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Opening Remarks

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Opening Remarks

*Olivier Moréteau**

Nearly ten top comparative law scholars from Canada, the United States, and various European countries gathered at the Paul M. Hebert Law Center of Louisiana State University in Baton Rouge, Louisiana, in late January 2007, to try to answer the following question: How far does globalization affect law making? Every contributor to the present volume has had a different experience, sometimes as law maker. Each of them comes from the Western world, with the noticeable exception of our African-European colleague Jacques Vanderlinden. One may comment that this provided only one side of the story, which is largely true, but this was a first—a modest attempt to address a fundamental question, with the hope that larger, more diverse projects would follow.

Some six months after my appointment to the newly created Russell Long Chair of Excellence, my new colleagues Jim Bowers and Bill Corbett suggested that I may help the *Louisiana Law Review* in putting together an international symposium addressing some of the hot subjects debated in comparative law. I agreed to meet with Katie Grissel, in charge of the symposium project for 2007, and I must say that I understood immediately that she was the most suitable person for such a very ambitious project that would leave a mark in the history of the LSU Law Center (particularly its Center of Civil Law Studies) and that of the *Louisiana Law Review*. My task in the present project was limited. I had to find a topic, identify and contact the suitable speakers, and, later on, plan the sequence of presentations and discussions. Everything else, from the practical organization of the symposium to the publication of this rich issue, is the work of an efficient team of editors, with the very receptive administrative help of Vickie Landry.

We needed a theme, and I did not have too much time to think of one. I tried to find a not too technical topic (it would then be difficult to identify the most suitable specialists, thus reducing the pool in an existing contact list) and yet a topic of interest, a broad one where anyone I might contact would have something to say. If the topic were at the cutting edge, all the better. If it were controversial, we could have rich debates.

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How could I think of law making in such a context? This is an antiquated, all too often visited and revisited subject. And yet, many changes that take place in our world are affecting the way we create the law, domestically and internationally. Among these changes, I thought of the following:

- Rapid technological and societal changes keep the legal systems on a permanent move.
- Sophisticated supranational systems, like the European Union, the MERCOSUR, the OHADA, or the World Trade Organization, keep developing.
- Information technology takes a central place in the way we have access to information and exchange information: legislators and judges are informed in no time of changes in neighboring or remote countries.
- Judges, law professors, and influential lawyers meet and exchange with their peers from other countries in all kinds of groups and networks, meeting in person or virtually.

In short, we witness an unprecedented acceleration in the circulation of legal ideas. The high speed Internet generation produces high speed law making. “High Speed Law Making”—this could have been a great topic! Yet, I am not sure it would have been inspiring enough to attract the broad array of diverse scholars participating in the present symposium. It may have led to descriptive presentations, with limited room for controversy.

Globalization creates more of a challenge. It triggers passion. It invites thought about the phenomenon itself: What is it? Does it really exist? How do we understand it? How is it perceived here and there, in this and that other context? How far does it influence the way we make the law, domestically or internationally, by legislation or by court decision?

A number of questions were listed on the program, the very questions that were communicated to our speakers:

- Is there a universal conception of justice?
- What about the legitimacy of law makers, whether elected or appointed, whether lawyers or technocrats?
- May the diversity of cultures be ignored or sacrificed on the altar of uniformity or so-called harmony?
- Is there room for pluralism in mass societies?
- May we use old models, should we invent new ones, and can we combine the old and the new?

Many other questions came up in the papers and during the debates, sometimes questioning the very concept of globalization. Does globalization really exist? This is a dangerous question: If the answer is no, this symposium may make little sense. Actually, it may make sense if globalization is shown to be a misconception, or even a fraud!

Another question relates to the wording of the title of the symposium and present issue. Do the words “global world” mean anything at all?

French speakers would say that “global world” is a tautology: The French use the term *mondialisation* rather than *globalisation*. The words *un monde mondialisé* do not make any sense!

Actually, global means “spherical,” and we know that the world is a sphere. Yet, this is rather recent knowledge. When the first Europeans settled on this continent, many people still believed that the world was flat. Exactly five hundred years ago, in 1507, a group of cartographers (including Martin Waldseemüller) working for the Duke of Lorraine in a monastery in Saint Dié, near Strasbourg, drew the first map ever featuring the American continent, with the name America on it, and an ocean on its western and then unclear boundary, separating America from Asia. Most magnificent globes were to be produced in the decades to come, featuring a yet incomplete world, with large areas designated *terra incognita*, monsters in the seas, and a full continent missing until the discovery of Australia in the seventeenth century. On the scale of world history, this was yesterday, and this may yet be tomorrow on some parts of the globe.

Global also means “comprehensive.” It is true that today, we may have at least the illusion of a comprehensive vision of the world, when we look at satellite pictures with the clouds seen from above, when we read statistics as to the number of people, trees, mammals, birds, natural resources, gross domestic products, and so forth. Every square inch of the globe can be observed from the satellites. We can assess the volume of water or ice on the earth, the temperatures in different zones. Demography helps us to figure out the evolution of populations, climatology makes scenarios on how the inhabitable zones are going to evolve and where deserts are going to expand. We can locate every event or phenomenon on the surface. Our globe is sometimes represented as hollow, which is a subtle way of hiding the inside, the unseen, leaving it to our imagination. In the past, one imagined the world. Today, one grasps a perception of a global reality, with the illusion that we may know everything.

Global also means "worldwide," and here we meet the truism, and even the tautology. Worldwide trade, world economy, world banking: The ghost of a world law appears in the annual reports of the World Bank.

What is the part of reality, the part of ideology, in all that? What is hiding behind these words? Is it the triumph of the capitalistic system, based on a free global trade? What is the impact on social reality?

Certainly, there are some realities that may be described with the word "globalization." We may travel around and across the world many more times in a lifetime than ever before. We are constantly informed of events happening thousands of miles away. Millions of us communicate worldwide over the Internet, and this on an everyday basis.

We develop the impression that there are fewer and fewer differences between peoples of different races and regions. The development of human rights strengthens this impression. Young American people, when fortunate enough to travel, may feel that they are not very different from the youngsters they meet in London or in Madrid, in Rio or in Singapore, in Tokyo or in Shanghai, and with whom they communicate in English. All these young people from various continents may feel they are more similar than they are to their own grandparents or ancestors. All wear jeans and drink dark soda, use cell phones and surf on the World Wide Web, at least the more privileged. Others share in common the sad reality of misery, a downside of globalization.

Here comes the fundamental question of identity: We share a common identity; we are all human beings. Yet, we have multiple dimensions, multiple identities. This makes everyone unique, complex, and irreplaceable. The big challenge of our time may be to reconcile these multiple identities, to reconcile universality and diversity. The world cannot exist without diversity. We are warned against the dangers of the disappearance of vegetal and animal species, which may be a threat to the survival of our own species.

All this may also apply to our laws. There is a strong trend towards harmonization and unification, be it at a worldwide level (e.g., the World Trade Organization) or more regional level (e.g., the European Union). This causes some reactions: Why should we change and have to do like all others? What's wrong with our way of doing things?

The Americans themselves have a deep understanding of the need for diversity, at least for domestic affairs. In the United States, federalism operates in such a way as to preserve vast zones of autonomy to the individual states, with one legal system in each

state. U.S. citizens may legitimately have the impression that cultural diversity is not denied in their country, it being such a melting pot, welcoming people from all over the world. True, immigrants quickly adopt a sort of standardized American way of life, and yet everyone is allowed to keep, cherish, or promote any kind of religious, cultural, or culinary tradition and live one's own way.

This is no doubt a very successful model, which proves to work in a country chiefly made of people who migrated to escape religious or political oppression. However, can we be so sure that this model, which happens to allow diverse people to live in harmony with a clear commitment that one is to abide by accepted rules, may be transposed easily to other parts of the world? Other peoples have a history of their own, and may not have any other experience of rules than those imposed on them from the top, sometimes in an oppressive manner. This does not mean that we should no longer champion democracy—on that account, the American record is unbeatable—but that we have to be mindful of diversity.

Our speakers insisted on the recognition of cultural diversity, not only on postcards and in museums, but also in the way we deal with people, inside and outside, in the law making process. They traveled across the continents and the oceans to give us their thoughts and to debate. The papers, carefully edited by a highly motivated and very competent team of students, are published in this issue of the *Louisiana Law Review*. The symposium gave ample room for debate and discussion. Videos of the presentations and discussions may be obtained at the *Louisiana Law Review's* website or upon request. Time was left for visits and Creole meals: "Laissez les bons temps rouler"—"Let the good times roll," as one says in Louisiana. Here at the LSU Law Center, we also say: "Let the good talks roll!"

1. Please visit <http://lawreview.law.lsu.edu/> for links to the videos and contact information.

