PART TWO

THE TIME-SPACES OF LAW: LOCALITY, NATIONALITY, TRANSNATIONALITY

INTRODUCTION

The relative uncoupling of law from the state that I called for in the last chapter of Part One means, in the first place, that the nation-state, far from being the exclusive or the natural time-space of law, is only one among others. The nation-state has been the most central time-space of law for the last two hundred years, particularly in the core countries of the world system. However, its centrality only became possible because the other two time-spaces, the local and the transnational, were formally declared non-existent by the hegemonic liberal political theory. In Part Two I focus on the local and the transnational time-spaces and on their interrelations with the nation-state time-space. My purpose is to show: (a) that the legal field in contemporary societies and in the world system as a whole is a far more complex and richer landscape than has been assumed by liberal political theory; (b) that such a legal field is a constellation of different legalities (and illegalities) operating in local, national and transnational time-spaces; (c) and finally that, thus conceived, law has both a regulatory or even repressive potential and an emancipatory potential, the latter being much greater than the model of normal change has ever postulated; the way law's potential evolves, whether towards regulation or emancipation, has nothing to do with the autonomy or self-reflexiveness of the law, but rather with the political mobilization of competing social forces.

This conception of the legal field means that every social-legal action is framed by three time-spaces, one of them being dominant and thereby providing the general profile of the action. Without consideration of other time-spaces, present in however recessive a form, and without consideration of their articulations with the dominant time-space, sociolegal action cannot be fully understood. In Part Two I present some empirical studies that illustrate this sociological conception of the legal field. In Part Three a theoretical reconstruction is offered. The legal field analyzed in Chapter Three is predominantly local, but its articulations with the

national time-space are central and are analyzed in great detail. In Chapter Four the legal field is predominantly transnational, and in Chapter Five, predominantly national. In either case, the linkages with the other time-spaces are made clear.

The sociological conception of the legal field presented here calls for a concept of law that must be broad and flexible enough to capture the sociolegal dynamics in such different frameworks of time and space. The concept of law put forward by the liberal political theory—the equation between nation, state and law—and elaborated upon by nineteenth-century and twentieth-century legal positivism is too narrow for our purposes, since it recognizes only one of the time-spaces: the national one. Drawing on legal anthropological literature and on the antipositivistic legal philosophy of the turn of the nineteenth century, I conceive law as a body of regularized procedures and normative standards, considered justiciable in a given group, which contribute to the creation and prevention of disputes, as well as to their settlement through an argumentative discourse coupled with the threat of force. A full explanation of this concept will be given in Section I of Chapter Three. Here I want to draw the attention to the three structural components of law: rhetoric, bureaucracy and violence. Rhetoric is not only a type of knowledge, as already analyzed in Part One, but also a communication form and a decision-making strategy based on persuasion or conviction through the mobilization of the argumentative potential of accepted verbal and nonverbal sequences and artifacts. Bureaucracy is here conceived as a communication form and a decision making strategy based on authoritative impositions through the mobilization of the demonstrative potential of regularized procedures and normative standards. Finally, violence is a communication form and a decision-making strategy based on the threat of physical force.

These structural components are not fixed entities; they vary internally and in their reciprocal articulations. Legal fields are distinguished by the different articulations among rhetoric, bureaucracy and violence that they comprise. However, a complex legal field, such as modern state law, may comprise different articulations in different subfields. Indeed, the plasticity of modern state law referred to in Chapter Two is made possible above all by the diversity of structural articulations it may encompass. The diversity of articulations of structural components may allow for enlightening sociological comparisons among legal fields or legal orders. I distinguish three major types of articulation: covariation, geopolitical combination and structural interpenetration.

Covariation refers to the quantitative correlation among structural components in different legal fields. In Chapter Three I describe a legal field (Pasargada law) in which rhetoric is the dominant component, while bureaucracy and violence are both recessive, in stark contrast with the modern state law in general. Indeed, the secular trend (of the last two hundred years) has been toward a gradual retraction of rhetoric and a gradual expansion of bureaucracy and violence. The fact that violence has grown in tandem with bureaucracy has contributed to the obfuscation of the violent character of the state legal field. However complex and internally differentiated, the transnational legal fields analyzed in Chapter Four seem to point to new structural configurations. Though they are, in general, characterized by low levels of bureaucracy, they combine them, in some cases, with high levels of rhetoric and low levels of violence and, in other cases, inversely, with high levels of violence and low levels of rhetoric. The low levels of bureaucracy are explained by the fact that the institutional density developed by the nation-state has no comparable development at the transnational or interstate level. The twin growth of bureaucracy and violence, which up until recently characterized the national time-space of the legal field, seems thus to be confined to this time-space. Expanding on these findings and on those of Chapters Three and Five, I have formulated, as a general hypothesis, the following relationships: the higher the level of bureaucratic institutionalization of juridical production, the smaller the rhetorical space of the legal discourse, and vice versa; and the more powerful the instruments of violence in the service of juridical production, the smaller the rhetorical space of the legal discourse, and vice versa; concerning the first correlation, violence may operate as an intervening variable in the relationships between bureaucracy and rhetoric, in which case low levels of bureaucracy may combine with low levels of rhetoric if the levels of violence are high.

Geopolitical combination is a form of articulation centered on the internal distribution of rhetoric, bureaucracy and violence in a given legal field. Different articulations generate different forms of political domination. According to the dominant component of a specific articulation, we may have political domination based on voluntary adherence by persuasion or conviction, on demonstrative strategies leading to authoritative impositions, or, finally, on violent exercise of power. In complex legal fields, different forms of domination may be found in different areas of legal-political action. I have analyzed the "movement" toward "informalization of the administration of justice" in the late seventies and eighties along these lines, arguing that the increase in rhetoric (and the reciprocal decrease in bureaucracy and violence) in the legal areas selected for informalization signaled a change of political domination, which, however, should be geopolitically evaluated in relation to other legal areas (such as criminal law, labor law and welfare law) in which an increase of violence or of violence together with bureaucracy (to the detriment of rhetoric) could be identified.[1] In Chapter Five, I show how, in a period of transition between political regimes and in the context of heightened popular mobilization, the state legal action may become a mosaic of different types of domination.

The third major form of articulation among rhetoric, bureaucracy and violence is *structural interpenetration*. This is the most complex form of articulation, because it consists of the presence and reproduction of a given dominant component inside a dominated one. Its complexity lies not only in that it involves the analysis of multiple qualitative processes, but also in that it is only unequivocally debatable in long historical periods. The relations between oral and written culture provide an illustration. It has been established that these two forms of cultural production have different structural characteristics.[2] For instance, oral culture is centered on the conservation (stocking) of knowledge, while written culture is centered on innovation. Oral culture is fully collectivized, while written culture allows for individualization. Oral culture has its basic unit in the formula, while written culture has its basic unit in the word. If we look at modern cultural history in the light of these distinctions, it becomes clear that, until the fifteenth century, European culture, and hence European legal culture, was predominantly an oral culture. From then on, written culture gradually expanded and oral cul-

ture retracted. But from the fifteenth century to the eighteenth century, it is apparent that the structure of written culture had still to be consolidated, and that in its operation it was permeated by the internal logic of oral culture. In other words, we then wrote as we spoke, and I think this can be detected in the legal writing of the time. In the second phase, from the eighteenth century until the first decades of the present century, the written word dominated our culture. But then the radio and the audiovisual mass media rediscovered the word's sound and we entered a third period: a period of secondary orality. However, this reoralization of culture is different from the previous period of oral culture, in that the structures of the written culture permeate, penetrate and contaminate the new oral culture. In other words, we talk as we write. If we think of modern state law in this context, my argument is that rhetoric is not only quantitatively reduced but also internally and qualitatively "contaminated" or "infiltrated" by the dominant bureaucracy and violence. In my analysis of the informal justice movement and with reference to bureaucracy, I analyzed the types of arguments that tended to be more persuasive in the informal settings, in order to see if, for instance, arguments and reasonings that depended on bureaucratic logic and discourse were being advanced in a nonbureaucratic setting. The aim was to find out, in the informalization reforms, the extent to which bureaucracy (and possibly also violence) were expanding within the form of rhetoric.[3]

The broad concept of law adopted here, together with the idea that law operates in three different time-spaces, implies that modern societies are, in sociolegal terms, legal formations or legal constellations. Rather than being ordered by a single legal order, modern societies are ordered by a plurality of legal orders, interrelated and socially distributed in different ways. This raises the issue of legal pluralism. Legal pluralism concerns the idea that more than one legal system operate in a single political unit. The discussion of this issue has been one of the core debates in the sociology and anthropology of law as well as, though in a different way, in the philosophy of law. The existence of a core debate about legal pluralism is significant in and by itself and deserves to be analyzed. Before attempting that, however, I would like to state at the outset that this debate, probably no less than other core debates in other disciplines, is partially a false debate or at least an inadequately formulated one. To begin with, the designation "legal pluralism" has a definite normative connotation, in that whatever is designated by it must be good because it is pluralistic or, in any case, better than whatever is counterposed as simply not being pluralistic. This connotation may be a source of error and should therefore be avoided. To my mind, there is nothing inherently good, progressive, or emancipatory about "legal pluralism." Indeed, there are instances of legal pluralism that are quite reactionary. For this reason I prefer to speak of a plurality of legal orders, instead of legal pluralism, whenever I want to address the issues that have been traditionally associated with the latter expression.

The inadequacy of "legal pluralism" can be traced back to its origin as a scientific concept. It originated at the turn of the century in the European antipositivistic legal philosophy as a reaction against the reduction of law to state law carried out by the codification movement and elaborated upon by legal positivism.[4] It was a reaction against state legal centralism or exclusivism, arguing that, in real fact, state law was far from exclusive, and in some instances was not

even central in the normative ordering of social life. Looking at sociolegal life in European societies at the time of the codification movement, it becomes clear that the reduction of law to state law was, more than anything else, the result of a political fiat, and that empirical reality was on the side of the "legal pluralists." However, with the consolidation and expansion of the liberal constitutional state, and with the conversion of the legal positivist hypothesis into an hegemonic (commonsensical) thesis about law, state legal centralism or exclusivism disappeared as such and became law *tout court*. From then on the legal pluralists were to carry the burden of proof of defining law other than as state law. As legal positivism added some analytical thickness to its original political orientation, legal pluralism saw its analytical claims entangled in a politics of definition of law.

This mixture of analytical and political considerations was carried over, though often unnoticed, when legal pluralism became a core debate in the sociology and anthropology of law, from the sixties onwards.[5] Because of the scientific positivism that dominated these disciplines, the analytical claims of legal pluralism were given absolute predominance, while its political claims were swept under the rug. In a curious twist, scientific positivism confronted legal pluralism by neutralizing the latter's political claims in the name of alternative claims that, though equally political in nature, could be convincingly argued as analytical, particularly so in a political context in which legal positivism was at its weakest, that is, in the context of the colonial and postcolonial societies. The fact that this complex intertwining of analytical and political claims was rarely acknowledged has obscured the debate till today.[6] The paradigmatic debate of modern law requires that such an acknowledgment be fully made and indeed be conceived as one of the premises of the debate. Moreover, in a paradigmatic debate, the political nature of many barely apparent analytical claims will be brought to the foreground.

In my view, a broad conception of law and the idea of a plurality of legal orders coexisting in different ways in contemporary societies serve the analytical needs of a cultural political strategy aimed at revealing the full range of social regulation made possible by modern law (once reduced to state law) as well as the emancipatory potential of law, once it is reconceptualized in postmodern terms. This means that, in abstract, there is nothing progressive about the idea of legal plurality. The same applies to the different structural components of law. In particular it applies to rhetoric. The progressive content of rhetoric depends on the nature of the rhetorical audience, on the types of *topoi*, on the social distribution of reasonable arguments, on the relation between persuasion and conviction, on the extent to which the arguments are infiltrated by bureaucracy or violence, and so on. Furthermore, the conception of a plurality of legal orders advanced here tries to counteract the romantic bias of much legal pluralistic thinking by reconstructing the legal field theoretically in such a way as to avoid equating all legal orders in presence in a given geopolitical unit, and particularly denying the centrality of state law in modern sociolegal formations. Such theoretical reconstruction is attempted in Part Three.

It may be asked: Why should these competing or complementary forms of social ordering be designated as law and not rather as "rule systems," "private governments," and so on? Posed in these terms, this question can only be answered by another question: Why not? Why should the case of law be different

from the case of religion, art or medicine? To take the last example, it is generally accepted that, side by side with the official, professionalized, pharmochemical, allopathic medicine, there circulate in society other forms of medicine: traditional, herbal, community-based, magical, non-Western medicines. Why should the designation of medicine be restricted to the first type of medicine, the only one recognized as such by the national health system? Clearly, a politics of definition is at work here, and its working should be fully unveiled and dealt with in its own terms.

For all its inadequacies and semiobscurities, legal pluralism has been, no doubt, one of the core debates in the sociology of law and in the anthropology of law. In my view, there are four metatheoretical conditions for some issue to become a core debate. First, the issue must be broad enough and with an inherent plasticity that enables it to include new dimensions as the debate develops. Second, the issue must have vague boundaries so that what belongs and what does not belong to the debate is never very clear. Indeed, to know what is being debated is part of the debate. Third, in the field of sociology, such an issue must allow for a macro-micro link; more specifically, it must allow for an easy articulation between empirical work and theoretical development. Fourth, through such an issue it must be possible to open a debate with core debates of other disciplines, so that the discipline in question can keep its identity in interdisciplinary and even transdisciplinary debates.

It is not my purpose here to analyze in detail the extent to which the debate on legal pluralism has fulfilled these metatheoretical conditions. I will limit myself to some interpretative notes as required by the argument expounded in Part Two and also in Part Three. As to the first condition, the debate on legal pluralism is a broad one, and has broadened with time. In a recent overview, Sally Merry has distinguished two periods in this debate: legal pluralism within the colonial and postcolonial context, and legal pluralism in modern capitalist societies. The second period is clearly an expansion of the debate in the first period.[7] Thus, I argue in Part Two that we are now entering a third period, the period of postmodern legal plurality. What distinguishes this period from the two previous ones is that, while before the debate was on local, infrastate legal orders coexisting within the same national time-space, now it is on suprastate, transnational legal orders coexisting in the world system with both state and infrastate legal orders. Chapter Four is dedicated to this new context of legal plurality. But the idea of periodization of the debate does not mean, in this case, that any new period cancels out the previous ones. Actually, the three periods are nothing more than the three main contexts or traditions within which the debate continues to be pursued today by different or even by the same social scientists. The following chapters provide a good illustration. If the analysis of Pasargada law in Chapter Three can be said to belong to the second period of the debate, the analysis of the transnationalization of the legal field in Chapter Four pertains to the third period, while in Chapter Seven some references are made to a study I conducted in the Cape Verde Islands whose political context concerns the first period of the debate. The superposition of the different contexts of the debate on the plurality of legal orders bears witness to the breadth of the debate that thus unequivocally fulfills the first metatheoretical condition of a core debate.

As to the second condition—the vagueness of boundaries—what I said above about the ambiguity and inadequacy of the expression "legal pluralism" already fulfills this condition. From the very beginning, in the European legal philosophy of the turn of the century, the debate on the plurality of legal orders has been entangled with the Sisyphean task of defining law. And while in the first (social scientific) period of the debate it was relatively easy (though not as easy as for some time was believed) to distinguish between the main legal orders in presence—the colonial law, on the one side, and the indigenous law, on the other—in the second period such a distinction became much more problematic, and it will be even more so in the third period we are entering now. In this last period the vagueness of the boundaries of the debate has, however, less to do with the question of an adequate definition of law—increasingly perceived as sterile—than with the identification of the three time-spaces of the legal field—the local, the national and the transnational—and of the complex interrelations among them. Some of the complex analytical demands involved here are displayed in Chapter Four.

The two last metatheoretical conditions—the potential for macro-micro links and the potential for interdisciplinary work—are closely related, and have been only very partially fulfilled in the debate on the plurality of legal orders up to now. The following chapters, both in Part Two and in Part Three, are intended to raise the debate to the level at which both its macro-micro potential and its interdisciplinary potential may be explored. The fact that this debate challenges liberal political theory—though how radically is open to question—has not been given due recognition so far. As a result, its "almost obvious" interconnection with issues such as state legitimation, forms of social power, legal subjectivities, socioeconomic, racial, gender and cultural inequalities, models of democracy, politics of rights and so on has not been elaborated. On the contrary, a narrow intellectual scholarship on legal pluralism has crystallized that has contributed to reproducing the disciplinary isolationism (and even marginality) of both the sociology of law and the anthropology of law. At the roots of such an isolationism is the fact that both disciplines have tended, in general, to take the state as a given, that is to say, as a nonproblematic entity, thus studying law as a social rather than as a political phenomenon. Indeed, the so-called autonomy of law, so much cherished by legal theory, as we saw in the last chapter, was made possible only by the conversion of the state into an "absent structure." This kind of conceptualization has often been complemented by an active antistatist stance that is quite visible in much of the legal pluralist scholarship. In Chapter Four I show the extent to which the nation-state has been challenged, in recent times, as a privileged and unified unit of political initiative, and doubly decentered by the emergence of both powerful infrastate political processes and powerful suprastate processes. However, the analysis of this challenge of state centrism will not benefit from any romantic or pseudoradical antistatist stance. The nation-state and the interstate system are the central political forms of the capitalist world system, and they will probably remain so for the foreseeable future. What has happened, though, is that they have become an inherently contested terrain, and this is the central new fact on which the analysis must focus: the state and the interstate system as complex social fields in which state and nonstate, local and transnational social relations

interact, merge and conflict in dynamic and even volatile combinations. These issues are discussed in great detail in Chapter Four.

The state and the interstate system thus provide one of the broader contexts within which the debate on the plurality of legal orders may be fruitfully pursued. Specifically concerning the state, the analytical strategy means "bringing the state back," but, in a sense, the state is brought back to a "place" where it has never been before. As I say in Chapter Two, under current conditions, the centrality of the state lies to a significant extent in the way the state organizes its own decentering, as is well illustrated by the state-sponsored back-to-the-community or community-revival policies. The distinction between the state and the nonstate is thereby called into question. This, of course, renders the debate on the plurality of legal orders yet more complex.

Apart from the decentering of the state in social life is the concurrent trend toward an ever greater internal heterogeneity of state action. Not only are different sectors of state activity developing at different paces and sometimes in opposite directions, but there are also disjunctures and inconsistencies in state action, and so much so that sometimes no coherent pattern of state action can be discerned anymore. This is particularly visible in peripheral and semiperipheral states, but can also be observed in central states. The decentering in certain areas may thus coexist with the recentering of state action in others. For instance, the degradation of state-provided material services (housing, health, social security) may coexist with the expansion of state-provided symbolic services (state nationalism; politics as show business; the state as the imagined coherent and cohesive center of sociability in societies increasingly fragmented by social inequalities and racial, ethnic, gender and generational hate ideologies and practices). Similarly, the demise of state welfare and safety nets vis-à-vis citizens may coexist with the expansion of state welfare and safety nets vis-à-vis corporations and transnational capital. As much as a decentering of state action, we are witnessing the explosion of the unity of state action and its law, and the consequent emergence of different modes of juridicity, each one politically anchored in a microstate. As a result, the state itself becomes a configuration of microstates, raising a whole range of new questions that are far from being answered by political sociology: What is the logic behind the heterogeneization of state action? Is the state a field of political inertia? What holds together the configuration of microstates? Is there an invisible hand, similar to the one that used to hold together the market, or is such a hand all too visible?

As a result of such multiple and crosscutting heterogeneities of state action, the debate on the plurality of legal orders may extend to novel and unsuspected contexts. For instance, as the heterogeneity of state action translates itself into the growing particularism of state legality, and as the unity and universality of the official legal system break down, new forms of legal pluralism within state legality may arise which we could call internal legal pluralism. Of course, not every form of state heterogeneity will comprise a situation of internal legal pluralism. The latter requires the coexistence of different logics of regulation carried out by different state institutions with very little communication among them. Moreover, such logics of regulation may vary from country to country, even when they are carried out by the same type of legislation, and they also vary

across time and space. Just to give an example, in central countries, particularly in those with a strong welfare component, labor law, together with social legislation, has been "located," particularly in the period of "organized capitalism," on the promotional or facilitative side of state action, while criminal law and restrictive legislation (from immigration laws and refugee laws to *Berufsverbot* laws of different kinds) have been located on the repressive side of state action; however, in colonial legislation, labor law and criminal law almost overlapped, and indeed labor law was in some cases the privileged form of criminalization of colonized people.[8]

Similar "dislocations," calling for innovative theorizing, may take place within the three major time-spaces that have provided the framework for the debate on the plurality of legal orders. In situations of regional interstate integration in which the pooling of sovereignty occurs, such as in the European Community, the national time-space that was before the time-space of state action may be gradually recodified as local or infrastate and, when viewed from the hegemonic transnational time-space—from Brussels, Strasbourg or Luxembourg—may actually assume characteristics that are generally associated with the local time-space, such as particularism, regionalism, closeness to people's practices and discourses.

In the following chapters I demonstrate that the state in fact provides one of the dimensions of the wider context in which the plurality of legal orders must be debated. But, as I said, modern states exist in an interstate system that is the hegemonic political configuration of the capitalist world system and world economy. At the end of this century, the interstate system is undergoing sweeping changes, most notably in the European region of the world system, as a consequence of the demise of the Communist regimes in Central and Eastern Europe. But, more generally, the dramatic intensification of transnational practices in the last two decades has produced transformations in state structures and practices which, though they may differ according to the location of the state in the world system—core, semiperiphery, or periphery—are nonetheless decisive. Contrary to what happened before, the main driving force behind the transformation of the state and its legality is the intensification of transnational practices and global interactions. Under such pressures the regulatory functions of the nation-state become derivative, a kind of political franchising or subcontracting.

Even assuming that this is a universal phenomenon, it takes very different forms in the core, the periphery or the semiperiphery of the world system. The world system position of the state affects its role in social regulation, as well as its relationship with the market and with civil society, phenomena that world system theory has discussed in terms of the relative strength of the state, both internal and external. The consequences of this for the production of law inside each state territory are not automatic, but they are certainly decisive. The question to be answered is not only about the degree to which the legal monopoly hypothesis is falsified but also about the degree of isomorphism between state-produced law and nonstate-produced law. The diversity of the phenomenon observed calls for a comparative effort on a global scale. Moreover, the world system perspective does not limit itself to emphasizing structural location. It also emphasizes historicity and temporality. In Chapter Four, I present a multidimensional comparative framework designed to account for the historical differentiation among various

forms of legal transnationalization occurring simultaneously throughout the world system.

Besides the state and the world system, another wider context for the debate on the plurality of legal orders should be mentioned: the political meaning of legal plurality in the specific historical conditions in which it occurs. After the collapse of the Communist regimes in Central and Eastern Europe, after the democratic transitions throughout Latin America in the last decade, after the cases of revolutionary regimes voted out of office through democratic elections, as in Nicaragua and the Cape Verde Islands, after the end of apartheid in South Africa, after the conversion of powerful guerrilla movements into parliamentary parties, like the M-19 in Colombia, after the peace negotiations in Angola (notwithstanding the poverty of their results so far), El Salvador, Mozambique and in the Middle East, democracy assumes, at the end of the century, a seemingly uncontested legitimacy, a fact that strikingly contrasts with other concepts of political transformation nurtured by modernity, such as revolution, reform and socialism. However, in apparent contradiction with all this, the less contested the political value of democracy, the more problematic its identity. Is there a unitary concept of democracy? Is it possible to explain through a general theory all the different political processes across the world system which can be identified as processes of democratization? Is democracy a Westerncentric device of social regulation, or a potentially universal instrument of social emancipation? Is there any relation between the seemingly universal trend toward democracy and the transnationalization of the creed of economic liberalism? To what extent is the democratic trend articulated with some other trends of an opposite sign (growing social inequality both between the North and the South and within countries of the North and South; growing authoritarianism over private life)? How can democracy be so uncontested when almost all of its satellite concepts are increasingly problematic, be they representation, participation, citizenship, political obligation or the rule of law?

These questions and many others that could be asked are indicative of the great theoretical effort that lies ahead. In my view, the clarification of the relationship between law and democracy is particularly crucial, and here the discussion on legal plurality may be very illuminating. A conception of sociolegal fields operating in multilayered time-spaces is likely to expand the concept of law and, consequently, the concept of politics. It will be thus suited to uncover social relations of power beyond the limits drawn by conventional liberal theory and, accordingly, to uncover unsuspected sources of oppression or of emancipation through law, thereby enlarging the field and radicalizing the content of the democratization process. As is explained in detail in Parts Three and Four, democratization is every social process consisting of the transformation of power relations into relations of shared authority. In light of this definition, the idea of legal plurality has no fixed political content. It may serve a progressive or a reactionary politics. The same situation of legal plurality may "evolve" from one type of politics to the other without much change in the structural or institutional arrangements that support it. It comprises, as much as the state itself, social relations that change over time. The despotic or democratic value of specific legal orders varies widely across the legal configuration of any given society. Such variation may be related in different ways to the world system position of the country and also to

the specific historicity of the construction or transformation of the state. In light of this, there is no intrinsic reason why state law should be less despotic or, for that matter, less democratic than nonstate law. There are, of course, many nonstate legal orders that are more despotic than the state legal order of the country in which they operate (for instance Mafia law). Indeed, I would submit that in core states, particularly in those with a strong welfare state, the state legal order is probably less despotic than many nonstate legal orders existing in those societies. The extreme variety of situations in peripheral and semiperipheral societies should caution us against the formulation of a general inverse hypothesis concerning these societies. In situations in which state law can be considered more democratic than nonstate law, the importance of the conception of legal plurality lies in its relativization of democratic content within a broader legal configuration. In other words, the democratic content of state law may be premised upon its coexistence with despotic nonstate legal orders with which it interacts and interpenetrates in different ways. As already indicated in Chapter Two, though part of the legal configuration, such nonstate legal orders are denied the quality of law by the hegemonic liberal theory of the state and law. For that reason, their despotism is prevented from overshadowing and relativizing the democratic nature of the only officially recognized legality—the state law. By denouncing this ideological occultation, legal plurality may reveal some hidden faces of oppression; but by the same token it may open new fields of emancipatory practice.

The state, the world and the politics of legality are the signposts of the broad context in which the multiplicity of legal time-spaces is discussed in Chapters Three, Four and Five. In Part Three a theoretical reconstruction is proposed that is aimed at putting the politics of legality on a new footing and on a new and hopefully emancipatory course.

This is a transitional book. It challenges the paradigm of modern science at the same time that it develops an argument partially based on empirical research conducted according to the rules of the method of modern science. It also purports to be a self-reflexive book. The epistemological critique undertaken in Chapter One should be brought to bear in the empirical studies presented in Part Two. This purpose is, however, as easy to proclaim as it is difficult to fulfill. Because in a paradigmatic transition the emergent paradigm necessarily lacks the appropriate methodology, the empirical research, no matter how epistemologically alert, tends to be conducted according to the methods available: those of the dominant paradigm. As a result, the empirical research is always more subparadigmatic than the epistemological critique to which it can be submitted. Moreover, because the research programs are formulated within the dominant paradigm, even when they try to break with it, the transgression bears the mark of what it transgresses, which thereby vindicates its presence in unsuspected forms.

The paradigmatic critique cannot, therefore, purport to raise the empirical research as such beyond the limits of the dominant paradigm that has generated it. But it can show it those limits. And because for postmodern knowledge, as proposed in Chapter One, science is autobiographical, such limits may become visible as the author is restored to the center of his or her work. This much can be accomplished and should be accomplished in a book purported to be self-reflective. The attempt is made in chapter e, which can also be called Chapter Three-in-

the-mirror. It is an autobiographical account of the most extended empirical research reported in this book, the Pasargada research. It does not propound to be a profound questioning of the empirical research in the name of a superior knowledge. On the contrary, if anything, it is a story about the precariousness of knowledge. It is a story about a story, which self-consciously would welcome a third story about itself. The metaphor of the mirror is not used here in the Lacanian sense of the mirror stage. According to Lacan, the child takes great pleasure in the correspondence between its own movements and those of its reflection in the mirror, because thereby the child liberates itself from its dependence and assumes its own identity as the image of an image: "the transformation which takes place in the subject when he assumes an image."[9] Chapter e purports to be the opposite of this: it is an anti-Lacanian mirror. Rather than gaining a well-composed identity when looking in the mirror, Chapter Three gains the full consciousness of its being "still sunk in [its] motor incapacity and nursling dependence."[10] As in other instances in this book, the master here is not Lacan but Montaigne, who says at the conclusion of his essay on experience:

> we seek other conditions because we do not understand the proper use of our own, and go out by ourselves because we do not know what it is within us. So it is no good our mounting on stilts, for even on stilts we have to walk with our own legs; and upon the most exalted throne in the world it is still our own bottom that we sit on.[11]