

*Werner Gephart*

# Some Colours of the Law

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David Nelken

## Preface

I am pleased to introduce this fascinating book, writing both as a friend and admirer of Werner Gephart, and as the person who, as a result of a fortunate meeting in Bonn, was instrumental in enticing him to install his artworks in the elegant corridors of The Dickson Poon School of Law here in Somerset House. (Our heartfelt thanks go to the management team of the Law school and to Kieran McGrath of the Cultural Institute at King's College London for making all the practical arrangements).

Werner's talents are indeed many – the ability to be a leading scholar of sociology of law, to found and direct the University of Bonn's Käte Hamburger Center for Advanced Study in the Humanities *>Law as Culture*, and, as seen here, at the same time to continue to be such a fertile and sometimes transgressive artist.

The full impact of Werner's provocations cannot for obvious reasons be fully captured in this book, but the small-scale reproductions included here do give some idea of their quality and variety. His work invites us to turn our attention away from legal and philosophical texts and instead respond to the symbols and meanings that they rely on or mobilise – in short what they represent.

Many of the pictures focus on the faces of those whose ideas have shaped our world. But rather than the familiar intellectual project of trying to place them *>into context* they are rather transferred into settings they never inhabited, or inserted into debates that never actually took place. We thereby see better what they could not see. Whilst some of Werner's paintings seek to deconstruct what the law says – or is made to say – about itself, others set out to embody and (over) concretise the metaphors that are used to talk about law. Always the effort is to jar us into noticing how much we depend on images. We come to appreciate the process of seeing as much as what it is that is seen.

These images are reproduced here with an accompaniment. Werner's valuable introduction explains how his pictures reflect and interrogate different national traditions of writing about law and society. The dazzling comments by his friends and colleagues go on to provide original and sometimes unexpected insights into what they think the artist is saying. In addition they show the many thoughts and connections his work can set off. Indeed, only those with a poor imaginative life could fail to find something to react to in his pictures, whether it be his shrewd juxtapositions of the European Union as the Tower of Babel and Brexit as an air balloon, his depiction of legal transplants as luggage, his historical re-invocation

of Nazism and Dadaism, or his efforts to focus attention on the contemporary tragedies of migrants and refugees. The presence of these intriguing and striking artworks is a privilege and pleasure for all of us who work here or who visit the building. Thank you Werner!

Werner Gephart

## About the Genesis of this Book

*Habent sua fata libelli*, books have their destinies, but sometimes also their specific condition of naissance: *habent suas conditiones libelli*.

This book, having started in the modest mode of a booklet, is the result of a rather natural process of growing, enlarging, encompassing, crosscutting and transcending the limits of ordinary disciplinary work. Piece by piece it had been painted and glued or installed without any kind of a master plan. Only *ex post* does it look like a coordinated whole, not fragmented into areas and spheres of contingent thoughts and ideas. In a way, it is part of the life of a scientist who has a penchant for aesthetical practice – Moscow's perestroika, 9/11, the Maghrebian Revolution, the life in Paris, the encounter with the founding fathers in the fictional space of imagination were part of the life experience of a researcher who felt enriched by travelling, teaching and learning by way of permanently profiting from the role of a stranger, the famous figure in Georg Simmel's way to conceive the world.

Besides the growth of this ›empirical‹ material, the challenge of showcasing ones work in an exhibition is an important element of the production process. This is particularly true for the cooperation with King's College London. By way of the wonderful mediation by my colleague and friend David Nelken, I was introduced to the admirable programme of The Dickson Poon School of Law as an avenue to give art a place in legal education and representation of the law, which perfectly consorts with the ambitions of the Käte Hamburger Center ›Law as Culture‹ to reflect on the symbolic dimension of the law, including the fascinating constellation of law, aesthetics and art. After the appointment as Honorary Artist, it was especially Kieran McGrath who accompanied the whole process of conceiving the exhibition as you will find it in the book: the discovery of the title ›Some Colours of the Law‹, the visit to the site in order to adopt to the spirit of Somerset House, the development of a structure for the whole display (the four divisions) that correspond to different parts of this wonderful building.

The book is by far more than a showing of personal images, the genesis and motivation of which I try to explain in the first part. The marvellous interpretations in the second part, which refer to the images and to the text of the first part, do not only reveal hidden traces of ideas and sentiments that were not conscious for the author himself – they live up to the original expectation that the exegesis necessarily transcends the scope of the particular artworks by engaging in

far-reaching theoretical reflections on the represented issues and thinkers as well as by illuminating the manifold relations of art and law. My gratitude is without limits, not for the pure fact that so many great thinkers are sharing this kind of high recognition, but that I am the one who profits most from it; I am learning about myself, my intentionality, failures, conjectures and refutations. What a festival of reflected thought on themes and topics that all of us seem to share. In this sense, I take this book as a common product that will certainly stimulate new forms of aesthetic practice between imagery, law, text and society.

I have to thank so many people for having made this adventure possible: first of all, Raja Sakrani for being able to bear the artist's narcissism with nonchalance and transform it into productivity; Nazgol Majlessi for being especially helpful in preparing the show and the installations and also in lending her proper aesthetic judgement for the project's technological component; Candice Kerestan for her incredible ability to make English sounding sentences out of overly complex German phrasing; Katja Spranz for her communicative charm at the interface of inside and outside of the laboratory of the Käte Hamburger Center *>Law as Culture<* in Bonn; Stefan Finger for helping with his impartial administrative competence to solve all problems and find solutions for everything; Tim Shaw R. A., our former Artist in Residence in Bonn, for taking the scientist seriously as an artist, too; Jan Suntrup for having brought the slowly incoming and ever growing articles into a bundle of related essays and last but not least: David Nelken who – after a visit in Bonn convinced King's College London to offer the East Wing of Somerset House for the sake of that completely impossible undertaking *>Some Colours of the Law<*.

Bonn, 27 of March 2017

First Part:  
Images and Commentary



# Introduction to *Some Colours of the Law*

In an ideal oversimplification, my exhibition brings together three traditions from reflections on law and society: an Anglo-American, French and German line of tradition, which is reshaped through transnational and global development.

The exhibition's medium is neither the spoken nor written word, but rather the representation in images, sculptures and installations. But how does a scholar who earned his doctorate in Law and his post-doctorate in Social Sciences with the goal of teaching Cultural Sociology – in addition to his list of publications which tops over 50 books – also choose this form of portrayal? This certainly has something to do with the fascination that portraits, as a medium of representing uncatchable uniqueness, exert. It is in this manner that my portrait illustrations and pastels came about – from those depicting Thomas Hobbes, Herbert Spencer, John Stuart Mill and H.L.A. Hart in England to portraits of Rousseau, Comte, Durkheim and Foucault in France. In the German tradition, meanwhile, Goethe appears as a researcher of society, and superior icons in the field like Max Weber and Georg Simmel are depicted alongside figures like Tönnies and Luhmann.

Postcolonial criticism has certainly made us sensitive to the idea that we may not view the world through perspectives of occidental cultures alone. Rather, horizons of knowledge and conceptual worlds must incorporate other cultures. This epistemological uncertainty appears in a series of works, for example when Durkheim and Mauss find themselves under the tree of knowledge and are cast as arm chair ethnologists or, when Weber is placed in an enchanted garden in India.

My chosen medium also allows for a glimpse into the portrayal of great thinkers who are often observed either in an indiscrete manner from the keyhole-perspective or even fully neglected as they are also just human beings who suffered from the oppression of their emotional lives. This reveals an astonishing parallel between John Stuart Mill, Auguste Comte and Max Weber who in their specific cultural contexts were liberated by the discovery of a romantic relationship. As such, some beautiful ladies appear in the surroundings of these over-rationalised intellectuals.

In my exhibition, installations can also be seen for the first time which convert individual figures of speech into a material form: legal trans-plants that are represented through plants; a deconstruction of the law in which the iconic components of Lady Justice are literally taken out of each other; and a piece called »Layers of Legal Cultures« in which the metaphor is translated word-for-word into levels of various legal cultures laid upon each other.

A last word on the omnipresence of Max Weber (1864–1920) in my work: he is portrayed as a paradigmatic case for the birth of the social sciences out of the spirit of the law. Schooled in jurisprudence, this juristic socialisation can be felt in his way of constructing the categories of sociology. On the other side, Weber, clothed in a leopard print blazer, is openly a space for the projection of my personal view of the world, as signified by the German word for cheetah: *Gepard*.

# I.

## The Anglo-American Tradition

This section brings together a series of meaningful figures that belong to the history of Anglo-American academia starting with Thomas Hobbes, who is considered the forefather of the philosophy of law and whom Talcott Parsons considered a major figure in sociology, placing the Hobbesian problem of order in the focus of his analyses.

My pantheon of British intellectuals does not aim for completeness, aligning itself instead with figures such as Herbert Spencer, a technical inventor and social scientist, while my image of John Stuart Mill references his relationship to a woman who was thought to free him from the pains of a dull childhood, just as literature, with a healthy dosage of Wordsworth, unfolds its healing effect.

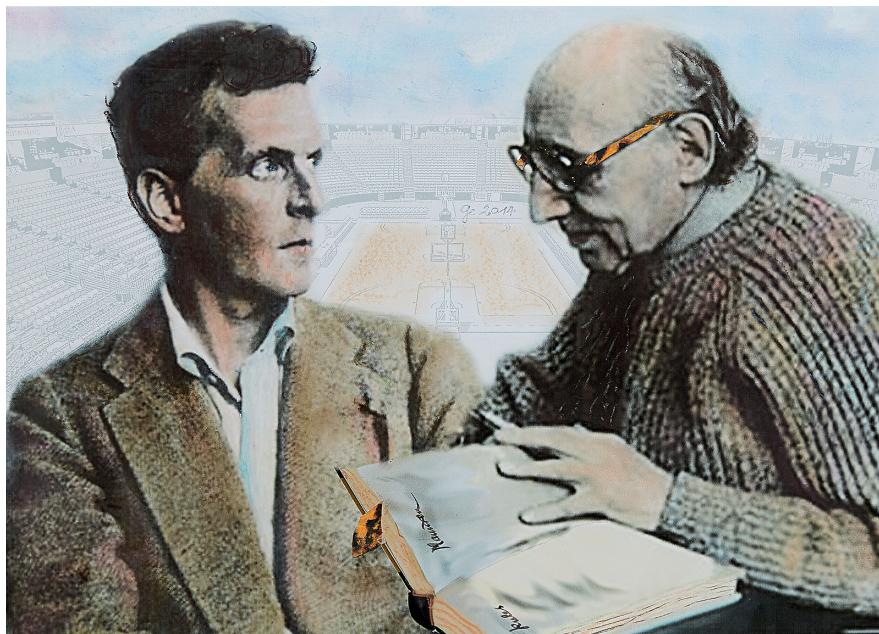
H. L. A. Hart's impact on the philosophy of law in the world is unbroken. Likewise, he is a contemporary witness to the dramas of the 20<sup>th</sup> Century. This also applies to Norbert Elias who fled from Nazi-Germany and found a new home in Great Britain. Here, he is together in conversation with Wittgenstein in which the rules of the game, as manners or legal rules, unfold into civilising effects.

The British tradition is, however, also characteristic of the description of the abyss of society, just as Thomas Hobbes imaged the *>State of Nature<* in *Leviathan*: *>no letters, no society, and which is worst of all, continual fear and danger of violent death, and the life of man, solitary, poor, nasty, brutish, and short.<* The events of September 11th 2001 are also to be seen in this light which coincided with a lecture on Hobbes that I shared with some American students in St. Louis.



2. *Brexit and its Spectators, as Seen from the Jungle of Brussels, 2016*,  
pastel collage, 39 × 49 cm

The image takes a double perspective with regards to the 'Brexit' phenomenon. The hot air balloon – identifiable by the Union Jack – and its departure from the legal jungle of Brussels, expresses my understanding for the motivation of people in Britain who wanted to leave this non-transparent field. On the other hand, the observer's position, here again taken by Weber, expresses some concern about the future of Europe and the befriended nation. There is no plea for either a 'soft Brexit' nor a gesture of triumph, just a nostalgic and melancholic wish to stay with good friends.



3. *The Game of Civilization: An Encounter of Wittgenstein and Elias*, 2014,  
29 × 40,5 cm

Wittgenstein writes: ›We can easily imagine people amusing themselves in a field by playing with a ball so as to start various existing games [...] And now someone says: The whole time they are playing a ball-game and following definite rules at every throw. And is there not also the case where we play and make up the rules as we go along? And there is even one where we alter them – as we go along.‹

This painting was inspired by a book written by Marta Bucholc (published in the Käte Hamburger Kolleg ›Law as Culture‹ series) in which she tackles one of the most salient problems in our current debate about globality: How is a global community possible? If the Hobbesian solution by way of rules is accepted, the follow up question must be: How do we make the rules of our global games? Where does the normativity of our moral laws, statutory provisions and table manners come from? How do we strive to keep naked violence at bay by allowing power to be vested with the right of correction? Can humanity as a whole become a global community of self-defence?

While watching the invisible players on the field, Wittgenstein may think about the role of rules, whereas Elias introduces the completely underestimated realm of courtly manners as a means of communication between civilisations.

›Illustrating‹ and ›elucidating‹, or even deepening, the main ideas of Bucholc's book has been my challenge for this painting.