

Summaries

Giuseppe Campesi, *Norms, Normativity and Normalisation. A Theoretical Journey between Canguilhem and Foucault*.

This essay aims to explore the theoretical implications for Foucauldian research project of some key concepts developed by Georges Canguilhem, namely the concept of “norms”, “normativity” and “normalization”. These concepts are believed to be crucial to understanding the development of the genealogical project on which Michel Foucault embarked in the seventies and, in particular, to providing a deeper understanding of the idea of disciplinary power as part of a broader biopolitical project. This preliminary conceptual exploration between Canguilhem and Foucault will also provide some useful theoretical tools for a better understanding of the position of the legal phenomenon within the Foucauldian genealogy of modern power.

Giovanni Bombelli, *The Ambivalence of the Western Community and New Models of Community: The Identities and Pluralist Approaches of the (Material) “Rooted Community” and of (Immaterial) “Uprooted Communities”*

Starting from the recent return in sociology of law to considering the “community” to be the expression and the vehicle of individual and collective “identity”, this article identifies a gradual transition from the focus on the traditional Western *communitas* to the rise of new models of community. More generally, it questions what the substantial nucleus of the traditional conception of community actually was and what its current destiny is.

From the Greek *polis* to the dawn of modernity, the Western notion of community has at least two essential features. On the one hand, it rests primarily on the category of “rooting” and, as such, can be defined as a “rooted community” (or a material one). On the other hand, it contains a structural dialectic ambivalence that oscillates between Utopia, Ideology and Dystopia.

Models of community alternative to this are now taking shape, exemplified by two particularly significant typologies: the “scientific community” and the “electronic-virtual community”, whose methods of articulation are radically innovative and which can be classified, in contrast to the others, in terms of “uprooted (or immaterial) communities”.

This cultural transition implies at least two essential effects: the potential overall reconfiguration of the classical Western model of community (in both socio-legal and anthropological-philosophical terms), which is often evoked in a process of instrumentalisation, and the rise of unprecedented historical and social scenarios in which the juxtaposition between identity and pluralism can be expected to be played out in the near future, both domestically and internationally.

Lucio D'Alessandro, *The Legislator's Decision and the Judge's Interpretation. Genealogy of a Permanent Utopia*.

The only way to create a new world is by making a clean sweep of the history of the past, of its contradictions, of its ghosts and of its metaphysics, of the tremors of its knowledge. That is precisely what happened when the tidal wave of new ideas brought about by the Age of Reason swept away the *Ancien régime*, bringing about the progression, in the field of law, from uncertain law subject to the discretion of those in positions of power to a clear law, one that could at long last be known in advance, because it was enshrined in a text that made any interpretation other than the literal one of the expression of the legislator's intention completely superfluous.

The theories of Montesquieu, of Beccaria, of Filangieri, of Dragonetti and of the thousand other enlightenment philosophers, but above all the work of Bentham, provided the theoretical basis for the passage to legal positivism that then became the dominant ideology of the nineteenth and twentieth centuries.

The advent of postmodernism, with its new economic and institutional scenario dominated by the phenomenon not so much of transnationalism as of globalisation, called all the certainties so strenuously constructed starting from the philosophies of the Enlightenment into uncertainty, putting the focus back on the crucial question: "what is law?" The result is to question the very foundations that for more than two centuries underpinned a thoroughly rational law that was so clear as to tolerate not even the expert hands of the robed and bewigged interpreting judge. The legal order is rapidly being reabsorbed within the conflict between the forces in the field, from which it had done its utmost to escape, crystallising into codes and laws whose intrinsic fragility is now all shown up by postmodernism.

Giulio Itzcovich, *Public Good and Public Goody. Big Brother from Violence to Consensus*

This article describes and analyses the story of Jade Goody, a guest in the British edition of the television programme *Big Brother* in 2007, before then developing some thinking about *Big Brother* itself in legal theoretical and political terms. In this perspective, *Big Brother* is primarily a place in which public violence is perpetrated, thus violence is perpetrated legally in public: visibly and offered for viewing. *Big Brother* can be considered to be a tool for general positive prevention, or for an "advertisental" production of consent: the production of an ethics of social communications, of politically correct; the construction and control of communications that become inextricably public and private. As a metaphor for social life and an institution where psychology and experimental method converge with the reinvention of everyday life as a piece of show business, but also repression and penal prevention, construction of its audience, publicity and torment, *Big Brother* appears to be a paradigm of the control society, as distinct from the disciplinary society.

Dario Melossi, Alessandro De Giorgi, Ester Massa, *Foreign Minors Caught between Legal Conflict and Deviance: Is the Second Generation Ready To Confess?*

This study was directed to exploring the hypothesis of a differential “normative socialisation” of second-generation minors in the city of Bologna, Italy. It was hypothesised that the possible differences in terms of deviant participation between Italian and “foreign” students could be explained by differences in terms of class belonging. This hypothesis was tested through a “self-report” study carried out among students attending the last year of middle school (eighth grade, 13-14 years old). The questionnaire was administered to all the eighth-grade attendants in four Bologna schools having, for Italy, a rather high rate of immigrant minors. The collected data were analysed through a multivariate regression instrument, relating socio-demographic and other variables to the dependent ones measuring deviance rates. Surprisingly, no differences emerged, either in relation to national origins or in relation to social class. Instead, as far as differences in participation in deviant behaviour could be explained systematically through multivariate analysis, it was found that they could be traced firstly to gender, given that males had a higher participation in deviant behaviour, even though the difference was much lower than that customary in official statistics, and secondly – and especially – to the degree of difficulties in their relationships with figures of authority, whether in their families or at school. Given the sample size, the authors were not able to disaggregate the pool of “foreigners” (in a current study with much larger sampling, comprising all of the Region of Emilia-Romagna, we they expect to be able to say something more about what is going on inside the category of “foreigners”).

Sonia Masiello, *Towards a Sociology of Enforced Migrations.*

As a consequence of the implementation of Italian Law N° 189/2002, known as the “Bossi-Fini” Act, and of its administrative regulations issued in April 2005, many aspects of the previous system governing immigration were changed. The first of these is the committee now responsible for determining the status of a refugee. In the past, there was only one such committee in Rome, while there are now seven of them. Another important factor of change is the “preventive detention” of asylum seekers in special centres for the identification of migrants. The principal aim of the article is to observe and describe the transformations taking place, as seen through the eyes of several different opinion leaders and policy makers (exponents of public administration, International Organizations, NGOs, Christian associations), as well as through interviews with asylum seekers and discussion of their living conditions in the camps. Sociological observations were conducted in three camps: two in Puglia (Foggia and Bari) and one in Calabria (Crotone). The results of the investigations are interpreted in theoretical structures that inform global change. As S. Castles has pointed out, “the study of forced migration is linked to research of economic migration, but needs to be analysed by its own specific research topics, methodological problems and conceptual issues”. So the main aim is to interpret change in Italy as a piece in a global mosaic.

Ennio Amodio, *The Art of Cross-examination and the Anomalies of the Italian Style*

The first Italian edition of Francis L. Wellman's famous work *The Art of Cross-Examination* is in the process of being published as we go to press. Presenting it to Italian readers, this article highlights the present-day pertinence of the book authored by a New York attorney more than a century ago. The result of his practical forensic experience and enriched by excerpts from the works of other eminent attorneys, the volume is a veritable goldmine of the rules to apply in building an effective counterbalance to the declarations of the witnesses fielded by the counterpart. As Wellman describes how to go about conducting a cross-examination without any particular order, this article compiles the various rules and classifies them in a triple sequence: how to prepare a cross-examination, how to formulate the questions and how to behave when listening to the witness' testimony.

The article closes with a comparison between the Anglo-American model and Italian practice. In the Italian style, the freedom of cross-examination is restricted by the interference of the judge, who refuses to play the passive role of a mere arbitrator. In addition, attorneys and prosecutors have not yet learned to perceive cross-examination as an activity that shapes the evidence for the purpose of convincing the judge.

Agostino Carrino, *Justice as Conflict*

Discussing two recent books by Morris Ghezzi, the author highlights the limits of legal nihilism as an exhaustive explanatory tool wielded by the law in the last phase of modernity. In a certain sense, in practice, the intention expressed arbitrarily by a legal norm is at the very root of modern law, as it opposes its more intimately "social" genetic dimension.

Ghezzi's arguments provide a fruitful path towards critical thinking whose aim is to clarify the hidden contradictions, ambiguities and ideologies of contemporary legal science, in particular with regard to what is generally known as "neo-constitutionalism", which constructs a conciliatory view of law and of the constitution as a terrain of intellectual exercise for professional "hermeneutists" – judges or lawyers – who pretend to know nothing of the social conflict and of the conceptions of the world that agitate modern society.

Dafne Bordone, *Legal Culture and Legal Actors in Latin America: Some Socio-Legal Observations*

The author illustrates the contents of two books dedicated to actors in the system of justice in Latin America: *Los actores de la justicia latinoamericana*, edited by Luis Pásara, and *Latin American Lawyers. An Historical Introduction*, by Rogelio Pérez Perdomo. In conclusion to her essay, she ventures several reflections on the state and perspectives of Italian justice.

The picture painted by the two books illustrates “internal” legal culture, to borrow Lawrence Friedman’s fertile notion, as the main obstacle to reform in the field of justice in Latin America. The quest for a different, thus more effective, justice would appear to call for radical transformations in the roles and activities both of the “old” actors of justice (the lawyers and the judges) and of the new ones (international actors). In the process of demonstrating what has been done so far in South America and what it would be worthwhile doing in future, the various authors generally seem to be aware that the achievement of a different system of justice from the traditional one is still a long way off. And this realisation certainly aggravates the lack of confidence in the institutions and in the justice service that is detected in public opinion in the region: the inefficiency of justice is a minus value in itself that becomes all the more serious when it results in iniquity and inequality.

(English texts revised by Pete Kercher)

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