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Towards a New Antecedent Legal Method

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Summary

The law is a matter of choice. To choose the law is to privilege one set of rules over another and to make one decision rather than another. These choices are dominated by an a priori understanding we have of the subjects to which we apply the law. These a priori can be assumptions, presuppositions, prejudices, paradigms, beliefs, commonplaces, biases or emotions. The crucial question is how we can address this initial understanding in a way that fuels an original critical re-consideration of the law. An answer may be found in the philosophy of science. Two accepted definitions of the a priori coexist. In the first, an a priori is understood as a transcendental justification of knowledge. In its second and most usual meaning, it is a prejudice.

The perspective of a new method to be constructed seeks to demonstrate that these two perspectives lead to an epistemological impasse when applied to the law. There is considerable debate as to whether the law is a science, whether there is a specifically legal knowledge, and whether it is possible to use experiments in this field. These endless controversies are sterile. We need a wide-ranging and inclusive research of a priori, here renamed as "antecedents", to provide a true epistemological opportunity for the field of law.

The law creates its own world. No objective reality or scientific truth imposes itself mechanically in law. The law is always a matter of choice. To set the law about one or another social or natural phenomenon is to choose one rule over another and make one decision rather than another. For example, for a long time under French civil law, animals were not given a particular legal treatment. Not considered persons, they were not distinguished from other movable property. The law was recently amended (2015). Animals are now considered living beings endowed with sentience. But their legal status remains that of things! The law thus distinguishes animals from things, but it does not endow them with their own legal regime. We can say, as others have done, that "the law is another world" (Hermitte 1999).

Choices of law are rarely completely free. They are subject to a whole series of internal (Troper et al. 2005) or external (highlighted, for example, by American and Scandinavian realist approaches, in particular Millard 2014) constraints on the law.

Among these constraints are what may be called the "a priori" of law, that is to say all the assumptions, presuppositions, prejudices, paradigms, beliefs, commonplaces, biases, and emotions that exist prior to

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the legal intervention. In fact, the initial comprehension that the different stakeholders in a legal situation – whether they are legal professionals or not – may have of the situations that they encounter or in which they participate has a potentially decisive impact on the choices of law. By keeping them at a distance from the legal field (external constraints), fighting them (biases, prejudices, commonplaces) or largely ignoring them (assumptions, paradigms, beliefs, emotions), we fail to make these choices intelligible, which ultimately means that we fail to develop a critical perspective on the law.

One or another isolated a priori has of course been studied by legal doctrine (see, for a simple illustration, regarding postulates: Pinard 2014; presuppositions: Höfler 2014; prejudices: Antonmattei et al. 2016; paradigms: Atias 2002; beliefs: Noonan 1976; commonplaces: Adam et al 2014; biases: Persad 2014; and emotions: Strickler et al. 2021). However, it cannot be said that there is today an overarching approach capable of occupying a significant place in legal thought. Legal studies focus most often only on the legal subjects, willingly neglecting discussion of anything that may have existed before the rules of law. Although a few rare legal theories have been put forward on the specific subject of a priori (Reinach 1913; Gardies 1972), they never had a sufficiently strong impact to leave an impression and influence legal practices. Finally, while the a priori argument does exist in law, especially in the practice of issuing sentences and in questions of evidence (Gorphe 1947), it has never been based on a method capable of grasping all the a priori at once.

Unlike the law, the philosophy of science offers particularly rich frameworks for interpreting a priori. But for reasons that are specific to law, these frameworks constitute an epistemological impasse. It is necessary to turn the tables and make the "antecedent" method an epistemological opportunity for the law. A new working methodology can thus be proposed in different steps. It can be tested on subjects related to major societal challenges.

The theorization of a priori in the philosophy of science: an epistemological impasse for the law

We must first turn towards the philosophy of science¹ when trying to approach the notion of a priori (Kant 1787), because the most significant work has been done on the subject in that discipline.

A priori is an ambiguous concept in the philosophy of science. It has two main meanings: the transcendental sense and the usual meaning of "prejudice". Both meanings deserve to be studied jointly, in order to explain their respective meanings, and also to remove confusions in their use.

In the first sense, a priori has a transcendental Kantian dimension. A priori designates a category of knowledge considered independent of experience. As such, a priori is a transcendental justification of knowledge. If it is possible to justify knowledge without experience, then knowledge is incorruptible, since it does not depend on our perceptions.

In its usual meaning, the notion of a priori refers to prejudices, and in particular to paradigms (Khun 1962), beliefs, commonplaces, biases (Fiedler and Krueger 2011) and emotions. These prejudices are the result of individual or collective perceptions and interpretations (Gadamer 1960; Heidegger 1927; Ricoeur 1994). They may be cognitive, political, sociological or historical (Foucault 1966; Khun 1962).

These different understandings of a priori have been the subject of many studies spanning the theory of knowledge, the philosophy of science and epistemology (Gödel 1931; Quine 1963).

¹ I would like to thank Mrs. Anne-Laure Thessard, project engineer involved in the preparation of the "Antecedent" research project (<http://www.universitates.eu/jsberge/?p=26695>), for her contribution in philosophy of science, of which we will give here only a very brief overview.

Although we consider that the philosophy of science, understood in the broadest sense, makes a major contribution to the theoretical study of the different types of a priori, transcendental or ordinary, we must nevertheless recognise that it constitutes an epistemological impasse for the law.

It is no coincidence that a priori have never been the basis of theories of great scope and influence in law, equivalent to those we know in the field of philosophy. Moreover, although an authority like Kant (Kant 1787) occupies a significant place in postmodern legal thought (Ward 1997), it is not his work on transcendental a priori that shapes legal minds today.

When it comes to the scientific nature of the law, its relationship to knowledge and experience, everything seems to be antecedent.

Indeed, there is considerable debate as to whether or not law is a science, whether or not there is legal knowledge, and whether or not it is possible to use experiments in this field.

First of all, on the aspect of "science", it is possible, on the basis of the known distinction between the actions of "explaining" and "understanding" (Dilthey 1900), to be tempted to oppose two realities—nature and mind—and to recognise the existence of a strictly "scientific" approach only for the sciences that explain nature. This analysis would be tantamount to excluding law from the field of science. Thus, according to a widely held view, the law does not explain the nature of things, it merely offers a representation (Ost 2009) that is potentially unique to it. This representation would place the law in the sphere of understanding the phenomena that surround it and not simply explaining them. One can, however, object to this analysis, for example, that the essence of law is profoundly anthropological, so that any legal knowledge necessarily requires knowledge of humanity (McIlroy 2019). The nature of human beings would then constitute an explanation of the law. Faced with these divergent analyses, we can also, in a completely different direction, challenge the very existence of a dichotomy between the actions of explaining and understanding. One author has thus demonstrated that explanation enables the development of understanding, so that the former does not exclude the latter, but rather is enveloped by it (Ricœur 1994). This reading is particularly convincing in law. It makes it possible to integrate the work of interpreting laws into a field of explanation that is able to provide a better understanding of the situations apprehended by the law. It is therefore not possible to separate the two operations and dichotomously oppose analyses on nature and analyses on the mind.

Secondly, in the field of "knowledge", one can debate at will on the appropriateness of the term to the law or whether other terms, such as "scientific knowledge", would not correspond better to it. It may also be pointed out, as others have done, that the two expressions are similar (science comes from the Latin *scientia* which is the translation of the Greek word *ἐπιστήμη* which means *knowledge*) and that they do not in any case make it possible to decide the really formidable question of the existence (Atias 2002; Zenati-Castaing 2021) or not (Troper et al. 2005) of a sufficiently generalized and organized legal knowledge.

Finally, with regard to "experience", while there is little doubt that the arsenal of the jurist is very far removed from that developed by the various experimental sciences, it sometimes happens that the law is nourished by experience. This is the case, for example, with the adoption of laws on an "experimental" basis. But this does not mean that these laws seek to establish a "truth". At most, they make it possible to construct a discourse oriented towards legal know-how (Amselek 1994) that one will decide, at the end of the legislative experiment, to prolong or discontinue.

This general state of discussions on the law, of which we give only an overview here, demonstrates that philosophical theories on a priori do not offer a perspective suitable for the law. If a priori in the scientific sense implies a balancing of a precondition for knowledge and the competing merits of experience, it is clear that these considerations have no bearing on the law.

We have to find a new point of departure.

Turn the tables and make the "antecedent" method an epistemological opportunity for the law

Faced with this epistemological impasse, should we nevertheless continue the investigation of the pre-understandings of the law and, with it, the hope that it can fuel and renew the epistemological analyses, that is to say the critical readings of legal knowledge?

To this major question, the antecedent method intends to explore the possibilities of an affirmative answer.

The antecedent method proposes to go beyond the dual state of the art described above, to change the vocabulary and the grammar of "a priori".

Regarding the vocabulary, the expression "a priori" is closely tied to its philosophical meaning. While reverting to such a conception is not ruled out, quite the contrary, it is essential to name a new anchor point that is compatible with the legal approach.

Regarding grammar, a priori is too often presented as a tool that separates the before from the after. We distinguish a priori from a posteriori, so as not to risk mixing what pre-exists – precedents – and what exists subsequently—actuality. This separating function of the a priori seduces legal scholars who are attached, sometimes jealously, to the independence of their constructions from other branches of knowledge. It readily accompanies a search for coherence in the law which does not know what to do with the links that can be established between the law and its pre-understandings. This appeal to coherence allows legal scholars to keep the specter of disorder at bay by assuming there is more order and resemblance in any case than they in fact find (Bacon 1620). This type of analysis has a high price for pre-understandings, since it organizes what could be called in number theory, fundamentally incomplete systems of thought, in the sense that all the perturbing elements are sacrificed on the altar of this so-called search for coherence (Gödel 1931).

We must move away from these divisive analyses focused on a priori and propose a new antecedent approach.

The expression "antecedent" signifies a new method of conducting large-scale, highly international and multidisciplinary research, capable of establishing a whole series of links between the "antecedents" of law and the subsequent legal constructions. These links between the "antecedents" of law and legal constructions can thus be made explicit by pointing out and analyzing our pre-understandings of the subjects of law.

Antecedents should be seen as an antecedent key to critique the meaning of legal pronouncements. They make it possible to bring to life in law the major distinction between the interest of knowledge and the interest for knowledge (Habermas 1973). Because antecedents are, at first glance, external to legal knowledge, they are not immediately equated with this knowledge ("of knowledge") but constitute a unique tool for understanding this knowledge ("for knowledge").

Such a theoretical research ambition does not start from nothing and does not go nowhere.

Generally, research into the antecedent approach can begin with a comprehensive study deciphering the works that deal to a greater or lesser extent with different forms of pre-understanding of the law.

The history of legal thought shows that leading authors have focused on what might be considered antecedent in legal approaches, even if they have not sought, as we intend, to place them in a fully global

and inclusive method of analysis. These works deal with the assumed norm, the social antecedent or the a priori basis.

It has thus been possible, in the manner of Hans Kelsen (1967), to postulate the existence in law of hypothetical fundamental norms ("*Gundnorm*"), essentially antecedent, that are capable of legitimizing other norms. The antecedent here takes the form of a postulate, that is, a theoretical a priori, which makes it possible to consolidate the normative structure that, to put it simply, rests on the validation of each norm by reference to another norm. If we take the highest norm—the constitutional norm—we must refer to another norm to validate it. It is here that the fundamental a priori imagined by the famous Austrian theoretician comes into play, and thus he claimed that legal scholars had long believed in its existence without being able to expressly formulate its outline.

In another approach, authors such as Santi Romano (1918) considered that social organisation existed prior to the birth of a legal order (*ordinamento giuridico*). This author has made it possible to bring into the law the fact that the social order is generally held to be "antecedent" (the author uses the expression "*antecedente*" several times and it is from him that we borrow it) to the law. This may, of course, refer to the social order of the state. But the author, condemning any form of legal exclusiveness, includes other types of social organisation: the international community, the church, the company, the family, the mafia, and so on.

Finally, there are the works of Adolf Reinach (1913) on the a priori foundations of civil law and Jean-Louis Gardies (1972) on the a priori foundations of moral and legal rationality. These writings, which are difficult to access and which are not widely known, unlike the two previous ones, borrowed from the phenomenology and modal logic of the avenues of research on a priori. These analyses could prove very useful to fuel a completely renewed reflection on the antecedent approach.

Research on "antecedents" can draw on pragmatic epistemological work conducted on phenomena of movement (Bergé 2021c,d).

Reflecting on the way in which the movements of goods or persons are likely to challenge the construction of the law, especially in the event of total loss of control, we have effectively been led to propose a method of understanding the antecedents to the construction of the law in this field. This research has led to diverse discourses on situations in movement. Some are specific to lawyers while others come from other disciplines. In any case, these discussions reveal a number of antecedents in movement that may potentially be relevant to the work of lawyers. Six antecedents have thus been identified: 1) the magical antecedent (the metaphors of movement flows in law, such as the reference to the needs of international trade to justify overriding legal solutions), 2) the liberal antecedent (movement as a political, philosophical and economic vision for the law that is generally seen in the law of free trade), 3) the social antecedent (the reality of the movement in society in the law, for example flight crews and their specific categorization in law), 4) the ontological antecedent (movement as the essence of the law, as is the case in matters of people, data, capital and waste), 5) the fundamental antecedent (movement as the basis of a legal system, for example the legal system of the European Union and its different movement spaces) and 6) the modal antecedent (the different modes of movement that shape the law, including the prospect of the emergence of normative spaces of flow).

We have thus observed that these six different aspects play a decisive role in the critical approach to the constructions of law in how they deal with situations of movement.

It is now possible to address these preliminary issues in a broader perspective with the aim of establishing in legal thought and practice a new epistemological method of critical analysis of legal knowledge that is inclusive and large scale.

The method underlying the antecedent method has a rare characteristic in the field of legal research: it can be widely deployed.

From the outset, it does not favour any topic of law, any geography of law, or any theoretical approach to law. This is an essential asset.

Regarding topic, the antecedent approach can embrace a wide variety of diverse subjects. It is not confined to a particular theme or specialty of law. This transversal dimension allows the research to open up to fields of human activity that are very different from one another. Naturally, it is not possible to envisage all of them, but the choice remains completely open. Thus, there is nothing surprising about working, in the same overall study, on the antecedents to legal decision-making with recourse to artificial intelligence; antecedents to the public assessment of the law; antecedents to professional practices of the law and antecedents to the academic transmission of legal knowledge. All these areas, however different from one another, raise the same question of the approach to pre-understandings of the law. If the analysis yields methodological lessons that are common to them, then the research will have achieved its objective of developing a new, comprehensive working method.

Regarding geography, the antecedent approach can be considered both in continental written law and in common law, in developed as well as in developing countries, in local, national, international, European and transnational environments. The acceptance of the method may of course vary greatly from one cultural context to another or from one legal system to another, and attention will have to be paid to this point in the various deliverables. But the method remains sufficiently general that it does not favour or neglect any geography of law. The reason for this is straightforward. The pre-understandings of the law know no borders. They are inherent in all knowledge, all understanding, and the law, even if it unfolds differently from one region to another, does not escape this.

Regarding theory, the antecedent approach does not intend to give preference to any one of the different great schools of law that exist or that may have existed in the history of legal thought. For example, to put it simply, the antecedent approach does not favour a historical, sociological, philosophical, positivist, naturalistic, political or logical reading of the law. It does not need to make a distinction between a descriptive analysis or a prescriptive reading of the law, or between a purely postulated vision of the law or one that is essentially practice oriented. Here again, the acceptance of the method can vary greatly from one theoretical approach to another and care must be taken to specify the theoretical framework of each of the studies actually carried out. But no approach is excluded at first glance. Any legal construction or theory can be questioned from an epistemological point of view, beginning with its antecedents.

Ultimately, the research has a high potential impact due to the ubiquitous, permanent, if not existential, nature of examining antecedents. There is not one person connected with the law who has not questioned, at one point or another, what might predate the law, that is, what might have existed before the legal intervention. The fact that such a person is unable to answer, that there is not an appropriate methodological tool to examine the question, is exactly what the antecedent method seeks to rectify. But in the meantime, the question remains, always present, and it is essential to find a way to answer it.

The antecedent method has three objectives:

- to raise questions in legal thinking about the existence and the fine details of an antecedent method;
- to test the value of such as method in the fields of artificial intelligence, public assessment, the evolution of practices and the transmission of acquired knowledge;
- to renew philosophical reflections on a priori.

Methodology: Inventing a three-step antecedent approach

Methodology is at the heart of the antecedent approach.

The maxim of this new approach could be: "Leave behind the law only better to return to it!"

The law deals with all kinds of subjects. These can be essentially factual realities (a person or property in a given situation, a specific event) or more intellectual constructions (for example: legal personality, good faith, economic matter, social organization, scientific progress).

Rather than beginning by "delimiting" legal constructs, whenever they are faced with a given subject, legal stakeholders could open themselves up to other perspectives. This would involve inviting them to question their pre-understandings of the subject (step 1), to compare them with those of other disciplines (step 2) and only then, finally, to return to the law, but in full understanding of the subject to be addressed (step 3).

The hypothesis of an antecedent approach must be posed and verified from a theoretical point of view. It must be confronted with diverse subjects and major societal challenges. It is also called upon to renew philosophical reflections on a priori.

The antecedent approach does not exist in methodology statements in law. It is necessary to invent it and make it accessible to as many people as possible.

Therefore we propose a scenario with three steps.

In the first step, individual legal scholars question their primary understanding of the subject they seek to apprehend. They consider, alone or as part of the community to which they belong, or on behalf of another individual or community, in the past, present or future, what are the potential assumptions, presuppositions, prejudices, paradigms, beliefs, commonplaces, biases, and emotions that are likely to provide information about the existence of antecedents to legal constructions. This type of inquiry is necessarily embedded in space and time. It therefore requires a major effort of contextualization. This effort is often neglected by legal scholars, who are naturally immersed in the context given to them from the beginning of their training. They do not necessarily question the scope of this context and the way in which it could permeate the pre-understandings of the subjects addressed by the law. To pre-understand the law is, on the contrary, to provoke a systematic consideration of the context(s) of the subjects of the law. This first step of pre-understanding also requires that legal scholars be prepared to use tools that enable them to enrich their vocabulary on multiple forms of antecedents. While they are not obliged to consider all possible antecedents, it is essential that they determine whether the antecedent to which they refer can be straightforwardly formulated or is a deep or sensitive thought. In short, in the first stage, legal scholars open the way to examining the primary understandings of the subjects of law. Even though, at this stage of the analysis, they do not have the answers to all the questions they ask themselves, the fact they are asking the questions is already a mark of the implementation of the antecedent approach.

In a second step, legal scholars confront their analysis of the subject to be apprehended with that potentially put forward by other disciplines. It is a question here of considering how other branches of knowledge apprehend the postulates, presuppositions, prejudices, paradigms, beliefs, commonplaces, biases and emotions which surround this or that object of study. This question requires a multidisciplinary work of comparison. It aims to make explicit potentially all the preconceptions which can exist on a given subject from different disciplines. As with any multidisciplinary venture, the work is complex and demanding (Abbott 2001; Barry et al. 2013; Commaille and Thibault 2014; Jacobs 2013;

Testart 2021). It is necessary to know how to determine in several disciplines exactly what we are talking about and in what order we should talk about it. Our experience in this field for more than 25 years with economists, managers, politicians, sociologists, anthropologists, philosophers, digital scientists and biologists, has shown us that multidisciplinary work necessarily remains limited. It is only possible to work for a time on several disciplines and on defined subjects, since participants must then be able to return to their own discipline or work if necessary on the emergence of new disciplines. But this communal workspace is essential. This is particularly true for the antecedent method. In terms of pre-understanding, all disciplines need each other, since it is for each of them to leave their comfort zone and to question what may exist upstream of the construction of subjects. This uncovering of knowledge may be unsettling. It does not place any of the stakeholders in a position of authority relative to the others. It is therefore an ideal space for exchanging views on the pre-understandings of the subject studied.

This leaves the last step, the return to law in its own field and, in absolute terms, the return of each of the disciplines mobilized at the second step to their respective fields. We know that, in the law, it is essentially a matter of choice. The law is not obliged to take into account all the antecedents that were identified in step 2 of the method. But the antecedent method allows it to make the choices that seem useful or necessary for the full understanding of the subjects to be apprehended. In this respect, the antecedent method has an appeal that is unparalleled in legal science. If the law creates its own world, do we still need to know the "other worlds" to determine with a minimum of precision which legal world we are talking about? For this it is necessary to make a comparison between different disciplines. This is precisely what the antecedent approach makes it possible to do. This approach also has another advantage. It may prove to be the Trojan horse of any advanced research that endeavours, as is most often the case today in this field, to build or reconstruct itself around unidentified subjects. These subjects, whether they are really new or have only been neglected until now, most often go beyond traditional disciplines. Even if they can aspire to found new disciplines, they require, as a prerequisite to any research, an approach that allows them to be addressed. The antecedent method, by questioning the pre-understandings of subjects, by making them dialogue with each other and by organizing a return to existing knowledge, makes it possible to achieve a research ambition of this scale. It may therefore have an impact far beyond the law.

The prospect of such an antecedent method is groundbreaking in many respects. It provides a valuable framework for all initiatives – and there are many of them – that seek to integrate the law into a multidisciplinary approach, but without necessarily having identified the possibilities offered by the antecedent approach. It makes it possible to support the development of critical analysis of the law from its subjects. Each choice of law must be discussed in the light of the options chosen and those rejected. This is enabled by the antecedent approach, which puts into perspective a resolutely pluralistic approach to the subjects of the law. It aims, ultimately, to clarify the inherent part of the law, that is – no more and no less than – the existence of the famous and all too often mysterious "strictly legal knowledge". This is an absolutely essential goal of the antecedent method.

To be open to these different perspectives, it is necessary first to sift the antecedent approach through existing theories of law. Even though, as noted above, the antecedent approach is not intended to be divisive, in the sense that it does not favour one conception of law over another, it should be possible to find in existing theories possible paths of the antecedent approach.

We have had the opportunity to sketch out such a study regarding the presupposed norm (Kelsen 1967), the social antecedent (Romano 1918) and the a priori foundation (Reinach 1913, Gardies 1972).

The aim is to deepen this research and to open it up to other approaches. Certainly many questions on the historical, sociological, philosophical, positivist, jusnaturalist, political or logical dimensions of law

can be reread through the antecedent approach. The same applies to purely descriptive analyses of the law or readings which are intended to be prescriptive in law. The same can also be said of purely postulated visions of the law and those which are essentially oriented towards legal practices.

Construction has begun. It now deserves to be completed on subjects related to major societal challenges.

Testing the method on subjects related to major societal challenges

The hypothesis of an antecedent approach could be tested on subjects that involve issues with high societal stakes.

The analysis of subjects is the bottom-up counterpart of the theoretical, top-down approach proposed above. These two types of analyses are independent of each other in the sense that they do not share the same starting or ending point. Subject analysis is not simply an implementation of the theoretical analysis. It constitutes its own research stream that makes it possible to verify in specific fields the merits and limits of the theoretical basis of the antecedent approach. Ultimately, we expect that the subject analysis will enrich the theoretical analysis and provide feedback for refinements and, conversely, the analysis of subjects will benefit from adjustments associated with the theoretical investigations.

The subjects have been carefully chosen to consider the societal issues that they are likely address. These subjects are: (1) legal decision-making through the use of artificial intelligence, especially in crisis situations, (2) citizen assessment of the law, especially in environmental matters, (3) the evolution of professional practices of the law, especially with regard to the mistrust of the public towards the justice system (4) the academic transmission of legal knowledge, especially in initial training in law.

The first subject is part of the powerful movement brought about by the meeting of artificial intelligence and law. Necessarily multidisciplinary, this meeting gives rise to a field particularly rich in antecedents that are likely to predate the different branches of knowledge involved. At the first stage, we consider the digital sciences and legal sciences. The computer scientist and the lawyer do not approach the challenges of legal decision-making in the same way, especially, as is most often the case, in a crisis or emergency situation: for example, what a legal decision is, who makes it and to whom it is directed, its forms, its purposes, how effective it is – especially in different places and times – what a crisis and/or emergency situation is and how it should be understood, etc. On all these points, an examination of pre-understandings can occupy a crucial place in the collaborative work between the computer scientist and the lawyer. It is necessary to be able to develop a pedagogical scenario for this work, that is, to organize it before, during and after the decision-making, depending on the IT solutions and the decisions being considered.

The second subject investigates the way in which citizens participate in and directly contribute to the construction of legal pronouncements in areas that directly affect them. One area which is particularly relevant for this type of approach is environmental protection. There have long been international, European, national and local legal instruments that allow citizens to participate in actions likely to have an impact on the environment. This participation has taken on a new dimension relatively recently with the development of citizens' climate conventions, which are responsible for making proposals to governments to combat and adapt to change. These could provide an excellent forum for discussions about antecedents. It is vital to ask what pre-understandings the various actors have of climate change, and how these pre-understandings are or are not understood at the various stages of the discussion and deliberation. It is likely that these questions are currently only rarely addressed in this type of forum, even though they play a potentially decisive role in the entire citizen process. Dialogue must therefore

be encouraged, in particular between political science and the law, on how to frame the antecedent approach in this very particular context.

The third subject concerns the evolution of professional practices in the law, especially with regard to the mistrust citizens have of the justice system. It is fair to say that justice is in a state of crisis in many legal systems. The expectations of the citizens remain largely unfulfilled, so that the gap widens between those who work for justice (judges and lawyers in particular) and those who are the recipients (natural and legal persons, in both private and public law). Faced with this observation, the role of antecedents in this widespread misunderstanding should be explored, as well as how it can be reduced, by the professional training given to the main stakeholders in the justice system, especially judges and lawyers. For this, strategic planning is also required. Stakeholders must be able to express and debate their understanding of justice and they must be able to compare their point of view with that of the citizens. The most suitable place for this type of exchange is vocational training schools. The lawyers' reflections must be based on field surveys conducted jointly with sociologists, which presupposes that, in turn, the latter inform the antecedent approach with their conception of justice in a context of mistrust.

The fourth and final subject relates to the academic transmission of legal knowledge, especially in initial legal training. Our law schools and faculties transmit a large body of legal knowledge. This knowledge is, like any other subject, susceptible to pre-understandings. However, they are rarely discussed. The emphasis placed on "precedents", understood in their various forms (jurisprudence, legislative texts, doctrinal writings) obscures, more often than not, the undeniable fact that these precedents are also the subject of "antecedents". It is therefore essential for educators and particularly law professors to be able to explore these antecedents in the courses they teach in law school. In this regard, a pedagogical strategy for the antecedent approach is also required. This would provide an opportunity to compare widely the work of legal educators with specialists in the history of thought. This historical perspective of legal knowledge could be a powerful lever for reflection on the existence, substance and strength of some of the antecedents in this field.

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