ANGLOPHONE AND CIVILIAN LEGAL CULTURES: Finding a language of law for the global age

Joseph P Garske

jpg.today@yahoo.com

857-204-4600

Joseph P Garske writes and speaks on topics of legal culture, technology, convergence, and globalization. He holds a bachelor degree in Social Science (History) from Harvard, and serves as Chairman of THE GLOBAL CONVERSATION.

ABSTRACT:

The paper begins by explaining how the project of globalization is founded on the basis of law, how that basis is comprised of two competing Western traditions, Civilian and Anglophone, and how those two traditions represent very different understandings of what law is.

The paper continues by discussing how Continental law developed out of the theological and philosophical tradition of the medieval university, how it operated within a framework of principles, and how the university scholar was the central figure of that law.

The paper explains how, by contrast, the English Common law developed as a medieval guild of trade in the commerce of litigation, how it operated on the principle of consensus, and how the judge who presided over its collegial foundation was the central figure of that law.

The paper then discusses how the period after 1500 brought major technical change—including maritime compass, gunpowder weapons, and printing press—and how, on the Continent, this made possible the rise of national legal regimes, national languages, and nation-states.

The paper explains how, in England, these technical advances led to a restatement of its law into a fixed English language, how its legal tradition became integral to a new form of parliamentary monarchy, with an unwritten constitution based on the use of a spoken language.

The paper then discusses how a second technical revolution in the nineteenth century—with steamship, railroad, and telegraph—brought imperial competition, revealed the inadequacy of English law, and gave rise to an Anglo-American culture of legality.

The paper explains how technical development in the twentieth century—radio, cinema, television, and computer—made English an international language, and how in the twenty-first century new innovations made English a global language among all peoples and regions.

The paper then sets forth how the two laws Civilian and Anglophone are, respectively, universal and transcendent in their operations, how Civil law requires knowledge of ideological principles, while the Anglophone law only requires understanding the language of judicial authority.

Finally, in concluding, the paper discusses how the two legalities, Civilian and Anglophone, each have different advantages and disadvantages, that one advantage of the Anglophone method for a global Rule of Law is its collegial adaptability and its direct use of language as a method of rule.

KEY WORDS: Anglophone law, Civil law, English language, Rule of Law, globalization

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1. LAW AND LANGUAGE

The project of globalization is often thought of in terms of technology, commerce, communication, and travel. But it has an important legal aspect as well. In fact, all of the great advances in technology--the ability to transmit sound and image, the ability to transfer and store information, to trade and travel across distance--take place within an atmosphere defined by law, and against a standard of legal oversight and regulation. More than that, each of these advances emerged from a process of research, patent, copyright, finance, and incorporation. Each of these steps shaped their eventual use and impact on the world—all processes that were legal in nature.

Moreover, governing structures that are being assembled to tie all localities and peoples together into a single seamless unity around the world are constructed on a foundation of law. Whether this involves the merging of nation-states, treaty agreements, international organizations, or multi-national corporations, all of these entities and initiatives are fundamentally legal creations. Their methods of oversight, governance, and regulation are done by instruments of legality. Even those elements of crime, terror, subterfuge, and warfare that may occur outside the boundary of legal constraint are defined as being prohibited and are investigated and suppressed by means of legal authority. (Slaughter 2004: 166)

However, in this proliferation of legal instruments and institutions there are many challenges concerning how a global regimen of law should be constructed. For one thing, many national governments are involved, each of which has its own legal system. There is continuous debate not only over methods to solve immediate and practical problems, but there are questions as to how a global regimen should be framed, according to what standard, and decided by which body. It goes without saying that such questions and problems can become extremely divisive, because they can involve matters of national interest, or sometimes national survival. But even more than these practical problems, there are deep questions about what kind of legal regimen should be constructed, and for what ultimate purpose.

The central axis around which this discussion revolves are the two great legal systems that developed out of the Western tradition. These are usually referred to as the Continental, or Civil law on one side, and the English Common law, or Anglophone law on the other. Outwardly these two legal traditions seem to have much in common, however, there are stark differences that divide them. Obviously, they both have courts presided over by judges. Lawyers or advocates represent clients and present arguments in both systems. A continuous production of legislation shapes the internal content of the work in both legal methods. (Habermas 2008: 115)

But on a deeper, less obvious level, they have very different conceptions of what the law is, or should be. They employ very different methods in their work. They have wholly different views on what underlying purpose should guide the work of legislatures and courts. As traditions of law with these important differences, they also take part in the project of globalization in different ways. Moreover, when being employed to assemble what amounts to the legal basis for a future world order, each has certain advantages in its approach just as each has certain disadvantages.

There are many ways to contrast approaches to a global regimen under these two legal traditions, Civilian and Anglophone. But in doing so, there is perhaps no more useful way than to examine them from the perspective of language. That is, the matter of using which language or languages to construct this enveloping mechanism of governance. In fact, the proliferation of English as a global language in the late twentieth century has a great deal to do with the legal method coming to predominate in this new legal foundation. The Anglophone approach, in turn, has a great deal to do with how and why a global regimen of governance is being constructed in a particular manner. But perhaps the key to understanding, within this context, the purely legal significance of language in both traditions, is to begin with a fundamental difference that separates them. Examining this difference can provide an important way to understand the meaning of globalization.

2. PRINCIPLE AND CONSENSUS

Both legal traditions were born, almost simultaneously, in the eleventh century, and they continued to develop in parallel isolation from one another since that time. Although they have inevitably borrowed from and influenced each other, their limited contact over the centuries was infrequent and usually unfriendly. To understand their different approaches, it is useful to return to the medieval period to examine their nascent forms and to identify what was basic to the nature of each. Although their origins were very different and occurred far apart, their beginnings were actually both part of a great turning point in Western history usually called the Gregorian, or Cluniac Reform. This seminal event began to unfold with the rise of Gregory VII as Bishop of Rome in 1073. Although generally viewed in religious terms, it also marked the onset of a legal transformation that would take place across all of Latin Christendom.

The beginning of the Civil law tradition is usually marked from the founding of the University at Bologna in 1088. That institution was, from its inception, a place for the study and teaching of law. The great scholars Accursius and Irnerius attempted to adapt the rediscovered Roman Code of Justinian to a rather backward and agrarian medieval world. The result was a legal regime that combined the two elements of jurisprudence and theology, the jus commune, or common law of all Christendom. Following on these origins the study of law came to be integral to the university tradition of the Latin world. Over time the University at Bologna, and those universities that followed it, included in their course of study not only legal matter but also other disciplines. These included literary, philosophical and artistic elements that comprised the whole of Western tradition extending back to the ancient Greeks and Romans. Law came to be considered one part of a great continuum of knowledge that comprised a single unified whole. (Radding 1998: 158)

At Bologna, the language of instruction had been, of course, Latin, the universal language of scholarship. But the students who gathered there were often from many parts of Christendom, each a native speaker of the vernacular from his own region. Most of these dialects were variations of the Latinic, French, Germanic, and Slavic linguistic groups. It was also quite natural for the students to house themselves together in lodges as a natio, or nation, in which they spoke their common language while living together at the university. When the students completed their training and returned to their home regions, the bond of fellowship made in each natio continued, and over generations came to be more formalized into a kind of permanent legal fraternity. Because the concepts and principles of the Roman law were abstract in nature, those principles could be adapted to any language. Thus, a kind of rudimentary national law began to develop in each separate region of Europe. Yet, all of the kingdoms, principalities, and cities of Christendom were still united under a broad panoply of legal principle that was expressed in Latin, and was universally intelligible among them. (Bellomo 1991: 55)

Although this realm of law included England, there were other separate and peculiar aspects to legal development in that kingdom that did not exist on the Continent. Historians mark the origin of a unique tradition of English law from the time of the Norman Conquest, in 1066. In that brutal invasion, one of the turning points of history, tens of thousands of innocent victims died. Entire regions were depopulated as virtually all the arable land was distributed to an imposed nobility of foreign invaders. William I established a highly centralized form of rule over what came to be the servile population of an inescapable island domain. Norman rule was extremely harsh, often imposed under the auspices of an absentee king. Included in this new regime were three Royal Courts of Justice centered in London. The main function of these courts was to resolve disputes between the nobility over questions of possession and title to land. Land was extremely important, because during the medieval period it was virtually the only form of wealth and the main source of revenue for the king. (Lesaffer 2010: 207)

Originally, the three Royal Courts were presided over by judges who had been trained at Bologna. But, following a dispute in 1166, King Henry II banished the learned jurists and took control of legal matters himself. Attached to the courts was a retinue of recorders, messengers, servants, scribes, and guards--functionaries who, in the practice of the time, had organized themselves into guilds of trade to enlarge their specialized commerce and to exclude unwanted competition. In place of the jurists, the king granted a monopoly to the guildsmen, who would thereafter operate the courts. The arrangement worked well for the king, because the courts now worked at no expense to him. Instead, the guildsmen were self-supporting from the fees and gratuities they extracted from the litigants, and the royal treasury benefitted from a continuous flow of fines, bails, and forfeitures.

From that time forward, the guildsmen operated their courts as a commerce in litigation. Like all such fraternities of trade, theirs was an organic fellowship based on oath of membership and an enforced discipline. Being only semi-literate during an age when most persons could not read and books were scarce and precious, they developed their own peculiar terminology that eventually became secreted among them as the basis of their trade. As a collegial body, they operated on the basis of internal consensus, their method of practice developing by increments over centuries to match ever-changing circumstance. Because their internal procedures worked mostly by the fluid means of persuasive oratory, continuous adjustments were not difficult to make. (Baker 2002: 30)

The method and learning of the guildsmen had almost nothing to do with legal scholars or the university. Within the workings of English Common law, the judge, like the king in Norman Kingship, acted as an oracle of law; his pronouncement was quite literally law, because he had spoken it and could enforce it. The judge derived his coercive power from the monarchy, but he received his authority as judge from the fellowship of trade in which he was embedded and in which he was presiding authority. The Civilian professor of law, by contrast, was part of a community of scholars and was the central figure in developing the Continental law. His task was fundamentally a philosophical one: to reconcile the need for order with the larger understandings of human life and its meanings. But the Law Doctors and their Romanist teachings were shunned as anathema by the English guildsmen.

3. THE MODERN AGE

A profound change began to overcome the medieval world around the year 1500, a change made possible by a dramatic advance in technology. Although many engineering and scientific advances came during that period, none were more important in their effects than what came to be called the Three Great Inventions: maritime compass, gunpowder weapons, and the printing press. Their impact was both immediate and profound. The compass brought improved navigation, an increase of foreign trade, and the rise of fabulously wealthy cities. The new weapons brought mass armies and a kind of total war that had never been seen before. The printing press brought an ease of publication and widespread literacy. Moreover, with the innovation of moveable type, books could easily be published, not merely in Latin, but in the vernacular languages spoken in the various parts of Christendom. (Misa 2011: 19)

There were many factors giving rise to what became a dramatic turning point, but two were especially important. On one side was the increasing influence of the newly ascendant merchant class, a class that was impatient under rule by the old landed nobility. They also resented the strict regulation of commercial affairs under provisions of the jus commune. The second factor, and allied with the merchant class, was an increasingly powerful stratum of judges and advocates in each region. They resisted close oversight by the Universal Church, which at that time, in its combined religious and secular aspects, represented the single great unifying body of authority in the Latin world. The Church, after all, was not only a religious institution, it was equally a legal one. Its continuing predominance through the centuries was not only sustained by its doctrinal teachings, but also had much to do with the acumen of its judicial bishops and the brilliance of its canon lawyers. (Bellomo 1991: 65)

The result of these converging factors, old and new, ecclesiastical and secular, manorial and mercantile, was a period of civil and religious upheaval that engulfed Europe and England throughout the sixteenth and seventeenth centuries. It would finally resolve itself only after an unprecedented catastrophe of bloodshed and destruction. Out of an accommodation between the old nobility and the rising merchant class, the old Church and the national religions, Christendom was broken into a pattern of nation-states, each with its own language, its own religious teachings, and its own law. It would not be an exaggeration to say that the Three Great Inventions had been the catalyst that made these changes, not only possible, but almost inevitable.

From a legal perspective, this was especially true in the case of the printing press. Moveable type had made printing in the various languages possible. With only a change in the order of characters, books could now be published in any language. They could be produced inexpensively, distributed widely, and literacy became common. With a code of law, a Bible, and a reading public in each national language, a world of nation-states became practical. Moreover, because the Civil law was based on abstract principles, that law could be adapted to the use of each of those polities. The triumph of the nation-state, symbolized by the Peace of Westphalia in 1648, was the crowning achievement of the Civil law tradition, and was based on the principle of sovereign nationality. (Bellomo 1991: 108)

In England, the period of chaos and bloodshed which occurred during the sixteenth and seventeenth centuries resolved itself somewhat differently. But events there were also shaped by the confluence of a rising merchant class and the impact of the great technical innovations. One most critical change was that the Royal Court lawyers, under the great jurist Edward Coke, worked to restate their law in a standard English, and began to adjust its methods so they could now litigate matters of monetary as well as landed interests. Once again, in this new phase of development, the Royal Courts had established themselves at the crucial juncture where knowledge of the law coincided with the power of wealth. Although their power within the monarchy had already increased over the centuries, their alliance with the merchant class gave them infinitely more power. Instead of being merely a kind of bureau within the monarchy, serving at the pleasure of the king, they had now come to dominate both the Criminal Courts and Parliament. Eventually, this combination of a revised law and new wealth was able to overthrow the Monarchy itself. (Lesaffer 2010: 336)

In its place, they established a theocratic Puritan Commonwealth in England. But after its failure and a brief restoration of the old monarchy, the Glorious Revolution brought a change--a counterpart to that which had occurred on the Continent at Westphalia. England now had a Parliamentary Monarchy which was founded on three elements. First was a new king invited from Holland, William III. Along with that was a reconstituted House of Lords, no longer comprised of men-at-arms, but instead of men who had both landed and monetary wealth. Finally, the House of Commons was reconstituted in such a way that the guild lawyers were integral to the foundation of government itself. With the infusion of Dutch financial and naval resources, London soon became the capital of a vast imperial system.

The new Constitution of 1689--famously unwritten-- was organic in its makeup and fraternal in its operation. Unlike the Civilian nation-state, the English method of rule was inexplicit in its construction and amorphous in its procedure, unconstrained by rigid principle or doctrine. Its departments and functions were highly personal in nature, not clearly defined as institutions. The entire hierarchy of rule—from the hereditary and ennobled at the top, and the professed and fraternal in the middle, to the great mass of individuated subjects at the bottom—moved by small increments to match changing conditions in Europe and around the world. Even its methods of Common law, proudly insular, employed elements of both Civil law and the Law Merchant from Europe. But the unifying element holding the entire edifice together, including its heredity peerage, and its professed fellowship of law, was its mono-phone reliance on the English language. That language, highly cultivated and effectual in its use, became the primary, and illocutionary, instrument of rule.

4. GEOPOLITICS AND CRISIS

For more than eight hundred years, the two traditions of law, Anglophone and Civilian, operated and developed in relative isolation from one another--that is, until a second technological revolution brought dramatic change during the nineteenth century. Many mechanical and scientific advances appeared at that time, but they can be symbolized by three: the steamship, railroad, and telegraph. Their impact was not as profound as those of the fifteenth century; but they were equally important in that they had the effect of spreading the Western modes of commerce and governance to all parts of the world. With new abilities of trade and transport, conquest and control, a new form of modern empire began to arise. England, which had become the undisputed arbiter of world order, now had competitors from among the Continental nations. Various countries had moved quickly to acquire or annex any remaining unclaimed territory around the world. Among them were Italy, Belgium, Russia, and especially the recently unified Germany. (Lesaffer 2010: 431)

The world came to be defined in terms of geopolitics and now existed under threat of a possible worldwide war. Not only were the Continental nations able to employ the new means of communication, commerce, and warfare, they also had one important advantage over the British. Until that time, Britain and its Empire comprised a rather haphazard collection--a Mother Country and an assortment of colonies, outposts, and dependencies. Administered by treaty, client kingship, and military compulsion, it was not really an empire in the sense of a uniformly governed realm. One reason for this deficiency was that Britain had no adequate system of law for such organization. The old Common law was an anachronism, quaint and often crude in its application, suited only for the topography and people of the island kingdom where it had originated. This legal weakness in the imperial structure had shown itself most dramatically with the loss of the American Colonies, beginning in 1776. But, during the nineteenth century, that weakness had an even greater potential importance: it might now imperil the very existence of the Empire itself.

By contrast, the Continental Empires were able to not only administer from afar, they were able to explicate and adapt their form of law to various populations in distant regions, and in the local language. As this competition of empires grew more alarming, Britain sought a legal answer to the geopolitical problem. Ironically, it did so in Europe, the one place where knowledge of an imperial law was available. Leading jurists, including John Austin and Henry Maine were the first who travelled to the University of Berlin, which had become famous around the world for the study of law. They and others launched a program to surpass the old formas and writs of guild law by creating entirely new legal instruments—especially of contract and corporation. By adapting the Continental methods of legal reasoning, a medieval fellowship of law began to engage the modern imperial world in a way that came to be called Abstractionism, or Formalism.

But to these legal methods were added a geopolitical strategy as well. Britain mounted a concerted diplomatic offensive to win back the United States as its strongest and most permanent ally, to balance against both its European rivals and Russia. This new Atlantic Alliance would be based on historicism, racialism, commercialism, intellectualism, and especially legalism. American law, which had itself become highly influenced by German scholarship, now began to re-align itself with the Anglo-Saxon tradition. A great world war effectively ended German legal influence in America and around the world. Within a generation the English-speaking peoples had come to be united as a predominant force in world affairs. (Churchill 1983)

5. A TECHNOLOGICAL TURN

One factor contributing to the scale, ferocity, and destructiveness of the second worldwide war was the advent of new types of communication technology, particularly radio and cinema. For the first time, using these devices, it was possible to mobilize entire national populations for purposes of production and warfare. This was also an important factor in the nation-state reaching its highest level of consolidation during the early twentieth century. Political leaders in each country, each national enclave, each with its own language, were able to unify their people against foreign rivals. One result of this ability to create and orchestrate atmospheres of thought was, of course, a scene of unparalleled carnage, as well as the eventual perfection of the ultimate weapon of war, the atomic bomb.

One other outcome of the second worldwide war was the ascent of the English-speaking realm, with its military power at its peak and its industrial capacity almost unscathed. Having such advantages, it was not surprising that the Anglophone nations came to dominate trade and finance around the world. One incidental aspect of this rise was the proliferation of English as an international language of commerce, of broadcast, and even diplomacy--especially among the affluent and educated classes on all continents. Moreover, those countries that had once been either colonies or possessions of the British Empire—including not only Britain and America, of course, but also Canada, Australia, New Zealand, and, on a jurisprudential level, Hong Kong, Singapore, and Israel—amounted to the skeletal basis of an alternative world system based in a fellowship of law and a common language. Northrop 2013: 75)

But the first half of the twentieth century was only a prelude to much more dramatic technological developments to come. The latter part of the century brought even more phenomenal devices, especially television and the computer. Initially, their effect on systems of government and methods of law seemed to be contradictory, both potentially strengthening and weakening. The computer was an unqualified positive for the multi-national corporation, with its calculative and data storage capacities, and the ability to direct information and its uses. This made international finance and trade matters of instantaneous transaction, while it brought new potentials for corporate management over long distance. However, although large business enterprises benefited, such abilities began to undermine the protective borders of each individual nation-state.

At the same time, television expanded the reach of commerce with an ability to create large audiences of viewers across each national territory. Marketing campaigns could now reach entire populations. But television was also able to instantly broadcast graphic stories, especially from distant countries around the world, countries that had existed almost beyond public awareness in the world centers of power. Unregulated journalistic influence contributed to discontent and upheaval, which sometimes erupted into demonstration and revolt, not merely in the third world, but in Europe, England, and America as well. However, once again, television and computer were merely the second wave of advance, and would be followed by a third wave with the arrival of the twenty-first century. The new age of technology brought not only change; instead, it brought change as the basis of a way of life, and it did so around the entire globe. (Misa 2011)

By the beginning of the twenty-first century, the new computer and communication networks had made it possible to penetrate any domicile on the face of the earth with a constant flow of electronically transmitted sound and image. Any amount of information could be transmitted from any one location on earth to any other. Capital, resources, and labor could be assembled, and military invasion carried out on any continent, regardless of distance or topography. Enormous networks of communication had come to encircle the earth, leaving a world of nation-states in disruption. Moreover, because of their strategic advantage, the English-speaking nations led in these developments as well. Now, English was not only an international language among a high stratum of finance and trade. It was also becoming a global language, spoken at least on a rudimentary level by nearly the entire rising generation in every region of the world.

6. UNIVERSAL OR TRANSCENDENT

Both traditions of law, Anglophone and Civilian, are extremely important and both were extremely influential in the project of building a seamless atmosphere of oversight and governance across all lands and peoples. But they approached the task in two different ways, with different ultimate purposes in mind. These differences are basic to the nature of each, and can be traced in their nascent forms, back to the simultaneous beginnings of both laws in the eleventh century. In that these traditions represent two different foundations upon which governance is based, they have different ways of ordering human life and shaping human thought. They approach the project of globalization in different ways. (Habermas 2008: 115)

Because of differences in the two legal approaches to shaping a global order, each had certain advantages and each had certain disadvantages. In particular, these varying aptitudes derived from the fact that the Continental was universal in outlook and the Anglophone law was transcendent in its operation. Universality carries with it the implication that a law can apply equally in all regions, to all people of every rank and status, rich or poor, male or female. Its principles can be everywhere valid because it is based on the assumption of certain capacities and potentials that are naturally inherent to all humans. It is not based on a premise of superiority and inferiority of persons, on a division between privilege and right, knowledge and ignorance, or ethics and norms.

In that sense, it produces a legal culture built as much from the ground upward as from the top downward. Because of its optimistic view of human capacity, the balance between coercive and persuasive elements of its legal method, weigh heavily toward the educative. It values culture in the sense of cultivation of all persons in thought, word, and deed. It assumes that among a people of culture and learning, where familial bonds are strong, where local custom is respected, persons are able to govern themselves. To the extent that a people are able to conduct their own affairs, they will have less need to be ruled over by the coercive force of law. All of which will conduce to a happier and more prosperous way of life. Because of these assumptions, its first concern is that all persons within its realm are educated in its egalitarian premise. In other words, it is unified on the principle of philosophical, or ideological, understanding.

By contrast, the Anglophone tradition claims to be transcendent, with an authority superior in its workings above all persons and things. Because of this elevated independence, it can preside over the affairs of human thought and action—and can do so impartially. In its view, attributes of culture and learning among the public are much less important. In fact, those attributes could be disruptive or destabilizing, especially where ancestral family bonds and local custom are a competing influence. Only the inviolable sanctity of its legal oversight among the population can be the basis of legitimate rule. Thus, its first concern is always to maintain the hierarchy of authority in place. (Kennedy 2016: 218)

What this transcendent law offers, however, is an unusual degree of freedom; but it is freedom within established limits. In other words, individual persons are free to think and act in any way they desire, as long as they do not exceed the boundaries set by judicial authority. Because of this approach, in the tandem elements of adjudication and education within its legal culture, the vitally important one is the adjudicative side. If the sovereign authority of law fails, the society of persons it oversees—where communal ties have been reduced, families atomized, where custom and culture have been purposely effaced—its collection of individuated persons will inevitably fall into anarchy. In order for its method of obedience to be effective, those ruled over only need to be able to understand the language in which that authority expresses itself. In other words, it is unified in the principle of language comprehension. (Glidden 1991)

7. LANGUAGE AND GLOBAL LAW

As the twenty-first century began and the seismic impact of technology spread across the earth, the two necessary linguistic elements of Anglophone legal culture were being completed. Those were, first of all, a fellowship of adjudication that had already been wielding enormous power around the world. It was united by commonalities of training, interest, purpose, and by a common language. But, most of all, the second essential element of Anglophone rule was being added: an understanding of its language of authority by the global public. In fact, an entire rising generation around the world was coming to be conversant in English. But even with the miracles of technology and the proliferation of a common language, there would still be the always unbridgeable chasm separating those above from those below in an Anglophone legal realm. The combination of linguistic penetration and technical advance had now made this division possible in a different way and on a global scale. (Misa 2011)

In this new regimen, much of the transcendent ruling strata would operate as it had before. It would still work on the principle of face to face collegiality. The basis of such an organic tradition was, after all, highly personal involvement and interaction. It began with induction to membership and investiture to office; it developed a bond of cohesion by close familiarity and mutuality. Its members were not joined together by institutions, doctrines and principles, or religious beliefs—even though all of these may be employed as instruments of legal rule. Instead, fundamentally, the fellowship was joined by voice. That is by the oath of membership, the argumentation of their procedures, the oracular pronouncements of their judges, and the constant deliberation by which they maintain a workable consensus among themselves.

By contrast, the many publics of the world would be comprised of dispersed families and individuated persons. Communication between them would be formatted primarily through mediated channels. Moreover, they would be prepared for this status and condition, not by an inefficient and laboriously inculcated ideology as in the past; but instead, they would be informed by a continuous flow of electronically transmitted sound and image. Instead of structures of knowledge instilled, they would be guided by a continuous and immersive flow of information. For purposes of legal rule on a global scale, the level of culture and learning of the global public would be less important than their access to the electronic sources of information. They would have a mediated contact with other persons and a mediated understanding of the world. As the global population was instructed in the benefits of the mode of governance that oversaw all peoples of the world, they would more readily comply with its authority.

In this paradigm of transcending legal rule, it is only necessary that those who comprise its collegial membership understand one another, and that they, in turn, are able to shape the understanding of the subject population. It is not principle or institution that provides cohesion for the whole. Instead, the method requires only internal consensus among its members and a uniform compliance among the global public over which it extends its legal rule. With such a regimen, it is necessary that the whole be done in a single language.

The great advantage of this organic approach to legal rule is that it can be highly pragmatic and adaptable to changing circumstance. Unlike the Civilian approach, it is not bound by impinging principle and inhibiting doctrines. Nor is it forced to undertake the prohibitively expensive task of educating an entire global population, in innumerable languages, in the complicated ideology of universalism. Instead, peoples of the world can remain individuated, separated by identities of culture, ethnicity, gender, and degree of wealth, but united by a common language. At the same time, a unified legal stratum can confront and overcome difficulties and threats to order pragmatically, as they are encountered. Its only real requirements are internal consensus among the fellowship and external compliance among the public. By this means, it may be able to provide, for the first time in human history, a stable and cohesive, overarching and seamless legal authority--an Anglophone Rule of Law in the age of globalization. (Breyer 2015: 167)

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