

REFGOV

Reflexive Governance in the Public Interest

Corporate Governance

Contextual pragmatism and Reflexive Governance: A Methodological note.

By Robert COBBAUT

Working paper series : REFGOV-CG-3

Contextual pragmatism and Reflexive Governance: A Methodological note¹.

Robert COBBAUT

Centre de Philosophie du Droit
Université Catholique de Louvain

and

Luxembourg School of Finance
Université du Luxembourg

1. Introduction

As illustrated by recent review articles [Shleifer and Vishny (1997), Zingales (1998)], economic research on Corporate Governance (hereunder CG) has for a long time confined itself to a strictly microeconomic perspective leaning on the neo-classical theories of the firm – characterised as a ‘nexus of contracts’ – and of market structures, in particular of financial market structure – characterised as highly efficient. The end product has been a main stream CG theory centred on ‘shareholder value’ maximization and on the settlement, by means of adequately calibrated incentive contracts, of the conflicts of interests between shareholders, providers of the indispensable risk capital, and managers, holders of the quite as indispensable managerial skills. A conception of public regulation that considers the elaboration of institutional devices aimed at increasing the ‘informational efficiency’ of financial markets as the sufficient condition to preserve public interest has been developing in parallel.

The events that took place in the first years of the present century have been shaking the confidence in this intellectual construct: though highly coherent, it has been in the recent past too often and too heavily contradicted by facts. In our opinion, the most significant ‘tracer’ of this failure does not lie in the recent spectacular scandals (Enron, Parmalat, Worldcom, ...) but rather in the severe questioning raised by the ‘stock options plans’ system, due not so much to the abuses of some CEO’s than to the growing doubts on their efficiency in solving the conflicts of interests (the famous ‘agency’ conflicts) between managers and shareholders. The variety of structures – e.g. the dominance of dispersed shareholdership in the anglo-saxon world and of significantly more concentrated shareholdership in continental Europe – has anyway cast some doubt on the universal character of such a device as the ‘incentive mechanism’ *par excellence*. Our purpose in this introductory section is not to draw up a listing of the problematic situations that have given rise to questioning the possibility that market mechanisms and self-regulation devices linked to the latter will, to the exclusion of any other device, regulate adequately the economic system. It is evenly clear that recent events have been revealing in the same move the shortcomings of the classical concept of public regulation (‘command and control’) and the insufficient “contextualisation” of the current approaches to CG.

2. “In search of new foundations”²

In the quest for ‘new foundations’ that follows logically, the recent advances of political sciences and the questions they are raising with respect to the institutional context of the

¹ Presented at the REFGOV – CG seminar in February 2006 Louvain-la-Neuve

² Borrowing for instance the title of Zingales (2000).

governance problematics show most clearly the way for deepening the investigation about CG.³ Scharpf (1997) is pointing out that, in order to adopt a genuine institutional perspective, it is not sufficient, like most economists and some sociologists are doing, to opt for what he calls '*rational choice institutionalism*': "Institutional rules are understood as external constraints and incentives structuring the purposeful choices of self-interested rational actors" (p. 770), nor even for what he calls '*sociological institutionalism*' :

"Institutions are defined very broadly so as to include not only externally imposed and sanctioned rules but also unquestioned routines and standard operating procedures and, more important, socially constructed and culturally taken-for-granted worldviews and shared normative notions of appropriateness" (ibid.)

The concept proposed by Sharpf is that of '*actor-centred institutionalism*', taking into consideration the fact that

"Even if external and institutional conditions remain constant, policies can change if the cognitive and normative orientations of policy makers change (...). In our framework of '*actor-centred institutionalism*', we therefore find it necessary to treat actor orientation (i.e. their preferences and perceptions) as a theoretically distinct category – influenced but not determined by the institutional framework within which interactions occur" (p. 771)

This move towards an 'actionalist' approach to governance, if it constitutes an undeniable advance in the theory of collective action, remains nevertheless unsatisfactory in that it does not pay enough attention to "the 'reflexivity' of the operation of judgment guiding the actions"⁴, and is therefore leaning on a theory of the norm that fails to consider the relation between 'application' and 'justification' of a norm in sound epistemological terms. It restricts itself to defining 'application' as a purely inferential operation with respect to a rule already existing, when

"the choice of the norm is, in effect, already the result of an operation of application. The 'form' (representation) taken by the norm results from the 'application' made of the rational requirement borne by the activity of judgment, which the members of a social group have decided to mobilize in order to resolve a problem of collective coordination. The question posed by this operation of application therefore concerns the conditions of possibility of the operation by which reason (activity of judgment) produces meaning effects in reality, that is, 'is applied' or 'is effected' in social reality.(...)"⁵

In Sharpf's '*actor-centred*' institutionalism, "...the operations of application and of justification of judgment are ruled *by the same resources* and are therefore in a *symmetrical* relation. Such a perspective, as one will easily recognize, is that of '*mentalism*'."⁶

Indeed, as exposed by Lenoble and Maesschalck (2003)⁷, rejoining on that point the criticism addressed by the theorists of rational choice in economics to the classical legal approaches to governance through rules ("command and control"), "a norm will only produce meaning effects according to the 'perception' of its final addressees"⁸. In other words, the application of a rule is by no means a purely deductive operation in which both the rule and the context in which the former will have to be applied are supposed to be given and thus

³ See Héritier (2002), Mayntz (2002) and Scharpf (1997, 2000).

⁴ CPDR-UCL (2005), p.7.

⁵ Ibid., pp.19-20

⁶ Ibid.

⁷ Most of the following citations are drawn out of the synthesis of this text realized in Lenoble (2004).

English translations are ours.

⁸ Lenoble (2004), p.6.

constitute strictly objective entities, accessible from the outside through an expert's judgement, "the diagnosis of the problem to be solved resulting exclusively from the operation of the neutral and formal rules of the reason"⁹, when in fact "conflicts of perception are not only about the choice of the ways and means for application but about the way itself in which the nature of the problem to solve will be defined"¹⁰. Resolution of such conflicts will in turn result in a common perception of 'possibles'.

In any case, whether the action to be performed consists of the elaboration of a rule or merely of the application of an already existing rule,

"at the basis of every rational decision or every voluntary action, there are two – and not one, as is usually supposed – operations of 'selection'. There is obviously the choice of the transformation that appears to be rationally required (that is, of the solution of the problem that is judged to be most rational). But this choice is itself only possible because it depends upon a previous operation of selection which relates to the way of 'perceiving' the 'context' in relation to which the problem to be solved will be defined and the *use* that will be made of the solutions envisaged by the actors called to apply them will be determined. (...) This second operation of selection – which conditions the first – is not resolved by the first. It therefore should be treated for its own sake if one wants to realise the objective sought which consists in accomplishing the best rational action possible in order to deal with the problems to be resolved. In effect, there is a possible *transformation* of the world – and thus an *effective realisation of the intentional aim* of every norm – only if one takes into account this second conditionality and organises a specific *procedure* of adaptation and of construction of a common perception of the context. The question is of procedurally organising the adaptation of the existing perceptions of the actors with a view to naming the significance and the nature of the insufficiencies to be remedied and of the problems to be resolved"¹¹.

The last sentence is nearly at all times – and it is also the case of Sharpf – understood from a 'retrospective' point of view, 'downstream' from the interaction or negotiation, that is, when the selection process has come to an end: "the set of possibilities is supposed to have been 'given' to the reason, which has operated its synthesis, and to have induced in the real world the effects called for by this synthesis"¹². This is the manifestation of the abovementioned symmetrical view of the relation between 'application' and 'justification'. In order to avoid pure 'mentalism', one has thus to highlight the *asymmetric reversibility* of the operation of reason, which expresses its 'reflexivity'. Reversibility means that the coherence of the world to be constructed, as a way of life to which reason adheres, not only requires a transformation of the context¹³ but also "an action which returns to the definition of the 'ideal' end defined by the operation of justification"¹⁴. Asymmetry points at the requirement that this 'returning' operation of the application on the justification will consist of making sure that the end defined by the norm effectively 'passes' into the context.

The above statements do not simply mean that the possible courses of action are limited by the context. Moreover, in spite of what is postulated by nearly all institutionalists, including the 'actors-centred' ones, "for lack of what we call 'reflexive incentives' the sole interplay of actors, institutional devices and available cognitive resources will not allow to interrogate what will be the point from which will be operated, among the 'possibles' offered by the

⁹ Ibid., p.8.

¹⁰ Ibid.

¹¹ Ibid., pp.9 and 17.

¹² Ibid., p.12.

¹³ Which should not be viewed as a 'given' set of constraints but as something that the actors are capable or at least 'capacitable' to transform collectively.

¹⁴ Lenoble (2003), p.56 ; see also Maesschalck (2001)

context, the selection of the normative and cognitive orientations of collective action”¹⁵. In order for the set of perceived ‘possibles’ to gain gradually in extension, thereby ensuring a higher satisfaction of normative expectations, one has to operate a ‘pragmatist turn’.

In the broadest meaning of the term, pragmatism is “a theory of both reason and action that will therefore privilege problem solving thanks to a constant and cooperative re-elaboration of ends and means and a reflection on their connection within social activities”.¹⁶ This does not mean that ‘pragmatism’ and ‘semantism’ are antithetical. In the ‘non-mentalist’ perspective of ‘asymmetric reversibility’ that expresses – as we have said – the reflexivity of the operation of reason, the former has to be regarded as a necessary condition of the semantic productivity of judgment, that is, of its capacity to produce meaning effects. “The activity of reason ‘reflects’, in effect, a ‘perception’ which reason itself cannot justify by its own formal rules but on which nevertheless it depends for its implementation: the ‘choice’ to adhere to a way of life according to ‘reason’ (...), the choice of a world as ‘rationalisable’, as ‘transformable’ according to the requirements dictated by the formal rules of reason.”¹⁷

‘Effectuation’ in the social reality of the normative finalities of the actors must be conceived as a complex operation requiring the integration of learning and of reflexive adaptation processes. This backward motion of the thought on itself (reflexivity) is far from being an automatic operation, in particular when the matter is ‘institutional’ (or at least collective) and not solely individual. Adaptive processes have to be ‘proceduralised’. But what is meant by ‘proceduralisation’ is the point where several pitfalls have to be carefully avoided. The main two ones are ‘idealism’ and ‘mentalism’.

The ‘idealistic’ pitfall may be illustrated by theoretical constructs¹⁸ considering that ‘confidence’ may be obtained on formally procedural grounds by providing the actors with the opportunity to participate in the deliberative construction of the public space, but without paying any attention to the problematic of ‘capacitation’ of the actors to interact in such a way that they would build up a common perception of the problem to be solved. The ‘idealistic’ bias in such models stems primarily from systematically hypothesizing a probable consensus rather than always considering the hypothesis of a possible ‘dissensus’, a posture which is especially questionable in contexts characterised by weak legitimacy.

One illuminating example of the ‘mentalist’ pitfall is the failure of ICANN¹⁹, due to a loss of trust in the capacity of this institution to carry out its mission, because the “institutional incentives designed to improve ‘social cooperation’ focused on the only question of the ‘justification’ of the cooperative behaviour that the incentive mechanism had to ensure (...), no ‘attention’ [having been] paid to the specific conditions which orient the use of the rule.”²⁰

There were two problems to solve. The first one consisted in integrating a market dimension – the commercial interests of private operators – and a communitarian dimension, namely the cooperative organization of restricted communities of innovation. The purely semantic understanding of the revision of ground beliefs required by such an integration resulted in recommending a contractual solution, pivoted on the protection of intellectual property rights, that consisted in separating what, precisely, would have been integrated: an

¹⁵ Lenoble (2004), pp.12-13.

¹⁶ DEWEY, cited by M.C. DORF and C.F. SABEL (1998), p.286.

¹⁷ CPDR-UCL (2005), cit., p.20

¹⁸ e.g. Habermas, Latour, Rawls.

¹⁹ “Internet Corporation for Assigned Names and Numbers”, a non-profit and non-governmental organization set up to control the assigned names and thereby to identify users of the web. See: Dedeurwaerdere T. and Maesschalck M. (2001).

²⁰ CPDR-UCL (2005), cit., p.35

ideal form of communitarian cooperation, on the one hand, and an incentive device aimed at adjusting behaviours to the market, on the other hand.²¹

The second issue can be phrased as the “recognition of the rights of the minority users as an Internet virtual civil society”²²:

“This requirement of recognition has promoted the idea of a technical governance which, set in an appropriate frame, would provide a service to the virtual community of users and to the operators involved in the development of the global electronic network. The idea was of a ‘co-regulation’ introducing the public actor in a partnership with the other actors on the web aimed to guarantee the interest of the widest possible community of users. [Again] this kind of solution was based on a judgment ‘separating’ an ideal self-regulated (by ‘bottom up’ consensus) and de-territorialized community of Internet surfers and an incentive policy of affiliation to a peer community gathered in forums or in committees which would use a (‘top down’) ‘command and control’ regulation, in the public interest (security of the system) of the technical processes.”²³

Neo-institutionalist approaches to economic theory²⁴ are at the background of such debates. Even when radically dissenting from neoclassical economics about the concepts of rationality and of incentive, all these approaches are reducing the question of the ‘meaning’ of institutional mechanisms to ‘justification’. “Everything is supposed to happen in social reality as if the users of these formal mechanisms inevitably adopted the *beliefs* or the *trust* required for obtaining the desired effects from the implementation of those institutional settlements.”²⁵ No attention is paid to the conditions that should be thought in order to produce community of beliefs or common trust. The formal mechanisms are supposed to find the conditions for their effectuation in the conditions of their rational justification. “The conditions of possibility of a procedural framing of reason are not conceived as *internal* to the conditions of effectuation (that is, of application) of reason.”²⁶

The expression ‘reflexive governance’ may be used to indicate normative devices that stimulate actors to collective learning processes, making thereby possible ‘decentralised’ processes of production of norms and assuring a better adaptation of the systems of norms to the specificities of the contexts of action in order to enable various categories of social actors to solve the problems with which they are confronted in a genuinely democratic manner, i.e. in an interactive process which will be both more efficient and more equitable than the currently prevailing solutions. In other words, public or common interest should not be defined *a priori* as derived from a pre-conception of the interest of the collective as such or of the interests of given (individual or collective) actors but rather *a posteriori*, “as the result of mechanisms that should be organised in order to maximise the potential of reflexivity of the actors involved in governance”.²⁷

3. Some methodological tracks

3.1. The concept of ‘shared cooperative action’

²¹ See : Foray and Zimmerman (2001), Post (2000).

²² CPDR-UCL (2005), cit., p.34.

²³ Ibid.

²⁴ Focused on an evolutionist concept (North), or on the concept of ‘convention’ (the French current of the ‘Economics of conventions’) or, more ambiguously, on the concept of ‘transaction costs’ (Williamson).

²⁵ CPDR-UCL (2005), cit., p.35

²⁶ Ibid.

²⁷ Ibid., p. 8.

The challenge borne from the failure, due to a breakdown of trust, of institutional experiments like ICANN is “to set up the conditions required to construct a common belief capable to motivate a commitment to pursue a common objective”²⁸, taking into account for their own sake differences in ‘beliefs’ – and thus of expectations – among actors. In the ‘non-mentalistic’ theory of action developed by M. Bratman (1992,1993) the core concept is ‘shared cooperative action’ (hereunder SCA). The conditions of possibility of SCA are dealt with in full detail. “The conditions of production of a common meaning cannot be deduced from rules laid down in the minds but from ‘shared intention’ (...). In order for the cooperative dimension called for by this shared intention to be achieved, it is necessary, M. Bratman stresses, that various institutional arrangements be put into place (...) to coordinate intentional actions, coordinate planning and structure relevant bargaining.”²⁹ This organizational framework is aimed at favouring the triple commitment which is the concrete expression of shared intention:

1°) *mutual responsiveness*: “In SCA each participating agent attempts to be responsive to the intentions and actions of the other” [M. Bratman (1992), p.328];

2°) *commitment to the joint activity*: “In SCA the participants each have an appropriate commitment (though perhaps for different reasons) to the joint activity, and their mutual responsiveness is in pursuit of this commitment” [Ibid.];

3°) *commitment to mutual support*: “ In SCA each agent is committed to supporting the efforts of the other to play her role in the joint activity (...) These commitments to support each other put us in a position to perform the joint activity successfully even if we each need help in certain ways” [Ibid.]

In short, “the model of commitment which the pragmatist approach leads to allocates the responsibility of actors not only with respect to the justification of the pursued objectives, but also with respect to the modalisation of these objectives by a planning of time and roles.”³⁰ Such an approach may be called pragmatic because, instead of restricting reflexivity to the justification, it extends it to the cooperative resources of the actors. Bratman’s analysis leads to a first sketch of an analytical grid aimed at ‘tracing’ the triple commitment that characterizes SCA:

- commitment to the selection of common objectives
- commitment to the agenda planning the implementation of these objectives
- commitment to the possibly necessary adjustment of the roles agreed for this implementation.

A problem remains, that has been highlighted by the most recent research realised at CPDR³¹: the failure of most pragmatic approaches to collective behaviour³² to construct in a properly pragmatic way the concept of ‘social attention’ or ‘collective vigilance’ and particularly the conditions of social learning of the attention. Indeed, the current pragmatic approaches to action, when attempting to link together the new ‘unbound individual’ and a possible social community of destiny, a thought process which necessitates to place the reflection into historical perspective, retain traces of a mentalistic schema, that is, the reference to an already given horizon of a synthetic unity of ‘possibles’,

²⁸ Ibid., p.36.

²⁹ Ibid., p.37.

³⁰ Ibid.

³¹ See : Blésin (2006), Loute (2005), Maesschalck (2005 a,b)

³² e.g. the pragmatic sociology of Boltanski and Thévenot (1991), Boltanski and Chiapello (1999), Callon, Lascoumes and Barthe (2001). For a critical assessment of such approaches, see Loute (2005).

in other words the reference to an ideal common world. Approaches characterised by the presence of such an implicit model of mental unity of ends – a finality without any determined content – may be called ‘perspectivist pragmatism’. This posture makes a contextual approach to learning processes impossible, since

“...the stake of a pragmatics of commitment and responsibility should be, on the contrary, to understand on which conditions a relation to ‘possibles’ – not as a regulative ideal, but as a new form of concrete life – could be developed. The reflexivity to be mobilized from this perspective (...) must proceed by inference from, and destabilization of, current practices aimed at setting up processes for the selection of ‘possibles’. Without this *reversal* of perspectivist pragmatism (consisting in starting from distant horizons to return to close operations³³) towards contextual/genetic pragmatism (consisting in selecting ‘possibles’ starting from present/current practices), it is impossible to provide a theory of social learning with the right epistemological foundations”.³⁴

The main practical implication of this radically non-mentalist approach to commitment is that the concept of planning referred to above must imperatively be understood not as a closed horizon but as an open horizon process characterised by a continuous attention to the perception of new ‘possibles’.

3.2. Sketching out a ‘research-action’ procedure inside of collective structures

The reflections and suggestions that follow are the result of a collective attempt to exploit, structure and systematize various experiments that have been made in the last few years inside of both the professional and associative worlds with the inducement of some form of social change as the objective. Our underlying intuition is that by relating these experiences to the philosophical endeavour to better understand collective action, it will be possible to construct some valid methodology for a ‘research-action’³⁵ approach to collective learning processes. Even if the ordering of the topics that will be briefly presented hereunder reflects some progressiveness in the approach of an action oriented collective learning project, it does not yet constitute the definite scheme of a protocol for ‘research-action’ in that field.

1. Connection with concrete experiences through a retrospective analysis of the ‘acts of language’

The first stage of this strategy of ‘reconstructive reminiscence’ will consist in registering (or coming back to previously registered) statements that both associate the description of a situation considered as raising problems and proposals for a solution, and are raising (or have raised) a controversy. The fact that a debate is taking (has taken) place reveals both a common interest (the point is worth a discussion because we perceive that we should/could have a common position in this respect) and some degree of disagreement about both the way in which the situation must be interpreted (from which point of view is the locutor looking at the situation? And what are the alternative points of view?) and the way in which the problem should be resolved: i.e. what are the underlying elements that should be balanced? In this last respect, the main three categories of elements are:

- *values*, in a pluralist society where individuals and groups may have heterogeneous systems of values;
- *interests*, always at least partially incompatible;

³³ An approach quite similar to ‘backward induction’ in standard economic theory of ‘dynamic optimisation’.

³⁴ *Ibid.*, p. 40.

³⁵ Which would for example include, but go beyond the methods of ‘participating observation’ of pragmatic sociology.

- *concerns for security*, in a socio-economic environment characterised by the multiplication and the intensification of risks³⁶.

Constructing a 'common world' will unavoidably necessitate some form of compromise, and has thus as its most basic implication that one should avoid a polarisation on dissensus (obliteration of what we have in common, and what is precisely manifested by the fact that there are debates, and even quarrels) and consensus ('cultivating' a fallacious affirmation of unanimity instead of openly debating the points of dissension).

2. Keeping or reconstituting the historical record of internal debates

This is going one step beyond punctual reaction to problematic situations, often initiated from the outside, by developing a collective capacity of placing periodically on the agenda embarrassing problems, and even a systematized procedure aimed at constructing a collective memory. The historical records should place the emphasis on moments of high tension and on phases of "rocking" or "breaking".

3. Elaborating common representations

Following the Geneva school of W. Doise (2001), we have to distinguish carefully between 'social representations' and 'collective representations'.

The elaboration process of a *social representation*, that is, a representation that becomes the common reference of various groups in debate and makes possible a better mutual understanding and satisfactory compromises, must satisfy several conditions:

- 1°) It must result from a process of differentiation of several positions with respect to a common stake;
- 2°) It must result from a communicative process, organized in order to produce an articulation of competing positions in the same communitarian space;
- 3°) It supposes that several interpretations are confronted in relation with various points of view on the interests involved, and with various expectations about the institutions able to produce and apply common norms.³⁷

Of course, it will take time for such a 'constructivist approach' to produce contextualised norms and policies.

A *collective representation* may be defined as a representation which is suitable for a given social group (experts, professionals of politics, human rights defenders,...) who will propose – or even try to impose – a conduct of affairs that will be functionally centred on his interests.

Two main phases may be identified in a learning process designed in accordance with the 'contextual pragmatics' hypothesis. The first one could be described as a phase of *destabilization* of current representations (points 1 and 2) in order to launch (or 're-launch') a social representation process (point 3). The second phase, that may be called *construction* or *reconstruction* of 'collective acting', requires not only that the process of construction of social representations will be going on, but also that specific incentives to commitment (point 4) will be put into place.

³⁶ See U. Beck (1986), Callon, Lascoumes and Barthe (2001)

³⁷ "Social representations are created in communicative relationships that pre-suppose references and benchmarks which are common to individuals or groups involved in symbolic exchanges" [W. Doise (2001), p.66.

4. Commitment and common trust

In the (re-)construction phase, the abovementioned set of incentive devices recommended by Bratman are of course well suited, provided that one will adopt a non-mentalistic (temporally open) concept of the planning activity.

There is nevertheless an additional concern to be kept in mind: the requirement of a proper *networking activity* aimed at constructing an adequately contextualised system of regulation and governance, with an adequate and articulated mix of formal (public) regulation and self regulation.

The requirement of 'articulation' means that one will build up structures of interaction that will continuously associate the three abovementioned key elements: action on the *values*, on the *interests*, and on *risk factors* (towards security). This will in turn require adequate 'interconnection' between the groups involved in the process through spokesmen and –women. Management of this 'connexionist' dimension³⁸ will require an appropriate blend of negotiators-mediators, opinion leaders and experts, as well as adequate modes of commissioning.

³⁸ See Boltanski and Chiapello (1999)

BIBLIOGRAPHY

- BECK U. (1986), *Risikogesellschaft*, Suhrkamp Verlag, Frankfurt am Main.
- BLÉSIN L. (2006), *Éthique réflexive et théorie de la norme*, Georg Olms Verlag, Hildesheim-Zürich-New York, forthcoming.
- BOLTANSKI L. et THÉVENOT L. (1991), *De la justification. Les économies de la grandeur*, Gallimard, Paris, Coll. « nrf essais ».
- BOLTANSKI L. et CHIAPPELLO E. (1999), *Le nouvel esprit du capitalisme*, Gallimard, Paris, Coll. « nrf essais ».
- BRATMAN M. (1992), “Shared Cooperative Activity”, *Philosophical Review*, 101/2.
- CALLON M., LASCOUMES P. and BARTHE Y. (2001), *Agir dans un monde incertain. Essai sur la démocratie technique*. Seuil, Paris.
- COBBAUT R. (dir.) (2004), «L’efficacité des marchés financiers », *Reflets et Perspectives de la Vie Économique*, XLIII (2), pp. 5-70.
- COBBAUT R. et LENOBLE J. (eds.) (2003), *Corporate Governance. An Institutional Approach*, Kluwer Law International, The Hague/London/New York.
- Centre de Philosophie du Droit – UCL (2005), *Theory of the Norm and Democratic Governance*, Overview Report 2002-2004.
- DEAKIN S. (2000), “Two Types of Regulatory Competition: Competitive Federalism Versus Reflexive Harmonisation”, in DASHWOOD A. and WARD A., *The Cambridge Yearbook of European Legal Studies*, vol. 2, Hart Publishing, Oxford, pp. 231-260.
- DEAKIN S. and MICHIE J. (eds.) (1997), *Contracts, Co-operation and Competition*, Oxford University Press, Oxford.
- DOISE W. (2001), *Droits de l’homme et force des idées*, PUF, Paris.
- DORF M.C. and SABEL C.F. (1998), “A Constitution of Democratic Experimentalism”, *Columbia Law Review*, vol. 98.
- FORAY D. and ZIMMERMAN J.B. (2001), « L’économie du logiciel libre. Organisation coopérative et incitation à l’innovation », *Revue Économique*, vol. 52, pp. 77-93.
- HÉRITIER A. (2002), *Common Goods. Reinventing European and International Governance*, Rowman & Littlefield, Lanham/New York/Oxford.
- LENOBLE J. (2003), “From an Incentive to a Reflexive Approach to Corporate Governance”, in: COBBAUT R. and LENOBLE J. (eds), cit.

LENOBLE J. (2004), « Méthode ouverte de coordination et théorie de la gouvernance réflexive », Les Carnets du Centre de Philosophie du Droit (UCL), Louvain-la-Neuve, n° 110.

LENOBLE J. et MAESSCHALCK M. (2003), *Toward a Theory of Governance. The Action of Norms*, Kluwer Law International, The Hague/London/New York.

LOUTE A. (2005), « La vigilance collective. L'apport de la sociologie de Boltanski et Chiapello, Callo, Lascoume et Barthe à la théorie de l'action collective », Les Carnets du centre de Philosophie du Droit, n° 114.

MAESSCHALCK M. (2001), *Normes et contextes – Les fondements d'une pragmatique contextuelle*, Georg Olms Verlag, Hildesheim-Zürich-New York.

MAESSCHALCK M. (2005a), « Sens et limites d'une philosophie du don. Entre théorie sociale et phénoménologie radicale », *Archivio di filosofia*, Actes du colloque international « *Le don et la dette* », Università « La Sapienza », Roma.

MAESSCHALCK M. (2005b), "Radikale Phänomenologie und Normentheorie", in Nowotny S. and Staudigl M. (eds), *Perspektiven des Lebensbegriff. Randgänge der Phänomenologie*, Georg Olms Verlag, Hildesheim-Zürich-Nex York.

MAESSCHALCK M. and DEDEURWAERDERE T. (2001), « Autorégulation, éthique procédurale et gouvernance de la société de l'information », Les Carnets du Centre de Philosophie du Droit, n° 91.

MAYNTZ R. (2002), "Common Goods and Governance", in HÉRITIER (cit.).

POST E. (2000), "Moving from Geographic to Virtual Communities: Global corporate Citizenship in a Dot.com World", *Business and Society Review*, vol.105, pp.36-38.

SCHARPF F.W. (1997), *Games Real Actors Play : Actor-Centred Institutionalism in Policy Research*, Westview Press, Boulder (Colo).

SCHARPF F.W. (2000), "Institutions in Comparative Policy Research", *Comparative Political Studies*, 33 (6/7), pp. 762-790.

SHLEIFER A. et VISHNY (1997), "A Survey of Corporate Governance", *Journal of Finance*, 52, pp. 737-783.

ZINGALES L. (1998), "Corporate Governance", in NEWMAN P. (ed.), *The New Palgrave Dictionary of Economics and the Law*, McMillan, New York, pp.497-503.

ZINGALES L. (2000), "In Search of New Foundations", *Journal of Finance*, 55, pp. 1623-1653.