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**CROSS-REFERENCING WRITTEN ARCHIVES AND ORAL SOURCES:
TRANSCRIPT OF A FILMED INTERVIEW WITH JEAN SALMON**

Dzovinar Kévonian*
Philippe Rygiel**

[text revised by Jean Salmon, 20 March 2020]

This transcription is intended to enhance the value of the contributions of a cross-referenced history using written archives and sound or audiovisual sources related to the history of international lawyers. In 2015 we proposed this approach through the transcription of an interview with the French jurist Géraud Geouffre de la Pradelle (b. 1935),¹ professor of law, son of the lawyer Raymond de La Pradelle (1910-2002) and grandson of the professor and jurisconsult Albert Geouffre de La Pradelle (1871-1955). We then conducted a campaign of filmed interviews with French speaking jurists as part of the research program "Archives des juristes internationalistes".² This experience convinced us of the usefulness of oral sources. They make it possible to go beyond the self-constructed accounts of the profession depicting linear careers and well-ordered lives so often produced.

However, we do not conceive of the oral archive in isolation, but of its usefulness in its confrontation with the professional written archives on the one hand (doctrinal works, courses, arbitrations, jurisprudence, legal consultations, expert opinions, and so on), but also private archives (correspondence, personal notes, drafts, working or research files, and so on). These three types of archives make it possible to draw not an intellectual, academic, or practical "figure", but to paint a woman or a man "in her/his time". It makes regimes of temporalities tangible by showing the entanglements of family histories, structures of international law and their evolutions, the national and State frameworks in which the individual operates or major historical ruptures (wars, revolutions, mass violence, forced migrations, and others).

Often this approach uncovers contradictions, ambivalences, unanticipated developments or, conversely, constants in terms of legal beliefs, values, or practices. Thus, the interview with Géraud Geouffre de La Pradelle allowed us to analyze the strong social reproduction of the legal world and the modalities of construction of a family memory and transmission of legal practices and ethos. Refracting the temporalities of the present of the legal profession also leads to look at the way in which lawyers have articulated in their time professional ethos, legal culture, commitments, and the diverse social circles and positions from which they operate, gender being one of them. Women have long been absent and then marginalized in the history of the legal discipline, even when matrimonial alliances, managing of social connections, and unpaid but intensive support work (or even legal expertise) has often been a key component of a successful legal career (for example, the role of Zeballo's

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¹ D. Kévonian and P. Rygiel, "Entretien avec Géraud de Geouffre de la Pradelle. Histoire des juristes internationalistes et source orale", in "Profession, juristes internationalistes? ", *Monde(s)*, no. 7 (2015), pp. 155-172.

² P. Rygiel, "Archives des juristes internationalistes: la place de l'enquête orale", *Materiaux pour l'histoire de notre temps*, no. 1 (2019), pp. 38-40.

wife in this issue, or the evocation by Jean Salmon of the role of Mrs. Hans Wehberg at the Institut de droit international). The interview conducted with Geneviève Bastid-Burdeau enabled us to understand the conditions under which women entered an essentially male profession by reconstituting the history of a legal family over three generations: her grandfather, Professor and juriconsult Jules Basdevant (1877-1968), her mother Suzanne Bastid (1906-1995), considered one of the female pioneers in France, and herself³.

Thus, the contributions of the oral source are multiple, allowing broad questions: the declinations of the ethos of the internationalist jurist, according to time and place, the interplay of multiple affiliations, the modalities of appropriation of the law, the importance of interpersonal networks. We can enter the often undocumented spaces of practice (court of justice, faculty, praetorium, international organization, chancellery, and others), the spaces of professional socialization (sessions and commissions of learned societies, academic journals, international conferences, The Hague Academy, lecture tours in a foreign university, among others), and the spaces of engagement (association or political party, militant collective, struggle against repression or resistance to oppression, for example). We then measure the effects of the interaction between personal and family history, the socio-political frameworks of the time, the functional but changing transnationalism of the body (congresses, conferences, arbitrations, diplomacy, missions, and others), the structuring doctrinal framework of the field and the shared by most internationalism of commitment or conviction, giving each prominent member of the field a unique style or touch.

The filmed interview, a partial transcript of which is presented below, took place on 1 April 2019 at the Université libre de Bruxelles, where Jean Salmon has been Professor Emeritus since 1996⁴. Born in Ixelles on 4 March 1931, of Belgian nationality, Jean Salmon holds a doctorate in law⁵ from the Université Libre de Bruxelles (ULB) in 1954 and a doctorate in public international law from the University of Paris in 1957. After serving as legal officer in the Office of the General Counsel at the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) (1958-1961), which took him to the Middle East, he joined ULB as a full-time lecturer in 1961, then as an extraordinary professor from 1963 to 1966, and as a regular professor thereafter. His teaching focused on general international law, and various specialized matters such as diplomatic and consular functions, international responsibility, among others. He organized a seminar in the UNITAR International Law Research (summer) Program from 1969 to 1974; he also gave lectures, at numerous universities including Cambridge, Birzeit, Lovanium in Kinshasa, Lumumba Friendship University in Moscow, among others. He taught several times at the Institut des Hautes études internationales in Paris (Panthéon), territorial disputes at the Graduate Institute of International Studies in Geneva (1998-1999), and the General Course at Bancaja (Valencia Spain).⁶ He also directed the ULB Centre for International Law from 1964 to 1996 and chaired the Faculty of Law (1977-1980). He was a member of the Permanent Court of Arbitration (1977-2015), appointed by Belgium, and a member of the list of experts of the CSCE Conflict Prevention Centre (1991), while being a consultant to various governments (India, Iran, Mauritania, Mali, Qatar, Vietnam, Niger, Algeria, Peru, among others). Finally, he founded the *Belgian Journal of International Law* and served as its director from 1964 to 2003.

³ D. Kevonian and P. Rygiel, "Entretien avec Geneviève Bastid-Burdeau", Bibliothèque la contemporaine (2018), Nanterre, France.

⁴ For more details see <http://cdi.ulb.ac.be/a-propos-du-centre/membres-du-centre-2/jean-salmon/>.

⁵ At the time this title meant in French University terminology "licencié en droit".

⁶ His course "Le droit international à l'épreuve au tournant du XXI^e siècle", *Cours euro-méditerranéens Bancaja*, VI (2002), pp. 53-363, is considered his most significant work.

For the historian, this interview is a "provoked source", a document which, through the spoken word and the reconstruction of memory, allows the witness to offer an account of his personal and professional career. We have ruled out the semi-directive interview meant to produce information about an institution, an event, or a social or cultural process. We have chosen the life story, which produces a story constructed through an exchange based on a pact and a bond of trust: the interest that one specifically takes in a person's life, inscribed in multiple temporalities and settings. This mechanism leads to a global approach to the person, starting with childhood, social, cultural, and religious affiliations, family structure, socialization and politicization mechanisms, stages of a legal career, and others. Jean Salmon, born in 1931, does not correspond to the dominant profile of Institut de Droit International (IDI) members of the first half of the twentieth century, who originate overwhelmingly from families firmly established within the intellectual bourgeoisie (especially State or colonial civil servants), quite a few being of noble origin. On the other hand, it illustrates the high rate of professional reproduction already observed: nearly 40% of the ascendants practice a legal profession⁷ and his father studied law. It might help us understand both why as a resolute young man with literary tastes he entered the legal profession and why he could at times connect to insiders-outsiders of the field, developing an internal critical discourse resonating with third world and racialized voices.⁸

His integration into the field was through the legal service of a specific international institution, UNRWA,⁹ and a plunge into the Arab-Israeli conflict between 1958 and 1961. As in the case of Géraud de la Pradelle, who served during the Algerian war, this direct confrontation with decolonization conflicts proved pivotal and led to a constant engagement with political issues, as well as an insistence on the entanglement of the development of international law and political process. A critical approach to international law is a constant of the brilliant academic career that followed, nourished in particular by his relations with his mentor in international law the anti-fascist jurist, Henri Rolin,¹⁰ in logic and philosophy Chaim Perelman, and in critical methodology the anti-fascist resistant jurist Charles Chaumont (author of a famous "Cours general de droit international" at the Hague Academy of International Law in 1970 and promoter of the "rencontres de Reims" from 1973 to 1989). Salmon's involvement in the International Association of Democratic Lawyers, founded in 1946 by a group of jurists united in the resistance against Nazism (René Cassin, Joë Nordmann, Léo Matarasso, and Pierre Cot) is another facet that reflects the strong social and ideological mobilization of parts of the legal profession during the 1970s against the backdrop of the Cold War and decolonization, but grounded in an historical legacy.

During the Cold War, the AIJD,¹¹ known for its links with the USSR, engaged in the defense of the rights of peoples, from anti-colonialism to Third-Worldism, denouncing the American interventions in Vietnam and elsewhere and fighting for social rights. His commitment was reinforced by his election to the IDI as an associate in 1967 and then as a member in 1979. His testimony shows a little-known dimension of the learned society: the fact that it constitutes a space of family and intergenerational sociability, where the economy

⁷ D. Kevonian, *The Swing of the Pendulum. Les juristes et l'internationalisation des droits de l'homme* (2018).

⁸ M. Mutua, "Critical Race Theory and International Law: The View of an Insider-Outsider", *Villanova Law Review*, XLV (2000), p. 841.

⁹ R. Bocco, "UNRWA and the Palestinian Refugees: A History within History", *Refugee Survey Quarterly*, XXVIII (2009), pp. 229-252.

¹⁰ Son of Albéric Rolin and nephew of Gustave Rolin-Jaequemyns, J. Salmon, "In memoriam Henri Rolin (1891-1973) – I. Henri Rolin et le droit des gens", *Revue belge de droit international*, IX, no 2 (1973), pp. x-xxvi and "Galerie des internationalists" website of SFDI.

¹¹ AIJD, *L'Association internationale des juristes démocrates: ses origines, ses caractéristiques, ses activités* (1981).

of affects and emotions contributed greatly during a long period to the cohesion of the international body of internationalist lawyers. Jean Salmon is today the Chairman of the IDI History Commission which was created in 2016 at his initiative.¹²

Interview

Dzovinar Kévonian and Philippe Rygiel (hereinafter: **DK & PR**): We will start by asking you some questions about your social and family background and what led you to study law.

Jean Salmon: At first glance, family origins did not lead to the production of two university professors, my brother and myself. My grandparents on both sides were actually born in peasant families. The mother's side is French. My grandfather was a mason from the Creuse, born in 1870, who at the age of eighteen put his trunk on his shoulder to look for work in Paris. Still on mother's side, her mother, who was a little older (b. 1868), was from Lanion (Côtes du Nord – Brittany). She was a milliner; she apparently climbed up the ladder. Her boss sent her, which I think is an interesting sign, to set up a branch in Warsaw. At that time (around 1900?) it was rather uncommon.

Back in Paris, she met my grandfather. They decided to live together. It is a very modern way of doing things. My mother was born in 1904. They would have been a happy couple, if it were not for the events which were going to disrupt everything. For herself, my grandmother died in 1910. My grandfather drew the wrong number and had to do three years in Algeria. He had barely finished the three years in Algeria when he had to do the four years of the “Grande Guerre”. He was in the fortress artillery. He caught something in his lungs and he died very young at fifty-four years of age in 1924. My mother was orphaned as a result ... She worked as a milliner in a fashion house, she was taught the trade little by little to become “première”.

As for my father ... my father was born in a village in the province of Liège. In the Salmon family (my grandfather's generation) there were eight brothers and sisters, all peasants. My grandfather (born in 1873), who had first been a local mason, decided in 1913, leaving his family in Belgium, to look for a job in France with two cousins where he set up his own business to seek fortune ... and found it. He bought stone and marble quarries, and after the War he had plenty of jobs with the reconstruction of the north of France. My father used to tell me that he was selling materials by trainloads. In fact, when I visited my grandfather in France in the years 1938-1940 and after the War, he was really a grand bourgeois. ... So, basically, my grandparents who came from the peasantry or the working class, slowly but surely, through their work, managed to get out of their condition ... it seemed good for my DNA. At the end of World War in 1919, my grandfather suddenly remembered that he had wife and children in Belgium, and he brought them to a house in Bois-Colombes and then in Asnières. For her part, my mother was living in Clichy just next door. That is how my mother and father met at the exit of a metro station in Paris.

Grandfather Salmon wished his sons to have a higher education; my father and his elder brother first attended the Lycée Condorcet. Then my uncle became an *ingénieur des Arts et Manufactures* at l'École centrale, and later on had a stay at the Institut Montefiore (University Liège Belgium). My father, in spite of the preference of my grandfather who wished him to enter a commercial school, opted for the Paris-Panthéon law school. He graduated in law in 1925, took a doctorate, and joined as a junior legal adviser (...) at an insurance company in Paris, “La Préservatrice”. However, he was Belgian and had to return

¹² Members are: Georges Michel Abi-Saab, Jean-Michel Arrighi, Geneviève Bastid-Burdeau, Lucius Caflisch, Giorgio Gaja, Martti Koskenniemi, Roy S. Lee, and Peter M. North.

to Belgium to do his military service. My mother had married him in 1926. They both left for Belgium. My mother, leaving her job, her family, her country (she even lost her nationality for that of her husband), was not that happy. But she was always *française* and educated my brother and myself to admire France and French culture. Ultimately my uncle and aunt having returned to work in 1932 (as a result of the Crisis) in their father business in France, the close family on both sides was in France mainly in Paris, My father after his military service joined a French insurance company in Brussels, a branch of the French company L'Abeille and there he climbed up the ladder and when he retired he was deputy director of the company. He also wanted his children to go to university. My mother even more... who was, I would say, the fighter of the family ... With me it didn't go that well at first because I was a pretty carefree scholar (...). It got better, in the last years of high school and university.

At that time, the whole family was secular. On my mother's side they were all socialists or communists, workers; on my father's side, the grandfather was a liberal; he had become a liberal but was not deprived of a social approach with his workers. He was a very generous man. My father and mother were not believers. Moreover, when my brother and I were born, we were not baptized. We were secretly baptized on the initiative of old grand aunts in the countryside who wanted absolutely "to save the souls of these poor kids". My brother was seven and I three. I drily remarked that they had thrown water on my beautiful costume. [...] Afterwards, we did not talk about it anymore; we attended the local public primary and secondary schools in Ixelles. Matters were reexamined during the German occupation of Belgium. During the War, my father, who was a reserve lieutenant, became a prisoner of war practically on the last day of the War in Belgium and was sent to a camp in Germany (he came back sick in a sanitary train of the International Red Cross in 1942).

My mother, alone in Brussels, was advised that, being named Salmon, it would be better to be Christians. In a way it made sense. We knew that the family did not have coats of arms from the Middle Ages or the Crusades, but we were aware also that as far as we could go back in time (1550) in the parochial archives of the family village (Lens-Saint-Rémy), everybody had been baptized with at every generation someone who was called Joseph and one who was called Mary. That did not give the impression that the family had Jewish origins. But with the Nazis a name like Salmon was arousing suspicions, and it was better that there were none. ... An old Franciscan monk who came by the house every year and to whom my parents gave something for his charitable deeds in the colonies suggested "Listen, put them in the catechism" ... I took my first communion, my brother too. I was very proud; we had beautiful costumes. But afterwards we followed mass casually. My mother was also advised, by a former Belgian officer who was giving free math class to my brother, to put both of us in a scout troop. This was an excellent idea. That troop was led by demobilized army officers taking care especially of the sons of prisoners of war. Of course, there was a parish priest, prayers, and the like. But the result was positive: there was a sense of patriotism, the Belgian flag was raised everyday. Of course, at the time, everyone was royalist, not aware of the political hidden side. You had a feeling that you were resisting even if you were not doing anything at all, you were hearing Mowgli's story around the campfire, you played, learned the names of the trees, the animals and the stars, but in spite of all that you had a fighting spirit, which was very good. And then I was learning plenty of songs. I have always liked singing. At the end of the war, we moved to a secular troop.

Another thing important during the War period was the sojourns I made during every vacation periods to a country village near Namur (Meux). It was at a beautiful farm where a grand aunt lived (in reality she was a bourgeois widower married to my father's uncle who happened to be a primary school teacher in the village). When I was a little boy before the war they both had a liking for me, and I stayed several times with them. This was a most

warm and charming couple. To the great sorrow of all, this grand uncle died before the War, and my aunt was a widow for the second time.

In July 1940, after we had returned home from our exodus in France, my mother received a letter from this aunt proposing to take me during the holydays. As at that time we could not eat properly, she thought with kindness and lucidity that it would be good for my health. She became really a grandmother for me. During all the holydays from the end of 1940 till 1945 without exception I jumped into the first train to go there and was taking the last to reach Brussels again. I knew everybody in the village and learned the type of occupations varying from season to season. I was friends with all the boys and girls of my age, speaking Walloon. If there is a village, which is mine, it is certainly that one. In a word, I as a city child was enriched by this contact with the realities of country life.

DK & PR: You have emphasized your visits to the countryside, but yours was also a childhood surrounded by many books?

Jean Salmon: Yes, in the apartment where we lived with my father, my brother and my mother had certainly many books. My father had a solid classical culture; first in his class in Latin and Greek at the Lycée Condorcet and - as I was saying - he was still first in my class when he revised my Latin or Greek lessons thirty years later. His library contained many classical novels, philosophy, and poetry. My mother used to devour romantic novels and the history of great men and noble or less noble women. For me, I was not really interested. With regard to my brother's books, he did not let me touch any. It is only around the age of 16 that I began to read something other than comics, cowboy adventures, or Jules Verne ... At the age of 17, I was reading Aragon, Eluard, Vercors, Gide, Camus, Sartre, Montherlant, Giraudoux ... and soon after, *la Nouvelle Revue française* and *les Lettres françaises*.

DK & PR: There are names here of people much engaged with political issues of the time. Did you have an early interest in politics?

Jean Salmon: One of my first political memories is of Spanish refugees; I must say that I was born in 1931, the Spanish [Civil] War was in 1936, 37, 38. I am very young ... I remember there was a little Spanish boy who came to sit next to me on my bench at school, and it touched me, just as I would be touched a little later when I saw the first Jewish boy with a yellow star. These are things that upset my young and carefree life. [...]. At the secondary school I had a friend reading Marx and explaining to me *Capital* and the *Manifeste du Parti communiste*; with another we played at being Party members sending our enemies to Siberia. Of course, the German occupation, "Radio Londres", "Les Français parlent aux Français", the maps of Eastern Europe with flags showing Stalingrad and a woolen thread underlying the advance of the Red Army, and the indiscriminate bombings were present. After the liberation of Belgium, the family was in the camp of the "anti-Léopoldistes". As a student I was demonstrating in the streets, proud to march with the socialist working class.

DK & PR: You are talking about your brother, of course, who is an historian, and you are one of those lawyers whose writings are rooted in history. I remember a work from the 1980s, where you quoted Ernest Nys (1851-1920),¹³ an many authors no longer mentioned. You even published on historical matters.¹⁴

¹³ J. Salmon, "NYS, Ernest", *Nouvelle biographie nationale* (2007), IX, pp. 283-285.

¹⁴ Jean Salmon, *Documents diplomatiques belges, 1941-1960* (2015), IX.

Jean Salmon: My brother was certainly a distinguished historian, but he concentrated on Ancient History (Egyptian, Greek, and Roman). Twenty years later he moved to African history, but he was not politically committed (“engagé”). He did not attract me to history, nor did the various courses on the so-called history of Institutions at the Law Faculty, which were purely formal. I was led to history through my teaching and my practice with international cases. First, by the close relationship between law, politics, ideology, and thus history; second, with the research of facts in many law cases which showed that the conflicts were rooted in history. On the occasion of territorial disputes considered at the International Court of Justice, I discovered the lives of the peoples concerned, the effects of colonization, the institutions that were superimposed on the original local structures, the contradictions between tribes and classes, the social and political problems. At the end of the case, we had the impression that we had discovered the real history of the country, different from the colonizer’s narratives for which history came with the colonizer troops and their language.

When I reached university, it was not just law school. It was like opening a window on knowledge. I spent half my time in the Faculty of Philosophy and Literature. I was following literature classes at the same time. Incidentally, in that Faculty, the classes were full of girls; we discovered them. Indeed, there were no girls in secondary school. At the Faculty of Law, as for law subjects at that time I can assure you it was not exciting. They made you learn, I won't say things by heart, but all was like the Hammurabi code, given in an extremely pompous way: another form of catechism, without anyone ever telling you the social background or facts and often just read with unequal virtuosity. In general, it was painful. Only one professor was, in my view, very good: a professor of Roman Law who explained Justinian's maxims and at the same time what was happening then, who connected this material to the world. He spoke while looking outside the window as he was seeking the best words to enter this realm. At the same time, outside the classes, there were conferences on all sorts of subjects. The university was an opening to all science on all knowledge and the realities. And then I was also in the ULB choir singing all type of songs, including negro spirituals, naval, or bawdy songs.

During these years, I made two discoveries. The first, that I was interested in public law – administrative law, constitutional law; these branches, as well as international law with Henri Rolin, attracted me. The good thing about Henri Rolin was that he was a left-wing man, a socialist who had always had a remarkable attitude since the War of 1914, who had been with Paul Hymans [1865-1941] at the Treaty of Paris in 1918, who had been afterwards in Locarno; he had followed all that. He had condemned the Manchukuo invasion by the Japanese, the Abyssinian war of fascist Italy, defended till the end the loyal Government during the civil Spanish war, had been against Munich with Pierre Cot [1895-1977]. He participated in the Resistance during the War and was a member of the Belgian Government in London. He illustrated his classes with many examples. This increased my interest in both law and international politics and made me realize that there was a possibility through law to defend some values. That is more or less what he was talking about at the time, and I said to myself, "I'll do that", but it was in the third year of a five-year curriculum, after which I continued to follow a seminar given by Rolin himself.

The second discovery was my interest in philosophy. In the first year we had a general course on the history of philosophy and an introduction to formal logic given by Perelman.¹⁵ Three years later I was advised that he was offering a seminar for students in philosophy at the “Faculté de philosophie et lettres”. I asked whether I could attend as a free auditor. He accepted. We were not more than a dozen students. The subject was on the evidence in

¹⁵ Chaim Perelman (1912-1984) was born in Warsaw. His family emigrated to Belgium in 1925. During the Second World War, he enlisted with his wife in the Committee for the Defense of the Jews. He was professor of logic, morals, and metaphysics at the ULB until 1978.

philosophy and, more generally, the argumentation problems with emphasis on Greek philosophy, the domain of the sophists and Aristotle. Clearly his aim was to show the modernity of this subject. He was to publish one of his master works a few years later.¹⁶ He asked every student "take any philosophical theme and prepare a paper in which you explain why it convinced you". And then he would take one by one the arguments we had given and explain how the contrary proposition was possible.

In contradiction with the arguments in formal logic – based on mathematics – those relying on value judgments could never be definitely persuasive. In a way it was awful because you had the impression that all your values lost their persuasiveness. Until one day I realized that this brave man who gave the impression of tearing everything down had his own values too; he was a convinced Zionist in spite of the relativity of this opinion. Certainly I was convinced that the values in human science were always relative but that it was nevertheless possible in social life to use different types of arguments which could influence a given audience. So I was quite passionate about Perelman. I did not know at the time that approximately ten years later I would meet him again in the professors room, when I became lecturer at the Faculty of Law, that he would recognize me, and explain that he directed an interuniversity Center on "argumentation in law" which was attended by professors and legal practitioners. He invited me to join this group. I was delighted. The Center was publishing one book every two years on a given theme such as lacunas, fictions, and concepts with variable contents; I had the opportunity to participate more or less between 1970 and 1990. Later I assembled in one volume,¹⁷ the articles that I had written in this cenacle or elsewhere on a subject which always was one of my favorite fields of study. Thus, at that stage two professors impressed me: Henri Rolin and Chaim Perelman.

But in the law curriculum, international law then was a minor course (called "Droit des gens" comprising only 15 hours).

DK & PR: There were few courses on international law at the time?

Jean Salmon: It was the only one. There may have been a course in maritime law, but I was going to sit in on these lectures (as a colleague) later, when I returned to Brussels in 1961-1962. So, in 1954, when I was thinking of undertaking postgraduate studies I considered it necessary to find an international law program. I applied for a grant from the French Government. I was successful and registered at the Faculty of Law Paris (Panthéon) for a degree in international law and a doctorate. I stayed for a year and a half, two years at the Biermans-Lapotre Foundation (the Maison belge), at the Cité universitaire.¹⁸ And there, once again, I discovered much that was new. First, the Belgians residing in the Cité who were not from the Brussels University. I met fascinating individuals. I became friends with doctors, psychoanalysts, physicists, linguists, from other nationalities and "houses" too, of course. The City was a beautiful place. What I am telling you seems stupid, but that is what the City was: a place to learn a lot of new things, not only in law, but in all sorts of fields that enrich your culture. There was a cinema club, and conferences were frequently organized in the *Maison internationale*.

DK & PR: How much time did you spend at the City and when?

¹⁶ Ch. Perelman and L. Olbrechts-Tyteca, *La Nouvelle rhétorique, Traité de l'argumentation* (1958) Presses universitaires de France, deux tomes, 734 pages, 1958.

¹⁷ J. Salmon, *Droit international et argumentation* (2014).

¹⁸ D. Kevonian, *La Babel étudiante: la Cité internationale universitaire de Paris (1920-1950)* (2019).

Jean Salmon: From 1954, September or October, until July 1955 and then the following year I did not have my room anymore, but I was coming back regularly to see my thesis supervisor, Professor Paul Reuter (1911-1990)¹⁹ and, of course, my friends.

DK & PR: Were there talks on the Algerian war?

Jean Salmon: Not much, but we were not French. I knew that Mr. Rolin was defending Algerians in Lille as an advocate, but that was it. I became more informed when I was with UNRWA (May 1958-August 1961), where I had several French colleagues particularly well informed; it was also later in the War. In Paris I concentrated on studying international law (Mrs. Bastid, M. Sibert (1884-1957), Ch. Rousseau (1902-1993), and, of course, Paul Reuter) and professors of constitutional or administrative law. I read a lot. I did not just read the materials in the usual syllabuses; I read numerous treaties and manuals. It has always been my practice to read sources that will show me the same material but as seen by someone else, with a different approach or sensibility, and eventually make me aware of other conceptions, other ways of looking at events or their explanation, other processes that will make a difference.

And at the same time I immediately worked on the documentation for my dissertation. Reuter was a delightful man. First, he was giving doctorate lectures (on international organizations), full of clever ideas and originality of thinking. He made me love the intricacies and subtleties of international law, the analysis of things, by showing how one arrives at a solution, the different theses that could come up. In a way he made you exert your legal mind.

The second year I again attended his doctoral course (on international responsibility). Often at the end of his course I accompanied him to his home, crossing the *Luco*.²⁰ He lived on rue du Cherche-Midi. We would talk about anything, but not necessarily law, a few words about my thesis and then we would talk about Merleau-Ponty, about Camus' books. He was a Christian, belonged to the MRP,²¹ but he was a rather courageous man who had married a Jew during the war, a pianist. A man I liked; I had a lot of sympathy and affection for him. He was probably quite idealistic, but at the same time he was a pragmatic, learned in economic and financial law; he had been involved in the creation of the ECSC with Jean Monnet (1888-1979). There was a very practical side to him. He believed in his Europe, in its new system of international institutions. He was going to support the hypothesis in my thesis that the "general principles of law" often used as the law of the contract by international organizations, instead of making applicable the law of a country, was a good solution. Years later I changed my point of view on this source, when I saw the political abuses of the concept, but it seemed to me that it was indeed the solution to achieve unity. (...) My thesis went well. I received the title of Docteur en Droit on 13 May 1957 and the *Prix des thèses* (4 July 1958). Here we come to years that are a turning point in my life, between 1956 and 1958.

Now I shall take a little detour because I forgot to mention something that happened in the spring of 1956. Having passed the oral examination in Paris, I was finishing my thesis. Professor Rolin called me: "Are you interested in serving as secretary-editor at the Granada session [April 1956] of the Institute of International Law? [...] You now have a law degree from the ULB, soon a doctorate in law from Paris. Your candidature is supported by Charles

¹⁹ Paul Reuter (1911-1990), French lawyer and professor at the Université de Paris. On his contribution to the design of the Schumann plan, see A. Cohen, "Le plan Schuman de Paul Reuter entre communauté nationale et fédération européenne", *Revue française de science politique* (1998), pp. 645-663.

²⁰ Short for the Luxembourg garden.

²¹ French Christian-Democrat political party.

de Visscher (1884-1973); it will work out". And it did. And here I am in the spring in Granada, where I discover there the Institute of International Law ... First, there is putting a face on names. You have heard a good third or quarter of these names, and suddenly you see the men who bear this name. It is Basdevant (1877-1965), it is Kelsen (1881-1973). Ah, he's the smart one, I would not have guessed. And then you see how nice these people are to you, how benevolent they are. They ask you if you've got their intervention all figured out; if you go to seek some explanation to be certain you got it right, they're patient with you. Not at all the austere and haughty professors we had during our studies, but charming people accompanied by their family, their wife, and their oldest children. That is how I got to know Miss Marianne Bastid, the daughters of Paul de La Pradelle (1902-1993), of Henri Batifol (1905-1989), Thierry Muûls (b. 1937), Mlle. Makarov, and so on.

After the working sessions, we would go sightseeing with the younger members of the secretariat, such as Daniel Vignes (1924-2011), listening to Spanish classical music or attend a *tablaò flamenco*. And there were these two endearing personalities: the Secretary General Hans Wehberg (1885-1962) and his wife, Mrs. Wehberg. The attention Mrs. Wehberg paid to this elderly gentleman was touching and the care she extended to us, guiding us in our relations with everybody or in preparing the meeting minutes. In the following years I worked with her more closely, and she would send me the draft pages of the *Annuaire* for proofreading. I loved that delightful lady. [...]

I fell in love with the Institute, with these people at that time. I have always been a bit of a romantic and a sentimentalist. This played a big part. There was a group of learned men (no women at that time, except Suzanne Bastid (1906-1995)), among the greatest scholars of the world in international law, but who at the same time were men, there with all their families who could talk to you, reporting how it was when they had been secretaries. I thought this was wonderful. I did not imagine that I would ever become part of this cenacle, but it was already something to have this opportunity to talk with one or the other about my thesis. It all played a part.

I return to my dissertation. I had learned that the European Center of the Carnegie Endowment for International Peace in Geneva had a prize for a work on international organizations. I tried. The subject of my thesis was "international loans made by international organizations", all of which had on occasion borrowed money for some purpose or made loans to others over a hundred years. A synthesis was appropriate. I submitted this thesis and received a letter saying that I had won the prize.²² For me it was a great achievement and the amount of the prize, albeit not huge, was welcome; my wife and I were received in one of the biggest hotels in Geneva with a view on the lake. President Johnson (1895-1990) of the Endowment was there to present the prize, which was extraordinary. And then the Director of the Center, a Belgian, John Goormaghtigh (1919-1998), a most charming man, a member of the resistance during World War II, an apparent handsome Englishman, with a lovely moustache, very athletic, speaking an English that was so beautiful that it would make you cry. I had seen him before and would have later the opportunity in the 1960s to collaborate in Center research remarkably directed by him.

From August 1956 to February 1958 I had to comply with my military service obligation. During the last year I was stationed in Brussels (Ministry of Defense), and it was possible to polish the manuscript that was published by the Carnegie Endowment.²³ The thesis prize from the University of Paris was announced on 4 July 1958. At that time, I was in

²² "Prix sur l'organisation internationale", *Revue internationale de droit comparé*, XI (1959), p. 12. Jean Salmon is the winner for the "manuscript" prize in 1957.

²³ J. Salmon, *Le rôle désorganisations internationales en matière de prêts et d'emprunts – International Loans* (1958).

Beirut; my father, who went to receive it on my behalf, was happy to revisit the building where he had obtained his own law degree and where he was proud to represent his son.

In the meantime, I was looking for a job, if possible in an international organization. The opportunity came from John Goormaghtigh, again. He had been informed by the General Counsel of the UNRWA (Director of the Legal Department,) whose name was Jean-Flavien Lalive,²⁴ that two positions were to be filled in his Department and asking him if he knew anyone. John alerted me, and I applied. By another coincidence, I knew well the family Lalive in Geneva through the Institut de droit international, particularly Pierre Lalive (1923-2014), who was heading the temporary secretariat of the biennial sessions in which I also served, just as Daniel Vignes by the way,²⁵ and I had seen Lalive's mother. That was a chance of a lifetime. I met Jean-Flavien, who agreed to engage me provided I would follow extensive courses of English in Beirut where UNRWA Headquarters were located.

Now, an anecdote concerning Jean-Flavien. To work in Beirut, I had to apply for a Lebanese visa. I sent my application, with a photograph of Jean Salmon with a big beard. And I filled the questionnaire : "Name" : Salmon - "religion" : I bravely wrote "without" ; "Profession" : "Without". I received a letter of reply from Lalive. I kept it; it is a monument. He wrote:

My dear Jean Salmon, please note that you come to work for the Palestinian refugees who have had terrible problems with Israel, and that if you ask for a visa to come here with your name on one hand, with a beard on the other hand, which in general here is worn only by religious people, you had better, to shave it. If you write you are without religion it will be believed that you are hiding your true religion.

And he had this word: "If you don't believe, you can always say that you are a Protestant because we always protest about something". He had found an excellent formula. I did not do it all the same, a kind of righteousness. I had registered as a Catholic when I was not, but I said to myself, I can say it. Because I was baptized, it is not really a lie, even though I'm not anymore. He also suggested as a profession: you may write "legal officer UNRWA" as you are engaged. I began to understand that I had to leave the naïve world where I was living.

It has been an exciting job. First, I discovered what it was like to work as a lawyer, working with a team, with a General Counsel, a Director, other departments, whereas I had always lived in a theoretical world. I was now working in an institution where there was always a real problem that had to be resolved. I was discovering that law made sense only in relation to facts and aims, that the job was to distinguish the appropriate law for the given fact, but it was the aim that mattered. When we were attending law classes, we were taught it was law that mattered, that came down to making us understand how it worked ... like the pyramidal system of a constitution. It was all very theoretical, very geometric ... but that was not the point: we started from a fact and we had to find out which law was appropriate. Gathering all this data, seeing what had happened, and how it had happened in order to solve a real problem. That aspect of legal practice enchanted me. In practical terms the first domain which was entrusted to me was the privileges and immunities of UNRWA as an international

²⁴ Jean-Flavien Lalive (1915-2012), Secretary General of the ICRC Joint Relief Commission for assistance to civilian populations during and after the Second World War, First Secretary of the ICJ, Legal and Political Adviser of UNRWA in Beirut and Geneva, and Secretary General of the International Commission of Jurists.

²⁵ Pierre Lalive, professor in Geneva. For many years, he was President of the ICC International Council of World Business Law and the Swiss Arbitration Association. Daniel Vignes (1924-2011), professeur de droit de la mer, Université de Bruxelles.

organization in Lebanon and all the neighboring countries: United Arab Republic (Union Syria-Egypt), Jordan, Gaza, and Israel.

The little UNRWA plane took us everywhere. We were discussing matters with local lawyers relating to current problems of a fiscal or customs nature, driving accidents involving our employees, or with important ministries because UNRWA made claims when its personnel were arrested. It was a troubled period when I arrived in Lebanon in May 1958: President Chamoun's (1900-1987) decision to serve again as President of the Republic in spite of the constitution prohibition divided the country.²⁶ There was a landing of American marines under a pretext of UAR interference when it was obvious that this was a purely internal problem. On 14 July 1958 the free officers led by General Kassem [1914-1963: Abd al-Karim Qasim] took power in Iraq and put an end to the Hashemite monarchy with consequences in Jordan.²⁷ We saw or heard from time to time bullets whistling. But in the end ... it was a magnificent period from every point of view. I discovered a fascinating job, I learned the history of this region through good and rather impartial lectures at the British Council and a lot of reading.

But after a while, I was entrusted with other problems in the office: contracts, employment rules, and the like. I was reading what was called "the running file", a document where each time anybody in the legal office wrote a letter, a note, or a memorandum, a copy of this document was put in it and circulated every now and then to the members of our service to keep them up to date on current problems handled. To enlarge my knowledge of the current and past problems I read part of the former legal archives and helped the archivist to make a new classification. During the last year I was in the office, I had become the personal assistant of the General Counsel in post.

During my stay in Beirut I had successively three general counsels. First, J. F. Lalive, who taught me by his behavior how power works in an organization. ... There is the director, the deputy director, and the General Counsel. Who exercises leadership? I rapidly realized that the one listened to by the Director General and the services was Jean-Flavien, and he was conscious of this. He had been there for five years, including during the 1956 War. I understood that he was exercising a form of power, of the man, but that also of the lawyer.

One great technique the legal office used was to alarm the services and ensure that everything important signed in the name of the Agency would have the *imprimatur* of the General Counsel's office. Consequently, as soon as they had the slightest doubt, they would come to the General Counsel who, I must recognize, often redrafted their text. And there was another side to it. This may appear anecdotal, but there was also the question of whether the Office of the General Counsel should interfere with the decisions to be taken. There were two approaches. The French would take an uncommitted attitude: "We are neutral, we don't have to get involved in this ... We have to set out the law without mixing in policy decisions". But the Anglo-Saxon did not. With obvious caution, they would say: "You do as you think best, but maybe if you do it this way, it would have such and such an advantage, or it would have such and such disadvantage", mixing legal and policy arguments.

But in the end, you left the worm in the fruit, or more exactly traces of what you thought the best approach. There were thus all sorts of techniques to make people understand that they should avoid doing something adventurous, or dangerous. There were all kinds of solutions, not just to give an answer but possibly to delay before giving one. That was a

²⁶ Camille Nimar Chamoun, President of Lebanon from 1952 to 1958.

²⁷ UNRWA had been in turmoil already when the Free Officers took power in Egypt in 1952, the Suez Crisis which began with the announcement of the nationalization of the Suez Canal Company by Nasser in July 1956, followed by the Anglo-French-Israeli offensive in the autumn which ended in withdrawal under joint pressure from the United States and the USSR. In Iraq, the revolution of July 1958 put an end to the Hashemite monarchy and opened a period of great political instability and the withdrawal from the Baghdad Pact in 1959.

complex game between facts, law and policy making. It was quite a spectacle; it was magnificent!

The second General Counsel was Blaine Sloan (b. 1920), An American with a completely different personality: shy, unassuming, charming. He was coming from the United Nations General Legal Division in New York. He taught me much about United Nations legal conceptions and policies, was devoted to his task; a hard-working man. I was impressed by Jean-Flavien, I adored Blaine, and saw him leave us, back in New York, with great sorrow. Several years later he offered me to join him in New York with a P4 post. But at the time I was quite involved in my Brussels responsibilities and I declined, in spite of the interest of the job, the possible overtures to the new world, and the financial improvement it would have meant for the family. The third one was an agreeable and uncertain dilettante with whom I had nothing to learn. The reverse happened; I became his personal assistant! It was time to leave.

DK & PR: This raises the question of the lawyer's position.

Jean Salmon: All lawyers are confronted with the same problem, especially when they are international consultants, I can assure you.

DK & PR: In the inter-war period there was a Legal Service at the League of Nations that functioned in a similar way to what you describe. And this orientation that it gave, was it on a case-by-case basis or rather a general orientation?

Jean Salmon: As far as Jean-Flavien Lalive is concerned, he had been for several years first secretary at the Registry of the ICJ, where his position imposed the most extreme caution, self-effacing personality, in the shadow of the shadow. But later in an organization exercising practical work in the field, he could give free rein to his strong nature; he realized that he should not leave room to weak, inefficient, or ambitious but not so clever people. And therefore the lawyer, who knew best, had to commit himself, doubtless with caution, but that he had to commit himself.

What you say about the League of Nations, of course I did not know this and for good reason, but I read a lot about it and heard from Emile Giraud (1894-1965).²⁸ I met him at the Institut. Giraud was a committed man, always, and he spoke as much about politics as he did about law. I think that, at that time, the League of Nations international officials operated not only a good administration;²⁹ they thought they were going to achieve something, that they were going to create something. But, little by little, they realized that it was not going to work. In his course at the Academy Emile Giraud was already critical, but in the end, when I knew him he had become disillusioned as one who has lost hope.

During my stay with UNRWA, I learned the professional practice of law and the management of an administration, I was not going to forget them; I also got an acute political awareness of the political situation in the Middle East ... I was discovering the horror that had happened there ... the mandates that had been total hypocrisy ... and the ominous fate left for

²⁸ Jean Salmon refers here to Emile Giraud, a French jurist who spent a large part of his career at the League of Nations and then at the United Nations. Member of the Legal Section of the League Secretariat from 1927, Legal adviser of the League in 1940. Member, after 1945, of the Human Rights Division of the United Nations Secretariat, then Deputy Director of the Division for the Development and Codification of International Law in New York. He wrote *La nullité de la politique internationale des grandes démocraties (1919-1939) L'Échec de la Société des Nations – La guerre* (1948). See also his course at the Academy of International Law, “Le droit international public et la politique”, *RCADI* (1963), CX, pp. 420-841.

²⁹ Emile Giraud, “Le secrétariat des institutions internationales”, *RCADI* (1951), LXXIX, pp. 369-510.

the Palestinian people in the land of their ancestors in spite of their defense against foreign colonialists and Jewish Zionism. I was learning all this, the great strikes of the Palestinians in the 1930s. Nobody in the West understood the consequences of the United Nations partition plan in 1946 and the War in 1956. I went to claim in Jerusalem reparation for the damages that Israeli forces had caused to UNRWA premises or employees during their aggression and saw their arrogance. So, progressively during my stay in the Middle East, I became aware of how imperialism had imposed itself in this region over a century. Thanks to my reading and the lectures I attended at the British Council given in an “objective manner”, no doubt, but this “objectivity” in itself denounced the hypocrisy of the whole system. That is when I became really politically conscious. After the war 1940-1945 and the genocide against the Jewish people, as an adolescent, I was, without being aware of the real significance of that word, a “Zionist”, like everybody else. I had read Koestler.³⁰ But when I got there, I realized that it wasn't that at all ... that it was sheer colonialism, racism, and apartheid.

In the middle of 1961, while I was in Beirut, Mr. Rolin wrote to me a personal letter with approximately the following information: “I'm getting to 70 (emeritus status was then at 70 years of age). We are going to create at the Law Faculty a new degree in international law, (licence spéciale en droit international) in a two-year program of study. Courses will be available. Would you be interested?” I replied that yes, I would be very interested. Provided it could be a full time appointment. Although that condition was a rather exceptional decision, the University authorities gave their agreement. From our family side, to choose an academic career instead of an international officer one was a hard decision.

I was doing well at UNWRA; we had 45,000 Belgian francs a month, and at the University I was going to receive 15,000. We talked about it with Denise ... we had two children, born in Lebanon. It would be tough particularly for Denise. She said to me: "Do you want to? Let's do it". She was a lawyer too. I had met Denise at the University. She was not as much of a researcher as I; she wanted to be a practicing lawyer. She had started her three-year internship before we left for Beirut, but when we returned, with two baby children, we could not afford her undergoing a third unpaid year internship again. She gave up her career. It was hard for her and financially for both of us in the beginning. Later she obtained a research assistant mandate at the International Law Centre, where she stayed for about ten years.

I owed my new career to Denise sacrificing hers, but she was willing to accept that for my sake and our hopes for the future.³¹

DK & PR: You chose the university, why not international organizations?

Jean Salmon: I think that I really wanted to teach. In Beirut I was an assistant of a colleague, a professor of constitutional law at the Faculty of Law of the University Saint Joseph. At the same time, after three years in Beirut, I was contemplating apply for a job with the GATT; altogether my thesis and various articles were on international borrowing. Geneva was an interesting place. I applied and received a reply that I was placed on a short list. Fortunately, Professor Rolin arrived in time and my choice was made. I think I would have been unhappy in this organization, or I would have become a white-collar worker in law, of whom there are so many, or I would have become neurasthenic, or left. I would have been in a place devoted to capitalism and neo-liberalism, a place where obviously somebody with a left wing ideology should not go. In contrast to that, at the ULB University (a free examination University) I was

³⁰ A. Koestler, *Promise and Fulfilment: Palestine, 1917-1949* (1949).

³¹ Mrs. Denise Salmon-Mathy is the wife of Jean Salmon, who was in fact a research assistant at the ULB, where she collaborated extensively on the *Belgian Review of International Law* where she worked on various chronicles (Belgian treaties, practice of the Belgian authorities in the field of International law and various articles of substance).

assured of freedom of thought, and although the main current at the Law Faculty did not particularly share my political conceptions, the latter would never be an impediment to the many responsibilities they asked me to fulfill in the Faculty management.

DK & PR: So you become a teacher?

Jean Salmon: I am at the university. I stayed there from 1961 to 1996³² ... To replace him in the chair of international law called “droit des gens”, from the latin *jus gentium*, Mr. Rolin had chosen Charles Chaumont.³³ A very good choice. He had known Chaumont during the San Francisco Conference; they met again in the special committee in charge of the drafting of the European Convention on Human Rights, with Cassin.³⁴ Mr. Rolin was aware of his past as a member of the resistance. Chaumont had been a member of the French delegation to all the United Nations General Assembly sessions in San Francisco. Although he was professor of international law in Nancy, he was legal adviser to the French Ministry of Foreign Affairs. In the summer 1956 Chaumont was sitting in the Sixth Committee. When the triple aggression against Egypt on Suez took place, he left the meeting and returned to teach.³⁵ No one at the Faculty was expecting him at that time. And he said, “I came back because I couldn't stand the look on the faces of the other missions who saw what France was perpetrating with England and Israel”. That was Chaumont. After that, he lasted another two years or so in his capacity of adviser to the Ministry of Foreign Affairs, but when the Fifth Republic came on [1958], he slammed the door ... that did not correspond to his conception of democracy. That was Chaumont.

As far as I was concerned, I had various courses on public international law and public law, enough to learn the subject and to teach and, in 1964, I created the Centre de droit international.³⁶

DK & PR: What can you tell us about the private consultations you have given?

Jean Salmon: I remember that when I talked about [the low salary at the university] to Mr. Rolin, he told me: “Yes I know, Salmon, it's not much; but you'll see, there are a lot of legal consultations that will come soon and that compensates ... Over the first fifteen years I only had two or three consultations (through M. Rolin). I was too young. People consulted are lawyers with great authority in their field. Besides, there were more specialized law firms. It was rightly considered more interesting to consult a well-known firm in commercial or transnational law, rather than a junior specialist in international law. It was not until the Western Sahara case in 1975 that I got my first case in court [ICJ].

³² With regard to the International Law Centre established in 1964, we refer to a previous interview conducted in March 2013. Transcription on the site of the ULB Centre for International Law under the title “L'École critique de droit international de Bruxelles” (available online).

³³ On Chaumont and his positions, see J. D. Mouton and B. Sierpinski “La pensée juridique de Charles Chaumont”, *Civitas Europa*, II (2015), pp. 197-223.

³⁴ René Cassin (1887-1976), member of the United Nations Commission on Human Rights in 1946, On René Cassin, see J. Winter, *René Cassin and Human Rights: From the Great War to the Universal Declaration* (2013).

³⁵ Charles Chaumont was a member of the French delegation to all sessions of the United Nations General Assembly from 1946 to 1958, and a legal advisor to the Ministry of Foreign Affairs from 1949. French member of the 6th Committee which examines political and legal issues.

³⁶ See J. Salmon “L'École critique de droit international de Bruxelles” on the website of the Center.

Thereafter I was involved in a dozen of them in the Court, which was not a bad achievement at the time, as the proceedings often drag on for several years. That is important to remember. When cases come before the court, especially if they deal with maritime or historical disputes, they require archival research and a lengthy search for the facts. Moreover, the procedure is slow, with long delays between the exchange of documents between the parties.

This is an exciting job in more ways than one. First, you can discover facts which will allow you to present things in another way than that which was contemplated initially, to use an argument you hadn't thought of, an exception, another rule, another way to qualify the facts, to insert a temporal point of view, and so on. The second aspect is cultural. It often allows people themselves to discover their own past ... they did not know before. When the parties agree to apply to the case the rule of *uti possidetis*, that is, to keep the administrative delimitations or borders left by the colonizers, it means research in the colonial archives. Nobody was really knowledgeable of that aspect at the date of the decolonization. The local authorities who represented the new States agreed generally on this rule. I think they did the right thing. It was the wisest thing to do; otherwise there would have been no end to disputes between the new States.

As mentioned a moment ago, one interest of these cases of border delimitation was to explore historical events and problems that are sometimes rooted in centuries. The question is whether the judges are willing to follow the same paths. They usually try to trace an event in the recent history where the parties to the case agreed on the demarcation line or on some particular text to solve the case without dwelling on history or social events. We learn a lot of things from court cases. From a methodological point of view, I was interested by the relationship between fact and law.

DK & PR: What can you tell us about the evolution of your conception of law and political commitment?

Jean Salmon: We have here two different questions: political commitment and the conception of law.

As to political commitment, the problem is the so-called neutrality or objectivity of the jurist in relation to politics. To what extent should politics be mixed with law, what is its role, what are the relations between politics and law. These are questions that intrigue every lawyer, particularly in international law. Usually we were taught that law should be dissociated from political judgments. Problems had always to be examined in pure legal terms, with sanitized concepts, a theoretical vocabulary. Even words that reflected values and concepts were always theoretical; there were only words. As if the words had not different meanings depending on the context.

There are a lot of problems with the definition of fact and the definition of law and the relationship between the two. This is a problem that has attracted my interest ever since I gave a course at the International Academy (in 1982), where I analysed the so-called judicial syllogism composed of three propositions: a major, a minor, and a conclusion. In the major, one finds the rule of law; in the minor, the facts.³⁷ All that doesn't hold because in reality the fact is already in the major under the form of legal fact; the law is implicit in the fact, because the fact is a bag full of diverse factual elements where the lawyer seeks to identify what could fit to the legal fact described in the rule of law which would be satisfactory to invoke. In analyzing and selecting the fact, a series of mechanisms apply: choice and interpretation of the law, selection and characterization of the facts, hidden ideology at every step, so that the

³⁷ J. Salmon, "Le fait dans l'application du droit international", *RCDIA*, CLXXV (1982), pp. 261- 414.

reasoning is the following: knowing the result you wish to achieve, you choose, out of an ambiguous “reality”, the facts to which a given rule of law or its interpretation or forgery might be considered to apply and you present the result the other way round: the law, the facts, the conclusion. It is not a logical operation; it is a shell game.

More generally, the relationship between law and politics is a paradox that most jurists have to live with at some time of their lives. Normally they are positivists, that is to say, they consider that the law should be applied as it is, and not as they would like it to be. This is a kind of professional obligation that often clashes with moral or political opinions. This is a kind of schizophrenia from which every lawyer suffers ... And I suffered myself in that situation for a long time; because I still try to be a conscientious lawyer who wishes to apply the law as it is and to teach it as it is and to be as sure as possible that what I say is law, is reasonably so.

But on the other hand, being politically minded, it is evident that I am on the left side of the chessboard ... I quickly got involved in the International Association of Democratic Lawyers, which was considered by virtually everyone to be a hidden Soviet activity, which was barely true. The Soviet Union, and the satellites of course, provided a good part of the money for congresses or meetings or publications, but basically they were not those who held the reins. The legal positions of AIDL were taken independently of any orders of Moscow. And that I can assure it, as I was on several occasions the chairman of the drafting committee in our congresses or bureau meetings. To be in agreement with a good part of Soviet international political positions in international relations (self-determination, decolonization, anti-apartheid, or condemning American policies as flagrant violations of international law), was common to many liberal people of the West. On many topics, the national groups or the individuals did not have Marxist or even socialist views. And on some points the IADL did not follow, at all, Soviet initiatives.

The second question is how to reconcile politics and law in the theory of international law. Take Henri Rolin as an example: politically he was not far away from these views, but on the plane of international law theory he was neither a Marxist nor a critical international lawyer. He came from a liberal family, nourished in the faith of “the gentle civilizers of Nations”. He “believed” in international law, in a kind of religious way. He saw it in an idealistic manner. Rolin was a living paradox. Aware of the malleability of international law, he interpreted and applied it always in a progressive way. Senator of the Socialist party, he was not revolutionary, but reformist. As we have underlined before, after the First World War he was fighting for all the good causes as he did after the Second or the Greek coup, or during the Algerian and Vietnamese wars.

The sole question on which our views diverged was Israël and Palestine. For him, Israel was a member of the “Internationale Socialiste”, and that was all. But he was moving slowly. I remember, a year or so, before he passed in 1973, he told me “This time they go too far” (*Cette fois-ci, ils exagèrent*). I was delighted. A few years later, his five girls were pro-Palestinian! However, in relation to Belgian colonial policy, he kept for a long time the good conscience of “*Tintin au Congo*” and the paternalistic views of the civilizing works of Belgium in Africa. He supported the legal position of the Belgian Government in the United Nations (Article 2(7), Charter: “... intervene in matters which are essentially within the domestic jurisdiction ...”), albeit with a reformist position in the interpretation of its legal mandate (we are civilizers of these underdeveloped peoples, let us therefore be the best civilizer: in education, public health, and so on ...); in the mid-1950s he began to give modest backing to the requirements of the United Nations General Assembly, where Belgium was isolated) under cover of an interpretation in concordance with the original text of the Charter (with Portugal and South Africa), but not with the political aspirations of the great majority of the United Nations members. However, at the time of the independence he was the State

member who was the kingpin, the “*cheville ouvrière*” of the Round Table which, thanks to him, was an unexpected success, before 30 June 1960.

My relationship with Charles Chaumont was going to give me the theoretical basis to resolve my own contradistinctions. I already explained that Charles Chaumont was in charge of the main course in international law. I was interested to know the substance of what he was teaching and became a regular auditor of his lectures. In spite of the fact that he had an assistant for his seminar, I attended as a colleague. I soon was captivated by his teaching. We discovered that we were both had a second residence in Provence, 13 km. away from one another. We became close friends. Our families saw each other frequently during the holydays. On occasion he asked me to undertake the oral examination during his absence due to other commitments. This helped me to enter into his thought patterns and his approach to teaching international law, showing the political significance of the latter. Then I replaced him and delivered the course (1969-1970). When he resigned from teaching that course, I succeeded him in the chair (1970). Later on we created, together with Jean-Pierre Colin and Monique Chemillier-Gendreau, “Les rencontres de Reims”: the first French movement of critical international law.³⁸

Basically, I adopted the theoretical conceptions of Charles Chaumont: the function of the rule of law is to resolve the contradictions between States. The solution of the conflict between these concrete power relations between States of unequal strengths (balance of power) is acquired by common consent on rules of law. But this consent may be reconsidered when the balance of power changes or when the consent is purely apparent, or when the rules are not consolidated by effectiveness. The solutions reached by these contradictions are consequently partial and relative, as well as the agreement between the States which adopted them. The concrete power relation which is the source of the agreement is usually hidden beside an ideological discourse covering the unequal character of the parties to the agreement.

With this approach, no rule of law can be distinguished from the concrete political circumstances of its adoption, its interpretation, the distortions in its application, change, or disappearance. It is no longer a play of abstract concepts, but the mirror of the forces behind the words and their perpetual balance put into question. It is also a visa for the creative freedom for the lawyer to seek the facet of the rule of law which is best governs a specific case.

³⁸ Jean Salmon, “Introduction aux rencontres de Reims (1973-1989)”, website of the Centre de droit international (available online).