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Report on the IMISCOE-Funded B6 Workshop on 'Legal and Normative Accommodation in Multicultural Europe', Brussels 14-15 July, 2008

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1. Introduction

This report on an IMISCOE Cluster B6 workshop held in Brussels in July 2008 is in four parts. Part I is a summary which may suffice for many readers. Others who need or wish to go further might look at Part II, which covers the background more fully; Part III, which includes notes and reflections on the workshop; and Part IV, which sets out some proposals for the future. An appendix gives details of workshop participants.

There is considerable interest among social scientists, lawyers and judges in understanding how legal practice in Europe is changing in the encounter with the diversity occasioned by immigration. Noting this, members of IMISCOE B6 organised a conference in London in July 2007 on the theme of 'Legal Practice and Cultural Diversity', papers from which will appear in a collection to be published by Ashgate in 2009. In 2008, the group received an additional grant to develop a framework for future discussion and research, and it was agreed to organise a workshop to clarify strategy. This took place in July 2008, at the Belgian Royal Academy in Bruxelles, convened by Ralph Grillo, with the assistance of Roger Ballard, John Bowen, Alessandro Ferrari, Marie-Claire Foblets, André Hoekema, Marcel Maussen, and Prakash Shah, and organised locally by Marie-Claire Foblets. The chosen focus was 'Legal and Normative Accommodation in Multicultural Europe', specifically concerning the family, with the intention of working through to more general analytical and conceptual issues by means of close examination and in-depth analysis of substantive empirical examples, including actual legal cases. The following summarises a wide-ranging debate, and sketches an agenda for future discussion and research.

'Accommodation' refers to practices through which social actors operating in, or in the shadow of, the legal process, are sensitive to, and make room for, 'other' values and meanings. The requirement for accommodation stems from global trends (including transnational migration) ramifying through social and cultural systems with important implications for the law, especially in the familial domain. Accommodation is a complex process happening on many different levels, and in many different places, drawing in many different social and legal actors, with many different and often conflicting interests – there is, for example, an important gender dimension. The 'Sharia debate' in the UK illustrates many of these points. The extent to which legal systems are prepared to accommodate difference varies across place and time - some, at some times, are more open to accommodation (or open to some accommodations) than others. The reasons are partly socio-historical, partly to do with different legal cultures, and partly conjunctural, and all this needs close investigation. There appears, now, however, to be a hardening of boundaries, a rejection of open-ness which we see more generally in the widespread backlash against diversity. However, those demanding or claiming the recognition and accommodation of difference are unlikely to be satisfied with the injunction 'When in Rome'. In the contemporary world of multiple transnational exchanges, such demands are unlikely to go away. More generally, accommodation is part and parcel of how social orders are negotiated, and societies (including legal practitioners) should not fear accommodation. Interlegality is part of the human condition (like creolisation), and a salutary process. Nevertheless, societies have the right to define what is negotiable and what is not, though hopefully the bar of tolerance can be set quite low. When boundaries are set through intercultural dialogue, they are often accepted (as, for example, in recent debates about forced marriages). The keynote is accommodation through 'incremental change', albeit the burden of implementing change should not be left to legal actors alone.

It was agreed:

(a) To establish a network entitled 'Accommodation in Pluri-Legal Europe' (APLE), for information exchange and contacts. A discussion list has now been created at http://www.jiscmail.ac.uk/PLURI-LEGAL
(b) To prepare a major conference for 2009/10, to examine (in different contexts) obstacles to the legal accommodation of difference in the realm of everyday matters affecting (transnational) families (including marriage, divorce, children, the transmission of property), with a dual focus: 'How do?' and 'How should?'
(c) To seek funds and a venue (i) for a planning meeting; and (ii) eventually for the major conference itself; To enquire whether any remaining IMISCOE funds might be made available for this purpose.
(d) To note opportunities for funding future interdisciplinary research collaboration (NORFACE, next round of Framework VII etc), and encourage colleagues to go forward with proposals.

2. Background

In recent years there has been a growing interest across Europe and North America (and elsewhere) in the interaction between migration, or rather between the lives of migrants and their descendants in the 'Northern' receiving countries, and the law and legal processes. This is frequently a matter of concern in the public square, but there has also been a burgeoning of interdisciplinary research on the implications of this interaction for legal systems and their practitioners. Are we, for instance, witnessing a 'pluralising' of the law? Taking note of these developments, a group based in IMISCOE organised a successful conference around the theme of 'Legal Practice and Cultural Diversity', in London in July 2007. Looking to build on that conference a small team of anthropologists, legal specialists and political scientists from Belgium, Italy, the Netherlands, the UK and the USA sought to develop a framework for further discussions and possible research collaboration. Exchange of views revealed a range of opinions as to what direction (and what form) such discussions might take, and eventually it was agreed that at this stage a small, relatively focused workshop, rather than a large conference, might provide a better opportunity to identify a fruitful strategy. We were all agreed on the importance and relevance of getting to grips (from within our respective disciplines) with the interaction between legal practice and cultural diversity, but as someone remarked:

> 'We are trying to sink our teeth into a staggeringly wide range of intellectual and political issues [and] are still all (usefully and necessarily) at sixes and sevens as to the appropriate analytical and conceptual frameworks with which to address the issues by which we find ourselves confronted'.

Seeking to explore precisely those elusive 'appropriate analytical and conceptual frameworks', we agreed as a next step to organise a workshop focusing on 'Legal and Normative Accommodation in Multicultural Europe' (our working title from an early stage), specifically concerning the family. This idea was taken up, albeit with a strong indication that it would be best to work through to the analytical and conceptual issues (e.g. those engaged by concepts such as 'interlegality' and 'internormativity') by means of close examination and in-depth discussion of particular case studies - meaning specific substantive empirical examples, which might include actual legal cases.

In due course, a limited number of people were invited to a meeting in Brussels in July 2008 to present papers or act as discussants, and the programme was organised in three phases as follows:

Phase One:
Case studies illustrating different aspects of the general theme, including the analysis of legal and normative accommodation with regard to family matters (the domestic arena in the anthropological sense), focusing on key domestic relations, i.e. spouses/partners and parents/children.bPapers presented by Samia Bano, Wibo van Rossum, France Blanmailland & Céline Verbrouck (joint paper), Julie Ringelheim, Prakash Shah, Roger Ballard, with Mathias Rohe, Fauzia Shariff, and Barbara Truffin as discussants

Phase Two:
A roundtable session with two papers setting out some general conceptual issues and approaches, and providing the opportunity to reflect on the implications of the case studies examined in Phase One. Papers presented by John Bowen, André Hoekema, with Marcel Maussen discussant.

Phase Three:
Discussion of possible agendas for future workshops or conferences which might be held in 2009-2010; future organisation of the group; possible research agendas, including the potential for applying for EU funding. Led by Marie-Claire Foblets.

3. Notes and Comments – Some Personal Reflections, Thinking Aloud…

a) We reminded ourselves (or Marcel Maussen reminded us) that one of the reasons for the emergence of the field (as a matter of both public and scholarly concern) was globalisation and the transnationalisation of migration. Migration has brought to Europe people with cultural values and practices which are sometimes very different from those accepted as hegemonic in contemporary receiving societies, and in one domain, that of the family, this has become a matter of all-round concern. Families of migrant origin, for example, are central to arguments about the rights and

wrongs of ways of living in multicultural societies, their (often imagined) practices the focus of debate about difference and its limits, the object of media comment, policy initiatives and legislation, and the daily preoccupation of social service practitioners, teachers and others (Grillo ed. 2008). Values and practices in this domain (and in others) may challenge dominant conceptions in everyday life, and this challenge is often apparent in interaction with legal processes.

b) In saying this it is important not to over-generalise and essentialise. We are not reading this interaction as a Manichaean conflict between two contrasting civilisations. Within populations of a specific migrant origin, for example, there are at least as many different voices, viewpoints, subjective positions, narratives as there are between groups of different origin, or as may be found in receiving societies themselves. And viewpoints are constantly changing, not least under conditions of migration in a globalising world. In fact, in the migration context, internal differences (and value changes), and conflict stemming from these, may well be among the precipitating factors which bring individuals and families into the purview of the law and the courts (e.g. forced marriages?) Disputes about the 'best interests of the child', for example, illustrate these various points.

c) Concerning the previous paragraph, Prakash Shah writes as follows:

> "It seems to me that one unexamined question here is the extent to which, and granted that there are divergences of viewpoint among migrant populations, there is an alliance now between the more assimilation minded among the migrant communities and the hegemons who wish to promote their policies to "control" alterity. This alliance of course continues the othering of those excluded from this cohabitation. The work of Ashis Nandy (1983) is quite useful in providing a schema for this, although set elsewhere in the colonial and post-colonial contexts. Also Fanon and Memmi?"

d) Transnational migration itself creates many situations which bring people into the purview of (and sometimes into conflict with) the law. This emerges clearly from research on transnational family life, and on how trying to organise family life (including caring arrangements) transnationally obliges people to interact with the law, the legal system, the legal process, the judicial process around key life cycle events (birth, adolescence, marriage, death), and all that they may entail, as well as in the conduct of everyday life. There is a growing interest in transnational families, but little in the anthropological/sociological literature deals with the way that transnational family life may compel interaction with the law (and its transgression) in several places at the same time. The literature on immigration law documents some of the effects on e.g. family unifications, and the now substantial literature on transnational caring (looking after elderly parents, or making arrangements for children while working abroad etc) has started to look at the way in which immigration regimes impact on such practices. There is also some legal work on adoption (e.g. on Islamic kafala, and Hindu adoptions, Prakash Shah). Child fostering, common and well-documented in West African countries such as Ghana, but which has been extended internationally through migration, is another practice which deserves close attention from a socio-legal perspective.

e) It is important to locate such practices (parent/child care, adoption, fostering, marriage itself etc), and the problems to which they may give rise in interaction with the law and legal processes, in the context of transnational migration. But this leads to a key issue, one much debated. What, if anything, should receiving societies do about this? The robust answer is, in effect, nothing. Or rather, there is the response that so far from seeking to accommodate, come to terms with, those (transnational) migrant practices, receiving societies should insist on conformity with existing norms and values. And this approach - 'When in Rome' or 'You can't do that there 'ere'' – is seemingly increasingly predominant across Europe and elsewhere. (This is what some of us have been discussing under the rubric of the return to assimilation or the backlash against diversity and difference). In fact, although there are voices, perhaps increasingly strident, calling for a return to assimilation policies (or at least critiquing more liberal conceptions of integration), what is happening is much more complex (and difficult to summarise), and sometimes the left hand doesn't seem to know or take in to account what the right hand is doing. For alongside the hardening of boundaries we also find 'accommodation', occurring at many different levels and in many different places.

f) We discussed, briefly, what we mean by 'accommodation', though did not resolve some outstanding issues. To start with, I think we shouldn't get caught up in a debate about a particular word. In our working title 'Legal and Normative Accommodation in Multicultural Europe', 'accommodation'

was not chosen with any particular care or with any particular sort of practices or processes in mind. If there is a better word one can employ it, but I think it will do for now to refer to a wide range of practices (which need to be identified empirically) through which the law, or more generally social actors operating in, or in the shadow of, the legal process, are sensitive to, take into account and make room for values and meanings different from their own. Here Wibo van Rossum's concept of 'neo-modern' thinking/sensitivity is interesting:

> 'A modest belief in law's values, optimistic about its instrumental power to change society and to contain state powers, but realistic as regards law's ultimate capacities, effectiveness, and side-effects, and with awareness for and sufficient knowledge of other rule systems that from the point of view of its proponents are just as worthy as modern law is from ours. Not a "middle of the road" between modern and post-modern, but consisting of both contrasting attitudes at the same time, within the same person'.

In short, 'accommodation' is less something to define than to investigate. And accommodation may encompass, but is by no means confined to, changes in legislation to make room for practices which were previously not allowed or discouraged, e.g. certain kinds of marriage or divorce, adoptions etc etc. Marcel Maussen's point about not confining ourselves to the texts is pertinent. As Barbara Truffin pointed out (discussing developments in the European Court of Human Rights) shifts in the terms of a normative discussion are not necessarily accompanied by changes in actual accommodative practice.

g) In the previously I said 'in, or in the shadow of the legal process' because it is important not to confine attention to a narrow range of legal actors engaged directly in managing cases in the courtroom (judges, advocates etc). These are obviously a major and important focus, but our coverage should include all those directly and indirectly involved in the legal process at some point: lawyers and judges, yes, but also police, expert and other witnesses, juries and so on. The analysis of the kind of cases discussed by Roger Ballard, and those mentioned by Céline Verbrouck and France Blanmailland, provide an excellent opportunity to do this. However, it is also necessary to include other actors (for example social workers and similar practitioners and gatekeepers – teachers?) who may find themselves drawn into the legal process[1]. At this point it is perhaps pertinent to point out that accommodation may be observed in the use of the discretion available to, e.g. social workers or policemen, when they act or refrain from acting because they decide to take 'cultural factors' into account – perhaps sensitised by diversity training. Marcel Maussen, however, expressed the view that we should not allow it to be assumed that such training – seeking to make people less xenophobic - really addresses, let alone solves the problems we are discussing.

h) In thinking about accommodation we noted that there may be some things (practices, procedures) which are negotiable and some things which are not, and identifying where the (shifting) boundary lies is very important and interesting. This came up at several points in our discussion, notably around the concept of 'porosity', a term used by André Hoekema. France Blanmailland (and myself) took it to refer the relative open-ness or closed-ness of societies (and legal systems) to other values and thus how far they are prepared to accommodate others. André was in fact referring to something else, a much more general process, relevant to his conception of interlegality. Porosity in the first sense is variable across space and time, and possibly across institutional domains, and to understand how and why, more or less, porous, and in which domains, requires careful contextual (and historical) analysis and comparison. Different degrees of porosity (and at different times) may be found in different courts within the same legal system: see Prakash Shah's paper comparing Judge Munby on the one hand and the immigration tribunal on the other, and also Julie Ringelheim's review of the changing values behind the decisions of the European Court of Human Rights, e.g. in *Gorzelik* v. Poland. She gave us both 'optimistic' and 'pessimistic' readings of their decisions[2].

i) Concern about negotiable and non-negotiable boundaries was clearly apparent in the furore[3] in the UK following the Archbishop of Canterbury's speech about Sharia (see also the response to a proposal by the Canadian Islamic Institute of Civil Justice to establish a Darul-Qada - Muslim Arbitration Tribunal - in Ontario in 2004). Much of that debate was conducted in complete ignorance of the nature of Sharia, of how existing Sharia councils in the UK actually operate and what they do, and what exactly (if anything) Muslims were wanting. Thus research in the UK by Samia Bano (2007, 2008), and more recently by John Bowen, besides its socio-scientific value, has very great importance in informing public debate. Samia Bano's research throws a great deal of light in particular on the relationship of women to the Councils, and the very complex issues this raises.

There is an important gender dimension here as elsewhere: 'accommodation' may mean conceding patriarchal interests - see *inter alia* Bano 2008, and of course the work of Ayelet Shachar (2001). Perhaps our discussion paid insufficient attention to this dimension. I won't go into the British Sharia debate, what the Archbishop, and more recently the Lord Chief Justice, actually said, or meant etc, as much is now being written on this. In fact, although it is important to take cognisance of the public debate about Sharia (and arguments about 'complementary' or 'supplementary jurisdictions'[4]) detailed accounts of what is actually happening, on the ground, within the sharia councils, and the kind of accommodations they represent or implement, are in many ways more interesting and valuable (see further below).

j) In looking at accommodation we were mainly, I think, focused on how legal systems in receiving societies are responding to alterity. As Roger Ballard put it: 'How should the courts adjudge/resolve contradictions between indigenous and 'alien' understandings of the behavioural implications of kinship, marriage, paternity and so forth?' Roger's remark, in this instance, emphasised 'should', and there was a continual tension in our discussions between 'how do?' and 'how should?' (see André's comment on this point.) However, as Mathias Rohe reminded us, accommodation is a two way process: 'they' are also doing their own accommodating, and as Fauzia Shariff noted it is important to identify who (among migrants and descendants) is using the state law, for what purpose, and how, and how do they use the state law alongside other forums: forum shopping etc.

k) Among other things, migrants and families are sometimes found taking on tasks such as mediation (Marcel Maussen noted) which the state doesn't want to do, or which they don't want the state to do. One thing which is increasingly being detected among minorities is the tendency to keep things away from official law altogether as it develops a more and more hostile or negligent approach to some normativity among some ethno-cultural groups. There is thus a whole swathe of legal practice which 'official' practitioners do not see - e.g. the growth of Sharia councils and similar bodies - which are illustrative of this pattern. These practices, which if they are noticed may well be castigated as creating 'parallel' institutions, take place in the shadow of official law, and are responses to a new legal environment - not museum pieces from 'back home'.

l) This points to an area for further discussion or research which came up in some of our conversations. In several places (among different groups, sometimes, perhaps the same group) there are several forms of what I would call something like informal/semi-formal/quasi-legal/'parallel' community-based dispute settlement institutions and mechanisms - I hesitate over the appropriate adjectives. Provisionally it seemed that one might place these on a spectrum. At one end, the most private and informal, albeit culturally recognised as a specific device, is the 'family meeting' (so-described, using the English term - the South Asian term 'panchayat' also appears to have been used), found among British Pakistanis, described by Roger Ballard. Somewhat more formal and institutionalised would seem to be the Cem, a regular religious ceremony organised in designated places, among Turkish (Kurdish) Alevi Muslims, which also provides a forum within which disputants may be given the opportunity to resolve their grievances (information supplied by Wibo van Rossum), under threat of the ultimate sanction of expulsion fromthe community. Further along still (and in the UK very much in the public eye) are the Sharia councils which we heard about from Samia Bano and John Bowen (with additional information from others). And there is also the Beth Din, a very private but publicly accepted institution. I hadn't fully appreciated previously how (in a Northern context) Sharia councils are specifically and peculiarly a British-Pakistani phenomenon, at least in origin. There seem to be none elsewhere in Europe; there are, however, it appears, some councils in Canada (e.g. Sharia Council of Western Canada, http://www.scowc.com/aboutus.html), though a move to make them more formally consonant with Canadian law (in Ontario) was defeated. (In fact, it's not clear what the SCWA actually does). In the UK, the impetus behind the councils seems to have come from British Pakistanis, perhaps influenced by Pakistan's own legal system from the 1960s onwards, and possibly by their transnational experience of such councils/courts[5]. Mathias Rohe, however, also mentioned Saudi initiatives which apparently had an impact in Canada in the early 1990s. Although originally Pakistani-British, Muslims from other backgrounds now seek the services of the council (John Bowen), and other groups (e.g. Somalis in East London) have been actively involved in this movement, though I'm not clear whether the Somali 'gar', mentioned in the press, is in fact rightly described as a Sharia council, or is a form of customary dispute settling. Are there other instances of this kind in other parts of Europe, e.g. among Somalis in Denmark?

m) Taking these things together there would seem to be an interesting topic for discussion and/or comparative investigation. How widespread are these informal ('parallel') community-based dispute settling institutions, which I believe also exist among groups such as Roma. What models influence them? How do they operate, when and where and with whom? What sort of disputes and disputants, and what is the relation between these fora and others, from the point of view of participants, and how do they relate to/are seen by legal and other actors in the receiving societies? How is British experience seen and evaluated by migrants in other European countries? Will the institutions spread? (There might potentially be some very interesting comparisons to be made with a wide range of similar mechanisms in non-immigrant contexts). Mathias Rohe offered an extended reflection on some of these issues, seeking to account for the current interest in Sharia councils and courts in Europe and elsewhere.

n) Some more general questions raised by the analysis of processes of accommodation were addressed by John Bowen (comparing tendencies in the legal systems in France and England and the implications for accommodation), and André Hoekema (reflecting on what he termed the structural constraints). This is something we might have pursued further - there are both structural and conjunctural constraints on the extent to which legal actors are able to respond to the challenges of accommodating diversity, and it is important to identify these - and how they change - more closely. Belgian colleagues provided much information on the situation in that country, and we could have looked more closely at what they said, and compared the Belgian situation with, e.g. the Netherlands or the UK.

o) André Hoekema was also concerned to think about what the accommodations we were discussing said about legal systems generally, and legal systems in Europe in particular, and here his notion of 'interlegality' looms large. This refers to the process through which new legal regimes emerge from the interaction between what are, often misleadingly, thought of as discrete legal systems. (I share André's concern to get away from talking about 'systems' but find it very hard to do so.)Although generally applied to the impact of dominant legal orders on 'local' (subordinate) systems, the term may also be used for the reverse situation. Interlegality of that kind may be observed in Europe (and elsewhere) at many different levels, and on a daily basis in the courts. As I understand the concept, it bears some similarity to what anthropologists and others call 'creolisation' which is a (nearly) universal phenomenon, though more apparent in some situations and at some times, such as now, than others. (See, *inter alia*, Hannerz 1987). The concept of interlegality appears to contradict much legal orthodoxy which (under the influence of methodological nationalism?) prefers to think in terms discrete (nationally) bounded systems [6].

p) What do we learn from this? Some preliminary thoughts

i. 'Accommodation' refers to practices through which social actors operating in, or in the shadow of, the legal process, are sensitive to, take into account, make room for, 'other' values and meanings.

ii. The demands/need for accommodation stems from broad global trends (globalisation and transnationalisation) the effects of which are ramifying through social and cultural systems with important implications for the law. This is especially the case with the familial domain.

iii. Legal accommodation is a complex process occurring on many different levels, and in many different places, and drawing in many different social and legal actors, with many different and often conflicting interests – there is, for example, an important gender dimension. Recent debates in the UK around Sharia or 'forced marriages' illustrate many of these points.

iv. The practice of accommodation may encompass, on the one hand, the ad hoc exercise of discretion on the part of a social worker, and on the other, legislative reform, but sometimes what happens in one part of the system may be at odds with what happens in another.

v. The extent to which legal system (or societies) are prepared to accommodate difference varies across place and time; put simply some, at some times, are more open to accommodation (or perhaps open to some accommodations) than others. The reasons for this are partly socio-historical, partly to do with different legal cultures, and partly conjunctural, and this needs

close investigation. There appears, now, to be a hardening of boundaries (a greater rejection of porosity) which we see more generally in the widespread backlash against diversity.

vi. However, those demanding or claiming the recognition and accommodation of difference are unlikely to be satisfied with the injunction 'When in Rome'. In the contemporary globalised world of multiple transnational exchanges, such demands are unlikely to go away.

vii. More generally, accommodation is part and parcel of the way in which social orders are negotiated, and societies (including legal practitioners) need not fear accommodation. Interlegality is part of the human condition (like creolisation) and a very salutary process.

viii. Nevertheless, societies have the right to define what is negotiable and what is not, though the hope must be that the bar of tolerance will be set quite low. Moreover, when boundaries are set through intercultural dialogue, they are often more acceptable (as, for example, in recent debates about forced marriages).

ix. In practical terms, the key theme seems to be accommodation through dialogue and small shifts: 'incremental change'. But, as Marie-Claire Foblets argued, we should be concerned about the extent we put the onus on legal actors (specifically judges) to do the accommodating.

x. Methodologically, as Barbara Truffin and others observed, there is much to be gained from focusing on critical issues (e.g. following the passage of a particular piece of legislation), using techniques of situational analysis etc, pioneered by legal anthropologists such as Max Gluckman.

q) Prakash Shah and Fauzia Shariff, drew attention to the work of Masaji Chiba (1989), and there was some discussion of his concepts of 'legal' and 'identity postulates'. The former he defines (p. 139) as:

> 'the system of values and ideals specifically relevant to both official and unofficial law in founding, justifying and orienting the latter. It may consist of established legal ideas … religious precepts and teachings … social and cultural postulates … political ideologies. The legal postulate of a country is the foundation of its official and unofficial law which it orients'.

Chiba also describes Sharia as 'among the 'deep-rooted traditions which have developed competing norms and approving postulates among Muslims' (p. 125). It is interesting that the book is dedicated to E. Adamson Hoebel, a key figure in the development of legal anthropology. Throughout the first part of the book, including the chapter which he wrote in 1978, Chiba emphasises that he is intrigued by the anthropological approach to culture and the cultural study of law - law in its cultural context. What he is saying is in fact of little surprise to any anthropologist; what he stresses are the cultural and culturally validated conceptual principles underlying legal principles.

Not least in his account of Japanese society, Chiba's approach resembles that of Ruth Benedict in her classic study (1946), and this always carries the danger of stereotyping or essentialising complex - and changing - value systems. There has been a huge debate in cultural anthropology about this. Nonetheless, it is important not to throw the baby out with the bathwater. Clearly Chiba's perspective was quite shocking to (some) lawyers, and it is important to try and identify the (moral) values - frames of meaning etc - embedded (often unconsciously) in any legal system. There may well be hegemonic (I would say) values, perspectives which are currently powerful, though not necessarily unchallenged or unchanging; tendencies (to use John Bowen's term) which one can identify in France or in England & Wales (but not Scotland) etc. At the same time, and to complicate matters, there may be (as I believe there are in France) two or more alternative sets of values which vie for hegemony, though the differences between them may disappear at another level of abstraction. And postulates may not always be consistent or capable of leading to the same answer when applied to a specific set of circumstances. To cut this short, however, I think it is worth exploring the pros and cons of applying Chiba's ideas to the context we are discussing which may be interpreted as involving the interaction of different legal postulates and 'moral orders'7. In the meantime, John Bowen's provisional account comparing 'tendencies' in France and England provides an opportunity to reflect on this.

4. Future Programme?

As last year, there was general agreement that the work we are doing is valuable from many perspectives, draws in many people from different disciplines, and is highly pertinent to the current situation. There was also general agreement that the links established and the kind of discussions they had enabled ought if possible to be continued. In a final session we agreed the following:

a) We should set up a relatively informal network (our existing mailing list of some 40 + scholars provides a starting point) which might be called 'Accommodation in Pluri-Legal Europe' (APLE). A crucial point is that the network needs a base and (above all) a convenor, or at any rate a small organising committee. Participants agreed to think about this. There should also be a website (preferably with a bulletin board for notices and discussions and lodging working papers etc. Wibo van Rossum offered to set this up in due course.

   Note: Prakash Shah has now created a list with JISC mail, a UK based platform for hosting e-mail discussion lists. To subscribe to this go to http://www.jiscmail.ac.uk/PLURI-LEGAL and register. The list is available only by subscribing, and only subscribers may post to it or consult its archives.

b) In the first instance, the network could exist chiefly for information exchange and contacts, but we would also like to push forward the substantive discussion. Two suggestions were made:

   i. A workshop or conference (in effect extending the present theme) which would examine (in different contexts) obstacles to the legal accommodation of difference. The focus would once again be on family matters, especially perhaps as they concern transnational families, but specifically on the typical legal issues which come up time and again in everyday life. More specifically still there would be a concern with issues around marriage, divorce, and children (including perhaps the understanding of what constitutes the 'best interests of the child' under such circumstances); and also with the transmission of property. We would be exploring both 'how do' and also 'how should'. This, perhaps, might be a first priority

   ii. A second suggestion, requiring more thought and preparation, concerned the legal implications of the interaction between the individualist values which have increasingly characterised European family life and the more collectivist, corporatist values which have historically characterised the societies from which many ex-European migrants come and which still retain considerable importance despite the internal tensions (as well as external conflicts) to which they give rise. There is a very interesting set of issues in this, but they require preliminary evaluation through a concept note or position paper, and some of us may work on this over the next year.

c) On funding, the situation at IMISCOE is uncertain, but if there are any remaining funds to be spent in 2009-2010 we would, I assume, be eligible to bid for them. There is also the British Academy and other institutions who might be approached for support for a conference. As to venue, the International Institute for the Sociology of Law in Oñati, Gipuzkoa, Spain, could be approached.

   Deadlines:

   British Academy
   http://www.britac.ac.uk/funding/guide/confs.html/. Level of award: From £1,000 to £20,000. Closing dates: 15 October, 15 January, 15 April. Results will be issued approximately three months after the closing date.

   Oñati
   http://www.iisj.net/?sesion=1347. Applications to organise a workshop at the IISL during 2010 must be received by the 31st of January 2009. All applications will be reviewed by the IISL's Meetings Committee during the month of March 2009. The organisers will be informed of the Committee's decision by the 1st April 2009 at the latest.

d) Marie-Claire Foblets drew our attention to the terms of reference of an upcoming call for research proposals under the EU's Framework VII. This concerned a call under the heading Area 8.3.3 'Cultural Interactions in an International Perspective', Topic SSH-2009 – 3.3.2, 'Religion and

Secularism across Europe'. The deadline for this call, formally announced in late July, will be 16 December, 2008. As the EU programme involves institutions, the network as such could not be involved in a bid, though members who are interested might be encouraged to collaborate.

e) Finally, Fauzia Shariff reminded participants that there is a call for papers for a special issue of the electronic law journal *Law, Social Justice and Global Development Journal* (LGD) on legal pluralism within the nation state, and invited submissions. Contact Fauzia at LSE (F.Shariff@ls e.ac.uk), and see http://www2.warwick.ac.uk/fac/soc/law/elj/lgd/.

5. Next Steps

In the Autumn ,launch APLE network as an Email list (Done), with a website, and a convenor; Formulate and announce proposal for future conference(s); Seek funding & venue; Issue call for papers.

Endnotes:

[1] In talking to social workers about North African families in Lyon in 1975-6, I sometimes heard them mention cases which they said they had referred to the juge d'enfants, but unfortunately this was something I never followed up.
[2] The influence of the ECtHR on local, national, decisions, e.g. the *Begum* case in the UK, was something we discussed in July 2007.
[3] Prakash Shah points out that hostility to the Archbishop was not unanimous; commentators in professional legal journals appeared to try to give him some credit.
[4] This term was employed by the Archbishop, and I would welcome information about its provenance and use in law and legal studies.
[5] I don't know what their status is in Pakistan, or indeed how often British-Pakistanis have experience of them

[6] Prakash Shah observes : 'Werner Menski's concept of *angrezi shariat* (basically interlegality) seems resisted by Muslim scholars within and outside academia. This suggests they have problems in conceding that a universal sharia [might] be hedged around by local influences. This means that it is not only commitment to the national idea of law, but perhaps any type of abstract universalism'. See Pearl, D. & W. Menski (1998).

[7] This is a formulation I am thinking about in other contexts. It refers to sets of beliefs, values, practices which constitute guidelines (or imperatives) for right and proper behaviour whether these guidelines etc are accepted by an individual or are presumed to be the property of some collectivity.

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Appendix 1

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