

## Forgoing new identities in the global family? Challenges for prescriptive and descriptive normative knowledge\*

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Anybody who has read European fairytales will know that step-parents and especially stepmothers have not been in high regard in European cultures. Family relationships are probably some of the most important relationships in any culture. As we know they are not static. Families are constructed entities, which also undergo considerable changes.

With the increase in divorces and the 'reconstitutions' of families in Denmark the number of both 'illegitimate' and step-relations has increased dramatically. A need to 'normalize' the 'step'-relation and to avoid the negative connotations related to it has developed.

In Danish the term 'pap' (literally meaning cardboard) has emerged in relations where the term 'step' was earlier used. So now we have 'pap'-mothers, fathers, grandparents and children. My partner and I lived together with two girls and their parents in a commune from the girls were born in 1985 and 87 until we moved to Greenland in 1995, and gradually dissolved our cohabitative life over the following 4 years. In order to 'classify' us the girls felt they had to invent a category, we could fit into. A cate-

gory which could describe our interrelationship to the outside world. They decided to call us 'pip'-parents, to indicate a relation which was neither biological or legal, but which resembled both somewhat.

It has been said that where earlier one family would have many children, today this relationship has changed, and one child may have many parents.

I think that perhaps it is time for socio-legal studies to develop new understandings of itself and its role and to realize that family relationships are becoming ever more complex. Legal sociology, legal theory, socio-legal theory, sociological jurisprudence, or whatever the names given to the child in the past, may have to come up with new names for the new relationships and communities it finds itself within.

In this sketchy article I will try to outline some of the relations and challenges, which I see for socio-legal theory and jurisprudence. They are probably more influenced by concrete challenges and 'reconstitutions' than by inherited concepts, I expect that the inherited concepts and categories will have to be adjusted as we go along trying to adapt

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ourselves to changed and changing circumstances.

## World society and knowledge in the world system

I spent the period from 1995–1999 living in the Arctic, in Nuuk Greenland, but travelling extensively across the world. My views have thus been strongly influenced by Arctic and world perspectives. To my view some of the greatest challenges of legal (and other) thinking in the beginning of the third millenium will be to adjust ourselves to the fact that we are becoming part of world society – or that our world is becoming ‘glocal’ as Baumann has expressed it.

For some time I have had a favourite citation, which I will also introduce in this article, to indicate what I mean. It is a quotation by the American legal historian, Harold Berman, who, in 1983, wrote a book on law and revolution, where he claimed that Western legal thinking was in a state of crisis.

This more recent citation is from a short article on world law:

*«That humankind, in the aftermath of two world wars, has reached a turning point in its history, that the world has entered a new era of global interdependence, that all inhabitants of Planet Earth share a common destiny, is a historical fact, a political fact, an economic fact, a sociological fact, that has finally penetrated the consciousness of most of the earth's inhabitants. It has had a harder time penetrating legal scholarship or the curriculum of our law schools. We are still stuck with a separation of inter-*

*national law from comparative law and of both of these from the customary law of communities that transcend national boundaries» (Berman 1995, p.1621-22)*

The difficulties Berman describe are as salient for jurisprudence as for sociology of law. In fact I think that both areas of knowledge face very similar challenges, and that they might join hands to grasp the actual changes taking part and to deal with them in a meaningful way. We need new forms of knowledge to deal with the challenge of global interdependence, our common destiny, and its local expressions.

This was already realized by Bart Landheer, who had studied law and international relations and was director of the Peace Library at the Court of Justice in den Haag from 1952-69. He also became a special professor of the Sociology of International Relations and Peace at the University of Groningen from 1962-74. In 1966 he published a book «On the Sociology of International Law and International Society», and in 1974 a small but fascinating book called «The Role of Knowledge in the World System», which is based upon a seminar held in 1972.

Landheer writes that our forms of consciousness have both a temporal as well as a spatial dimension. This European spatial dimension is undergoing change because of technology. In science our belief is based upon the assumption that it will make life better, and if this belief vanishes, for instance because of economic anxiety, the whole complex superstructure of science and belief will loose its claim to have a positive social function.

Those forms of knowledge, which deal

with a world system, may have to be based upon a different set of presuppositions than those governing the sciences which have developed within the patterns of the dominant societies. Landheer claims that we need a global motivation to be able to develop global forms of knowledge. It is crucial to consider knowledge as a social function and to become aware, that its function within a national or regional system is not necessarily identical with the function within a world system. The knowledge needed within the world system is a critical form of knowledge, which analyses reality and formulates its implications and potentials. This critical form of knowledge is more difficult, because it demands a feeling of global social responsibility from the scientist.

Already in 1974 Landheer presented views about knowledge which are in line with present discussions about different forms of knowledge, be they 'traditional', 'indigenous', 'local' or 'tacit'.

*«Forms of knowledge in this sense are relational rather than absolute, and it is a disservice to Mankind to assume absolute forms of knowledge although there is obviously the hard core of empirical knowledge and of general human experience, but both within differing patterns of consciousness» (1972, p.17)*

Landheer also underlines that the perception of a world system – of the world as a single unit, which cannot be subdivided in 'national' entities – is related to another perception. Whereas national and regional industrial societies are dynamic social systems, world society is a relatively stable

society. It must be projected as permanent although not as static. A world society or system relates to a very different time concept than a national society, which is based upon a modern mechanical time-concept.

*«For a world system there is time: the many centuries to come... A first most essential realisation is that time is abundant if we think in terms of a world system which must abolish the motivation of haste. Structural thinking implies this social time concept of which the industrial system has lost awareness...»*

*Stable social systems have generally developed holistic forms of knowledge; dynamic systems tend to neglect holistic knowledge as they concentrate on sectors of our existence...» (p.17 & 18).*

*«Forms of knowledge which are positive in relation to a nation-state or a powerbloc may prove to be negative in terms of a worldsystem while a worldsystem may develop a core of knowledge, to be considered 'hard' in terms of the system which is in many respects very different from the forms of knowledge of present Western society...»*

*Western knowledge is outer-directed because Western society has been outer-directed. In this respect, there is a dangerous time-lag between Western knowledge and forms of knowledge which a worldsystem requires. Outer-directedness of knowledge is the concomitant of expansionism, and expansionism has no place, or at most, a very limited one in a world system...» (p.28 & 29)*

*«The values of the worldsystem are in essence the global adaptationforms of mankind as a whole. This means survival-»*

*values rather than the values of affluence or power.» (Landheer 1974, p.43)*

I have been citing Bart Landheer at length because to my knowledge very little of this kind of reasoning has gone on in (socio) legal academic circles – at least in Europe – within the last decades.

This may be a sign of the time concept he discusses. Changes of consciousness take time, and especially changes regarding a country's or a profession's societal role and status only take place very gradually. – Recently a Swedish professor of physics at the University of Lund, Bodil Jönsson, has published a small, popular book «Tio tankar om tid» (Ten thoughts about time), which introduces her thoughts over the last twenty years about a changing concept of time as well as a changing consciousness of time. Time is not only related to Chronos, to the concept of linear time, it is also related to Kairos, the concept of the right time (Jönsson 1999).

A transition that allows us (perhaps especially populations in the so-called Western world) to develop another consciousness both in relation to time and space – the 'planetary consciousness' of which Edgar Morin speaks, perhaps necessarily comes slowly.

## World space and world age

When it is full moon in Lahore, Pakistan, it is also full moon in Sydney, Australia and in Nuuk, Greenland, as well as in Beijing and Brussels. The moon shows the same face to all of the world. The moon is a satellite of the earth, as are the other satellites, which circulate around the globe transmitting

their visual and auditive signs and signal to those of us, who are able to receive them. Not all of us are able to receive the same signals from the satellites sent in orbit by humans. But many of us will be able to see the rays of the moon when it is full, and some will even be able to sense its influence. The moon influences the seas which cover about 70 per cent of the surface of the globe with very strong forces which can be observed as ebb and tide. The turning of the tide is a constant reminder. Moon calendars were important for populations dependent on the sea, whereas solar calendars became more important for agricultural societies.

The time concept linked to the moon calendar is clearly cyclical. It is related to water in constant movement and to the feminine menstrual cycle. It is linked to ebb and tide, to constant recurring flow. The time we have in common in the world is recurring time. Our calendars are linked to our civilizations, be they Christian, Islamic, linked to 12 year cycles of animals as in Japan and China or defined otherwise. Depending on our closeness to the sea different populations of the world may be or feel more or less influenced by the flow of the great seas. But as a world population we are surely influenced by the movements of the seas and their 'off-springs' such as 'El Niño'.

In 1996 Copenhagen was Cultural Capital of Europe. One of the exhibitions presented during this year was called a «World Exhibit», and it presented 96 containers from all over the world. The huge white transportations containers were filled by artist from 96 different seaports in different places of the world. One of them was from Nuuk, and the title of this container was «The tide is turning».

Among all Inuit of the Arctic there is a very famous myth about the sun and the moon. They were sister and brother, the sun being the sister and the moon the brother. During winter times people would play sexual games of exchanging partners during darkness when the lamp was extinguished. The myth tells about how the brother came to lie with his sister. When she realized, who he was, she felt very shameful. She tore off her breasts and ran off with a torch in her hand. Her brother followed, and suddenly they began ascending towards heaven. But the Moon fell, and his torch was extinguished and glowed without warming. Now they had their houses in the heaven divided into two rooms. During summertime when the sun is out you never see the moon. During wintertime the big darkness appears and uncanniness reigns. The cold moon is the only source of light for humans, but since it also has to help humans it disappears at times to collect game for humans. When sister sun comes back with warmth there is great joy (Rasmussen 1925, Vol.3, p.49-50).

In July 1999 it was thirty years ago that humans first set foot on the moon – brother moon in Inuit mythology, the feminine moon in most European mythology. The moon is something we have in common, and which cultures all over the world has been observing for millennia for guidance in following the rhythm of the year, the female rhythm and the rhythm of other species. We have observed the same universal phenomenon and perceived it differently in different cultures. Only very recently we have been able to see pictures of the world from outside. Somebody has called it the Blue Planet.

From the lunar perspective the world is one. An entity characterized by its water and its bioregions and cultural regions lit by electricity, and moving through different, complex interrelated time cycles.

Lawyers and sociologists alike have dealt with short time spans and limited spatial perspectives. Perhaps we will also have to change our perspectives and to respect 'timeless time' and its influences on our lives, as well as to perceive ourselves as parts of global space besides being part of local and regional spatial and virtual communities.

### **Heritages for the future?**

I spent the period of full moon in the beginning of June 1999 close to Amalfi in Italy, an old Mediterranean seaport with an important history connected to the seas. In the Mediterranean area the sea linked cities, seaports and culture. In pre-Christian times the Aegean Sea was governed by Ionian cities who imposed a thalassocracy over the area by means of treaties of peace, friendship, alliance and territorial boundaries (Sinha 1996, p.27).

In the contemporary world it is air transportation and airborne communication which links together distant parts of the world for good and for bad. In the beginning of June 1999 the closeness to the battlefields in Kosovo allowed a view from the earth of the NATO flights.

When the so-called humanitarian intervention started in March 1999 I was in Ammassalik, a small settlement on the coast of East Greenland, where you can receive at least 10 different TV-channels. It is a place plagued by local social conflicts and developments. A place, where a woman at the

municipal office said that since people did not speak about hunting any more, the war would probably be the common topic of conversation.

In a book about «Africa and Europe. Relations of Two Continents in Transition», one of the authors, Kühne, writes about 'an unstable and unpredictable Europe'. A Europe which is linked to Africa through the Mediterranean Sea. An Africa where Sub-Saharan Africa's GNP is less than that of Belgium, although Belgium has only about 2% of Africa's population (Kühne 1994, p.3).

*«The internal contradictions of Europe and its exploding heterogeneity are now rather obvious. The horrendous difference in economic standards of living and democratic political cultures between the countries in the East and in the West is the most pertinent one... This global divide between rich and poor is not only horrendous but also potentially explosive because of a countervailing trend: the acceleration and intensification of intra-global communication which, as mentioned before, creates a much stronger universal awareness of the differences in wealth and living conditions..» (Kühne p.8)*

From 1980 to 1987 the share of the developing countries in the global GNP decreased to 16.8% although two thirds of mankind live in these countries. And 85% of the world's wealth is produced by the North for 23% of the world's population. (Kühne 1994, p.15).

The lunar perspective of the Blue Planet reveals the connectedness, the importance of the links rather than the boundaries. The

oceans are the links, as they were before. We cannot seal off Africa from Europe with new walls or other exclusive measures of a less physical and perhaps more legal nature.

The last 'real' world exhibition of the 20th Century took place in 1998 in Lisbon, from where both Columbus and Vasco Da Gama set out to 'discover' and 'conquer' the 'new' worlds about 500 years earlier. The theme of this exposition was, however, not conquest of earth, but conservation of water. The title of the exhibition was «The Oceans, A Heritage for the Future». A brochure announcing the EXPO 98 described the idea as follows:

*«The last decade of this century will be marked by the great debate on how to integrate the oceans and their resources into the wider context of the sustainable development of the planet. Faced by the growing and increasingly intensive use of the marine environment and resources, it has become urgent to avoid the threat of rapid destruction of the ocean's formidable life potential and resources, a decisive factor in the world's ecological balance. For this reason, the theme of the Exposition will be «The Oceans, A Heritage for the Future». The notion of heritage is to be understood in two senses – on the one hand, as a question of improving the physical and cultural assets offered by the oceans and, on the other, as directly linked with the idea of conservation and our responsibility to future generations.»*

What norms related to spatial and temporal conception and to knowledge and orientation may be emerging in these new ages?

## Towards world law and inter-human law?

I am convinced that in the 21st century we will experience a development of a much stronger planetary consciousness among the inhabitants of the earth. The simultaneous emergence of what is very broadly termed 'New Age' thinking and the discourse on 'sustainability' will probably be 'movements' with an important influence on this process of a change of consciousness. Another factor of a more explicitly legal nature influencing the process of change will be the Human Rights discourse, and the changes it itself may be expected to undergo during the future.

During the last 50 years the Human Rights discourse has been strongly linked to the discourse on and the perspective of the nation state. Human Rights law has been considered inter-national law, and it has been separated from customary law of communities that transcend national boundaries. It is still a great challenge for Western jurisprudence, which has influenced human rights thinking strongly to deal with non-written law as well as with the consequences of development towards 'secondary orality' in our own societies (Ong 1982/96).

In the 21st century I believe human rights law will gradually become part of world law and inter-human law. World law has been described as the law of the 'emerging world society' (Berman) and as the successor of international law, by the Japanese legal sociologist, Masaji Chiba in a recent anthology on «Asian Legal Systems»:

*«The term 'international law'.. is set*

*within a framework of the established concepts of state law monism and Western law universalism. The term 'international law' may tentatively be replaced by the term 'world law'. 'World law' includes every form of law validly prevailing across and beyond national boundaries, such as international custom, social norms, humanity law and various unofficial but formal agreements between private organisations and persons from different countries. World law can then be further classified into regional law, law which is valid within a number of national boundaries in a certain region, and universal law, law which is valid across and beyond every national boundary.» (Chiba 1997, p.85)*

Inter-human law is a concept I myself have suggested during my work with a group of Pakistani lawyers in a course on methodology in women's law studies (December 1998). I see inter-human law as related to world law but more concerned about human relations than about territorial boundaries and connections. Dealing with inter-human law of course means dealing with gender, since relations between gender are very important elements of inter-human relations.

Minorities – and well-educated men and women of the minorities with language proficiency and intercultural experiences, as is necessary for minorities – will most likely play an important role in the development of world law and inter-human law. They are agents in forming alliances, networks, links, marriages across borders, cultures, religions etc.

## Celebrating life and hope

In 1993 the Swedish Church celebrated a jubilee year by organizing a seminar on «First world ethics and third world economics». The vice-chancellor at the University of Nicaragua and Jesuit priest, Xavier Gorostiaga, presented the conclusion of the seminar in a very personal form, describing the ‘Copernican crisis’ as not only economic or political, but also as intellectual and ethical. In spite of the severe crisis in Latin America, of crisis in the US and in Sweden, and of crisis in knowledge, he presented suggestions and concerns about what to do. First of all, he claimed the necessity of sticking to the utopia of solidarity with the poor and impoverished in a world of antagonistic civilisation. But he also conveyed the message of an unbelievable potential.

*«We are the majority. We are not a crazy small minority. We make up a glowing, hopeful, happy majority after all. Our feeling of fiesta is a key to a hope conserved. We must celebrate life in spite of this culture of death. We must celebrate hope – in spite of the culture of despair. To celebrate is extremely important. Sometimes you may say: ‘Oh, these Latin-Americans and Africans, they are really crazy. They starve, but nonetheless they dance’. But this is a way of survival, my friends. It is very important to keep one’s happiness and one’s fiestas in this time, which demands so much hope and courage from us. It is more important than anything else» (Gorostiaga 1994, p.109 – my translation)*

Gorostiaga claims that what we need today is a kind of scrutinizing pragmatism. We must not be romantic any longer. We need a vision, an alternative thinking, new attitudes, new values – but pragmatic.

The task of contributing to the development of forms of knowledge which may secure the necessary stability and the survival of a world society seems to me to be an enormous challenge for sciences which deal with societal norms in descriptive and prescriptive ways as do sociology of law and jurisprudence. We need to consider which norms have worked and might work, and how to make them work, and make people comply with them under very different circumstances and in very different and complex contexts. We need to be able to deal with emerging relations, to give them names and to secure that they are treated properly. Personally I believe that it might be a more meaningful future role of lawyers and legal sociologist to become ‘healers’ of social wounds and disorders, to contribute to ‘restorative justice’ rather than to fight exclusively for rights. Could the identity of the caring grown up child celebrating life and hope be another option for legal sociologists?

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