a Thesaurus one is not generally preoccupied with the cultural weight of words.

About ten colleagues presented papers. Seven of them have been so good as to revise their texts to form the articles which are brought together in this volume. It is hoped that the reader will not be surprised to see them published after such a long interval. The subject-matter required reflection, and the passage of time has enabled the authors to refine their arguments.

In the style, at once incisive, clearly good-humoured, and deeply considered, which he has made his own, Peter Sack poses the issue admirably: it was “the possibility and desirability of devising a culturally neutral language which could be used to describe culturally different forms of law without distorting them”. This sentence brings together all the features of the problem with which the authors struggle, each on a specific subject, in the following pages. Then he evokes the possibility of a “‘grammar’ of law”; touches on the dichotomy ‘law as technology/law as culture’; evokes “the dream of an intellectual unity of the social and natural sciences” which haunted the life and work of Radcliffe-Brown; and introduces, in the definition of law as “a social phenomenon [consisting] primarily [of] language”, a highly relevant distinction between “language as cultural communication” and “language as a technology of communication”.

Peter Sack is not only a sociologist. He is also an anthropologist, and he provides examples from fieldwork which his learning enables him to analyse by sifting them through the comparative history of legal systems. At the end of his argument he reaches the conclusion that “the search for a culturally neutral, universal language of law ... will merely serve professional convenience rather than contributing to a better understanding of law”.

Hunud Abia Kadouf, focusing on one particular case, the difficulty inherent in any attempt “to describe proprietary relations arising solely under the Malaysian land law”, emphasises the danger of “the improper use of words”, which can lead, in the reality of daily application of law by the judges, to “undesirable results”. He denounces the use of terminologies and concepts specific to particular systems to

⁴ We had already encountered these difficulties in the compilation of the *Dictionnaire encyclopédique de Théorie et de Sociologie du droit*. See our ‘Préface’, an English version of which is published parallel to the French (Arnaud 1993a).

perform functions in others. He shows how language is not a mere vehicle of transmission of ideas, but in reality creates “patterns of thought”. The distortion of which Peter Sack speaks is shown here in operation, at the point where original meanings are subverted by judicial interpretation. We all know, as jurists, that every fact requires to be legally qualified if it is to be cognisable by a court. We also know that the outcome of proceedings often depends on the manner in which at the outset the facts in issue were legally qualified. So significant is this that in many jurisdictions the Supreme Court is empowered, for the protection of litigants, to pronounce on whether a qualification is well-based. Hunud Abia Kadouf shows how the very process of legal qualification, without which an action cannot be initiated, can entail the distortion of a legal system by the assimilation of specific customary institutions to well-known institutions of laws considered to be more elaborated. We need therefore to take care not to use terms carrying connotations peculiar to certain systems when speaking or acting in different contexts. Law is in reality a mirror of society, and legal grafts cannot be made effective unless quite precise conditions are observed.⁵ The issue under investigation has a very real significance in the multicultural societies which are ours today. Indeed, is it not with a view to escaping these dangers that the French tradition of hospitality makes its welcome of immigrants conditional on their manifesting a desire to integrate?

Instances of cultural particularism in law are not limited to non-western societies. Erhard Blankenburg gives an example of the untranslatable Dutch term *Beleid*, which is in daily use, and serves an entirely satisfactory end in the Netherlands. As an experienced legal sociologist, he shows incisively how the very existence of this concept signifies “the tension between strict legality and its continuous adaptation to social equity”, and how it differs in its nature from informal law just as from intuitive law, remaining unclassifiable in terms of “classical” criteria. Nevertheless its utility is undeniable. It has indeed no possible substitute. The author demonstrates this by several precise examples, in relation to drug use, and to abortion. The reconstruction of doctrine in which he then engages is no less important. Here is a concept which permits a certain degree of tolerance to be introduced in the enforcement of the law. It allows the formulation of explicit reference marks, or guidelines, for law enforcement. At a time when globalisation is tending to reduce the role of the state in social regulation (Arnaud 1997), jurists would be well advised to take account of this very ‘local’ concept. The author concludes that it opens a passage between the extremes of ‘soft’ and ‘hard law’. It provides for the adaptations and flexibility increasingly required of contemporary law. It points towards a ‘negotiated law’. Might we not recognise here something in the nature of

⁵ I have set out my views on this issue in Arnaud 1993b.

a universal 'standard' which could be available to those whose function it is to ensure that the law is respected?

Hanne Petersen, with comparative examples drawn from such different contexts as Greenland and the Old Continent, treats of the rhythm of law. Who could have been better placed to do this than she, at the confluence of several cultures (western and eskimo societies), and the intersection of several disciplines (musical, sociological, jurisprudential)? With sharp perceptiveness she locates her argument in the frame of postmodern thought, "where an image of justice with 'sword, scales, and blindfold' may be in need of change". She similarly develops other inquiries in which she relates informal law to rhythmic, as distinct from classical music. And she notes that, just as the music conservatories were for long reluctant to recognise rhythmic music, so state law has been towards legal pluralism, with its 'unofficial law' and other forms of folk law.

The author shows how, in 'tonal languages', the rhythm of the language determines the meaning of the words. Law and juridical thought, because they are bound to language, vary with it. Analytically this leads to an individualist cosmology, to legal instrumentalism, to a legislative ideology. It is quite different in the case of 'song duels'. These belong to a non-industrial society which accommodates the absence of a state. Western laws, on the other hand, by excluding all musical components, have banished emotion from the legal register. Rhythm, mode of production, and ethics are bound together. And if globalisation has a direction, it lies in the possible reintroduction of rhythms appropriate to particular cultures, by the incorporation of the 'local'. In this time when society and mentalities are changing, balance could be secured by taking into account the roles of law and music respectively. And then, by way of what might be considered digressions on the themes of solidarity and identity, the author brings us back, in conclusion, to the highways of sociology.

Taking the baton at this point, Vittorio Olgiati provides in a certain way a demonstration of Hanne Petersen's suggestion. His paper treats normative production as the key concept of contemporary sociology of law. He aims to clarify the fundamental problems which arise from the fact that the dominant mode of production of norms today in Europe is both theoretically and operationally inappropriate. The effective scope of law is, he recognises, far wider than the enunciation of its formal sources would lead us to assume, and if the sociology of law clings to these, there is a danger that it will never rise above positivism. Having examined the impasses in which several theories have become caught, and the elements of potential reconstruction which may be found in others, the author refers to his own experience in his research in progress, and puts forward the

“‘communication’ paradigm as a normative pattern of global social interaction”. Only this, he concludes, will enable that great leap forward which contemporary theory of legal sociology so needs to make.

It is just this communicative concept which Fernando Galindo has chosen to present. He equally refers to an experience in the field, the findings of which lead him to recommend this choice of theory as a mode of generalisation of legal experience. Since, says the author, society is plural, and since it is no longer possible today to establish firm rules and impose them quasi-dictatorially on the ground of universal reason, it is necessary in a democratic society to recognise the legitimacy of diverse ways of reasoning and of different sets of beliefs. It is here that the ‘communicative concept of law’ becomes significant, as a meeting-point of legal cultures. The author describes in detail its conditions of operating and furnishes valuable indications of the practical consequences of putting it into operation. The reinforcement of participative democracy and the moderation of technocratic despotism are benefits which are made possible by recourse to the communicative concept, which, he concludes, is one of the most apt to produce progress in the sociology of law.

The concluding paper is rightly that of Professor Masaji Chiba. Anthropologist and jurist by training, he has been one of the corner-stones of Japanese legal sociology, and the fervent standard-bearer of the cause of non-western cultures in the international scientific community (Capeller and Kitamura n.d.). Having shown how translations of concepts from certain cultures into concepts specific to others are open to criticism, and having addressed “the irreconcilable conflict between the established concept of human rights and the opposing conceptions based mainly on non-Western culture”, the author defends his theory of “the intermediate variable of the legal concept”. A notion lying between the universal ideal concept and the variety of concepts specific to particular cultures, this ‘intermediate concept’ is to be reformulated on the foundation of cultural concepts in the light of known advances towards the achievement of the ideal. The various reformulations will then constitute groups of variations called ‘intermediate variables’ of the ideal concept. Thus, in respect of human rights, intermediate variables will constitute so many advances made by cultures towards the ideal, and will, according to the author, enable a more effective application of human rights than that which occurs today, a number of non-western cultures being not ready to sacrifice their specific characters to a concept which is culturally alien to them. Why indeed, he adds, should diverse legal concepts be “forced ... into alien frameworks”? (quoting Allott 1994: 293).

‘Alien’: the term recurs in this text. It is true that, short of a completely successful integration, we are all E.T.s in any culture other than that in which we first saw the light of day. It is not by chance that we stir with emotion towards the fragile creature

on the cinema screen when he speaks those pathetic words “E.T. ... wants ... go home”.

*

Jean de la Fontaine the fabulist once, quite exceptionally, permitted himself to begin a sentence with the words, “If I may venture to add to the word of the interpreter....” So perhaps the reader will allow me in turn to say a few words of my own.

What if ultimately the problem which we have posed is itself the fruit of reflection totally bound up in one culture, my culture, the culture of the west? For is not this obsession with legal concepts specific to a particular type of approach?

The historian of western law knows that for long the law was seen as exclusively concerned with practical matters, just as, the anthropologist has taught us, it is in other societies. Look at the ancient Greek texts: they discuss the catching of bees, pigeons, fish; the question is to determine whether the net, the arrow, the spear or the harpoon which catches them should or should not be regarded as the extension of the hand of the hunter or fisher. Even in the later Roman law, in its most developed state, jurists considered all definition in legal matters to be dangerous. That does not mean that either the Greeks or the Romans were unaware of the possible manipulation of concepts. But their jurists had no need of this. What was the fate of the famous teaching manuals of Gaius and Ulpian? The Empire, by refined surgery converted the useful elements into a body where they became unrecognisable - but most useful to practitioners of the law.

When the concepts appeared in the character of fundamental elements of a possible future science of law, this was on the basis of a dialectical methodology borrowed from the earliest glossators and applied to what was to become the canon law.⁶ This Roman-Canonic tradition, which began to be constituted in the form in which we know it in the 12th century, and to be more precisely developed in the 16th century, left an indelible imprint on the legal systems of the west. It was this which inculcated in our jurists the idea of axiomatic systems of law based upon fundamental concepts. It is this which lies behind the quest for universalism which marks our own history. This quest for the holy grail has up to the present taken chronologically three preponderant forms, namely, universalism, internationalism, and globalisation.

⁶ See Arnaud 1998: Lesson 2, ‘Le droit, de l’universalisme à la globalisation, dans l’histoire de la pensée juridique occidentale’.

The roots of universalism are to be found, it is generally thought, in the imperial conquests of antiquity. Yet, strictly speaking, the Roman world did not pretend to universalism. Quite to the contrary, it surrounded itself, at a certain period, with artificial frontiers, traces of which are still to be found in the form of walls, and within which the *pax Romana* reigned. Until 212 AD, that is to say, for ten centuries, and despite permanent conquests, the Romans coexisted with the various peoples whom they encountered in the course of their history. Roman law was no more than the law of the citizens of Rome, who were small in number until the edict of Caracalla of that date. Consequently there was no trace in antiquity of that universalism which develops gradually, on the basis of general principles which are progressively established as philosophical concepts (subjective rights) and then pass into the teachings and writings of jurists. That explains why it was inconceivable for declarations of the rights of man to see the light of day before the late 18th century.

This universalism was founded on principles bequeathed by the tradition of an ancient western philosophy, revised in the light of the christian revelation, and based upon a cosmology which placed the subject at the centre of the creation of the world. From this was born the subjectivism which in law places the subject at the centre of all legal relations. Here he is endowed with rights which are of his essence, engraved on his heart. Here, for that same reason, he is the equal of every other subject, provided that he is recognised as such. In this process of uniformisation of thought every particularism which might have infringed the general, foundational principles of a law built upon immutable and universal reason disappeared, at a stroke.

Temporal princes did not hear the message in these terms. Kingdoms and empires saw to it that the boundaries of their territories became frontiers. Within them only that was law which the authority with legislative power recognised as such. Universalism in these circumstances gave way of necessity to an international law. And it was precisely in the 17th century, when these foundational 'universal' concepts of the law were developing, that Grotius set out the major outlines of international law, in a work which gained immediate fame. This was the epoch when, in consequence of the refusal of protestant lands to follow directives proceeding from the apostolic see, there was a danger that the rules of international comity posited until then by the Church of Rome would at a stroke become obsolete. How thenceforth could the concepts derived from universalism be implemented unless they passed through the filter of state acceptance? This explains why declarations of human rights have had, to ensure their application, to figure in the preambles to the constitutions of numbers of states. This explains why the United Nations Organisation (and it is noteworthy that the title refers explicitly to 'nations') felt itself obliged to make states subscribe to a *Universal Declaration of Human Rights*. It explains the necessary duplications and indispensable redundancies, such

as the existence of regional texts: Europe is furnished with a *Convention for the Protection of Human Rights and Fundamental Freedoms*, and Africa with a *Charter on Human and People's Rights*. It explains also the efforts to give effect to these rights in particular matters, as was the object, for example, of the *International Convention on the Rights of the Child*.

As the state becomes weaker, international relations tend to become more fragile. There is much talk today of the 'globalisation of human rights'. One could perhaps read the texts which in this volume present theories - even that of Hanne Petersen, but most notably those of Vittorio Olgiati, Fernando Galindo and Masaji Chiba, through the filter of this paradigm.⁷ Globalisation indeed, unlike the universalisation which has developed in the west in the past centuries, does not envisage the suppression of legal pluralisms, for it cannot develop without its counterpoint, the 'local'. Quite the opposite of internationalisation, globalisation does not aim to overthrow the status quo.

However, in so far as one can find positive aspects in a globalisation of human rights, what would it entail? There are rules of the international legal order authorising recourse to a court arising from this order. There are even examples in many national areas of judicial activity aimed at securing respect for these rules. To speak of globalisation is to evoke the notion of juridical fields wider than the national or regional-community frame without entering the field of international law *stricto sensu*. The concept of globalisation even provides an explanation of certain phenomena of creation of legal norms which are capable of generating relations which contravene these systems of laws, as is evidenced by the intervention of the global community in the affairs of states which do not respect global norms. Is a globalisation of human rights, in this sense, both conceivable and useful? It is appropriate to distinguish clearly here between the promotion and the protection of human rights.

Regarding promotion, globalisation presents the risk of reducing rights to interests (such as ideological, cultural or economic interests) far removed from the values which international action is best suited to secure. Certain fundamental rights even give rise to a variety of international legal obligations which in principle are binding on both individuals and governments (Jackson 1993). Furthermore, recent research in international ethics has shown that the implementation of fundamental rights by transnational directives restrains the activities - to all appearances unrestricted - of

⁷ That the 'global' approach constitutes a paradigm has been shown in Arnaud 1998: Lesson 1, 'La globalisation: repenser le droit?'

the multinationals (Frederik 1991, cited by Jackson 1993).

Regarding the protection of human rights, different factors prevail. Here the concept of globalisation is revealed to be important, although not without danger. It is important in so far as, when national, regional-community and international legal rules prove ineffective to secure the observance of international declarations, there may be some use in *invention*. Such is the case with the claim of so-called international tribunals which, although free of national ties, nonetheless appear to arise from a legal order, whether international, supranational, community or other, without which they would lack all legitimacy. This is indeed a matter of globalisation according to the socio-legal theory of the globalisation of conflict resolution.

One has a premonition of a certain danger. There already exist throughout the world courts set up to secure, and engaged in securing the observance of human rights. Apart from the control of the UN and organisations such as the ILO, the inter-American system knows an *Inter-American Commission on Human Rights* and an *Inter-American Court of Human Rights*, much like those for Europe which sit in Strasbourg. Is there not a danger, that to go back to a globalisation of human rights outside these institutional structures, will have the counter-productive effect of undermining the existing courts, which certainly do not merit this?

Moreover, what would be the advantage of globalised protection of human rights? Can one truly believe that globalised modes of conflict resolution will overcome the difficulties in implementing the protection of human rights encountered by the courts which have already been set up? The root of the problem is that the obligations flowing from human rights at the international level can be constructed in very different ways, depending upon which cultural, legal and ethical perspectives are taken into account. For example, in multicultural states what principles are to be applied to determine whether a particular practice violates human rights norms? Should this be done according to independent international principles, the 'communal' principles of state law, or those of the cultural communities involved? Even globalised modes of protection of human rights provide no answer to these questions. Every tribunal, whether national, regional-community, international or global, will encounter not only the variety of interpretations but equally the indeterminate, vague and blurred character of certain pronouncements.

The principles concerned are in the nature of standards which at the promotional stage are pronounced in vaguely defined terms, far vaguer than those in which they were conceived, in order to gain acceptance in all cultures. As if it were possible to conceive of a protection of the values enunciated in these principles without

reference to the culture in which the problem of their protection arises! In those areas where the rules do not clearly dictate the result, the tribunals and courts rely in reaching their decisions on the current sources of law, to which they are accustomed to refer. Yet the jurisprudence varies from one legal culture to another. On which cultural foundations would global jurisdictions be legitimately based?

The very finest philosophers of law have not succeeded in avoiding the pitfalls. Chaïm Perelman proposed the notion of a ‘universal audience’ or that of an ‘international consensus’ as an interpretive concept.⁸ These notions have been effectively criticised for their ambiguity (Aarnio 1987: 222 et seq.), and it is true that, however idealist and universal the audience of human rights may be, they remain tied to a cultural and social context, that is to say, they are culturally and socially bounded. Aulis Aarnio, Perelman’s principal critic, argues that one ought to seek to replace the ‘ideal’ character of this universal audience with a concrete concept. But a concrete audience would be a finite number of individuals having in common their membership of a group. The problem then would be to determine whether it was possible to concretise the universal group of human beings, and by what criterion of membership. Ronald Dworkin has sought to define the criteria of community: common citizenship, a common commitment to respect the principle of fairness and justice inherent in the political arrangement of the community, loyalty, and the refusal of all discretionary power to any state institution (Dworkin 1986: 168, 199-202, 211 *et passim*). But these criteria of an ‘ideal audience’ are themselves derived from communal values which in reality have their roots in a legal culture which is not at all universal, and which could in this respect be said to be too provincial to provide a universal basis for human rights.

Neither has John Rawls succeeded to any greater degree in establishing an irrefutable argument founding the universality of human rights, even when making reference to those ‘principles of natural duty’ on which the establishment of and respect for just institutions repose (Rawls 1971: § 51; see also: Blais 1995; Tremblay 1995) - that is to say, those, and those alone which will be found to repose on the greatest respect for human rights. On what grounds, indeed, could one convince the entire world of human beings to adhere to the argument and thought of John Rawls? That which he calls a “fair equality of opportunity” (Rawls 1971: §§ 14, 46 most notably), an equality of opportunity which is not reducible to an abstraction, reflects a paradox: the more the state intervenes to restore equality of

⁸ Perelman 1990: §§ 27, 28, ‘Peut-on fonder les droits de l’homme?’, and ‘La sauvegarde et le fondement des droits de l’homme’. Cf. previously Perelman 1982: 127.

opportunity, the further it departs from the contractarian ideal of the minimal state. Thus it is impossible to find, even through the widest inquiry, any coherent, substantial philosophical basis for imposing, under the aegis of the global community, legitimate, uniform interpretations of human rights and the obligations which ensue from them. And this is possible no more by national or communal than by international institutions.

The 'global' could not live without the 'local': does this mean that human rights may receive the stamp of the local? Let us take an example. In very nearly every corner of the world today one can obtain a 'big mac'. But this 'global' sandwich does not have the same taste in Madison, Wisconsin, in Tokyo, Lisbon, Rio de Janeiro and Paris. To attract customers on the spot, the nature of the 'big mac' product has been localised. Where is the interest in a 'concept' of human rights if their globalisation transforms them in pursuit of regional interpretations?

These doubts lead to scepticism in two respects. First, if one wishes to safeguard the value of the 'concept', is it justified to claim universal protection for these rights on the basis of an interpretation drawn from their source, which lies in western philosophical thought? Second, what attitude is to be adopted in the face of local demands that national legislation take account of cultural specificity, creating the risk of a failure to take account of the latest advances in the protection of human rights?

Returning to a general theme of this volume, in the following pages the authors strive to reply to extrapolated forms of the questions just formulated. They refer sometimes to the concept of human rights, but often cheerfully to other concepts. All struggle with those questions which turn on the impossibility of the neutrality of law conceptualised in an extreme form, on the risks which local cultures incur in every attempt at universalisation, and on exchanges between cultures and the lessons which so-called 'advanced' societies may learn from others which appear less advanced. But they consider also the questions concerning the dangers which may be posed by certain local points of resistance which are not always aware of the efforts at accommodation being made by a global community which they sometimes rather precipitately demonise. How can one ignore the many resurgent forms of fundamentalisms, huge obstacles to the effective recognition of human rights, to their interpretation in universal terms, to their application and protection? These are often concealed behind the excuse of cultural specificities when, on the one hand they do not always represent these faithfully, and, on the other, they do not themselves abstain from undertaking the proselytising project - which is no longer a form of localised globalism, nor globalised localism, as Boaventura de Sousa Santos said, but a drive towards universalisation by routes which have been taken historically and which we are unanimous in having condemned (de Sousa Santos

1995).

At all events we cannot escape here from the indicia of deconstruction, relativism, pragmatism, pluralism of rationalities which are the order of the day in the assessment of contemporary laws, as Hanne Petersen rightly suggests. The implementation of programmes of action inspired by these mutations produces upheavals in the panorama of the social order and the legal, institutional and political organisation to which we have grown used over long decades.

But one of the features specific to postmodernism - if it must be so called - consists in the fact that, on a global scale, many groups advancing collective claims offer opportunities for research into cultural orders at odds with western modernism. These are the movements for decolonisation of all orderings, whether they are political or economic in origin, and their successor movements, the feminisms, the movements for affirmative action in favour of particular social groups, the explosions of sovereignties, the awakening of regionalisms, and the overdevelopment of social movements claiming effective participation in the power to produce normativity. Need we vigorously reject the accession of the western tradition to 'modernity', need we throw out the baby with the bathwater? And can we not envisage interactive exchanges and dialectics between local actors, which is to say, between cultures, as well as between global and local actors, which is to say, between an aspiration to the universal and attempts to respect diverse cultures?

I would like to end this introduction on that note of interrogation. If the reader has been prepared to stay with me this far, he or she will without doubt be regaled by the pages which follow. It remains for me to thank, on behalf of Professor Masaji Chiba and on my own account, each of those who has kindly consented to give us the fruit of their reflection. Thanks also are due to Professor Gordon Woodman and the editorial committee of the *Journal of Legal Pluralism and Unofficial Law*, for having accorded us access to the pages of the *Journal*.

Paris and Rieux-Minervo, 27 February 1998

References

- AARNIO, Aulis
1987 *The Rational as Reasonable: A Treatise on Legal Justification*.
Dordrecht: Reidel.

-
- ALLOTT, Antony N.
 1994 'Methods of legal research into customary law.' Pp. 285-293 in Alison Dundes Renteln, and Alan Dundes (eds.), *Folk Law: Essays in the Theory and Practice of Lex Non Scripta*, 2 vols. New York and London: Garland Pub. Inc.
- ARNAUD, André-Jean
 1993a 'Preface à la première édition.' Pp. XI-XXV in André-Jean Arnaud (Dir.), *Dictionnaire encyclopédique de Théorie et de Sociologie du droit*, 2nd ed. Paris: L.G.D.J.
 1993b 'Legal grafting as a formal problem in a structural perspective.' Pp. 395-404 in W. Krawietz and J Wróblewski (eds.), *Sprache, Performanz und Ontologie des Rechts: Festgabe für K. Opalek*. Berlin: Duncker u. Humblot.
 1997 'De la régulation par le droit à l'heure de la globalisation. Quelques observations critiques.' *Droit et Société* 35.
 1998 *Entre modernité et mondialisation*. Paris: LGDJ.
- BLAIS, François
 1995 'De la priorité des libertés de base: le débat Hart-Rawls.' *Carrefour: Philosophie et Droit*, Montréal, Québec: Éd. Acfas: 235-245.
- CAPELLER, Wanda and Takanori KITAMURA (eds.)
 n.d. *Une introduction aux cultures juridiques non-occidentales*. Brussels: Bruylant, forthcoming. (Contributions by Bernard Botiveau, Wanda Capeller, Masaji Chiba, Alice Erh-Soon Tay, Yoneo Ishii, Majid Khadduri, Takanori Kitamura, A. Kodzo Paaku Kludze, Setsuo Myiazawa, Simon Roberts, Peter Sack and Gordon Woodman)
- DWORKIN, Ronald
 1986 *Law's Empire*. Cambridge Massachusetts, London: The Belknap Press of Harvard University Press, Fontana.
- FREDERIK, William
 1991 'The moral authority of transnational corporate codes.' *Journal of Business Ethics* 10: 165-177.
- HEREDIA, José Maria de
 1893 'Les Conquérants.' In *Les Trophées*.
- JACKSON, Kevin T.
 1993 'Global rights and regional jurisprudence.' *Law and Philosophy* 12: 157-192.
- PERELMAN, Chaïm
 1982 'The Safeguarding and Foundation of Human Rights.' *Law and Philosophy* 1: 119-129.
 1990 *Éthique et droit*. Brussels: Éditions de l'Université de Bruxelles.
- RAWLS, John
 1971 *A Theory of Justice*. Cambridge, Massachusetts: The Belknap Press of

Harvard University Press.

SOUSA SANTOS, Boaventura de

1995 *Towards a New Common Sense: Law, Science and Politics in the
Paradigmatic Transition*. New York & London: Routledge.

TREMBLAY, Luc B.

1995 'Une démocratie libérale neutre ou perfectionniste?' *Carrefour:
Philosophie et Droit*, Montréal, Québec: Éd. Acfas: 261-298.