Introduction: The Disenchantment of Critical Legal Thought?

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The topic of legal pluralism has puzzled the sociology of law since its origins. To quote an early example, the aim of Eugen Ehrlich was to grasp the "colourful diversity of living law."[1] Max Weber, too, made a distinction between law beyond the state, on the one hand, and state law, on the other, the latter being the formal object of normative legal science.[2] The concept of legal pluralism, later formulated in order to capture this diversity, gave rise, as is well known, to a specific line of inquiry in the domain of law and society; it has found concrete expression particularly in the *Journal of Legal Pluralism*, published under this title since 1981, and has triggered energetic debates.[3] Jean-Guy Belley has made a crucial contribution to these debates, in particular by writing the entry on "pluralisme juridique" for the *Dictionnaire encyclopédique de théorie et de sociologie du droit*, published 1988.[4] Years before, he had begun an ambitious research undertaking centred on legal pluralism as a fundamental paradigm for jurisprudence, first with a doctoral dissertation under the supervision of Jean Carbonnier[5] and later as a professor in contract law and sociology of law at McGill University. This scholarly relationship to legal pluralism developed first in the domain of sociology of law, through a comprehensive approach that culminated in 1998 with the publication of *Le contrat entre droit, économie et société*.[6]

* Many thanks to Pierre Bosset for his help in translating this paper.

1 Eugen Ehrlich, *Grundlegung der Soziologie des Rechts* (Munich/Leipzig, 1913), ch. 7.

2 Max Weber, *Max Weber-Gesamtausgabe*, Band I/22, *Wirtschaft und Gesellschaft*, vol. 3: *Recht*, ed. Werner Gephart and Siegfried Hermes (Tübingen: J.C.B. Mohr, 2010, 811 p.). See in particular the essential text, to a large extent written against Rudolf Stammler: "Die Wirtschaft und die Ordnungen [Economy and the [Normative] Orders]," pp. 191–247.

3 Two recent contributions to these debates are Baudoin Dupret, "Droit et sciences sociales. Pour une respécification praxéologique," *Droit et Société* 75 (2010), 320; and Fernanda Pirie, "Law before Government: Ideology and Aspiration," *Oxford Journal of Legal Studies* 30, 2 (2010), 207 (a remarkable paper to which Maria Francisca Carreiro Couto recently drew our attention).

4 André-Jean Arnaud et al., eds., *Dictionnaire encyclopédique de théorie et de sociologie du droit* (Paris: Librairie générale de droit et de jurisprudence, 1988), *s.v.* "Pluralisme juridique." The second edition, published in 1993, includes this entry unchanged.

5 Jean-Guy Belley, "Conflit social et pluralisme juridique en sociologie du droit" (PhD diss., Université Paris II, 1977).

6 Jean-Guy Belley, *Le contrat entre droit, économie et société* (Cowansville, QC : Yvon Blais, 1998).

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Belley then scrutinized the knowledge of legal practitioners, with the aim of showing that a theoretical approach based on legal pluralism is essential for the interpretation and application of law. This turn in his research led, in particular, to the first publication in 2002 of "Le pluralisme juridique comme orthodoxie de la science du droit,"[7] an updated version of which appears in this special issue of the *Canadian Journal of Law and Society / Revue canadienne droit et société.*

Such a dense research record, as well as brilliant discussions of outstanding authors such as Georges Gurvitch, Ian MacNeil, Eugen Ehrlich, Max Weber, and Gunther Teubner;[8] the impact of his work in Francophone circles, and a certain ignorance of it among English speakers; as well as, primarily, the relevance of Jean-Guy Belley's work to any critical legal thought from the viewpoint of sociology of law or of legal dogmatics—these are reasons enough for the publication of this special issue.

This issue is also justified, however, by the relevance of the social phenomena tackled by Belley's work, and the papers that follow certainly confirm this relevance. Indeed, Belley has been both witness to and player in a remarkable evolution, and his use of the notion of legal pluralism has allowed him to draw a sharp picture of it.

His first works were part of a broader reaction against state policies of reconstruction and development launched after World War II. This reaction found a forceful expression in the student protests of the late 1960s, but it also had consequences in social science over the succeeding years. What was at stake, in a context dominated by centralized and hierarchical state powers, was the promotion of spontaneous local aspirations and practices. Over the years, the concept of legal pluralism was used in analyses aimed at shedding light on these spontaneous social realities, whose dynamics were revealed by the social struggles of the time. Two different components of social reality are thus distinguished, according to an analysis that might be linked to the one put forward at that time by Jürgen Habermas: remember the suggestive—albeit questionable—opposition between (economic and administrative) systems and lifeworld.[9]

In the course of recent decades, deep changes have taken place in the relationship between these two components of social reality, and the notion of pluralism has been challenged to address new realities. Research shows the increasing relevance of tensions within states, and it appears to be

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7 Jean-Guy Belley, "Le pluralisme juridique comme doctrine de la science du droit," in *Pour un droit pluriel. Études offertes au professeur Jean-François Perrin*, ed. Jean Kellerhals, Robert Roth, and Dominique Manaï (Geneva: Helbing & Lichtenhahn, 2002), 135.

8 On Gurvitch and MacNeil see Jean-Guy Belley, "Deux journées dans la vie du droit: Georges Gurvitch et Ian R. Macneil," *Canadian Journal of Law and Society* 3 (1988), 27; on Ehrlich see Jean-Guy Belley, "L'État et la régulation juridique des sociétés globales: pour une problématique du pluralisme juridique," *Sociologie et sociétés* 18, 1 (1986), 11, 13ff.; on Weber see Jean-Guy Belley, "Max Weber et la théorie du contrat," *Droit et Société* 9 (1988), 301.

9 Jürgen Habermas, *The Theory of Communicative Action* (1981; Boston: Beacon Press, 1984, repr. 1987.

impossible to approach the state as a single entity. States cooperate and compete with other states, as well as with supra-national entities, within the framework of tighter regional and global networks. Furthermore, other large organized players, corporations as well as non-governmental organizations, play an increasingly important role in the institutional fabric that embraces the world. While the dynamics of local experiences seem to be weakening, initiatives by large organizational players are gaining momentum. In Belley's recent articles—two of which are included in this special issue—legal pluralism is deployed in order to grasp this diversity of organized initiatives.

In this context, analyses inspired by the notion of legal pluralism confront two rather different perspectives of development. On the one hand, Belley discusses the ability of jurists to meet the demands of organized players operating in the context of plural dynamics. On the other hand, having questioned, as a mindful witness of late modernity, the impact of unified state intervention on plural spontaneous social realities, he now draws attention to the impact of plural organizational dynamics on these social realities. The impact he observes strengthens his critical attitude toward state law, but also awakens scepticism toward those normative phenomena outside the states that are challenging, not to say dominating, state legality today. Thus, disenchantment of critical legal thought.

We had a first opportunity to discuss with Belley the tensions that exist between these different perspectives in July 2004, on the occasion of a workshop organized by the socio-legal research committee of the Association internationale des sociologues de langue française (AISLF), a workshop in which several contributors to this special issue participated, organized under the heading "Between individuals and organizations—Which law? Which sociology of law?"[10] The general theme of the congress during which this workshop took place—"The Social Individual"—offered a useful conceptual background.[11]

This work and these discussions suggest that there is an opposition between two kinds of pluralism, one woven by spontaneous social realities and one that characterizes organizational dynamics.[12] Socio-legal research, then, must deal with the following questions: What are the precise differences between these two pluralisms, and between them and other possible types of

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[10] Documents relating to this workshop can be found on the Web site of the research committee at http://w3.aislf.univ-tlse2.fr/cr3/cr3__renc_2004.htm; see in particular the general synthesis of the discussion by Alain Laramée.

[11] On this congress see Monique Hirschhorn, ed., *L'individu social—Autres réalités, autre sociologie ?* (Québec: Presses de l'université Laval, 2007); topics related to those discussed with Jean-Guy Belley in our workshop are addressed in Daniel Mercure, "Libéralisme et lien social : une analyse critique," 203–17, and Françoise Piotet, "Entreprise, travail et lien social," 219–30.

[12] This opposition largely corresponds to the one pointed out by Mercure, ibid., between community and market. Let us note in passing that it is absent from the typology of "common types of fundamental orientation clashes" outlined by Brian Z. Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global," *Sidney Law Review* 30 (2008), 407—an encouraging sign of theoretical pluralism.

pluralism? (This is a logically unavoidable issue that we had to face soon or later: the pluralism of pluralisms.) Moreover, what are the possible relations between them, what impact can one have on the other? And what are the consequences of the coexistence of these two pluralisms for the models of social reality that we have used in recent years? One such model is provided by Niklas Luhmann: should we not revisit the issue of the role of organizations in society and their relationship to functional social systems, particularly the law? Another model comes from Habermas: the idea of two large social systems dominating social reality urgently needs to be replaced by a more plural and flexible model. Another model is that of Michel Foucault: it would not be accurate, from now on, for social control or governmentality to be referred to as a single phenomenon.

These are some of the questions that the work of Jean-Guy Belley challenges us to tackle. This special issue represents a first step in the discussion. Some contributions develop the concept of legal pluralism as a result of emerging local practices—an ambitious continuation of the first of the two main periods in Belley's work, as outlined above. Others offer illustrations of this concept's potential for the analysis of legal practices that develop far from the state—studies that allow us to assess the results of this first period of work. Still others discuss the impact of organizational pluralism on legal realities in a world where states are changing and losing their central role—essays that continue the work begun by Belley in his second main period of work.

1. The Idea of Legal Pluralism

This special issue of *CJLS/RCDS* opens with two important papers by Jean-Guy Belley. In the first—translated from French by Nicholas Kasirer and titled "What Legal Culture for the Twenty-First Century?"—Belley contrasts the characteristics of legal thinking in Canada at two distinct moments in history: 1875, the year when the Supreme Court of Canada was established, and 2000, at the dawn of the twenty-first century. Belley depicts legal culture, circa 1875, as influenced—like modernity itself, in its initial incarnation—by an optimistic faith in progress. That confident representation of the world, shared by elites, was embodied in the charismatic figure of the industrialist who, through sheer boldness and contempt for risk, generated general economic development. The growth of a specifically Canadian legal order, a result of the 1867 Constitution, was part and parcel of that idea of progress. Law was seen as autonomous, was based on a specific methodological approach (formal logic combined with conceptual jurisprudence), and was the central attribute of state power.

Legal culture in the second incarnation of modernity (i.e., at the dawn of the second millennium), Belley writes, is at odds with the legal culture of the nineteenth century. A general sense of pessimism, a realization by social actors that risks are everywhere prevalent, and various uncontrollable perils (e.g., of an environmental, economic, or security nature) are its global environment. The state as an institution has lost its capacity to shield citizens

from such risks. Law remains omnipresent, but it is weak and indeterminate, being subject to the competing rationalities of various subsystems and in chronic need of legitimacy. Delving into the dichotomy between law in the first incarnation of modernity and law in the second, Belley points to a further contrast, namely that between the drastically different legal treatments of individuals and of corporations. While corporations, thriving on globalization, now enjoy wide freedom of action and exert considerable socio-political power, individuals seem bewildered, worried, and often passive. In order to grasp the magnitude of the challenges inherent in the dual treatment of individuals versus organizations, we must break away from the liberal idea that individuals and corporations are formally equal.

Belley's second essay takes a broader approach to the dichotomy between individuals and organizations, which he considers explicitly in connection with the development of the idea of legal pluralism. This idea—not the concept, which came later—appeared in the early twentieth century, thanks to militant jurists who challenged formal positivism, then dominant, and who took an interest in legal sociology and anthropology. Their approach dovetailed with legal realism (broadly understood) but specifically questioned the central role of the state in the production of law. That initial form of legal pluralism fuelled the renewal of legal thinking and fostered the development of the sociology of law, but it did not lastingly challenge the dominant status of positivism among jurists. In contrast, the "new legal pluralism" that has been rapidly growing in recent decades presents itself as a new legal orthodoxy; it does not challenge the weakening of the state. The new legal pluralism, Belley writes, *is today the descriptive observation and the prescriptive ideology that best align with the dynamics of legal regulation and with the world view of those actors who matter politically, economically, and socially.*[13] Hence, paradoxically, the unorthodox idea of legal pluralism—which originally illustrated the quest for intellectual emancipation from the formalist straitjacket (perhaps even emancipation of social life *vis-à-vis* the state)—has turned into a new orthodoxy in the second era of modernity. That legal doctrine is clearly in harmony with the impersonal domination of private legal orders (and especially of large economic organizations) over contemporary society.

Essays by Pierre Guibentif and Roderick A. Macdonald discuss the notion of legal pluralism itself, in narrow connection with Belley's perspective. Guibentif, in his essay on the new legal pluralism and the transformation of the individual, reconstructs the evolution of Belley's thought, which experienced a radical turn, precisely in connection with the diagnosis of late modernity. Belley first approached the issue of legal pluralism from the perspective of a sociology of law understood as a critique of the positivistic and state-centred ideology that dominated legal thought. In the name of a realistic

[13] "Le pluralisme juridique est aujourd'hui le constat descriptif et l'idéologie prescriptive qui s'accordent le mieux avec la dynamique de la régulation juridique et la vision du monde des acteurs qui *comptent politiquement, économiquement et socialement.*"

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epistemology, Belley tried to demonstrate the importance of non-state social dynamics of action, of the ordinary justice he observed, for example, in the contractual practices of Alcan, a multinational company based in Canada, and his assessment of these practices was generally positive. But this perspective changed thoroughly in the years that followed: Belley later criticized the central role played in everyday life by large organizations, state and non-state alike, a phenomenon likely to overshadow legal pluralism by becoming a prescriptive ideology and a new orthodoxy of jurisprudence. As Guibentif puts it, *the author's vocation is no longer to promote a notion of reality that is likely to allow for better scientific work but, rather, to show the links recently and surreptitiously established between this notion and a specific type of social practice: the activities of large organizations.*[14] Guibentif illustrates the similarities between this new perspective and statements formulated—partly on the basis of quite different theoretical foundations—by influential authors such as Habermas (who opposes systems and lifeworld), Luhmann (who separates organizations and functional social systems), Teubner (who emphasizes the fragmentation of global law), and Klaus Günther (who directly addresses the notion of legal pluralism). The crucial point is the tension that exists between individual and organizational logics. Guibentif suggests two possible developments of Belley's critical analysis: on the one hand, to better take into account the difference between organizations and functional subsystems of society; and, on the other hand, to rethink the place of individuals as psychical systems—coming back to Luhmann's model of the relationship between conscience and communication—in a society dominated by large organizations. Here we find what Belley aptly characterizes as *a great break between the collective and the individual consciousness.*[15]

In an essay supporting a critical, "non-chirographic" legal pluralism, Roderick A. Macdonald draws a parallel between the development of legal theory and the growth of Protestantism. Protestantism, in its evangelical manifestation, gave rise to a dogmatic sacralization of the formal text (here, the Bible) as an object of literal interpretation devoid of reference to context. One can see here a striking similarity to triumphant legal monism, which also is centred on the codified text and which formalist positivism, in its time, duly hailed. In sharp opposition to monist perspectives, Macdonald rejects the "chirographic" approach, by which he means forms of knowledge based on certain types of formalized written texts. He draws on the metaphor of game rules, in this case cricket rules. In 2000, the Marylebone Cricket Club, the game's central authority, revised the game's 42 basic rules in order to add, in a preamble, an introduction on "the spirit of cricket." The aim was to foster respect for the traditional values of

[14] "La vocation de l'auteur n'est plus de promouvoir une conception de la réalité susceptible de permettre un meilleur travail scientifique, mais bien plutôt de montrer les liens que se sont créés tout récemment et subrepticement entre cette conception et un type spécifique de pratique sociale, l'activité des grandes organisations."

[15] "... reconnaissons que la société actuelle et la juridicité qui l'exprime le mieux reposent sur *une formidable rupture entre le psychisme collectif et le psychisme individuel.*"

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cricket, which were deemed essential to any decent practice of the game. Such values can be understood only by reference to the unspoken background of social conceptions and class prejudices that gave cricket its unique, specific character. Through this metaphor, Macdonald draws our attention to the importance of custom and informal rules in the analysis of legal phenomenology, and especially to the way in which social actors create and negotiate their own normative universe through social interactions. His contribution ends with this tribute to Belley's approach: "I can think of no better tribute to Jean-Guy Belley than to note that his own scholarly life is an exemplar of the legal pluralism he has so thoughtfully theorized."

2. Legal Pluralism in Context

In her study "Contrats et internormativité, de Saguenay à Dakar" (contracts and internormativity, from Saguenay to Dakar), Julie Paquin looks at the role of law in regulating economic development. Drawing on Douglas C. North's neo-institutionalist perspective, she stresses that economic development needs institutional foundations that are conducive to productive and innovative exchanges. The institutions themselves may be formal or informal; they may or not belong to state law. According to Paquin, *the state of research on informal systems in developing countries is the result of a sort of methodological vicious circle.*[16] Researchers often assume that the legal systems of developing countries are incapable of regulating economic exchanges effectively; they posit that informal, alternative legal orders necessarily exist, only to disappear once the state's legal order is in a position to step in. Belley's research, Paquin writes, *invites us to rethink these oppositions. His analyses of contract privilege an understanding of legal pluralism as derived not from the various jurisdictions' respect for one another's respective normative orders but from their negotiated interaction.*[17] This rethinking has influenced Paquin's empirical research, which focuses on the contractual practice of small and medium-sized businesses in Dakar, Senegal. Based on interviews with officials from thirty Dakar businesses, Paquin shows that five distinct legal orders, all related, interact: state law; informal local rules; the local social community; the local market; and formal organizations (nationally based and multinational companies). The results of Paquin's research suggest that there are distinct types of hybrid contracts that regulate the transactions of small and medium-sized businesses in Dakar: (a) community contracts between members of a given social network, irrespective of each actor's personal or professional sphere; (b) impersonal contracts that, in contrast, emphasize profitability and development (both mid-term and long-term), while also representing the dominant status of large formal organizations;

[16] "L'état de la recherche sur les ordres informels dans les pays en voie de développement est en quelque sorte le produit d'un cercle vicieux méthodologique."

[17] "Le travail de Jean-Guy Belley nous invite à repenser ces oppositions. Ses analyses du contrat privilégient en effet une compréhension du pluralisme juridique comme découlant non pas du respect des juridictions respectives des ordres normatifs mais plutôt de leur interaction négociée."

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and (c) partnership contracts, an intermediate type that emphasizes negotiation, flexibility, and solidarity. As a conclusion, and echoing Belley's own analysis of the multinational Alcan, Paquin notes the marginal role of state law, including for dispute resolution; a strong traditional local culture that constitutes the background for economic exchanges between actors; and, finally, the preference of economic activity for formalization and systematization, which perhaps reflects a quest for emancipation from the relational context.

The contribution of Alexandra Juliane Law and Violane Lemay illustrates the *many virtues of legal pluralism in legal theory.*[18] Their premise is Belley's observation that among younger generations of jurists, who are being trained in positivism, critical thinking has been on the wane. Law and Lemay contrast this with the militant use of law, or "cause lawyering," which they analyse in connection with legal pluralism, or, at least (in light of that concept's many possible meanings), with a sensitivity to legal plurality. Here plurality has taken institutional forms, with the establishment throughout North America of legal aid systems that gave rise to a class of militant lawyers whose practice lies outside the traditional lawyer/client relationship. Public legal aid soon proved insufficient, and socio-professional as well as community organizations stepped in. Tensions may arise, however, the authors write, between the strategies of the militant jurists in those organizations and the interests of the people they represent: *this supposes a negotiation between two unequal discourses ... the discourse of the legal expert versus the common-sense discourse of his or her client.*[19] Since, from the point of view of legal pluralism, state law (despite its apparently dominant status) is only one of possible strategies, taking account of legal pluralism and the underlying internormativity is crucial. The dual trap of an overrated law and a hegemonic status for the legal expert within a militant organization can then be avoided. In conclusion, Law and Lemay note that militant engagement is a key to any interpretation of Belley's thinking, since Belley emphasizes legal pluralism not just for the sake of scientific relevance but also as an ethical imperative, or as an acknowledgement of the jurist's capacity to conceive of him- or herself as *responsible to a certain extent for the effectiveness of law and for a measure of substantive equality.*[20]

Samia Amor relies on "Jean-Guy Belley's new legal pluralism" to examine the sources of Islamic law. She writes that *Islamic law originated as the expression of a human construction whose epistemology was founded on*

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[18] Their article is titled "Multiples vertus d'une ouverture pluraliste en théorie du droit : l'exemple de l'analyse du phénomène de *cause lawyering*."

[19] "*Ce qui suppose*, remarquons-le, *une négociation entre deux discours d'assez inégale valeur*, au plan professionnel: *le discours de l'expert en droit contre le discours de sens commun de son client*."

[20] "... une aptitude, chez l'officier de justice, à se regarder lui-même comme responsable d'une certaine effectivité du droit, d'une certaine production d'égalité concrète."

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legal pluralism, understood as a recognition of different and intersecting normativities.[21] But that pluralism, based on intertwining classic norms and local legal rules, faded away, to be replaced by the primacy of state law. Historically, the sources of Islamic law can be found not in the Qur'an alone but also in various other sources, such as local customs and mores. Furthermore, the incomplete character of Qu'ranic law encouraged Muslim jurists to be pragmatic, as we see in the codification of Sunna or the recognition of the validity of pre-Islamic customs, in order, as Amor writes, *to avoid a disconnect from social reality.*[22] Amor stresses the central role of four legal schools—the Hanafite, Malikite, Shafi'ite, and Hanbalite—through which jurists gained a monopoly on the interpretation and production of law. In the twelfth century, possibilities for *itjihâd* (creativity) narrowed down, but this did not turn Islamic law into a frozen system with no capacity to adapt. Beginning in the nineteenth century, however, a European-inspired movement of codification developed. State law claimed primacy over Islamic law, which was relegated to the margins. Only more recently has an attempt at re-Islamizing social life emerged: a number of Muslim states, for instance, have now re-introduced Shari'a as a constitutional norm. Thus there appear to be new aspects of legal pluralism in states belonging to the Muslim tradition.

3. Legal Plurality Revisited: Administrative Law, Economics of Law

Idil Atak and France Houle, in an essay on the consultation process for federal rules in Canada, analyse the measures that have been taken to address democratic deficits in the legislative process. They ground their work in the theory of legal pluralism, emphasizing the plurality that lies at the heart of the sphere of the state: *according to this approach, legal reality does not fit a conception of law as hierarchically unified normative order.* Methodologically, they adopt an institutionalist perspective, while identifying different streams within institutionalism (historical, sociological, and legal). Having developed a typology of five types of perspectives, Atak and Houle undertake an analysis of the discourses of citizens and public officials that emerged in a government consultation process related to projected changes in immigration policy. Their hypothesis is the following: *as long as arguments and justifications do belong to the same discursive register, actors from the civil society and public officials are involved in a real dialogue. On the other hand, as long as arguments and justifications do not belong to the same register, there will be no real dialogue.* At the occasion of public hearings concerning a draft regulation on immigration and protection of refugees, the authors analyse the documents handed in by citizens' movements and by other interests groups, and

[21] " . . . le droit islamique à son origine est l'expression d'une construction humaine dont l'épistémologie est fondée sur le pluralisme juridique entendu au sens d'une reconnaissance de normativités différentes qui se croisent et s'entrecroisent."

[22] "En conséquence, les premiers juristes ont fait indirectement ce qu'ils ne pouvaient faire par la voie directe, c'est-à-dire maintenir les pratiques locales, antérieures à l'islam, et cela *dans l'optique d'éviter toute césure avec la réalité sociale.*"

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the answers, favourable or not, written by the relevant officials. As a result of this analysis, it appears that citizens' movements have had a certain influence on the production of the final regulation. The conclusion of Idil Atak and France Houle is that their research *shows the complementarity between state law and certain expressions of normativity produced by non state actors, and the relevance of means of cooperation between actors belonging to the state and civil society.*

Finally, in their article on "the foundations of an economic and pluralist sociology of law," Michel Coutu and Thierry Kirat dwell on Jean-Guy Belley's interest in the relationship between law and the economy—an interest illustrated by his major work on the contractual practices of Alcan. They lament contemporary economic sociology's lack of interest—until recently—in legal phenomena, which contrasts with the close attention paid by two historic figures in "economic sociology," Max Weber and John R. Commons, to the relationships between law and economics. Coutu and Kirat argue that to fully grasp the importance of the legal dimension in socio-economic analysis, it is necessary to return to the foundational insights of Weber and Commons. However, in searching Weber's and Commons' work for reliable approaches to an economic sociology of law, superficial comparisons must be avoided. Thus, from the epistemic, methodological, and analytical points of view, major differences exist between Weber, the founder of an "interpretative" sociology, and Commons, the pioneer (with Veblen, in particular) of economic institutionalism. Coutu and Kirat particularly stress differences on the unity/heterogeneity of law and the economy, the role of ethics, the search for an all-encompassing approach in the construction of ideal types, the various forms of constraint that characterize law (whether psychological, economic, or physical), and the distinction between state law and non-state law. It is because of this last distinction that Coutu and Kirat, like Belley himself, argue that due consideration for legal plurality should be a central thread in any sociological analysis of the interplay between law and the economy.

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