

## Noted Publications

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This section introduces recent publications — predominantly books or articles — deemed worthy of note by comparatists-at-law. It deliberately ranges widely. Readers are invited to bring suggestions for inclusion to the attention of the editor. Presentation of a text here does not pre-empt a fully-fledged review elsewhere in the journal.

Ruskola, Teemu. *Legal Orientalism*. Cambridge, MA, Harvard University Press, 2013. 338 pp. ISBN 978-0-674-07306-7.

In the course of a debate at a pre-eminent US law school before an audience consisting of SJD candidates, a North-American comparatist forcefully argued what I shall style the ‘three-month rule’. His main claim was that, after spending three months in Japan, though neither reading nor speaking Japanese, he had reached a point where he could write interestingly about Japanese law, so much so that the Japanese themselves could learn from him. I remain unconvinced that the enactment of alterity under such conditions can attest to the complexity of foreign law, that it can account for the debt one owes the concrete and obstinate existence of the other-in-the-law, that it can do justice to ‘the endless multiplication of folds, unfoldings, foldouts, foldures, folders, and manifolds, along with the plies, the ploys, and the multi-plications’ that pertain to the incommensurable and will resist interpretation (Derrida, J [1983 (1972)] *Dissemination* Johnson, B [trans] University of Chicago Press at 270). Subsequently, I had occasion to share my scepticism in correspondence with a noted US scholar specializing in Chinese law, whose work I hold in high esteem. I received this response: ‘The “three-month rule” sounds preposterous, yet I regret to say that I’m not shocked at all to hear about it. Alas, there are many people who seem to think a one-week conference trip to an exotic locale qualifies them as *bona fide* legal anthropologists. The field in which we toil is truly absurd’. I have long shared my worthy colleague’s dejected description of comparative legal studies. If anything, the words ‘truly absurd’ constitute an admirable expression of restraint and courtesy, as is indeed my fellow comparatist’s wont. For my part, despite my willingness to address the ‘three-month rule’ charitably, I continue to suspect hubris.

Should current evidence be needed in support of one’s disappointed reaction to comparative legal studies, it can readily be ascertained, *inter* very many *aliases*, in a leading British academic press’s compendium purporting to *accompany* comparatists-at-law. The displeasure prompted by the text is in fact a multiple dissatisfaction, though some of the book’s main inadequacies consist in a reservoir of sources so extraordinarily biased and a list of contributors so spectacularly clannish that one has to wonder whether even the commissioning editor should not have realized that something was most seriously amiss (I graciously leave to one side the matter of the amiable referees — or did they not get

names?). Irrespective of internationally acknowledged and representative competence (I number two or three exceptions), the chapters brazenly feature the editors' relatives, friends, disciples, mentors, academic sponsors and co-authors.

But nugacities remain unhelpful, and one thus strives to keep in mind Rousseau's advice from his annotations to the *Discours sur l'origine et les fondemens de l'inégalité parmi les hommes*: 'Suppose a Montesquieu, a Buffon, a Diderot, [...] or persons of that calibre travelling so as to instruct their compatriots, observing and describing as they know how to do, Turkey, Egypt, Barbaria, the Empire of Morocco [...], China, Tartary, and mostly Japan [...]; suppose that these new Herculese, back from these memorable pursuits, then wrote to their satisfaction the natural, moral and political history of what they had seen, we would see for ourselves a new world emerging from under their pen, and we would learn thereby to know ours [...]; but it would be very simplistic to rely on this point upon crude travellers': Rousseau, J-J (1964 [1755]) *Œuvres complètes* Gagnebin, B and Raymond, M (eds) vol III Gallimard at 213-14. Rousseau's warning against 'crude travellers' (or 'voyageurs grossiers') brings to mind Laurence Tribe's reaction to the US Supreme Court's decision in *Lawrence v Texas* (2003). 'Crude' is the word Tribe used to qualify the Court's comparativism as a majority of judges mentioned three European Court of Human Rights cases with a view to bolstering their argument against an earlier Supreme Court opinion, *Bowers v Hardwick* (1986), which, as adjudication practice goes, they needed to overturn in order to pronounce on the constitutional invalidity of a statute criminalizing certain sexual practices to the extent at least that homosexuals were engaging in them: Tribe, LH (2004) 'Lawrence v. Texas: The "Fundamental Right" That Dare Not Speak Its Name' (117) *Harvard Law Review* 1894 at 1931. Though heartened by an outcome that he had sought in vain as lawyer for the homosexual petitioner in *Bowers*, Tribe was castigating what one might call 'comparativism lite'. In effect, Tribe was chastising the Supreme Court for having been content to use foreign references as 'rhetorical embellishment' (Ruskola, T [2005] 'Gay Rights Versus Queer Theory: What Is Left of Sodomy After *Lawrence v. Texas*?' [23] *Social Text* 235 at 246, note 17). (Both essays convincingly argue that *Lawrence* is open to critique on other grounds also.)

Considering the book under review, I want to show that it stands diametrically opposed to *Lawrence* as it offers nothing short of an *exemplary* foray into comparative legal research. I hasten to add that I claim no expertise whatsoever on Chinese law — despite the fact that my various teaching visits to China exceed three months. While I leave it to others to react to additional aspects of the argument, my aim is to interpret *Legal Orientalism* from a theoretical vantage and to defend the claim that its author's brand of comparativism deserves to be highly commended indeed. In a manner of speaking, I focus on the 'how' rather than the 'what'.

Given the remarkable tessitura of Professor Teemu Ruskola's writing, some protocolar preliminaries appear warranted. In particular, the sustained sophistication of the text requires me to explain how I situate myself in *disrelation* to it. My resort to this term, admittedly unusual within comparative legal studies, wishes to indicate at the outset that I make no pretence to any connection with something like the *Buch-an-sich* — whatever that expression may mean, it is hard for the mind, to say the least, to imagine something that would exist beyond any mind. Nor do I contend being in a position to have anything like 'objective' access to the text's 'true' meaning (again, whatever the idea of 'verism' may entail). Immodestly, no doubt, I nonetheless suggest that my proposed reading — my re-presentation, my presentation anew — provides the book with an '*increase in being*':

Gadamer, H-G (2004 [1986]) *Truth and Method* (5th ed, rev Eng trans) Weinsheimer, J and Marshall, DG (trans) Continuum at 135. To be sure, this increment is very much the result of what I myself regard as the text's interpretive yield. And I accept that my reading — even as I ensure that I repeatedly give voice to Professor Ruskola rather than indulge in paraphrases, that is, in *free* indirect style — may well find itself at variance with what the author was contemplating as he was crafting his claim into writerly existence.

Indeed, reading, which cannot involve following a passive osmotic path of celebration, is always already an act. To read is *to do* something to the text being read. What, then, are the stakes of reading? What do I wager in the name of reading? Can I befittingly amplify the book? Is condensation of the argument legitimate? What is it, to be a reader-at-work? When does reading become *excessive*? At what point can I be said to be illicitly wandering away from the text? What is it, to read *well*? And what does it mean to engage in interpretation? Etymologically, the prefix 'inter' signifies 'connection' (interaction; intercourse). But it also means 'separation' (interruption; interference) — hence my contention about disrelation. To be sure, any work is unsaturable since there is always more to say about it. But how short can I fall in my attempt at understanding and yet continue as a credible reader or interpreter? Now, to what extent did Professor Ruskola want his text to stand as a theoretical statement on the practice of comparative legal research generally? And did he mean it to prevail as the theoretical statement that I see traversing his book? What I can tell, and what I *must* abide, is that, more eisegesis than exegesis — and this would be the autobiographical strain in my own writing —, my reaction is always already a failure, my writing an inapposite adjunct curbing my ability to rest assured in the pertinence of my response. Yet, one must read and (*pace* Susan Sontag) one must interpret, for the text is there, interpellating one. But given the unsurpassable discrepancy that I have identified, I feel the incumbence to explore what could be a justification for my entitlement to inscribe *Legal Orientalism* within what will inevitably be *my* theoretical world — or, more accurately, the theoretical world that I call *mine* though it is, in fact, a world constructed in significant ways by many friends, colleagues and authors.

A fruitful line of reasoning, it seems to me, is Peter Sloterdijk's as the philosopher emphasizes the interlacing, or the assemblage, between text and reader such that the two are ultimately seen to form part of one integrated configuration. But how does Sloterdijk locate the interpreter as partaking *of the text* so that he would be authorized to tell *of it*, perhaps persuasively?

Imagine that I am reading *Legal Orientalism* at my favourite Chicago café. As I transport myself away from myself towards the text, as I put myself outside myself, *hors de moi*, as the text becomes the medium of my expansion, I create a space of co-existence, an interior, a solidarity, a sphere of intimacy embracing the text. In Sloterdijk's language, my exoteric mission resolves itself as an act of 'sphere-formation'. This situation, which has nothing to do with 'a merely dominating control by a subject over a manipulable object mass', involves the text 'awaken[ing] to its destiny' of being ascribed a meaning through a breathing-in of inspiration. There takes place an arousal of the text to animated life, such that it can be seen 'as a *canal* for breathing by an inspirator'. But mutuality is at work. In other words, 'a reciprocal, synchronously interchanging relationship between the two breath poles [the breather and the one breathed on] comes into effect as soon as the infusion of the breath of life into the [other] is complete'. (As I confer an increase in being to *Legal Orientalism*, it, too, ascribes an increase in being to me as the comparatist-at-law I seek to be.)

In effect, therefore, because the text, ‘a hollow-bodied sculpture awaiting significant further use’, ‘only awakens to its destiny [...] through a specific supplement’, that is, on account of my attribution of meaning to it, ‘the original expresses itself as a correlative duality from the start’. It is ‘a dyadic union from the start, a union that can only last on the basis of a developed bipolarity. The primary pair floats in an atmospheric biunity, mutual referentiality and intertwined freedom from which neither of the primal partners can be removed without canceling the total relationship’. In other words, there exists an entity like the-text-and-its-interpreter, and ‘[t]he two are bonded’. Because ‘there cannot possibly be such a sharp ontological asymmetry between the inspirator and the inspired’, it may help to think of ‘a relationship of pneumatic reciprocity’, to envisage a ‘pneumatic pact’: Sloterdijk, P (2011 [1998]) *Spheres* Hoban, W (trans) vol I Semiotext(e) at 27-81. And the fact that, when it comes to the dialectic between text and interpretation, inevitable failure awaits ‘all the attempts at passage, at bridge, at isthmus, at communication, at translation, at trope, and at transfer that [one] [...] will try to pose, to impose, to propose, to stabilize’ — the fact that within the bond ‘there are only islands’, that the connection is in effect a disconnection, that the structural hiatus across modes of existence (the text exists as text and the interpretation as interpretation) cannot be overcome, that, as I have said, the only relation there can be is a disrelation — does not disqualify the reader’s intervention: Derrida, J (2011 [2002]) *The Beast and the Sovereign* Lisse, M, Mallet, M-L and Michaud, G (eds) Bennington, G (trans) vol II University of Chicago Press at 9.

By writing my appreciation here, in this authoritative scholarly journal, I hope to take it one step beyond ‘occasionality’ (Gadamer *Truth and Method* supra at 138) and somehow *inscribe* it, so that *Legal Orientalism* as I invent it becomes a form of compelling action patterning how comparatists talk, think and conceive, a model helping to determine their dispositions. (Etymologically, ‘to invent’ is at once ‘to create’ and ‘to find’, which is indeed what one *does* as one interprets a text. ‘Invention’ is therefore a word that is ‘suspended undecidably’: ‘[I]t *hesitates perhaps* between *creative* invention, the production of what is not — or was not earlier — and *revelatory* invention, the discovery and unveiling of what *already* is or finds itself to be there’: Derrida, J (2002 [2002]) *Without Alibi* Kamuf, P (ed/trans) Stanford University Press at 168. As I have already noted, what I emphatically do not claim, though, is to occupy a stance that would allow me to offer an exact or correct rendition of any text there would be, there. Indeed, ‘[i]n view of the finitude of our historical existence, it would seem that there is something absurd about the whole idea of a unique, correct interpretation’ (Gadamer *Truth and Method* supra at 118). Jacques Derrida pithily formulates the repercussions of this state of affairs: ‘A thousand possibilities will always remain open even as one understands something of [a] sentence that makes sense’: Derrida, J (1988 [1990]) *Limited Inc* Weber, S (trans) Northwestern University Press at 63.

*Legal Orientalism* is principally a study in ‘how over the course of the nineteenth century a diffuse set of European prejudices about Chinese law developed into an American ideology’. World geopolitics today owes much to the tension between China and the United States as the last two major empires standing, the latter earnestly self-styled ‘the world’s chief law enforcer as well as its leading law exporter, administering programs for the promotion of rule-of-law everywhere’, the former readily seen (at least by its rival) as ‘the leading human rights violator in the East’. Indeed, ‘there is a strong cultural tendency to associate the United States with law [...] and a corresponding historic tendency to associate China with an absence of law’. Specifically, as Professor Ruskola insightfully formulates the matter, the United States regards its standard as ‘*particularly universal*’ (it

would offer a 'paradigmatic instance' of 'democratic rule-of-law', 'not just reflecting the emancipatory values of the Enlightenment on the European model but embodying them even *better* than Europe does, or once did'). Meanwhile, from a US vantage at any rate, the Chinese system appears 'categorically undemocratic' or, if you will, '*universally particular*'. The World Trade Organization (WTO)'s 2001 access protocol for China thus shows how, for the West, 'China continues to be defined by not-having-law'. It illustrates further that countries like the United States persist in wanting to make China lawful. Accordingly, '[a]s part of the price of admission into the WTO in the first place, China had to agree to alter its legal institutions to conform to North Atlantic standards'. Intriguingly, however, Professor Ruskola underlines that the WTO's demands to China contradicted the WTO's own rules (see *Legal Orientalism* at 206).

But neither this polarization (China/WTO) nor this paradox (WTO/WTO) are new. For instance, it is on account of the perceived 'incapacity of the Chinese to understand, let alone embody, the virtues of individual rights and rule-of-law', that is, because of such 'Chinese legal perversity', that in 1906 the US Congress, taking advantage of the 1844 Treaty of Wanghia which had conferred to the United States extraterritorial jurisdiction in China, created a 'United States Court for China'. Sitting in Shanghai, the court 'assumed civil and criminal jurisdiction over American citizens within the "District of China"'. As Professor Ruskola explains, this judicial institution was akin to a federal district court: its decisions could be appealed to the Ninth Judicial Circuit, in San Francisco, and, from there, to the US Supreme Court. Extraordinarily, 'the body of law that [the court] applied in China [...] included English common law as it existed prior to American independence, general congressional acts, the municipal code of the District of Columbia, and the territorial code of Alaska' — though not the US Constitution, which entailed that 'there was no right to a jury trial nor to constitutional due process'. Not unlike the contradiction that Professor Ruskola indicates as regards the WTO's position on China (*supra*), it emerges that even as the US court sought to counter felt Chinese lawlessness, its own lawfulness was therefore dubious at best, though the matter did not prevent this judicial body from lasting until 1943 (*Legal Orientalism* features an entire, fascinating, chapter on the Shanghai court at 152-97).

The book under review showcases yet another major contradiction in the fraught relationship between China and the United States. After a significant Chinese exodus to the United States as of the 1850s, at the time of the California Gold Rush, the US Congress adopted the Chinese Exclusion Act in 1882, the first statute in US history to enact broad restrictions on immigration. Informed by a strong anti-Chinese sentiment fuelled by increased competition as gold was becoming harder to find, but also by the shift of Chinese workers to the restaurant and laundry worlds where they were said to be responsible for depressed wage levels, the legislative text prohibited all immigration of Chinese workers, whether skilled or unskilled. (As Professor Ruskola reports, Jefferson and Franklin had held a more favourable view of China: see *Legal Orientalism* at 44-45.) The act would later be extended and supplemented. In 1888, Congress thus passed a further statute making re-entry to the United States after a visit to China impossible, even for long-term US legal residents — a measure which basically barred Chinese residents in the United States from visiting their relatives in China.

When contested on constitutional grounds in 1889 (a legal challenge showing that contrary to common belief, the Chinese did have a sense of their individual rights: see *Legal Orientalism* at 49), the 1882 and 1888 legislative texts were upheld by the US Supreme

Court on the basis that in immigration matters the federal government enjoyed ‘plenary powers’, that is, it could exert ‘a discretionary authority unconstrained by the Constitution’. In other words — and such is the further tension that Professor Ruskola explores in his book — the Chinese had left a legal despotism at home in the form of the Qing dynasty now to be faced with another in the United States. While the Chinese Exclusion Act was not repealed until 1943 (it had initially been contemplated to last ten years only), the Supreme Court decision still stands. Indeed, not only does the US Supreme Court case on the Chinese Exclusion Act remain ‘good law’ (as the expression goes), but it is still influential law in so far as it continues to represent an important source of constitutional administrative law. Specifically, it governs more than the Chinese people in particular and applies even beyond foreigners in general. By supplying ‘the minimal — all but absent — standards for administrative procedure’, Professor Ruskola notes how the Supreme Court decision has come to embrace ‘the way in which the United States exercises power over its *citizens* as well’.

Now, as Professor Ruskola readily indicates, his text’s claim owes much to Edward Said’s seminal work on Orientalism, a term Said used in the late 1970s to refer to ‘discourses that structure Western understandings of the East’. Said was then responding to the fact that ‘[i]n a series of imperial gestures’, ‘we have reduced “the Orient” to a passive object, to be known by a cognitively privileged subject — ourselves, “the West”’. Though over the years Said’s pathbreaking study has generated a host of investigations concerning various types of Orientalisms, not to mention a number of re-considerations of his argument (which the book under review acknowledges), legal discourse has somehow failed to attract much attention. Given the key role played by law in Western countries, this omission is striking, and *Legal Orientalism* seeks to redress it.

Through extensive case studies including corporation law (see *Legal Orientalism* at 60-107) and sovereignty (Id at 108-51), Professor Ruskola focuses on how the West has used law to structure alterity with specific reference to China. Even more to the point, the text under review emphasizes how the United States features China as an especially important other-in-the-law — or, more accurately, as a significant other-out-of-the-law or as a compelling out-law. This process of ascription allows the United States assertively to engage in an exercise in self-edification through law: ‘Whether we choose to recognize it or not, there is no world of legal modernity without an illegal, despotic Orient to summon it into existence’. In other words, for the United States to be able to introduce itself as the global enforcer of the rule of law and human rights, it is necessary that it should be able to distinguish its model from the other global power’s, the configuration featuring neither the rule of law nor human rights. In crucial ways, then, the United States needs China in order to be — and to be *seen* to be — the United States it wishes to be.

Professor Ruskola’s focus is thus epistemic: he is interested in ‘the construction of China as an object of legal knowledge’. That the book under review emphasizes epistemology means that it is not mainly preoccupied with ontology, appropriately so in my view. As Professor Ruskola writes, ‘[t]he empirical basis of legal Orientalism is, and always has been, ultimately beside the point. It is a discourse of legal reason rather than of factual truth’. Indeed, for US constitutionalists ‘to justify a series of exclusion laws that for nearly sixty years denied Chinese persons admission to the United States’, Chinese lawlessness never needed to be established as ‘veridical fact’.

Perhaps the epistemic issue is nowhere more conspicuous than when the semantic extension of the word ‘law’ itself is at stake. As *Legal Orientalism* underscores, the US legal

complex proudly regards itself as being based on the 'rule of law', which Chief Justice John Marshall in *Marbury v Madison* (1803) expressly distinguished from the 'rule of men' — a delineation reprised, for instance, in Kahn, PW (1999) *The Cultural Study of Law* University of Chicago Press at 67-70. Whatever the words 'rule of law' are meant to encompass (definitions vary widely), they refer, broadly speaking, to 'a system of restrictions on state power [...] promot[ing] [...] freedom, democracy, and market economies more generally'. Since, so understood, 'the rule-of-law hold[s] the promise to cure all manner of social ills from economic corruption to political tyranny [and] promises to do so in a nonpartisan manner', its desirability, it seems, can hardly be questioned. In this regard, the rule-of-law would resemble the proverbial apple pie. But, as Professor Ruskola aptly observes, the US self-understanding can hardly withstand probing. After all, if individuals did not matter 'confirmation battles over presidential nominees for the Supreme Court would be incomprehensible'. That being said, the principal challenge for, say, a US comparatist addressing the China/United States dialectic, remains that '[h]istorically, the Chinese political self-understanding has been premised on the very *ideal* of the rule-of-men, a kind of moral utopia where those in power derive their authority to govern from their superior virtue — either Confucian virtue, in the case of traditional China, or Communist virtue, in the case of socialist China'.

It is not therefore that there is no law in China — '[o]nly the most negligent observer could miss the fact that imperial China boasted dynastic legal codes going back to the Tang dynasty (618-907 CE) — but that there is no 'law' as the notion is understood in the United States nowadays, that is, again, in the sense of 'a liberal legal order that constrains the state in a particular way'. In Professor Ruskola's words, '[i]f the rule-of-law means *not*-the-rule-of-men, any would-be Chinese law is an oxymoron, a transparent alibi for law's corruption under Oriental despotism'. It must be the case, though, that one of the basic concerns informing any comparative endeavour is precisely to avoid the projection of one's own analytic categories unto another law in order then to pass judgment on that other law from one's vantage — which, predictably, is unlikely to lead to a favourable view of the alternative model. A specialist in comparative literature, Haun Saussy, thus discerns (and deplores) how, for Hegel, 'China always furnishes a beginning to be improved on': Saussy, H (1993) *The Problem of a Chinese Aesthetic* Stanford University Press at 179. Likewise, Derrida critiques Leibniz for whom the role of the Chinese system is 'to designate a lack and to define the necessary corrections', a strategy which is unacceptable *qua* comparative analysis: Derrida, J (1997 [1967]) *Of Grammatology* (rev'd Eng trans) Spivak, GC (trans) Johns Hopkins University Press at 79. For example, it simply cannot be countenanced — a claim *Legal Orientalism* cogently develops — that the enlightened, 'the US legal subject', would be systematically distinguished from the benighted, 'the Chinese nonlegal nonsubject', and that 'the universal subjects of history' would be incessantly opposed to 'undifferentiated [...] masses [...], witless myrmidons living under the tyranny of history' who would be but history's 'objects'.

When even such a perceptive literary critic and translation theorist as George Steiner falls prey to the trope of the 'lack' as he argues, for instance, that '[Chinese] grammar lacks clear tense distinctions' (Steiner, G [1998] *After Babel* [3rd ed] Oxford University Press at 375-76), it cannot be surprising that the ethnocentric or juricentric fallacy should persist as such a familiar feature of legal studies purporting to be comparative — a solipsistic leitmotiv which, in fact, manifests itself in many declensions (an article entitled 'Der europäische Charakter des englischen Rechts', published some ten years ago, readily comes to mind

as illustrating a variation on the main theme whereby one does not hesitate dogmatically to turn the other into a cipher of oneself in order to suit one's political/personal agenda).

Perspicuously, however, Samuel Beckett insisted on 'the simple and necessary and yet so unattainable proposition that their way of being we, [is] not our way and that our way of being they, [is] not their way': Beckett, S (1995 [1946]) 'The Capital of the Ruins' in *The Complete Short Prose* Gontarski SE (ed) Grove Press at 277. In other words, when China is being a state dealing with 'law', like the United States, the Chinese state's way of being *that* (that is, a state dealing with 'law') or the Chinese state's way of being a state that, like the United States, is dealing with 'law' or, in short, the Chinese state's way of being the United States as regards 'law', is not the United States's way. Of course, the same can be said in reverse as regards the United States vis-à-vis China. And, following upon Professor Ruskola's argument, I feel able to endorse Beckett's insight even as I allow for the (evident) fact that there are people in the United States who are drawn to rule-of-men and that a claim for rule-of-law would win ascertainable support in China — though one would expect the proposition to have to acculturate itself locally so that it could resonate beyond the US legal culture of whose practice it is the theory. Observe, though, that one cannot reasonably envisage a situation where the United States would understand the Chinese position on Chinese terms and according to Chinese justifications; then proceed to identify inadequacies in the Chinese world-view that the Chinese themselves would accept; and finally explain how, by resorting to the US model, these difficulties could be avoided in a manner that the Chinese would endorse.

What must therefore remain chimerical is the formulation of a contention vindicating the US paradigm in a way that would prove acceptable *both* to the United States and China or that would seem persuasive within *both* prevailing epistemological models. Indeed, such an argument would suppose a metalanguage — which is something that simply does not exist, for there is ultimately but monolingualism (eg, Heidegger, M [1971 (1959)] *On the Way to Language* Hertz, PD [trans] Harper & Row at 134: '[L]anguage is monologue'). In the absence of any possible transcendentalization of the antinomy, because China and the United States will remain normatively insulated from each other, the basic goal for a US comparatist like Professor Ruskola can only be, though it *must* be, to 'decente[r] [American] analytic categories and subjec[t] them and their particular histories to critical scrutiny'. As *Legal Orientalism* advocates this exercise in 'provincialization', after Dipesh Chakrabarty, it does not hesitate to engage in askanted thinking vis-à-vis an illustrious contingent of Western students of China having framed the law/despotism contrast from a Western vantage in starker terms than it would seemingly allow. While some of their interventions reveal greater nuance than others, these witnesses' primary goal should have been to hearken to an incoming otherness more selflessly than they have effectively done. Such over-Orientalizing observers range from Montesquieu to Hegel to Marx to Max Weber to Frank Goodnow to Roscoe Pound to Marcel Granet to Jean Escarra to John K. Fairbank to William Alford (not to mention, say, Victor Segalen and Stanley Lubman).

Professor Ruskola is justifiably emphatic: '[T]here is no cross-cultural standard that would help us arrive at a universal definition of law'. Accordingly, his book 'seek[s] to universalize neither China nor the United States'. *Given* (I use the word advisedly) the intransigence of irreducible difference, any notion of 'universal law' is indeed a contradiction in terms. Law exists as culture (I have more to say on point below), and it is the case that '[t]he difference of cultures cannot be something that can be accommodated within a universalist framework': Bhabha, H (1990) 'The Third Space' in Rutherford, J



(ed) *Identity* Lawrence & Wishart at 209. Arguably, the use of 'universalism' as a symbolic stratagem in fact hides one of the most invidious forms of essentialism, which is the compression of the intractable difference characterizing humankind to a narrow set of features said to pertain to all human beings at some fundamental level. Here, 'common humanity is a trap since it defines divergence as secondary': Stengers, I (2011) 'Comparison as a Matter of Concern' (17) *Common Knowledge* 48 at 62-63.

No doubt controversially, it must follow that there is no 'universal human-rights law', another overburdened idea (not unlike 'global human rights' or, for that matter, 'global justice'), except, as WVO Quine would have put it, *qua* assignment of reference to words by their speaker: Quine, WVO (1960) *Word and Object* MIT Press at 26-79. Indeed, '[t]he question about the universality of human rights is a Western cultural question' (De Sousa Santos, B [2007] 'Human Rights as an Emancipatory Script? Cultural and Political Conditions' in de Sousa Santos, B [ed] *Another Knowledge Is Possible* Verso at 12), 'something Euro-Americans take to others' (Nader, L [2006] 'Human Rights and Moral Imperialism' [47/5] *Anthropology News* at 6), '[t]he white human rights zealot join[ing] the unbroken chain that connects him to the colonial administrator, the Bible-wielding missionary, and the merchant of free enterprise' (Mutua, M [2002] *Human Rights: A Political and Cultural Critique* University of Pennsylvania Press at 155). For example, the practices that are used as yardstick by human-rights movements targeting Sudan or Indonesia (not to mention China) are effectively those of the United States or France, which are somehow cast as 'other than' structures of domination, deemed to be disseminable and claimed to be worthy of export with a view to correcting or replacing local ways. As a result, curiously, the prevailing 'universal' human-rights discourse is speech in which 'one readily perceives [...] the face of bourgeois liberal feminism, American constitutionalism as interpreted by [the US] Supreme Court, or middle-class Judeo-Christian family life in North America or Western Europe today': Shweder, RA (2008) '[Comment]' (49) *Current Anthropology* 377 at 377. Indeed, far from being a disinterested claim, universalism is always someone's 'universalism'.

In effect, the alleged universalism being defended with specific reference to human rights is but a particularism whose specificity consists in important ways in defining/downgrading its rival knowledges as being *lamentably* particularistic — which suggests that such appeal to universal values is tarnished with the idea of totalization or even totalitarianism. In this regard, it seems fair to say that 'the rhetoric we Westerners use in trying to get everyone to be more like us would be improved if we were more frankly ethnocentric, and less professedly universalist': Rorty, R (2007 [1997]) *Philosophy as Cultural Politics* Cambridge University Press at 55. (It hardly seems necessary to add that to be against the way in which human rights are understood and re-presented in terms universal, transcendental or eternal is *not* to be against human rights. My contention is not, then, that human-rights work should not continue, but that it should be pursued in the name of a presently-located and presently-ascertainable ideology openly asserting itself through an inscription in power.)

The differend is what there is. In other words, there is more than one human-rights law-as-culture, each instance being singular and none finding itself in a position to assert an objective entitlement to being the true one in contradistinction to all others. The Venn diagram of universal human rights is therefore an empty set. (But if law is intrinsically singular, and if it can meaningfully be recognized as singular without losing all its singularity in the process, is it not the case that law therefore features a characteristic that can be said to be shared by all laws and that, accordingly, could legitimately be called

'universal'? This argument would require the singularity that is a feature of every law to be common to every other law. However, by definition so to speak, singularity excludes commonality. In other words, singularity is intrinsically un-universalizable, irrespective of the extent of accumulating singularities, or, if you will, the only 'universal' property that one can associate with singularity is its non-universalizability. In sum, all that can be said to be 'universal' about law's singularity is that it cannot be universal. Now, only someone who is desperately keen to retain the idea of 'universality' would seek to argue that the non-universalizability that is characteristic of law's singularity meaningfully partakes in the universal. Cf Derrida, J and Ferraris, M (2001 [1993]) *A Taste for the Secret* Donis, G and Webb, D (eds) Donis, G (trans) Polity at 58, where Derrida refers to 'the sharing of what is not shared' and adds that 'there is a consensus on *nothing*'.

Inevitably, though he does not mention the term, Professor Ruskola's elaborate argument alludes to relativism in some at least of its various manifestations, about which much more could be said. For instance, one might want to address the theme of its demonization by those who wish to insulate their beliefs against the force of difference (I have in mind the famous slippery-slope argument according to which to make any case for relativism, in whatever guise, is to defend the view that 'anything goes' such that before one knows it, they will be doing it in the streets). As Mark Goodale aptly writes, in effect, 'the very real dilemmas of relativism have been treated derisively, ignored, and otherwise assigned to the intellectual savage slot': Goodale, M (2009) *Surrendering to Utopia: An Anthropology of Human Rights* Stanford University Press at 63 (but see Rovane, C [2013] *The Metaphysics and Ethics of Relativism* Harvard University Press). Suffice it to say that in as much as it contests the idea of a single, all-encompassing, point of view from which every other point of view could be justifiably assessed, I regard *Legal Orientalism* as featuring a highly persuasive refutation of many of the usual canards.

In addition to what I consider a timely protestation against universalism and an eloquent case for legal relativism, Professor Ruskola's book offers many additional theoretical rewards. One of *Legal Orientalism's* most significant lessons is that law primordially exists as culture and requires to be studied as culture (eg, 'Law only exists in concrete historical and political conjunctures and cannot be evaluated apart from them'; '[E]ven the seemingly most natural legal categories are ultimately cultural artifacts'). To elaborate upon the idea of 'culture', Professor Ruskola focuses on the need to resist the views that legal agents hold of themselves (eg, the idea of the stability of the US Constitution as promoted by the advocates of Originalism and the notion of genuine 'Asian values' as defended by the partisans of Oriental authenticity: see *Legal Orientalism* at 51-54). He also emphasizes how important it is to understand that legal cultures are not uniform and that they are indeed inherently complex. For example, Professor Ruskola notes the existence of Chinese and US 'internal Orientalisms' which 'share a focus on sexuality as a crucial signifier of difference' — though there are other 'internal Orientalisms' at work also, such as the Uighurs of Chinese Central Asia or 'Indian tribes' in the United States. Indeed, on account of the so-called 'War on Terror', Professor Ruskola argues that '[w]e have all become, or are at risk of becoming, "internal Orientals" of the United States'.

Still on the topic of culture, *Legal Orientalism* warns against the inclination to assume stasis. Professor Ruskola thus recognizes that change has been taking place in China as the government has found itself in search of legitimation, both nationally and internationally (for example, he observes that 'discourses of legal Orientalism are today as commonplace in China as they are in the United States' and indeed notes that nowadays, 'the United States

plays an oversized role in the Chinese legal imagination and legal politics'). Nor does *Legal Orientalism* seek to minimize the extent of the developments that have been occurring. Thus, the book insists on how 'it is a singular historical fact that no state has ever produced as much organizational, procedural, and substantive law as quickly as China has since 1978'. (In this regard, I find it interesting to observe that, making her claim with specific reference to 'the Chinese language and its literary conventions', a specialist in comparative literature also reports on the large-scale incorporation of Western literature and literary criticism in Chinese letters, such that 'a convulsive transformation' has effectively emerged in that field, too: Liu, LH [1995] *Translingual Practice* Stanford University Press at 105.) Arguably, therefore, 'to draw a clear line between the indigenous Chinese and the exogenous Western in the late twentieth century is almost an epistemological impossibility' (Id at 29). It follows that 'China's uniqueness cannot but be circumscribed by its profound linkages with other localities and other histories' (Id at 256).

Though Professor Ruskola is 'certainly not opposed to law reform in China', he (thankfully and refreshingly) refrains from actively pursuing some transcendental benchmark that would achieve a harmonization or uniformization of laws whereby Chinese law would somehow be encouraged to resemble more and more closely the law of the United States. Indeed, his 'goal [...] is neither to prescribe nor to evaluate specific legal policies but, rather, to understand the nature, history, and political and cultural significance of Chinese law reform more generally'. Professor Ruskola thus rejects the kind of *crude* similarization strategy that would have the comparatist say that, just like the United States, China, too, has corporation law. He also objects to the brand of comparison that would cast the models being analysed in the kind of oppositional or confrontational terms that would give the differend a bad name. In effect, *Legal Orientalism* shows how difference can very much intervene as a learning opportunity. For example, if such a mundane illustration can be allowed, what matters is not for me to engage in conversation with someone who would be interpreting, say, Ingmar Bergman's *Shame* as I do, nor is it to re-formulate my interlocutor's views such that she would appear to be appreciating the film as I do. Rather, my advantage, and therefore my abiding task, is to *negotiate* meaning with my converser as she approaches the matter from an alternative angle, all the while showing recognition and respect vis-à-vis her other standpoint. Only then can I *learn* anything as opposed to simply securing a reassuring confirmation of my own views. (Professor Ruskola has more to say on learning from the other, and I address his challenge below.)

On the subject of legal change, *Legal Orientalism* fittingly reminds us that although a given discourse can be of foreign import, there never arises an unchanged replication of it, the 'mer[e] reinscription' of an idea from elsewhere. As I read the book under review, Professor Ruskola therefore takes exception to the mimetic fallacy, that is, he opposes the possibility of a so-called 'legal transplant' à la Alan Watson (see also Choudhry, S [2006] 'Migration as a New Metaphor in Comparative Constitutional Law' in *The Migration of Constitutional Ideas* Choudhry, S [ed] Cambridge University Press at 19), though he charitably acknowledges that there are those who still believe in 'straightforward transplants from Western liberal democracies'. Quoting Homi Bhabha, Professor Ruskola observes that vis-à-vis the Western stance any Chinese configuration will be 'almost the same [perhaps], but not quite', the point being that, along the roads travelled by the foreign import, there will inevitably have taken place an 'excess or slippage', that is, a transformation: Bhabha HK (1994) *The Location of Culture* Routledge at 89. Not only am I reminded of the diastole and systole of translation in the form of Ortega y Gasset's 'exuberances' or 'deficiencies'

(Ortega y Gasset, J [1994 (1946)] 'La reviviscencia de los cuadros' in *Obras completas* [2nd ed] vol VIII Alianza Editorial at 493), but I am prompted to think of Derrida's *cri de cœur*: 'What guides me is always untranslatability' (Derrida, J [2004] '[Interview]' in *Magazine littéraire* [No. 430] at 26). In other words, local knowledge persists — and there is 'glocalization' rather than globalization (Robertson, R [1995] 'Glocalization: Time-Space and Homogeneity-Heterogeneity' in Featherstone, M, Lash, S and Robertson, R [eds] *Global Modernities* Sage at 25-44). To restate the matter, local knowledge is constructed through assemblage, *not* transplantation.

In other words, Professor Ruskola chooses to embrace something like '*Gelassenheit*' — which Martin Heidegger indeed defines as 'the release of oneself from transcendental re-presentation': Heidegger, M (1966) [1959] *Discourse on Thinking* Anderson, JM and Freund, EH (trans) Harper & Row at 79. If the issue is how the comparatist-at-law must live 'this unlivable discord between worlds, histories, memories, discourses, languages' (Derrida, J [1989 (1988)] *Mémoires* [2nd ed] Kamuf, P [trans] Columbia University Press at 163), Professor Ruskola's answer, with which I would wholeheartedly concur, seems to be that one can only do so on account of a configuration of knowledge that 'convey[s] in [its] plurality [...] [a] new kind of arrangement not entailing harmony, concordance, or conciliation, but [...] accept[ing] disjunction or divergence [...]: an arrangement that does not compose but juxtaposes, that is to say, leaves each of the terms that come into relation *outside* one another, respecting and preserving this *exteriority* and this distance as the principle — always already undermined — of all signification. Juxtaposition and interruption here assume an extraordinary force of justice' (Blanchot, M [1993 (1969)] *The Infinite Conversation* Hanson, S [trans] University of Minnesota Press at 308).

But *Legal Orientalism* has much more information still to convey to its readership. For example, Professor Ruskola claims that since 'other-understanding is always in a sense comparative' (Taylor, C [1995] *Philosophical Arguments* Harvard University Press at 150), the idea of comparative research must be capacious enough to embrace the study of one law — of one law *only* — by an interpreter who is foreign to it. He observes how 'it seems inescapable that the description of foreign law — including Chinese law — is always an instance of comparative law. Even in "mere description", the implicit point of reference is always one's own system, against which one compares the object culture'. I agree. Also, *Legal Orientalism* illustrates to excellent effect how a serious comparative legal study must construct itself as an interdisciplinary investigation. As disciplines currently exist, the book under review's geopolitical argument addresses at the minimum American studies, Chinese studies, comparative legal studies, international law, globalization and postcolonial studies — though Professor Ruskola reminds us that China was never colonized (see *Legal Orientalism* at 198-235).

Professor Ruskola urges comparatists-at-law to accept that comparative research demands to be 'hermeneutical' (I would say '*hermeneutically deconstructive*' and thus defend a heretic hermeneutic), such that it would not involve developing a procedure or method but rather seek to clarify the conditions under which understanding takes place (see *Legal Orientalism* at 31). In the process, he underlines the need to circumvent silly, yet influential, dogmas to the effect that functionalism is '[t]he basic methodological principle of all comparative law' and that '[t]he question to which any comparative study is devoted must be posed in purely functional terms' (Zweigert, K and Kötz, H [1998 (1996)] *Introduction to Comparative Law* [3rd ed] Weir, T [trans] Oxford University Press at 34). I would be more severe than Professor Ruskola as regards functionalism (see *Legal Orientalism* at 32-34),

not least because, as he himself acknowledges, this approach is simply uncreditable: '[To find] precisely what [one] set out to find [...] is indeed the hallmark of an enterprising functionalist'. For my part, I argue that an appreciation of law as culture is simply incompatible with functionalism. Likewise, George Fletcher sees functionalism as 'a way of thinking designed to suppress difference' which operates 'only at the price of the ideas and arguments that make the law a worthy creation of the human intellect' (Fletcher, GP [1998] 'Comparative Law as a Subversive Discipline' [46] *American Journal of Comparative Law* 683 at 694). For his part, Richard Hyland remarks how '[f]unctionalism has generally proven to be incompatible with *comparison*' (Hyland, R [2009] *Gifts* Oxford University Press at 101 [my emphasis]).

Significantly, the book under review discloses the need to accept how the comparative mind cannot be cognitively unconstrained, that is, it encourages one to come to terms with the impossibility of an objective account of alterity (eg, 'Prejudices [...] can only be managed, not eliminated'; 'There is no innocent knowledge to be had'). Thus, *Legal Orientalism* illustrates the importance of promoting 'an antifoundationalist model of comparison', in other words, of acknowledging the impossibility of anything like a veritative account of alterity (eg, 'There are only different ways of reading China, some surely more rewarding than others, but none "right" to the exclusion of all others') — such purported veridiction being structurally incompatible with one's inevitable situatedness (no one is nowhere, and no one is everywhere either).

Professor Ruskola thus invites appreciation of the fact that, as one concerns oneself with the study of China, 'a categorically anti-Orientalist morality is simply not possible'. He suggests admitting that '[w]e have little choice but to Orientalize — to always anticipate China and its legal traditions in terms of our own biases' (the Chinese, of course, proceeding analogously as regards, say, US ways). The orthodox, though unexamined, prescription that would have the comparatist 'cut [himself] loose from [his] own doctrinal and juridical preconceptions and liberate [himself] from [his] own cultural context' (Zweigert and Kötz, *Introduction to Comparative Law* supra at 10) is therefore exposed for the jejune formulation that it is. In effect, 'all interpretation proceeds from prejudice, and without prejudice there can be no interpretation' (Kermode, F [1979] *The Genesis of Secrecy* Harvard University Press at 68). In this matter of predispositions, resolve as one may to renounce selfhood, one is doomed to produce others through the mind's 'I' (see *Legal Orientalism* at 54-55). The aim, then, the only sensible aspiration in fact, must be to engage in the production of others 'responsibly' — if you will, to offer a response to alterity that will recognize and respect foreign law. In effect, one is back to Richard Rorty's claim about the need for *ethnocentric frankness* (supra). As regards China, the comparatist's epistemological challenge according to Professor Ruskola becomes 'how to represent Chinese law to a global audience'. *Legal Orientalism* thus painstakingly advocates 'an ethics of Orientalism', which is also 'an ethics of comparison'.

Throughout, the book under review fosters the preservation of negativity as a 'resource': Derrida J (1978 [1967]) *Writing and Difference* (rev Eng trans) Bass, A (trans) University of Chicago Press at 259. In fact, major chapters entitled 'Canton Is Not Boston' (*Legal Orientalism* at 108-51) and 'The District of China Is Not the District of Columbia' (Id at 152-97) embody this strategy to excellent effect. Negativity, far from suggesting a mood — one need not be a negative person in order to foster negative dialectics —, is a de-position or a dis-position, a distrust in positing and in positivity and in positivists and in the positivistic *Zeitgeist*, which must be *ex-posed* as possibly the single most important

factor suppressing meaningful comparative analysis. In this sense, negativity epitomizes the transformative role of theory as counter-discourse or counter-signature. It effectuates a politics of resistance. It is transgressive — not strictly in a cathartic sense, although it would be unwise to obfuscate the constructive value that the purgative dimension may hold, but in an ecstatic mode. It is, literally, an unsatisfied, indocile, *undisciplined* gesture. It is *contrarian* — or, as Fletcher would have it, ‘subversive’ (supra). In other terms, *Legal Orientalism* is negative in the way in which it critically advocates progressive intellectual development within the field of comparative legal studies and in the manner in which it fosters a different geopolitics for our times.

Significantly, *Legal Orientalism* stands for the other — arguably one of the book’s most hortative virtues. Now, the adoption of this stance means more than salvaging alterity from oddness, weirdness, bizarreness or alienness. In his determination to convey the view that one can *learn* from the other-in-the-law, Professor Ruskola thus refers to the fact that China experienced significant economic growth ‘unrivaled by any economy on the planet’ over three decades, and that it did so without a law of property — which, in effect, did not come along until 2007 (see *Legal Orientalism* at 219-20). The point is not that what was taking place in China on the property front was illegal. In effect, it was neither illegal nor legal but, to use Professor Ruskola’s term, ‘unlegal’ — a third space existing beyond the usual binary divide which, as he suggests, a US theorist conversant with either/or demarcations might be hard-pressed to accommodate. But it must follow, to track *Legal Orientalism*’s argument, that law, as understood in the expression ‘well-defined property rights enforceable at law’, cannot be ‘the sole effective means of channeling material resources’. Yet, as Professor Ruskola underscores, from the West’s vantage Chinese law seems doomed to a peripheral and insignificant role. By what warrant indeed could the Chinese experience be allowed to question the West’s cherished assumptions? Boldly, though, Professor Ruskola offers this rejoinder: ‘Why couldn’t the study of China generate *primary* knowledge — theory itself — rather than merely secondary data to confirm or disprove theories developed elsewhere?’.

The challenge — which shows how the comparatist can, and must, stand for the other — is to accept that China is ‘potentially capable of imparting lessons to the United States’. *Legal Orientalism* thus maintains that the comparative negotiation taking place from a US standpoint requires to ‘unsettl[e] not only [the US] view of Chinese law but the study of US law as well’. In assuming its primordial condition of vigilantly contesting every usurping authority or appropriating instance, of being-toward-another-law, indeed of being *for* the other’s law, of speaking in the cause of the other’s law, comparative legal studies becomes other-wise, that is, it gets to be more astute as regards the need to concern itself with alterity’s claims for recognition and respect. Professor Ruskola’s tireless message is that ‘the Chinese presumably deserve better’ than Western condescension or ‘legal narcissism’ — which, as should be clear, does not at all entail that one would be ‘isolating Chinese legal practices from criticism’ (for instance, the book under review does not fail to mention ‘China’s own imperial practices in East Asia’). To transpose Natalie Melas’s observation regarding Africa, *Legal Orientalism* presses the possibility that ‘there might be more to [Chinese] characters and [Chinese] lives than is contained in cliché and stereotype’: Melas, N (2007) *All the Difference in the World* Stanford University Press at 53.

For the comparatist being prepared, in the name of an ethics of comparison, to allow foreign law to signify *other-wise* (that is, to implement a brand of research that is attuned to foreign law’s singularity); for the comparatist therefore disposed to engage in comparativism *otherwise* (that is, to foster a research that will differ from the orthodoxy’s

as it has relentlessly sought to occupy the field of comparative legal studies with its *similarization* tactics); for the comparatist thus able to fashion himself as sufficiently modest to valorize the other to the point of listening to *its* story and yet strong enough not to feel threatened by alterity, Professor Ruskola's judiciously heterodidactic approach to comparative legal studies — a search for non-power that withstands mastery and refuses *Ordnung* — suggests a very rich interpretive yield.

If it were to be emulated, Professor Ruskola's brand of comparativism would, in time, felicitously and conclusively mark the death of comparison-at-law *aus Hamburg* in the sense that it would at long last destroy the positivistic and ethnocentric/juricentric model that orthodox comparison-at-law has desired to be and has imposed through the usual institutional channels. Simultaneously, as it contributed to performing differential comparison's emergence, it would inscribe the genesis of an alternative comparison-at-law. In effect, it would help launch the comparative legal studies that is yet to come in as much as it would foster the primordially of alterity-in-the-law in permitting the other to be recognized and respected on its own terms. It would thus help inaugurate the comparison-at-law that accepts how, when one reads a foreign statute or judicial decision with full response, one is implicated in a matrix that is just as thoroughly heteroglossic as it is inexhaustibly singular, that one is effectively pursuing an interminable process of ascription of meaning that only the exhaustion of the comparatist-at-law's resources or the editor's deadline will terminate (any ending will thus be an interruption, a *cæsura*, an unwilling cut in a way, and a break that must come at a cost).

I, too, face the predicament of premature closure even as *Legal Orientalism* discloses how comparative legal research can prove so captivating (*no*, it need not be about mistake or set-off — or is it proportionality?) and how it can make itself so relevant in terms of today's world (*no*, it need not involve a quixotic quest for the common core of laws or other legal unicorns). As it eschews a narrow focus on rules, that is, on legislative texts and their judicial or doctrinal restatements, the book under review also illustrates how a comparative legal study can avoid *futility*. (I can still hear John Merryman's words as he exclaimed: 'It seems so obvious that comparison based on statements of rules of law [...] is a relatively trivial kind of enterprise': Legrand, P [1999] 'John Henry Merryman and Comparative Legal Studies: A Dialogue' [47] *American Journal of Comparative Law* 3 at 4.) In passing, it is worth indicating that not only has Professor Ruskola much information to share on China, but he also deploys a wealth of interdisciplinary knowledge on US law, for instance on the topic of extraterritorial jurisdiction. It is not, then, that posited law is absent from *Legal Orientalism*.

Throughout, Professor Ruskola offers his readership a deeply personal text. His work strikes me as being profoundly informed by his own intellectual trajectory, specifically by his experience of increasing familiarization with Chinese culture over time, but also by his greater implication in US culture as he has found himself spending more and more years living and working away from his native Europe. In other terms, Professor Ruskola's book is intensely autobiographical, not least in the way it shows itself to be *hospitable*. None of this is to suggest, however, that Professor Ruskola wrote in 'sovereign solitude' (Derrida, *Writing and Difference* supra at 226). Indeed, his extensive acknowledgments make it clear that he is very aware of the 'irreducible secondarity' that pertains to authorship (Id at 223). That Professor Ruskola accepts how the 'I' consists, in effect, of very many people is also in evidence through *Legal Orientalism's* vast (and, frankly, impressive) compendium of references and quotations. These materials largely draw on Chinese texts, of course,

Professor Ruskola being keen to let the other speak in his singular voice. For example, the discussion on the current state of legal theory in China features extensive excerpts from Chinese works (see *Legal Orientalism* at 222-29). But Professor Ruskola also brings to bear his encyclopædic knowledge of scholarship on Chinese law as it has been written in other languages like English, French and German.

For me, there was joy in reading *Legal Orientalism's* lucid prose as it deftly grappled with the irreducible indeterminacy that must inhere to every attempt at re-presentation of alterity-in-the-law. Still, I found myself disturbed on more than one occasion as Professor Ruskola revealed the magnitude and perdurance of the ethnocentrism/juricentrism that the West (in particular, the United States) has been visiting on China. In this regard, I was touched by the text's willingness to compose what is ultimately a sharp self-critique in the sense that Professor Ruskola, himself a Westerner, is engaging in a sustained, at times pugnacious, interpellation of the West's tactics vis-à-vis China.

I mentioned how Sloterdijk holds that the interpreter brings the text to life even as the text likewise animates the interpreter. I am grateful to Professor Ruskola's book for having animated me. In fact, because of Professor Ruskola's incisive and erudite interpretations, I am a more knowledgeable comparatist for having read his *Legal Orientalism*. Now, it so happens that I am based in France (for reasons, I hasten to add, that are far more personal than professional). Accordingly, I operate in the vicinity of Dutch/Flemish, German and Italian comparative endeavours which, to adopt and adapt Mirjan Damaška's words, 'smac[k] of the dogmatism of the untraveled': Damaška, MR (1991) *The Faces of Justice and State Authority* Yale University Press at 199. Little wonder, then, that I have found myself writing of my despondency at the parlous state of comparative research in law (eg, Legrand, P [1998] 'Are Civilians Educable?' [18] *Legal Studies* 216). To his immense credit, Professor Ruskola reminds me that in the hands of an able player ('*nas mãos de um bom tocador*') comparative legal studies can be good. 'Really good'.