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Introduction : a cooperative and transversal research experience between law and the social sciences

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EDITOR'S NOTE

Translated by Margot d'Andigné, reviewed by Victoria Weavil

1 The purpose of this introduction to the collection is not merely to present the contributions, after tracing the development of draft. At the final stage of publication, the modalities of its production were sufficiently singular to merit a reflection on its particular features.

2 The project did not arise out of a consortium convened for the occasion. It has benefited from a long history of collaboration between its instigators, lecturers and researchers in law and the social sciences. The organization, wherein those involved have acquired a reciprocal familiarity with each other's disciplines, their own research and frameworks of thought, was deliberately formed to foster such connections and collaborations. The establishment of the "Institut international de Paris La Défense", now known as the "Institut international pour les études comparatives" (IIPEC), chaired by Antoine Lyon-Caen and directed by Joëlle Affichard, has greatly facilitated this ongoing dialogue (Affichard 1997, Affichard & de Foucauld 1992, 1995, Affichard & Lyon-Caen 2004, Lyon-Caen & Champeil-Desplats 2001, Lyon-Caen & Lokiec 2005, Lyon-Caen & Perulli 2010).

How can we move beyond a minimal interdisciplinarity?

3 There is nothing original about the practice of interdisciplinarity nowadays. It is often even required by calls for funding. Practitioners from various disciplines then meet to bring together their respective analyses, which are intended to be complementary, on the same subject.

4 The experience gained through the IIPEC's interdisciplinary collaborative programs, as well as through the developments of this project, help clarify the modalities of the interdisciplinary relationship we have sought to establish. On some points at the core of our research, we seek not only to compare the contributions of the techniques and theories of the various disciplines, but to undertake a more in-depth work of inquiry. The aim is to identify cross-cutting issues, upstream of these disciplinary techniques, which are not ordinary issues that are updated or addressed in each one individually. How might this be achieved?

5 We have already mentioned the slow, gradual process of familiarizing oneself with the other's approach. The idea of familiarity, however, cancels out the fertility of a process that is based on the incongruity of the other with whom a certain familiarity is developed without erasing difference and strangeness. The meeting with the unfamiliar evokes a confrontation with another language and the ways in which it might be beneficial from a research perspective (Thévenot 2017a). The fertility deriving from such a comparison is not only due to the enrichment that diversity brings. We also seek to take advantage of the shock of the foreign language and its mode, the misunderstandings and confusions that arise and which truly advance the research. Such an experience leads us to distance ourselves from our native conceptual vocabulary, as well as from the one with which we are gradually becoming familiar, and to identify the cross-cutting questions that arise within the various disciplines.

6 This approach, tested in previous programs and developed during this program, is based on the encounter between the elementary techniques on which each of the two disciplines is based and which – precisely because they are elementary – are not usually questioned or explored in depth. Familiarity with the other discipline leads us to analogically bring together these techniques and the functionalities they implement. This comparison gave rise to an unprecedented cross-functional reflection which was focused first on judgment and justification, particularly in an ongoing dialogue with Antoine Lyon-Caen, Sheldon Leader (2000, 2005) and Laurent Thévenot.

7 Allow us to illustrate this approach in the case of a transversal questioning that is particularly important for this project and which has led to a common language: the “formatting” of or form-giving to what is governed by a mode of normativity. For the social sciences, an initial step in the sociology of conventions and engagements has its origin in the statistical production chain, where “codification” or “coding” is the elementary technique required to classify and count clear answers to a questionnaire and produce quantified “data”. The “code” is the name of the document that prescribes such classification and “encodement” techniques. The vocabulary used by statisticians itself suggests a connection with the law from which it derives.

8 For legal scholars, the comparison proved less fruitful with the code as a collection of laws than with an elementary and fundamental technique in law, the “qualification” of

facts to be taken account in the judgement. This prerequisite for the application of the legal norm can be successfully compared with statistical coding. The analogy of the functionalities of these techniques used in both disciplines has led to a reflection on the "formatting" of the factual elements involved in the implementation of the legal norm. As for sociologists, the question has broadened from statistics to various forms of "social coding" (Thévenot 1983, 2016), leading to the characterization of the role of "investments in forms" (Thévenot 1984, 1986) in the normative coordination of actions, as well as the costs and sacrifices they imply.[1]

9 For legal scholars, law enforcement operations do not require less formatting of the "facts" than for the statistician who encodes. This preparation of facts for the application of the law is generally revealed in the operations involved in the qualification of a situation, prior to the application of the legal rule (selection of relevant facts, objectification by evidence...) (O. Leclerc, 2013). However, the distinction between law and fact generally limits lawyers' ability to take these form-giving operations into account. Supranational law and, in particular, Union law, offer a privileged field for such an observation. Indeed, European harmonization and the acts of secondary legislation are carried out in an indirect manner in national laws. The observation of these operations makes it possible to study in the law what a legal norm requires for its own achievement. The study of the implementation of European directives thus allows us to capture the "implementation" and "translation" operations involved in the effective and uniform application of these European texts in national law (Porta, 2007).

10 Such a comparison from a transversal category, formatting in this case, finds singular resonances in each discipline. It suggests a common language, categories and operations that, for each discipline, help to shed light on aspects that are generally unclear.

A research project

11 The project arose following a series of meetings on the work of each of the researchers on comparative law and comparison in the social sciences in which experiences, despite being heterogeneous in terms of their objects, proved to be close in terms of their underlying methodological and epistemological questions. Several questions quickly emerged and were initially formulated as follows: how can the diversity of manifestations of what is generally referred to as the "circulation" of norms qualified as social, economic or even legal be understood and named? How can the normative exchange or transfer mechanisms at work be identified? What forms do the phenomena of reception and appropriation of norms take from one mode of normativity to another? And what are the respective implementation modalities of the standards from one order to another?

12 The manifestations of these "circulations" led us to review the categories from which these manifestations are usually treated. It was thus possible to identify a dual conceptual field. The first type of terminology suggests that circulations involve moving models or norms in the same State. They are then described as a "reception", "transfer", "transposition" (J.-S. Bergé and M.L. Niboyet, 2003, J. Gaudemet, 1976). The second type of terminology describes the inadequacy of the term "circulation" to reflect the changes at work. These changes are understood as an "appropriation",

"transplantation", "acclimatization" or "acculturation" (Legrand P., 1997). The phenomena that are then identified – and which form the subject of our attention –, involve a transformation of the norms received. This normative circulation does not keep the norms and normative orders intact: it transforms them.

13 The interdisciplinarity of the project – directed at understanding the modes of expression and circulation of norms – meant that it could not be limited to the State legal framework in which these phenomena are generally considered. A sociological perspective invites us to consider the State only as a framework for the production and circulation of norms, among others, although it remains a central point of reference for jurists. The State legal framework must deal with various normative expressions: international, local or of proximity, transnational or global technical standards. The local manifestations of circulation and transformation – such as the application of State law to a situation governed by custom, and vice versa – as well as the preemptions of a so-called global law and technical standards on State rights and local customs, or the passage of models from one national context to another, have been analyzed here. This wide range of normative expression takes on various forms: language (legal statement), figures (indicator), pictorial (poster), material (pile of rubbish, "small papers" of Ivorian land). These expressions have proved to be the basis for what will be called (*infra*) *modes of normativity* of great diversity: legal, commercial, accounting-managerial, customary or traditional, religious, familiar, etc. The question of the "circulation" from one mode of normativity to another, and of the traces that it leaves – what it deposits – therefore emerged as a common concern within our working group.

Working method

14 The formulation of the project began with meetings during which everyone could discuss what the issue of normative circulations meant to them, from their own disciplinary point of view and in their own language. This experience depended upon multiple requirements to overcome the initial difficulties of understanding.

15 First of all, an effort needed to be made to enter the language and categories specific to each other's disciplines. Some legal categories were not easy to understand for sociologists (e.g., the objective right/subjective right distinction) and, conversely, sociological categories remained obscure for jurists (test [*épreuve*], *dispositif*). Some common terms also proved confusing because they referred to very different conceptual uses from one discipline to another, and thus became sources of misunderstandings: norm, commitment, convention, and so on.

16 Carrying out a joint project also called for regular exchanges. Meetings lasting one or two days over four consecutive years were organized between the three researchers who make up the core of this project (Laurent Thévenot, Jérôme Porta, and Véronique Champeil-Desplats). These meetings were accompanied by two conferences and several seminars fostering personalized exchanges with the researchers who contributed to the project and the writing of this collection.

17 It should be noted that the flexibility of the methods used to finance the project through *Labex Transfers* (available for the duration of the project) proved invaluable in offering the time required for reflection and feedback on the various stages of the project. The working group had undoubtedly identified a common concern, but without knowing *a priori* what would be found, or precisely how, an uncertainty remained that

is expected in a research project. It was understood that the aim was not to work on a supposedly common object that everyone would deal with from the perspective of their own discipline. The methods of working together would be adjusted when required by the presentations and comparisons of cases and grounds involving circulations, during meetings or even normative clashes between disciplinary points of view.

Displacements of work in progress

18 The various meetings and cross-readings in fact generated various displacements.

19 The first displacement concerned the categories in use, which were put to the test during the various fieldworks and meetings in order to refine their contours and implementations. Thus, references to the categories of "mode of normativity", "normative forms" and "transformation" emerged gradually, conceived as transversal categories in that they do not create any discontinuity in the idea of normativity. They avoid the usual distinctions and divisions between formal and informal normativity, between what would exist "in law" and "in fact" or "in practice". They make it possible to go beyond the simple observation and designation of normative hybridizations and lead to questions about their costs, effects, and repercussions. This shift in categories led to a change in the way we worked over the years.

20 Initially, our sessions adopted a rather traditional approach. As mentioned, our exchanges were based on reports and presentations by researchers, but with a specific feature: to varying degrees, in relation to their individual field each individual not only benefited from a researcher's relationship to the external object in question, but also from proximity deriving from an activist engagement on their part, work in or in close proximity to an NGO, or involvement in an international cooperation project. Each object found its place in the considerable, unique experience of the person who had raised it. The work on cases therefore benefited systematically from the high experience of researchers, who were often also actors in the field. This initial approach highlighted the difficulties that might be encountered in formulating the questions they thought would illustrate the modes of normativity of circulation of interest to us all. The use of the usual categories, particularly in the opposition between law and non-law, law and infra-law, formal and informal normativity, quickly proved insufficient. The lack of a shared language – and the consequent need to develop one – to reflect what was specific to their field experience thus became strongly apparent.

21 In a second stage, the project therefore required a change in method, or rather, an evolution that involved turning the reports and presentations into objects of work themselves, thanks to the expertise of the researchers, who all agreed to play – and replay – the game of their own research. This has been reflected in two ways. First, our colleagues agreed to test our categorical suggestions and analytical grid on their field. This led to a modification and evolution of the objects with which we worked. We began by analyzing concrete objects that conveyed misunderstandings, a lack of clarity, and inconsistencies in the stories colleagues told us about: procedural times in African States compared to the standard of reasonable trial time;[2] the existence of several property titles on the same property on the Ivory Coast;[3] an invitation to access property in Ecuador carrying different messages;[4] displaced Colombian women who do not consider themselves as victims.[5] This lack of clarity and disturbance, which could only be revealed through continuous reflections and critical questioning by our

colleagues, revealed tensions between different modes of normativity going beyond the simple observation of their hybridization.

Choice of fieldwork

22 The fieldwork subjects chosen (social conditionality, comparison of property titles on the Ivory Coast, establishment of housing in Guayaquil, consideration of the status of the "victim" in Colombia, standard certifying palm oil sustainability in response to complaints from affected populations in Indonesia, etc.) are very heterogeneous. However, they have at least one point in common. In cases relating to the expression of rights or freedoms – to use the legal language – they presented situations wherein several modes of normativity interact and coexist, configuring different modalities of meeting and articulation, different dispute resolution modes, and different outcomes with regard to the normative transformations carried out. These situations of confrontation between modes of normativity were observed by drawing on various materials and corpuses: ways of doing things, public speeches, photographs, testimonies, interviews, texts usually identified as legal (Declaration, Charter, laws, constitutions, regulations...), indicators, and so on.

23 These various terrains and objects can be said to be complex in that they involve a plurality of modes of normativity. For this reason, they are particularly conducive to the observation and analysis of normative flows and exchanges. Plural and differentiated expressions are intertwined and combined. On the one hand, there are the normative forms (differing in terms of the *instrumentum*, the deontic structure of the statements, and their formulation) and, on the other hand, the modalities of interaction, displacement and circulation between these forms, or of a "deposit" or "marking" from one form to another. It is thus these various normative combinations and their dynamics that must be identified, distinguished, named, and conceptualized. The sites were selected because of prior knowledge of studies in which they had been involved.

24 This is the case for the analysis of the relations between legal systems in French-speaking Africa and French law, particularly Ivorian law, a field that has been extensively investigated by the International Institute for Comparative Studies. The complexity of these relationships is first and foremost due to the colonial past. However, the relationship between Ivorian law and French law is not limited to this historical dimension. This is reflected in the Ivorian constitution, which has been forced to consider how to deal with colonial law in the future. The reference to French law is also important when drafting positive law. Many of the State texts as diverse as labor law, family law, and inheritance law are strongly influenced by French law. Finally, French law is a scholarly reference both in doctrinal work and in the teaching of law on the Ivory Coast. In all these cases, the references to French law are far from unambiguous. The complexity of this normative phenomenon is also reinforced by the pluralist context that characterizes Ivorian society, in which customary, traditional, and religious norms continue to play an important role (fieldwork conducted by Jérôme Porta, Joëlle Affichard, Nanga Silue, Aline Aka).

25 The second area was provided by studies conducted on the new constitutionalism and the evolution of forms of justice in Latin America. These derive both from an ANR program on neo-constitutionalism (*ANR Néo-Rétro* directed by Olivier Cayla) and from a

PREFALC program on "violence and human rights" bringing together the University of Paris-Nanterre and five Latin American universities (PUC of Rio de Janeiro, UNISINOS of Sao Leopoldo, PUC of Lima, Externado of Bogota and the University of Medellin). This program highlighted the constitutional and legislative inventiveness of many Latin American States over the past twenty years, which have proved to be true laboratories for jurists, anthropologists, and sociologists working on so-called transitional justice or on the status of indigenous peoples, particularly the consideration of their mode of normativity by constitutions, laws, constitutional courts, and the Inter-American Court of Human Rights (field of study coordinated by Véronique Champeil-Desplats and involving Carolina Vergel Tovar for Colombia and Mathias Pécot for Ecuador).

26 A third field focused on non-State government with a global extension, through certification standards. The aim was to compare these modes of normativity with those usually produced by a rule of law, and to see how the consent and complaints of affected indigenous and rural populations were taken into account, particularly in Indonesia and Malaysia. In other words, how are functions, similar to those of a rule of law, integrated into certification standards? In search of legitimacy and under pressure from NGOs that are among the *stakeholders* of this type of government, the certification standard of "*sustainable palm oil*" under study led us to integrate the format of fundamental rights and freedoms through their transformation. Extending, not without difficulty, voluntary individual consent to that of peoples, the notion of *free and prior informed consent* is largely used at the national and international levels, to ensure the participation of indigenous peoples in the projects that may have an impact on their community. The research was conducted and coordinated by Emmanuelle Cheyns and Laurent Thévenot. They also asked Marcus Colchester to talk about his experience as Head of the NGO Forest People Program in favor of taking this normativity of *free and prior informed consent* into account in the standard. His collaborator, Sophie Chao, who works in the same NGO, also presented her experience.

Phenomena observed

27 As expected, these three areas helped highlight the diversity and complexity of the phenomena of circulation, use, formatting and accommodation of the modes of normativity. Several levels and modalities of circulation coexist and intersect, combining:

28 a) Ascending phenomena of expression of: i) claims or complaints using traditional forms in legal normativity (right of ownership, right to autonomy, right to vote); ii) local modes of normativity in traditional legal forms (constitutionalization of indigenous peoples cosmovision in Bolivia, Ecuador, legal shaping in the category of the “victim” of complaints from women who have been subjected to violence and forced displacement in Colombia.); and iii) new normative formatting that can be analyzed as normative hybrids resulting from the meeting of different modes of normativity, for example the national or international legal mode, and the local mode (the integration of the principles of *buen vivir* into constitutional texts, the principle of *free and prior informed consent* in certification standards and in international law);

29 (b) Descending phenomena of the implementation of colonial, national, or international modes of normativity in local normative spaces or local justice: for example, so-called mechanisms for the application or enforcement of national norms

by specific courts, in particular regarding the profile of the judges who compose them; and

30 c) Horizontal and transversal phenomena of the circulation of modes of normativity, in which meetings, exchanges, and borrowings hybridize and transform each of the modes of normativity involved. In order to capture these phenomena, several fields were chosen. Transformations are made salient by the hybridizations to which they give rise. The inclusion of fundamental social rights in the form of a social clause in free trade agreements, an objective in the European Social Charter or a guideline and indicator in the European Social Rights Base, provides a clear example of such hybridizations.

31 From a legal point of view, these complex situations are interesting because boundaries of legal and non-legal matters are blurred, discussed, and prove to related to controversies and attempts at valuing and devaluing the law as a means of regulating and controlling behavior. These complex situations are also interesting from the sociologist's point of view, because, in each case, the wide range of normative modes involved extends from what is commonly called the "informal routine" to the formality of the law. We can then distinguish the work of a chain of transformations required to move from one to the other, its requirements and obstacles. One advantage of these situations is that they do not presuppose any discontinuity between normative expressions, between more or less extended, and more or less consolidated modes of normativity. They invite us to establish concepts through which we can think of them together. This is the condition for being able to reflect on their confrontations, interactions, exchanges, transformations

Elements for a theory of modes of normativity and their transformation

The choice of the concept of the mode of normativity

32 The concept of the mode of normativity, with its transversal purpose, was built step by step. It started from an observation and a reaction. The various normative activities encountered in the fields studied are for some disqualified by the reference to law. In comparison, they are described only in terms of a lack, gap, or difference. This is particularly true for references to *soft law* or informal law. However, the phenomena that these disqualifications are intended to designate are not devoid of normativity. Normativity actually appeared to take on various forms. In reaction to the disqualification of these forms, we sought to account for the normative coherence specific to each of these different forms. The term "mode of normativity" gradually became more significant than other terms (normativity, grammar, order, etc.). It makes it possible to reanalyze the objects on which these different kinds of normativity are based. Secondly, it provides an understanding of the transformations involved in switching from one mode to another. The forms on which the modes of normativity are based may indeed evolve as a result of these shifts. Attention to these transformations then allows for a decomposition of the objects resulting from the composition of several forms.

33 How might a mode of normativity be described? We took their purpose of coordination as a starting point. Modes of normativity ensure coordination of various kinds and

levels: coordination of oneself in the world, of familiar individuals, neighborhoods or villages, coordination by custom or tradition, urban coordination within a city, coordination of agents in a market, coordination of national and European policies, legal systems, and so on. These various modes of coordination are based on specific forms that give them an objective consistency: small papers for village land on the Ivory Coast, posters in Ecuador, the written rule of law and its codes, the objective of public policies, the guideline, the dashboard and the indicator, etc. These forms may be linguistic or otherwise. They imply a more or less extensive deployment of the mode of normativity. However, the normativity governing these modes of coordination is no less present, even when it is deployed to a lesser extent. The formatting of the material environment can thus ensure a high degree of solidity in terms of coordination. This is the case, for example, for neighborhood coordination around consolidated forms such as hedges, heaps or dumpsters (see Mathias Pécot's contribution in this collection).

34 First, the formatting is revealed by the transformations involved in the transition from one mode of normativity to another. The deposit of a form in another mode of normativity is accompanied by operations of reformulation that reveal the specific constraints related to these forms. A victim's legal action involves operations to reformulate the expression of his or her ills into damages that may constitute the basis for a claim for legal compensation. The appropriation of land on the Ivory Coast also formed a field of study in relation to these reformulation operations: from the customary appropriation to the hybrid form of village "small papers" attesting to an individual appropriation of collective property, up to operations allowing for the takeover of this “title” in the form of a private property title in the sense of State law. It may also concern the implementation of social rights indicators in the form of a dashboard for monitoring the implementation of the European Social Rights Base. Such a reformulation makes it possible to appraise the “cost” of these passages. Forms do not simply circulate. Their deposition in other forms is accompanied by a series of selection and reformulation operations that modify their meaning. The hybridizations that result from these phenomena of "circulation" or "transfer" are indicative of these reforms. A form is not only transposed under another mode of normativity. The registration of social rights in the form of a social clause does not simply consist in transposing them into a free trade agreement. The mode of normativity specific to these agreements requires both a selection and a rewriting of these rights to make them compatible with the codifications that are specific to these agreements. The comparative advantage criterion is a constraint on the relevance of social rights to free trade. Similarly, the inclusion of human rights in the palm oil standard results in a rewriting of these rights in the form of action plans and indicators to make them compatible with the specific uses of a standard that aims to regulate the manufacture of a product.

35 Secondly, the mode of normativity carried by these forms is revealed during disputes. Coordination does not constantly involve referring to a form. Disputes that arise during coordination are moments when the form serves as a reference. Modes of normativity construct such disputes in different ways. The law proposes a particularly systematized method of dispute settlement, in the form of litigation. What are the characteristics of private law disputes (mode of normativity)? The judge (authority) decides on a request which is formulated (challenged) by parties (the parties). To do this, it judges (type of judgment) the situation of the parties according to legal rules (form) and decides on a

sanction such as compensation for damage or the annulment of a legal act (execution/ remediation).

36 Modes of normativity are not always deployed in the same way. However, the great sophistication of legal disputes justifies finding inspiration in this model to propose a characterization of the ways in which a mode of normativity allows for dispute resolution.

37 Firstly, the dispute resolution under a mode of normativity implies a "questioning". It can be translated into very different forms: a request, complaint, claim, question, and so on. The intimate pains will thus require a different transformation depending on whether they are mentioned in the context of neighborhood, village custom or State law. In the context of the European Social Charter, the challenge could initially only be possible through the "report" method. The introduction of a collective complaint procedure has made it possible for other "defendants" to be brought before the courts, based on the difference between national law and the provisions of the Charter. The dispute argued with reference to a social clause is reduced to a simple question, allowing it to be treated as a problem of expertise.

38 Furthermore, the dispute involves a "convocation". Depending on the form, they are neither the same types of authority (judge, committee, village chief, etc.) nor the same nominees (parties to the trial, stakeholders, and so on). The figure of a third-party authority may be absent in some cases. In the same way that access to the judge implies the justification of an interest in applying to the court and, in so doing, the qualification of persons as "parties", other modes of normativity may imply different forms of nomination. They may be parties of the standard (stakeholders), professional organizations and NGOs in the collective complaint procedure in the context of the European Social Charter, or "national authorities" in the context of the European Social Rights Foundation.

39 Thirdly, the forms do not call for the same types of judgment. While the rule of law requires a situation to be assessed in terms of conformity, objectives or indicators require more of an efficiency judgment to assess the result achieved in relation to the actions implemented. In addition, these types of judgments are associated with ways of constructing and proving the situation in question. This is reflected in the diversity of assessments that can be made of national laws. Judging the compatibility of a law with the constitution, the manifest violation of national law of a social clause in a free trade agreement, the respect of an objective of the European Social Charter or the satisfaction of an indicator in the scoreboard annexed to the European Social Rights Foundation may imply different descriptions of the situation to be assessed. Their objectification for judgment also implies different modes of proof and format of evidence. This may be the description of the law in force, the demonstration of cases of violation, or the examination of a statistical measure, etc. The forms do not imply that the dispute should be based on the same reality.

40 The ways of conceiving this objective reality for the dispute are not unrelated to the ways envisaged for the restoration of the mode of normativity. Depending on the modes of normativity, the implementation can adopt various remedies. It is not the same operations that are then requested for the reordering. The law offers different sorting illustrations here, which vary depending on how the dispute was conceived. This may take the form of the invalidation of a legal text, the sentencing, the compensation of damage by the award of damages, and so on.

41 When the dispute involves different modes of normativity, the resolution of the dispute can be achieved in different ways.

A renewed vision of conflict and its methods of resolution

42 Ultimately, attention to the plurality of modes of normativity reveals both the paths that a certain category of conflict can take and the ways in which they can reach and end states.

43 In our research, we have been constantly confronted with the harshness of conflicts that may arise in pluralistic contexts. In this respect, the metaphor of the circulation of normative models often underpins the tensions that arise from globalization. The meeting of plural modes of normativity is not a smooth process. Ivorian land ownership can be taken as an illustration of this. In this case, pluralism has resulted in tensions and violence borne by the reference to Ivorian identity of such gravity that they have led to civil war. There are different but nonetheless sharp clashes at work in the palm oil standard case, involving a confrontation between local populations and transnational companies, resulting in intimidation, physical violence, and even physical disappearances. One of the common features of each of the fields studied is thus conflict and often violence. The plurality of the modes of normativity does not unfold in a peaceful world.

44 However, our exchange has drawn attention to ways of resolving such conflict or disputes. Quite often, highlighting these normative clashes leads to the conclusion that if a mode of normativity does not succeed in putting an end to the dispute, the situation could only degenerate into anomie, or informality. Acculturation is thus referred to when the restoration of order that pacification implies only requires the imposition of the precedence of one mode of normativity over the others. This way out of the dispute – by denying pluralism – frequently results in chaos.

45 On closer examination, we deduced that this first statement needed to be overcome. We noted the richness of "accommodating" exits, which are found through normative compositions. This is a calming virtue of composition. The study of transformation operations highlights the changes that frequently occur in pluralist contexts, with such changes not being limited to situations of disorder or chaos. The restoration of order does not always require a reference to a single mode of normativity. On the contrary, it can be achieved through hybridization, the composition of different modes of normativity. In situations of pluralism, these compositions are of decisive importance in rendering the world livable. Attention to transformations allows us to highlight the effort and inventiveness required to live together.

The location of transformations

Mode of normativity	Formulation requirement	Normative form	Dispute	Realization (restoration of order)	Cases studied

			Questioned (Claim question, complaint...)	Parties	Orientation of the judgment		
Civil justice	Deontic	Rule of Law	Request	Plaintiff, defendant	Conformity	Repair and maintenance	Standards of good justice in Africa, property title conflicts on the Ivory Coast
Criminal Justice	Deontic	Criminalization	Complaint	Accused/ Victim	Violation of the norm	Sanction/ Reparation	Victim status in Colombia
Constitutional justice	Deontic, teleological	Principle	Question	Justiciable, State bodies	Proportionality	Invalidation	Victim status in Colombia
Policy promotion	Teleological	Objective/ Program	Report/ collective complaint	Trade unions, INGOs, States	Compliance, efficiency	Declarative	System of the European Social Charter
Social conditionality	Comparative advantage	Social clauses	Question	States/ INGOS	Obvious violation	Bilateral reaction	Social Clauses in free trade agreements
Political coordination	Teleological	Guideline - indicator	Report	The States	Efficiency judgment	Declaration/ good practices	The European Social Rights Foundation
Standard	Objective	Indicator	Audit, complaint	*Stakeholders*	Non-compliance with indicator	Withdrawal of the certificate	The palm oil standard
Cohabitation	Deontic	Spatial points of reference	Gestures, facial or verbal expression	Cohabitants	Unbearable	Bilateral reaction	Cohabitation in student hostels*

*Voir : Thévenot 2017b.

46 This collection opens with two general perspectives on the shifts generated by the approach of normative phenomena in terms of the mode of normativity and the analysis of their transformations: the first one is from a legal point of view (Véronique

Champeil-Desplats), the second from a sociological point of view (Laurent Thévenot). Subsequently, the first part of the collection, entitled "Moving beyond the Informal", includes four contributions that invite us to reconsider the standard opposition between formal and informal kinds of normativity, based on concrete case studies: access to property in Ecuador (Mathias Pécot); the qualification of the "victim" for displaced women subjected to violence in Colombia (Carolina Vergel Tovar); the statistical standardization of justice in Africa (Joëlle Affichard); and the conflict over property titles on the Ivory Coast (Aline Aka). The second part, entitled "The variety of normative expressions of globalization", includes two contributions. The first is dedicated to the modes of normativity of global certification standards, in the case of palm oil, with a particular focus on the affected communities – in Indonesia in particular – and the role of NGOs (Emmanuelle Cheyns and Laurent Thévenot, interview with Marcus Colchester). Lastly, the final contribution deals with the transformations of social rights in globalization (Jérome Porta).

BIBLIOGRAPHY

Affichard, J., (ed.) 1997, Décentralisation des organisations et problèmes de coordination : les principaux cadres d'analyse, Paris, L'Harmattan, Institut International de Paris La Défense.

Affichard, J., de Foucauld, J.-B. (éds.), 1992, Justice sociale et inégalités, Paris, Ed. Esprit.

Affichard, J., de Foucauld, J.-B. (éds.), 1995, Pluralisme et équité ; la justice sociale dans les démocraties, Paris, Ed. Esprit.

Affichard, J., and Lyon-Caen, A., 2004, "From Legal Norms to Statistical Norms: Employment Policies Put to The test of Coordination", in Deakin, S., et De Schutter O., Social Rights and Market Forces: Is the Open Method of Coordination of Employment and Social Policies the Future of Social Europe ?, Brussels: Bruylant, pp. 145-163.

Annoussamy, David, 2005, L'intermède français en Inde. Secousse politiques et mutations juridiques, Pondichéry, Institut Français de Pondichéry, Paris, L'Harmattan.

Bergé, J.-S., Niboyet M.-L., 2003, La réception du droit communautaire en droit privé des Etats membres, Bruylant, p. 316.

Champeil-Desplats, V., 2006, « N'est pas normatif qui peut », Cahier du Conseil constitutionnel, n° 21, pp. 93-101.

Champeil-Desplats, V., 2016, « Le principe de normativité », in P. Albertini (dir.), La qualité de la loi, Paris, Mare et Martin, pp. 241-255.

Gaudemet J., « Les transferts de droit », L'année sociologique, vol. 27, 1976, pp. 29-59.

Ghislain, O. (dir.), 2012, Méthodologie du pluralisme juridique, Paris, Karthala

Leader, S., 2000, "Three faces of justice and the management of change", Modern Law Review, vol. 6, january, pp. 55-83.

Leader, S., 2005, “Two ways of linking economic activity to human rights”, International Social Science Journal, n° 185, pp. 541-550.

Leclerc, O., 2013, « Égalité des personnes et modes de preuve. À propos des usages du raisonnement statistique dans la preuve des discriminations », Georges Borenfreund, Isabelle Vacarie. Le droit social, l'égalité et les discriminations, Dalloz, pp. 77-94, 2013, Thèmes et commentaires

Legrand, P., 1997, « Sens et non-sens d’une codification réformatrice du droit européen », RFAP, p. 227.

Legrand, P., 1997, “The impossibility of legal transplants”, Maastricht Journal of European and Comparative Law.

Lyon-Caen, A., Champeil-Desplats, V., (eds.), 2001, Services publics et droits fondamentaux dans la construction européenne, Paris, Dalloz.

Lyon-Caen A., Lokiec, P. (eds.), 2005, Droits fondamentaux et droit social, Paris, Dalloz.

Lyon-Caen, A. et Perulli, A. (dir.), 2010, Valutare il diritto del lavoro. Évaluer le droit du travail. Évaluate labour law, Padova, Cedam.

Pécot, M., 2017, La fonction sociale des acteurs juridiques ‘professionnels » aux marges des villes du Sud. Cas de Guayaquil, Equateur, Thèse, Université Paris Ouest-Nanterre.

Porta, J., 2007, « La réalisation du droit communautaire – Essai sur le gouvernement juridique de la diversité », Paris, LGDJ – Fondation Varenne, 2 tomes, pp. 1-921.

Rouland N., 1988, Anthropologie juridique, Paris, PUF.

Thévenot, L., 1983, « L'économie du codage social », Critiques de l'Economie Politique, n° 23-24, pp. 188-222.

Thévenot, L., 1984, “Rules and implements: investment in forms”, Social Science Information, vol. 23, n° 1, pp. 1-45.

NOTES

1. On this movement, see, Thevenot's contribution, in this same collection: "What engages. The sociology of justifications, conventions and engagements in order meeting norm".
2. See Joëlle Affichard's contribution in this collection.
3. See Aline Aka's contribution in this collection.
4. See Mathias Pécot's contribution in this collection.
5. See Carolina Vergel Tovar's contribution in this collection.