Summaries

Francesco Galgano, *The Truth that Hides beneath Falsehood*

Metaphors can be found in every form of linguistic communication, including the language of precepts, such as that used in legal orders. It represents reality figuratively, equating similarity with identity, converting the "as if" into an "it is". Dante described a metaphor as the "truth that hides beneath a beautiful falsehood". A metaphor is generally harmless enough: nobody treats what is only a successful verbal device as if its success alone were enough to make it true. Nonetheless, it can be insidious: this is sometimes the case in legal language, when a metaphor attributes to an abstract entity a name that also belongs to something in the tangible world, thus moving beyond the realms of common sense. This leads to a risk that the metaphor will be taken seriously and mistaken for reality, as in the case of what has happened with legal persons, securities, intellectual property and so on. This does not mean that we should go to the opposite extreme, as some have done, that of outlawing a concept from our language as soon as its metaphorical nature is revealed. Metaphors are very often effective ways of summarising lengthy and complex verbal reasonings that could otherwise only be expressed in elaborate circumlocutions. The point is that, once this "hidden truth" is identified, the right way to proceed is to use the truth itself, rather than the "beautiful falsehood" that summarises it, for the purpose of drawing legal conclusions.

Pier Francesco Savona, *The Claim of Rights in 'Glocal' Society: An Issue of Cultural Identities or of Social Justice and Equal Treatments?*

This article sets out to investigate problems arising from legal claims initiated by individuals from other societies complaining about forms of social injustice and breaches of their identity. In a contemporary context in which multicultural phenomena loom large, law tends to know no "boundaries" and we are beset by geographical and socio-political fragmentation, it is important to understand whether and how western constitutions and the principles enshrined in the UN Universal Declaration of Human Rights can establish the basic conditions for every human being to be recognised in his/her relationships in the community where he/she lives.

Breaches of fundamental rights are on the increase in today's legal order, above all with regard to their implementation. Practices of so-called "non-recognition" are producing a loss of trust in social cohesion, because they are perceived by individuals as a kind of denial of their personal capacities and moral qualities. As a result, when this feeling becomes strong, it can produce a concrete claim whose ultimate purpose is the increase and extension of judicial forms of protecting existing human rights, as well as sometimes also producing new subjective rights.

While rights are symbolic forms that convey identity for creating social cohesion and while social practices produce change, practices of "non-recognition", such as violence and humiliation, are perceived differently by the groups in which they are perpetrated. This phenomenon is caused by the different perception of the symbolic role played by the rights themselves. But in a global society, there is a risk that fundamental rights may spread the image of a legal subject who is incapable of giving meaning to social cohesion. In this case, there is a need to understand whether the struggle for rights has become a skilled strategy for preserving status and institutionalising cultural models rather than a struggle for discriminated individuals to be treated equally.

Orlando Roselli, *The Cultural and Academic Programme of the* Quaderni Fiorentini per la Storia del Pensiero Giuridico Moderno *as Conveyed by its Introductory Pages in the First Thirty Years*.

The *Quaderni Fiorentini per la storia del pensiero giuridico moderno* (Florentine Notebooks on the History of Modern Legal Thinking) were instrumental in innovating international legal studies. The "Introductory Pages" written in the course of the publication's first thirty years have recently been compiled in a single volume by their founder and editor (P. Grossi, *Trent'anni di pagine introduttive. Quaderni Fiorentini 1972-2001*, Giuffré, Milan 2009, pp. XXVIII-252). As you read them, you can retrace the stages in a cultural and academic programme that found the history of modern legal thinking to be a fertile meeting ground for historians, sociologists and philosophers of law and scholars of positive law, all interested in the unity of legal science and of its aperture to the other human sciences.

In Paolo Grossi's thinking, the reference to the "historical nature of legal knowledge" was put to use as the tool for verifying "a host of certainties", observing "the eclipse of a host of dogmas", doubting "a host of claimed conquests", the opportunity to establish a relationship between "the lawyer (and his methods)" and "society (and its future)". This is an approach that focuses on the topics of legal method and of the system of law sources at work in the transformation of the dynamics of legal orders, an approach so incisive as to be of real help in understanding the present.

Rogelio Pérez Perdomo, *A Plea for the Social Study of Legal Scholars: the Case of Venezuela in the Nineteenth Century*

In spite of their importance for society and the legal system, legal scholars constitute the least studied branch of the legal profession. In this article, the author argues for focusing study on legal scholars themselves, rather than on issues of legal science or legal doctrine, as the subject has been approached traditionally. The main topics of a social study of legal scholars are singled out: Who are they? What is their education and knowledge? Who is their audience? What forms do their

publications take? Where does their income come from? How relevant are they for the legal system? What is their place in society and the political system? As an example of this approach, the article studies nineteenth-century legal scholars from Venezuela as a group.

Edmundo Fuenzalida Faivovich, *Law as a Profession and Law as a Science. Legal scholars in Chile in the Second Half of the 20th Century*.

Legal scholars, who are defined operationally as those legal experts who teach and conduct research in law schools of universities in the disciplines of philosophy of law, history of law, sociology of law and anthropology of law, develop as result of a particular combination of societal and academic contexts. Individual motivation is also a factor in the emergence of this type of legal expert, albeit a minor one. The article discusses a variety of combinations of societal and academic contexts, proposing country case studies as the appropriate method for conducting empirical study of the rise and fall of legal scholarship. The case of Chile in the twentieth century is selected for this study, because this country's legal experts have played a major role in society in the course of its history. The author clarifies both societal academic contexts. Chilean legal scholars have emerged from some of these combinations. The article includes interviews with current legal scholars as a grounding for his approach.

Manuel A. Gómez, *Knowledge and Social Networks in the Construction of Elite Lawyers in Venezuela*

This article describes the rise of Venezuelan lawyers as members of the country's intellectual and social leadership, and their notable influence throughout different historic periods, from their key contribution to the consolidation of the country's political and intellectual leadership during the nineteenth century, to their emergence as power brokers bridging the public and private sectors during the economic and social expansions that took place during most of the twentieth century. This work also explains how, in spite of the radical political transition that took place in the late 1990s and which led to the disappearance of the traditional elites, the new regime created the conditions for the emergence of new networks in similar fashion to the ones that existed in the past, revealing that regardless of which particular social group is in power personal connections remain vital in making the justice system work, and the presence of lawyers is very important.

Benjamín Rivaya, *The Human Rights Cinema*

Human rights are the criteria that establish what the state and society cannot do and what they must do if they want to act legitimately. As these criteria are ubiqui-

tous, the cinema – as the most popular art form – has not been able to escape them and has reflected them in film productions, works that could be classified on the basis of the stance they adopt with regard to them, such that it is possible to talk about a "human rights cinema" (i.e. one that is favourable to human rights) and about an "anti-human rights cinema" (which acts as their detractor): the most blatant example of the latter can be found in what we might term "cinema of vendetta". The human rights cinema, meanwhile, has brought practically all human rights onto the silver screen. As one generation has taken over from its predecessor, we have watched a host of topics portrayed in the movies in defence of the most basic of human rights, civil and political rights, economic, social and cultural rights, followed in due course by the rights to development, to peace and to a healthy environment. Apart from the academic discourse, this type of cinema has proved to be effective in disseminating human rights.

Valerio Pocar, Roberta Dameno, *Sixty Years On: Article 32 of the Italian Constitution and the Right to Self-Determination*

A reconstruction of the stenographic record of the debate that took place in the Constituent Assembly leading to the formulation of Article 32 of the Italian Constitution, which covers the right to health, confirms that it was the Assembly's conscious intention to make an explicit statement about the right of self-determination with regard to medical treatments as an absolute right of individual freedom. This has the effect of refuting a tendency to interpret the article in the opposite sense that has been gaining ground in Italian legal and bioethetical circles, especially in positions inspired by the teachings of the Roman Catholic church.

Michele Bellomo, *Family and its evolutions*

In recent decades, the family has been the subject of many evolutions, with the consequence that the scope covered by the relevant laws in our legal frameworks is no longer restricted to married couples, extending only to regulate divorce and the welfare of the children of the marriage, but is now also concerned with social politics, economics and so on.

This judicial decision is primarily the result of the interpretations made by those who apply the law on a daily basis; interpretations that are inevitably underpinned by those people's own systems of values and beliefs.

An element of novelty has been introduced into in the evolution of the concept of family, which everyday language now often applies not only to married couples, but also unmarried ones (whether heterosexual or homosexual).

In many countries, this tendency has been recognised by and consequently reflected in national laws. Unfortunately, this is not the case of Italy, where the national jurisprudence has had to fill in blank areas left by the compete neglect of the Italian government and provide some sort of legal recognition, albeit limited in scope, to those couples who choose not to base their union on marriage. In this re-

spect, some interesting "pilot cases" that may ultimately lead to an official recognition of gay marriage also soon to come before the courts in Italy.

Massimo Gelardi, *The Identity of Law: The Critical Race Theory and the Legislative Constitution of the Subject*

The publication of the first anthological introduction in Italian to the Critical Race Theory – the area of philosophy of law in the United States of America that investigates the issue of race in the post-Civil Rights era, triggering "linguistic turn" input from Continental and post-analytical thinking in the Common Law's tradition of legal pragmatism – offers the opportunity to make a short philosophical and methodological examination of the nature, the means of production and the conditions of effectiveness of statutory enunciations.

The Critical Race Theory holds that an institutional form of racism gradually took shape in American society towards the end of the seventies, adapting and evolving on the mechanisms whereby racial hierarchies succeeded in surviving and reproducing, despite being threatened by an unprecedented campaign of anti-discrimination legislation and case law. The theory goes on to argue that this development constitutes an exemplary illustration of profound tensions at work in the bonds between material layering and logical and formal procedures that make up every regulatory or prescriptive tool, suggesting that this deserves investigation in terms of the many local and contingent profiles that subsume the poietic aptitude of every semiotic gesture in its given genetic descent.

Despite being compromised by an uncertain anchorage in metaphysics and a morass of epistemological aporia, the elaboration of the doctrine of CRT should be seen as an inevitable commentary on the various different, open and conflicting results of the (constituent) interface between notions of justice, ascribing identity and formulae of citizenship.

Silvana Sciarra, *Gino Giugni the Traveller*

In this short obituary for Gino Giugni some relevant events in his academic life are recalled, using the metaphor of the journey. The first significant journey took Gino Giugni to the USA in 1951, holding a Fulbright fellowship. On that occasion he met Federico Mancini, with whom he shared, later on, a similar attitude both in scholarly work and in policy-making.

Gino Giugni was initially a professor at the University of Bari, where he acted as an innovator in teaching labour law. He collaborated with Otto Kahn-Freund and other leading labour lawyers from various countries in setting up a group devoted to comparative research. He was also a State minister in the early 1990s. In that capacity he met Robert Reich, who was himself minister in the Clinton administration.

After teaching at the University of Rome "Sapienza", he moved to LUISS, a private university in Rome, where he once more created a stimulating interdisciplinary environment. Journeys are meant to be a mataphor of intellectual freedom and of questions waiting for answers. They are also an indicator of a lively and unique academic discourse.

(English texts revised by Pete Kercher)