

# “The Problem of the Identity of Law Costs Perplexed Jurists a Lot of Sleep”

## Interview with Iain Stewart

\* Translated by the author

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### Personal Journey

#### ***1. To begin with, could you tell us in a few words who you are and what is your journey?***

I was born in 1948 in England, of Scottish parents, and have been living in Sydney, Australia, since 1987; I now have dual nationality, British and Australian.<sup>1</sup> My university studies were as follows: University of Exeter, England (LLB (Hons), 1969); International Faculty for the Teaching of Comparative Law (*Diplôme de droit comparé*, cycles 1 and 2, 1968, obtained in 1969); Faculty of Laws, University College London (PhD, 1982). Career: University of Hull, England, Lecturer in Law 1980-1985, Lecturer in Sociology 1985-1987; Macquarie University, Sydney, Australia, Lecturer in Law 1987-1990, Senior Lecturer in Law 1990-2008, Associate Professor of Law 2008-2015; Honorary Fellow from 2016; Head, School of Law, 1990-1991. I am an Associate Member of the International Academy of Comparative Law, elected in 2009, and an International Correspondent of the Hans Kelsen-Institut, Vienna, since 2012.

#### ***2. What issues and areas of research are you currently working on?***

I am generally interested in the concept of law and in law as ideology. I am working more specifically on: (a) the discordant notions of “positivity” in legal positivism; (b) the last phase of Hans Kelsen’s work as symptomatic of mortal conflicts within legal positivism; (c) reconceptualisation of “ideology” so as to include normative as well as descriptive closure; (d) the idea of a “dark performative” as linguistic mechanism of these closures; (e) the basis of legal obligation, which can be found to lie less in justifying what is preferred than in excluding any alternative solution.

#### ***3. What have been the readings, works, encounters, etc. that have nourished your scientific journey?***

In England, until the 1970s, the bachelor degree in law was mainly a training intended for solicitors. However, upon a suggestion from Professor Clifford Parker,

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1. I express my gratitude to Pierre Brunet for improvements to the first version of this text. [The present text is my own translation of the French text as published. I am particularly grateful for Pierre Brunet’s suggestion for the French text that “dark performative”, the name that I have used in earlier publications in English, be rendered “*performatif dissimulé*”—although here I have maintained “dark”, for consistency with the earlier publications and because I cannot think of a more appropriate English expression. (tr.)]

who also taught in the International Faculty for the Teaching of Comparative Law, I took the first and second cycles of its *Diplôme de droit comparé*, in Exeter and then in Pescara. These courses opened my eyes to the possibility of a scientific perspective in the study of law—although, at the time, this was reduced to legal dogmatics. The latter can be characterised as a “science” of law that is “internal” to law: a “science” in that it is systematic and “internal” in that its frame of reference is law itself.

A decade later, I undertook (by accident) a doctoral thesis on the concept of customary law (supervised by Michael Freeman; I also benefited from encouragement by William Twining). I then saw in the perspectives of social anthropology and sociology the possibility of a science of law which, at least in intention, would be “external” to law: that is, a science based upon a descriptive principle which I will call here (with no originality) a “principle of independence”. This is the principle according to which, in a science of meanings, the frame of reference ought, as far as possible, to be independent of the meanings studied. This principle is ordinary, even banal, among the social and human sciences, but its employment appears to be exceptional in science of law. A jurist is able to apply it in the study of law to which the jurist is not subject—for example, in history of law. However, when it is law to which the jurist is subject, the prospect of applying this principle provokes a mixture of incomprehension and simple rejection. Therefore I propose here the hypothesis that, on the plane of perspectives, the “law and society” problem turns on the question of the principle of independence.

Everybody recognises that “law” is an important social institution. This institution is aware that it is in great need of the assistance that the social sciences can provide—especially in informing and enriching legislative processes. This has resulted in a dialogue that has been difficult and often confused. The state makes use of the sociologist in an instrumental role; the sociologist’s research will have to locate itself within the basic legal categories. Very quickly, the sociologist faces a problem of Is and Ought: the legal categories (such as “crime” or “contract”) combine them, while the sociologist must separate them. Hence the sociologist’s task is double: needing to construct categories that are independent of legal discourse yet in some way parallel to it and, at the same time, to understand the differences between the two series of categories. Moreover, although to the eyes of the sociologist a mixture of Is and Ought would be a mistake, it is not so for legal discourse. The sociologist therefore has to go further, to understand the reason for the mixture and for its supposed legitimacy.

Marxist sociologists of the 1970s had recourse to the typically Marxian idea of “ideology”. However, not only is this idea little developed by Marx himself, but it presents a crucial limit for a science of law: it deals with certain bad modes of description. It is possible to apply it to content of a norm or to knowledge of a norm: but the question is also of the prescriptive form of a norm and moreover of the extraordinarily obligatory character of a norm identified as legal. This is the assumption, both scientific and everyday, that a legal norm will override any non-legal contrary norm.

Pursuing such questions led me in two directions, very different yet perhaps complementary. One was, so to speak, “from inside”: I set out to analyse the obscure conflicts within Hans Kelsen’s Pure Theory of Law—his critical project of

making the science of law more "positive" (from hence my very friendly connections since the 1980s with Stanley L. Paulson, the *doyen* of Kelsenian studies). The other direction was, so to speak, "from outside": I sought to examine the projects for achieving a science termed "critical" of law itself, which were necessarily accompanied by critiques of contemporary science of law. This second direction orientated me toward the European movements of "critique of law", rather than those American movements that were grouped under the rubric of "Critical Legal Studies"—although I was able to relate to all of these in the early 1980s and thus to facilitate contacts among them. I was then the secretary of the European Conference of Critical Legal Studies. Later, the budget cuts in Britain's universities imposed by the Thatcher government forced me, along with so many others, to emigrate.

Shortly before leaving Europe, I commenced an analysis of the concept of legal ideology, which was translated into French.<sup>2</sup> However, this article and its translation aroused little interest. There was a good reason for that: I was identifying ideology of law as process and as effect, without however managing to find the mechanism by which the process produces the effect. Nevertheless, a sketch of the mechanism appeared in 2002 and then in a more elaborated form in 2006.<sup>3</sup> I would like to insert that analysis here, in order to fill a gap.

## Development of the Field

**4. Based on your research themes, what do you think are the major issues that structure the "Law and Society" area today?**

**5. In your opinion, are there questions in the "Law and Society" field that have not been sufficiently worked on and deserve further work?**

*On these two questions.* A factual investigation ought not to set out with the aim of embracing the world; it should begin in the street. From the pavement where I am standing just now, I see six large buildings, each of which bears an inscription: "Central Prison", "Court of Justice", "Police", "District Council", "Faculty of Law" and "Church of the Law of God". As I notice that these buildings are very close to each other, I ask a passer-by whether they have something in common. She replies that they have in common "law": these are places of law, in which work people of

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2. Iain STEWART, "Closure and the Legal Norm: An Essay in Critique of Law", *Modern Law Review*, 50 (7), 1987, p. 908-933; "Droit et clôture : essai sur la conceptualisation critique du droit", *Revue interdisciplinaire d'études juridiques*, 16, 1986, p. 33-89 (I am indebted to Alain Strowel for an excellent translation of this longer version). See also my national report "Structure of the Australian Legal System", in Olivier MORÉTEAU and Jacques VANDERLINDEN (eds.), *La structure des systèmes juridiques*, Brussels: Bruylant, 2003, p. 115-152 [also in Gabriël A. MOENS and Rodolphe BIFFOT (eds.), *The Structure of Legal Systems in the 21st Century: An Australian Approach*, Brisbane: CopyRight Publishing, 2002, p. 181-208 (tr.)]. J. Vanderlinden has reproached me for having committed several neologisms, in English and in French: "Introduction: rapport général" in same, p. 17-88, at p. 28 n. 26. I have nothing to regret: each of my supposedly obscure words is in a dictionary, even though it might be a dictionary of Old French.

3. Iain STEWART, "Critical Approaches in Comparative Law", *Oxford University Comparative Law Forum*, 4, 2002 (<<http://ouclf.iuscomp.org/critical-approaches-in-comparative-law>>); ID., "The Use of Law", in Michael FREEMAN (ed.), *Law and Sociology*, Oxford: Oxford University Press, 2006, p. 259-278 (Oxford Scholarship Online, 2012).

law (prison guards, judges and lawyers, police officers, councillors, professors and priests), who deal with things of law (bars, robes, truncheons, proposed laws, books of laws and books that according to the believers are sacred). I put aside her reservation “according to the believers”, because for my investigation any meaning is only an observed fact.

Then I ask my informant: what is meant by “law”? She seems troubled: “Sir, I am a professor in the Faculty of Law and on this question my colleagues divide roughly into three camps: the contented, the pragmatists and the perplexed. The contented sleep well enough, whether because they content themselves with a religious faith, often hidden, or because they avoid theoretical hassles, satisfied to be technocrats. The pragmatists firmly close their eyes to the problem, accepting as “law” everything that is presented to them under that name through state apparatuses. However, the pragmatists themselves are split between simple technocrats and those who are committed to social justice.” I ask myself whether one can be committed to justice in law without worrying about the justice of law itself. Is it assumed that law is just in its form, even though it may possess unjust content that one would attempt to change? And where could such an assumption come from? The professor continues: “As for the perplexed, in brief, the problem of the identity of law costs them a lot of sleep.”

My subsequent research leads me to discover two types of perplexed, both of which frequent seminars and conferences while hardly ever meeting each other or reading the same books or journals. Some of the perplexed prefer those that bear a rubric such as “law and society”, “law in society”, “law in context” or even “socio-legal studies”. The others prefer books and journals entitled “philosophy”, such as “philosophy of law” or “legal philosophy”. In each of these two *milieux*, the identity of law has been sharply contested without ever being resolved. Moreover, at least according to the textbooks, the philosophical perplexed are split into two camps: the “iusnaturalists”, who believe in “natural law”, aided by “positive law”; and the “legal positivists (*iuspositivistes*)” (dominant today), who believe only in “positive law” and gather under the flag of “legal positivism”, and appear to bear allegiance to “positivism” in the philosophical sense. Unfortunately, according to Norberto Bobbio’s analysis (dating from the 1960s but never superseded), the labels “iusnaturalist” and “legal positivist” seem to denote neither permanent themes nor definite relations among themes.<sup>4</sup>

On the “positivist” side, Bobbio’s analysis has been confirmed many times.<sup>5</sup> Nevertheless, would the “positivist” philosophers join with the adherents of “law

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4. Norberto BOBBIO, “Aspetti del positivismo giuridico” (1961) and “Giusnaturalismo e positivismo giuridico” (1962) in his *Giusnaturalismo e positivismo giuridico*, Rome: Laterza, 2011, p.84-106 and p. 107-124 [French translations are cited in the original text of this article, but there are no English translations (tr.)]. Cf. Richard A. FALK and Daniel I. SHUMAN, “The Bellagio Conference on Legal Positivism”, *Journal of Legal Education*, 14, 1961, p. 213-228, here p. 219-221.

5. For example: Robert S. SUMMERS, “Legal Philosophy Today—an Introduction”, in ID. (ed.), *Essays in Legal Philosophy*, Oxford: Blackwell, 1970, p. 1-21, here p. 15-16; John GARDNER, “Legal Positivism: 5½ Myths” (2001), in ID., *Law as a Leap of Faith*, Oxford: Oxford University Press, 2012, p. 19-53; Norbert HOERSTER, *Was ist Recht?*, Munich: Beck, 2<sup>nd</sup> ed., 2012, p. 65-78; Walter OTT, *Die Vielfalt des Rechtspositivismus*, Baden-Baden: Nomos, 2015, p. 5-6, 33.

and society” in view of certain “positivist” principles that they share? I am thinking of two well-known principles: the first, according to which one cannot infer what ought to be from what is; and the second, according to which there is no supra-sensuous reality. For this project, I should mention that Hans Kelsen’s Pure Theory of Law (as I understand it) has become, according to himself, a model for description of law by the social and human sciences—at least if one agrees to correct the few errors that it still contains.<sup>6</sup>

In such a project, however, the label “positive law” would be a source of confusion. Because the current fate of the Pure Theory of Law (again, as I interpret it) suggests that the idea of “positive law” has not yet been freed from its Christian matrix. It has not been sufficiently noted that not only is this label translated from Scholastic Latin but, furthermore, it is derived from two Latin expressions. One of these is *lex positiva*, which for Thomas Aquinas designates any law created by an act of volition—whether divine or human; the idea of divine positive law is recalled today only by canonists, although it can be found in Hobbes and Locke. The other is *ius positivum* (in Abelard and still earlier), which designates a set of just relations—established by *lex*, by custom or by both. Legal positivists thus appear to be speaking of “positive law (*droit positif*, *positives Recht*)” while shifting from one to the other of these two conceptions without ever managing to distinguish them.<sup>7</sup> When legal positivists talk about *ius positivum*, this allows them to use a conception that is “positivist” in the philosophical sense, observation of a social phenomenon. When they talk about *lex positiva*, they are referring to voluntary law without this law appearing to them to derive from Christian idealism. Their discussion makes me dizzy and I would rather step back.

Among the perplexed are found the followers of the *Stufenbaulehre*, whose principal representative is still Hans Kelsen. This theory remains central within legal discourse, although it is recognised that it needs to be profoundly modified.<sup>8</sup> According to the *Stufenbaulehre*, law consists of norms, which are to begin with the result of human acts of will. These norms form an order whose principle is successive empowerment. Because it has been adopted in accordance with an empowerment, a norm possesses “legal validity”.<sup>9</sup> Kelsen seems to say that this gives it its “legal

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6. Iain STEWART, “The Critical Legal Science of Hans Kelsen”, *Journal of Law and Society*, 17, 1990, p. 273-308.

7. Hans KELSEN, “Was ist Juristischer Positivismus?” (1965), in Hans KLECATSKY *et al.* (Hrsg.), *Die Wiener rechtstheoretische Schule*, Vienna: Europa Verlag, 1968, p. 941-953; cf. Stephan KUTTNER, “Sur les origines du terme ‘droit positif’”, *Revue historique de droit français et étranger*, 15, 1936, p. 728-740; John FINNIS, “The Truth in Legal Positivism”, in Robert P. GEORGE (ed.), *The Autonomy of Law*, Oxford: Oxford University Press, 1996 (Oxford Scholarship Online, 2012), p. 195-214, here p. 196 n. 4.

8. Michel VAN DE KERCHOVE and François OST, *Legal System between Order and Disorder*, tr. Iain Stewart, Oxford: Clarendon Press, 1994 [original edition: *Le système juridique entre ordre et désordre*, Paris: PUF, 1988]. Although the *Stufenbaulehre* is of civilian origin, its central idea of “legal validity” is orthodox in common-law systems.

9. Hans KELSEN, *Pure Theory of Law*, tr. Max Knight, Berkeley: U. California Press, 1967, ch. 34. The too symmetrical figure of a “pyramid” (ch. 35, in the French translation) is not in the original German text, nor in the other translations (English and Italian) that Kelsen approved.

character”: he refers to “[t]he peculiarity of law, that it regulates its own creation”.<sup>10</sup> However, one could find self-regulation among the norms of almost any organisation. And what more evidently constitutes “legal character” for Kelsen is that a legal norm has an “objective” meaning: when a “subjective meaning”, such as a proposed law, is transformed into “objective meaning”, it becomes obligatory.<sup>11</sup> One of the functions of the “basic norm” is to explain simultaneously how a legal norm is objective and obligatory. However, in his last works, Kelsen admits that this conception, the keystone of his Pure Theory of Law, is a failure.<sup>12</sup>

It may be added that this obligatory nature of a norm is considered to be “unconditional”. I am hungry and I steal some bread. A police officer arrests me, I find myself before a court and, after the failure of my final appeal, I am thrown into jail. From start to finish, this process takes place within the discourse of law. It is “the law” that speaks: my voice is only that of an accused; my humble protest that I was hungry and in need of bread is not listened to; it is, from the outset, already excluded. This closure came into force in the moment when the police officer, in uniform, began to patrol; it had begun with the statement constituted by the uniform.

The obligation, nonetheless, is not imposed by any kind of uniform. It requires a police uniform and someone who is empowered to wear it. This empowerment is provided by norms in the higher tiers of the “legal order”. Hence a question: what is special about this normative order? It is that each norm in the order will override a norm that is lower in the order and that the whole order will override any norm that is not part of the order. This is what may be termed the quality of being unconditionally obligatory. But then: where does that quality come from?

In attempting to provide an explanation, I have introduced the concept of a “dark performative”. A statement is “performative”, for J.L. Austin, if its meaning is “constitutive”. For example: if I say to you “I promise you a hundred euros”, my statement creates (“constitutes”) a promise.<sup>13</sup> Let us try to apply this concept to the legislative process. A proposed law becomes a law. The formal moment of this transmutation occurs when the document is signed by the head of state. The text is not changed, and must not be changed, in any other way. The text begins (in France): “Law no. 2020-5000 of 20 September 2020 on allegedly critical jurists”. By the head of state’s signature, these words and those that follow them come into force; they begin to be obligatory. Ok: “hear the word of the law”! (*Voilà: “y’a la voix de la loi”!*) From the moment of signature, any simply contrary voice will no longer be listened to; firstly, it will be absent from the discourse. Although, secondly, it may be heard as a voice “against the law”—that is, perhaps, as “criminal”.

My thesis is that this transmutation is effected not by addition but by subtraction, in which that signature operates as a trigger. Once engaged, it withdraws any

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10. *Ibid.*, p. 221 (translation modified).

11. *Ibid.*, p. 2-3.

12. Stanley L. PAULSON, “Metamorphosis in Hans Kelsen’s Legal Philosophy”, *Modern Law Review*, 80, 2018, p. 860-984. A magisterial book by S. L. Paulson, *Kelsen’s Legal Philosophy*, is soon to be published by Oxford University Press.

13. J. L. AUSTIN, *How To Do Things With Words*, Oxford: Clarendon Press, 2<sup>nd</sup> ed., 1975.

possible force from any norm whatever, present or future, that would come into conflict with a norm contained in this text. One is obligated to do what is prescribed, including accepting that this prescription is "legal", because there is no longer any possible alternative. In this sense, legal obligation is unconditional.

The change effected by the signature of the head of state is constitutive of the text's status: the statement that is the signature is in this sense "performative"; it effects an objectivation, albeit that the objectivation actually appears only as an effect and not as a process.<sup>14</sup> For Kelsen, it is a change of a "subjective meaning" into an "objective meaning". But what does this alleged objectivity consist of? The head of state is only a human being, whose statements can only be subjective meanings. In the pre-modern age, the transmutation was assumed to be validated by a suprahuman source, most often a god who was "absolute" (unconditional, indubitably objective). In a disenchanted world, a kind of objectivity is reckoned to have been created by an effective democratic system (*vox populi*).

By such exclusion of contrary subjective meanings, the norm is subtracted from all discourse and consequently loses its own subjectivity; from this absence of subjective meaning, the norm appears to be objective. This performativity, in contrast to that of J.L. Austin, may be characterised as "dark", because it results from a form of simultaneous and powerful exclusion and annihilation.

After actions of this kind have been repeated several times, there will have been a change of world. The custodians of this world will develop in it general principles or categories (without distinguishing effectively between what is and what ought to be), to which the norms will be subjected. Thus, the norms become "instances" of these principles or categories (for example, the principles or category of "property"). The contents of these norms include individuals—the custodians, the other people of law and ourselves—by way of their legal personalities (personifications of sets of norms).<sup>15</sup>

I propose to consider prescriptive closure, so conceived, as the distinguishing characteristic of what is called "law".<sup>16</sup>

Rather than choosing a new label to name this phenomenon in order to constitute an independent science, I propose to continue to call this phenomenon "law". My use of the name "law" (comparable to uses of the word "religion") will serve to denote the social use of this word.

It will be objected that this conception of the law is too "narrow". Yes, it is, relative to conceptions that mistakenly assume that "breadth" is an intrinsic virtue of a

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14. Derrida identifies such performativity, but is unable to explain it: Jacques DERRIDA, "Declarations of Independence", tr. Tom Keenan and Tom Pepper, *New Political Science*, 7, 1986, p. 7 [original edition: "Déclaration d'Indépendance", in *Otobiographies*, Paris: Galilée, 1984]; ID., "Force of Law: the 'Mystical Foundation of Authority'", tr. Mary Quaintance, *Cardozo Law Review*, 11, 1990, p. 920-1045.

15. See Jacques LENOBLE and François OST, *Droit, mythe et raison*, Brussels: Facultés universitaires Saint-Louis, 1980 [see also their "Founding Myths in Legal Rationality", tr. Iain Stewart, *Modern Law Review*, 49, 1986, p. 530 (tr.)].

16. And that descriptive closure is the distinguishing characteristic of "ideology": see Iain STEWART, "Com-mandeering Time: The Ideological Status of Time in the Social Darwinism of Herbert Spencer", *Australian Journal of Politics and History*, 57, 2011, p.389-402. Comparably to Spencer's system, is the ideology of neoliberalism a new natural law?

definition. The motivations for these conceptions seem often to be political—especially when they seem to be inspired by what might be called a “romanticism of informality”—that is, an underestimation of the protective capacity of legal formality. However, the conception of law that I propose is relatively extensive. I would like to identify as “law” every form of prescriptive closure, whether attempted by means of the word “law” itself or by means of some other word (such as “legal” or “statute”) or symbol (such as a police uniform) that would be linked to the word “law”. My conception of law can therefore include much if not all of what are ordinarily termed “customary law” and “natural law”; although that is not to assume that they should continue to be called “customary” or “natural”. “Law” so understood is a category of social behaviour. The ideas that social actors adhere to in order to guide their behavior are themselves real in that they are accepted beliefs. The truth of observation of these beliefs is independent of that which the beliefs themselves may possess. These beliefs include “internal” science of law.

## Perspectives of the Journal

**6. *The “Law and Society” area assumes a form of interdisciplinarity. What do you think about how the French journal *Droit et Société* implements this interdisciplinary commitment?***

**7. *How do you practice interdisciplinarity in your own work?***

*On these two questions.* In the discussion above, I have perhaps been self-indulgent, but it seemed necessary to go that far. For it appears to me that, regarding the future situation of the discipline of “law”, the question of interdisciplinarity takes a different form there than in the disciplines that are ordinarily termed the social and human sciences. I observe very often that, among these sciences, interdisciplinarity works wonderfully well. So well, indeed, that it transforms itself into questions of interdiscursivity. The practitioners of each discipline invoke the presuppositions that their disciplines share. At the same time, at a quasi-philosophical level, these presuppositions are themselves in permanent revolution. In particular, modernist presuppositions are not only challenged but rivalled by presuppositions of post-modernists, feminists, minorities and the “South”. Feminism and minority perspectives have also had an impact within the discipline of law, particularly with regard to rights. For the discipline of law, therefore, the question of interdisciplinarity lies among currents that are simultaneously specialised, quasi-philosophical and, to a highly variable extent, political.

One can nevertheless observe two tendencies which, if I am right about the identity of law, appear to evade the question of its identity. The first, already noted, is to extend the meaning of the word “law” in order to evade the phenomenon of closure.<sup>17</sup> The second is to continue to adopt the self-characterisation of law without legal norms appearing to be different from other norms. There is a general acceptance of the

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17. For example: Jacques DERRIDA, “The Law of Genre”, tr. Avital Ronell, *Critical Inquiry*, 7, 1980, p. 55 [original edition: “La loi du genre”, *Glyph*, 7, 1980, p. 176-201].

disenchanted instrumentalism of modern state apparatuses, including a presentation of all their norms as if they were mere instruments. In this presentation, the characterisation of certain norms as "law" seems to be of marginal importance. One appears to see only norms and sanctions. In research that accepts this presentation, the question of the identity of "law" attracts hardly any interest. Such a presentation greatly facilitates interdisciplinarity: representatives of other disciplines can be filled with zeal to participate in such projects. This is not to say that these projects lack value, but rather that their value is limited. In their description of the phenomenon, they should include the presentation—and the effects of the presentation—of norms as "legal" by their authors. But it is no longer enough to assume that one could appeal to specialists in "theory of law", because it has become plain that problems such as the terminal defects of the Pure Theory of Law do not allow a path to a satisfactory outcome. It is perhaps partly in reaction to this bankruptcy of "positivist" legal theory on the descriptive plane that one can observe a frequent recourse to human rights that makes them operate as if they formed a renewed iusnaturalism.

**8. *The journal *Droit et Société* mainly publishes works written in French but also plans to offer translated texts and texts in English. What do you think are the issues involved in choosing the language in which the articles are published?***

Regarding the relationship between language and content, I don't see any big problems; translation-equivalents are well established. As to the relationship between language and reader, given the isolation of Australia I am not in a position to assess the extent to which these translations would serve as a response to demand—although the editorial committee seems to be very well composed for such a project. What I can say with more certainty, however, is that the presence of good articles in English would be likely to attract greater attention to the journal by anglophone readers, also aided by the journal's availability in their libraries through HeinOnline. Apart from anglophones, there are those (for example in South America) whose mother tongue is neither French nor English but who read both of them and are able to write in English. And, to be sure, some francophones would like to be able to publish in English in a hospitable journal.

**9. *How do you see the development of "Law and Society" studies over the next ten years?***

From an optimistic angle, I expect that feminist and minority approaches will continue to flourish. From an ambivalent angle, I am only too well aware of the damage that neoliberalism is inflicting upon all research. In all likelihood, "law and society" studies will blossom further—mainly in the form of funded research. Funded research is excellent in principle: the study of law is in great need of empirical research work. But the current sources of funding are principally governments and industry. They have their own priorities, oriented in terms of commodification, which excludes alternative voices.