But the possibilities kept multiplying: maybe it was just the alcohol.

Law is to the everyday as

male is to female, woman is to man,

creativity is to the clay of experience, history is to innovation

the plan or leader is to the mass, friction is to genius or the routinization of charisma is to leadership.

illusion is to truth, reason is to fantasy.

It was vertigo, an amusing delirium.

To get our bearings, we turned back to our weekend together in Portugal, joking easily about activist pretensions. Here we were, international legal activists on a junket—we'd been stranger places together, played odder parts. With strangers one might couch critique in a field of disclaimers, but no need with an old friend, just thank goodness this conversation is not being recorded. Back in the plane it seemed safe to be paradoxical and postmodern and politically incorrect.

Still, too much ironic detachment and the delirium refuses to stabilize, cynicism beckons. I think we both may have felt vaguely unsatisfied about the weekend and wanted to redeem it somehow. I wondered, moreover, how I could write about law and everyday life in such an ironic and paradoxical spirit when the naughty shock of transgression had come to seem just another tired intellectual routine, outdated, banal. However pious our Platform colleagues, hasn't law lost its innocent commitment to untroubled notions of the real, the self, the word, the deed?

My friend agreed—a modernist intellectual avant-garde has been rebelling for close to a century against the clean separation of norm and fact in law, as elsewhere in philosophy or science. In the legal academy, this had been the stuff of legal realism, backbone for the judicial and institutional innovations of the welfare state. I felt silly for a moment, philosophically unsophisticated. Assembling a book on law and everyday life may be no more than a naive rotation through the standard modernist moves. Why should I get involved?

But the everyday still sounds the siren call of a new site for
legal scholarship: someplace hip, passionate, private, personal, the privilege of purple prose. Concern for the everyday remains a sign for good liberal political commitment to laws relevant to the everyman. Between work and family, choose family; between capital and labor, labor; man and woman, woman; producer and consumer, consumer.

And what's wrong if legal scholars want a shot of pragmatic earnestness in their aging, but still humane, project to place law in the service of social change? A harmless little charge of meaning in the old Warren Court dream, law gone to the everyday. Or if they need a reminder of law's power, the fate and importance of lawyers, the consequences of judicial power or legislative choice. Or if they want to look once more at the damage done, the scars, the victims. Cheap thrills. Maybe we should just lie back and enjoy it when we see them straining to remind us that law "takes place" on a "field" of pain and death.

Besides, I asked, who wouldn't want to redeem these politically correct objectives from the many assaults of modernism? Who has not experienced the importance of a redemptive law, the sanctity of contract, the reliability of property, the centrality of rights to progressive politics? We would not have gone to Portugal were we not in some sense moved to legal activism. In this system, whatever you may think philosophically, if you don't stand with the everyday, you probably stand with the law—or maybe you just don't care.

I may have gone a bit too far, but he tolerated my polemic and proposed, in a tone at once indulgent and sadistic, that we look more closely at this return of piety. I thought we might start by thinking more emphatically of those who would revisit law's relations with the everyday. Their work might be a cry from the heart, a redemptive gesture of resistance against the modernist vertigo that had corroded faith in law as the social project of law's engagement, begun in the world of politics, had come to rest in the world of language.

We determined to spend the flight thinking empathetically about some current legal traditions that might support such a cry from the heart, stabilize our earlier associative vertigo, even redeem our weekend of representational activism. We settled our empathy on three broad slogans: pragmatism, narrative, and policy.

In a way pragmatism seemed the great framework for such redemptive efforts. Low to the ground, always already skeptical,
innoculated against doubt, forward to action. And modest, a theoretical bumbler, down home good sense. So much legal scholarship rides loose in the saddle, objectives out front, off camera. Don't get lost in distinctions that don't matter, rather light a single candle. Don't wallow in feelings like some self-indulgent little bugger, produce some results. Pragmatism as anti-intellectual modernism, the tradition of technocratic realism with all its anti-Semitism and homophobia.

That's the tone, but how do they do it? How stabilize the law and the everyday, each at once both visionary and practical? As my friend saw it, pragmatism was a form of social work with words that begins by situating both law and the everyday—"norms and facts, words and deeds, speech and writing"—in two registers. First, as extremes, embodiments of social differences: nature vs. culture, man vs. woman, and so on. Second, as more middle-of-the-road terms, associated with a move away from these extremes to a common ground of reasoned procedures, civilized institutions. Each term both illustrates an extreme to be avoided and promises a temperate middle position.

We tried to work this out for nature and culture and thought of claims by both law and the everyday to be culture to the other's nature. Law as norm, the everyday as fact. The everyday as civilization is custom to the fact of law's intrusive form or force. And of claims by each to be nature to the other's culture. Law as objective rule against the subjectivity of the everyday, the everyday as mute fact, a bulwark against the cultural experimentations and pretenses of the law. For the pragmatist, it's not so important to determine which is which—it's the relationship that counts.

At the same time, both law and the everyday could shed extremist opposition to build a middle way against the more dangerous claims of either nature or culture. Both claim to be culture against a broader, more archaic, more immediate, more frightening real. Law as reasoned government against the specter of totalitarianism. The everyday as the wisdom of the reasonable man, of cultural order, against the specter of anarchy.

And both claim to be more reliably real than a hyperbolic or ideological culture. The everyday as the taken for granted against the temptations of ideological commitment, the apparent against the dreams and nightmares of individual fantasies and collective illusions.
The law as objective anchor (the law of gravity), whether from God or science, against sacred illusions and democratic seductions.

As a result, law and the everyday provide both an arena for struggle and a comfort zone against a real we find only in its invocation. Much like our Lisbon kindergarten, full of contrasts, debates, stabilized by our representation of Timor, a collective Cheshire smile, soothing as it loses focus. But such a pragmatism could hardly sustain a cri de coeur against modernism, for this is the rhetoric of modernism, turned from substance to process, from reality to rhetoric. Moreover, this structure was taking us quickly back to the vertigo.

My friend nevertheless insisted that for the pragmatist, the point is less to fix a relation between law and the everyday than to sketch a plausible, defensible series of relations, to harness them in a dynamic argument against the extremes they threaten to embody. In such a pragmatic space, the work is less political or philosophical than rhetorical, the play of paradox stabilized by an articulate vacuity. To criticize pragmatism for its logical gaps and circularities misses the great claim of liberal legal science, to have beaten the swords of political conflict into the ploughshares of argument.

As we pursued this line, I remembered hearing it all before—a structuralism gone apologetic. Our analysis lost its empathy as pragmatism took us out of vertigo and into apology. Soon we would be insisting that all normative associations could always be reversed, turning what had been a joint creative project into a machine of philosophical necessity. I knew what could happen next, the beauty of the rhetorical system a powerful addictive, deflecting our attention from the split between private cynicism and public performance experienced in Lisbon, leading eventually to the literatures and conferences of "autopoiesis." Not socio- but hetero-biology.

Pragmatism had its points, to be sure, but we had not found stable ground for a redemptive struggle on behalf of the everyday. Neither had we found relief from the special and awkward emotional residue of our time in Lisbon. The next great slogan, narrative, promised a departure from pragmatism, an embrace of the modern turn from action to language, as well as a redemptive gesture against the dark side of the modern.

In the spirit of much recent legal scholarship, I proposed we might think of ourselves not as philosophers or politicians, but as strategists or storytellers in a project of social narration and legitimation, using
law and the everyday as terms from which to weave a social fabric. He didn’t like *legitimation* (a hopeless reification of agent, object, and interest) and thought *strategic* too wedded to an intentional subject. But I asked his indulgence and we pressed on.

Pragmatism’s vices are narrative’s virtues, seizing the rhetorical playfully, earnestly, creatively. If this is all there is, so be it, let our stories be just and true. Stories in which real people struggle for real consequences, not the phony reality of representation, the hyped presence of others, but the immediate reality of our own work, woven now into a broader cultural project. If it seems tawdry, rewrite it. Should vertigo dawn, focus on your characters, sharpen your plot.

A tone more easily the object of empathy, we thought to exercise it on the central stories of our discipline: stories to liberate public international law from the everyday politics of sovereignty, a noble struggle of centuries to establish an autonomous legal culture, removed from politics and the vagaries of princes and peoples.

I began. In the traditional period, this was the work of philosophy. It was the struggle of naturalism: to identify enduring values, a coherent reason, a transcendent humanism of general principles against the ebb and flow of political practice and the haphazard forms of international relations, legal content from social form. It was also the struggle of positivism: to develop a legal contractual practice that would simultaneously liberate the legal sovereign from cultural inertia or religious value and liberate law from the everyday whims of sovereign desire, legal form from social content.

In the modern era, this has been the project of international institutions: to develop a normative and administrative regime detached from periodic intersovereign conflict. Why not renew the great cosmopolitan dream that international law might attain its freedom from the everyday to become a profession, a logic, a system, the story of law’s struggle against deviance and conflict and of law’s efforts to pacify the processes of social change? Why not renew the narrative of struggle to liberate the legal process from the rigidities of a professionally embedded formalism and the fickle commitments of nation-states?

Over dinner, my friend reminded me of stories from the other direction, of equally noble struggles to distinguish the everyday from law. He began with the important histories of liberation, retold every time politics seeks to free itself from the law of one or another
ancient regime. Here were enlightenment stories of citizenship and popular resistance as well as romantic stories about peasant cultures, natural harmonies, primitive forces, whole wheat bread. And stories sympathetic to deviance, defiant of law's regularizing ambition. In the traditions of international relations, this reminded me of the repeated valorization of the political as "real," a realism that aims to liberate the sovereign as the ultimate embodiment of the cultural everyday. And of claims about the cultural margin, the religious, linguistic, or racial minority, the indigenous, the South, the East, or the Third World, as concrete poles of resistance to the generalizing project of international law.

He began to get carried away: a thousand new orders have been launched in the name of the everyday against law. In this century, a history of political extremes—unite the volkish forces of national identity, the everyday of the petty bourgeois against the cosmopolitan, Jewish aristocracy of legal ideas. This has been the project of isolationists and imperialists, of progressives and conservatives. In the academy, he insisted, we constantly find this "struggle" in "play": the pitting of experience against reason, the fetish of the empirical, the trendy invocation of phenomenology against logic. Thinking of narrative as a rooted social gesture, he concluded, demonstrates rather than escapes interpretive fluidity and may as well get you in political hot water.

This seemed right to me—you’d have to admit as many narratives of liberation from law as of law's liberation. If these were cries, they were hardly all from the heart, nor might they stabilize our empathetic aspirations for the everyday. Must we always return to the vertigo we had left behind before dinner, dueling chronicles, blind to one another's insight, each the other's dark side? Of course, there still remained important narratives of reconciliation between the law and the everyday. For our narrative catalog to be complete, we would have to add stories that needed the distinction only to elide it.

Think, I said, of international lawyers who insist on law’s reconciliation with the everyday—think of our Lisbon comrades, chiding the law for its isolation, insisting that it become relevant, get real, practical, and pragmatic, return from its cosmopolitan space to enter the everyday either as history (contract) or as promise (sanctions), as a norm to be applied or a program to be implemented. This is what it means for international law to be binding, and no claim, other than
perhaps the claim to be autonomous, is as important as the claim to return from autonomy as a binding norm. If law is culture, this is the story of its search for an audience. If law is fact, this is the account of its return to culture as sanction, a terrible swift sword.

He interrupted to remind me of compelling reconciliation narratives in which the everyday seeks to become law. Narratives accompanied by disturbing accounts of the everyday as desire, chaos, enigma, struggling for legal expression. The everyday as experience, reaching for interpretation. The everyday as chaos, reaching out for order. These are the narrative gestures of liberation movements searching for recognition and of politicians and sovereigns hoping to transform their deals into contracts, their imperium into a regime, the repressed struggling for repetition as rule.

He was right, of course. For the international lawyer, little is as striking as politicians' continual return to the law they have scorned. The strong and the weak, the hegemony and periphery, all pressing their claims in the language of law. These are the stories that fuel international law's proliferation—ever new rights, new remedies, new states, new regimes. As often as we hear resistance to law's distinctive claims, we hear claims for a new law and struggles for assimilation. Perhaps it would just have to be vertigo all the way down.

Before we left narrative altogether behind, I wondered if we might not judge the narrators who told one rather than another tale. There might be differences of character, if nothing else, that could sustain our empathy for the cry against modernism. In a way we liked that—an identity politics in which the characters were scripts searching for the narrative conditions of their dramatization. So Pirandello. The activists who called out in Lisbon for law's arrival in the everyday were honorable characters. Perhaps, my friend chided, but wasn't it also they who had told of international law's emergence as an autonomous discipline, justifying their entitlements, their standing, by law's autonomy? What sort of "characters" speak in such different ways? And it was clear from the narrative range that the turn to character, from narrative to narrator, would support more than simply our new empathy for the everyday.

We were through with supper, but the Atlantic still stretched out hours before us. We considered watching the movie—but decided against it. As we reviewed our lists of contradictory claims and
narratives, cognac in hand, I had to admit he was right about their fluidity, their political undecidability.

I thought I'd try another turn, to policy, to larger arguments woven together less as narratives than social practices and institutional structures. Perhaps our clichés and polemics are as much history as literature, identities to be lived as much as narrative characters. The realm of policy is practical, even pragmatic, yet retains the mystery, vision, and strategy of narrative. It speaks a twinned language, technocracy and renewal, nostalgic postmodernism. Revenge of the vision nerds, the sovereign is dead, long live sovereignty. This is an insistent frame, full of facts and figures, moving, like pragmatism, forward to a better society, but rooted in the real, in choices, values, consequences.

We turned again to our own discipline, for the history of international law presents a great movement as well as a great narrative: law wrests itself from the chaos of religious conflict in 1648, spends two hundred and fifty years clarifying itself in philosophical autonomy and returns to the international community in this century as an institutional and doctrinal regime. If we look at the doctrines in the field, we find an elaborate division of labor between those that work to establish law's autonomy by locating its origins in the everyday—primarily rules about the "sources" of law—and those that provide some substantive (and usually quite modern and pragmatic) bite to the legal regime. In between are the procedural rules establishing a legal process at once cut off from sovereign prerogative and deferential to it. Here is a space for policy, management, balance. In a strange way, every judicial case repeats this movement, first away and then back towards the everyday in the cycle from jurisdiction to the merits to remedies.

Even granting that each of these turns is written in the unstable distinctions and polarities we have discussed, surely this is more than literature. To convince him, I talked about war, but we might as well have spoken of development in a world both "delinked" and "interdependent," of trade and aid, sanctions and sovereignty, of the New World Order, or of the European Communities split between "subsidiarity" and "cohesion." International policy is both myth and science, in which a hypothetical world of "free trade" or "internal market" might be translated into an architecture or an expertise.
I reminded him of work we had once done together on international law's three rhetorics about force, three moments in relations between law and the everyday, three sides of war. Think of the "law of war," a primitive affair of norms and definitions developed into a quite modern vocabulary of contextual justifications for intersovereign intervention, blurring distinctions between war and peace, norm and deed. In this modern tradition, war is a matter of sending messages, establishing definitions, setting boundaries, peace a process of political consolidation and competition. This is a vertiginous space, uprooted from the violence it defines.

This realist vision is coupled with two bold idealizations: the "law in war" and the "law of collective war." The first, governing military conduct in permissible conflicts, aspires simultaneously to perfect the military machine by restricting its ambit to the militarily "necessary," to actions "proportional" to the military objective, and to open it to the "humanitarian" through quaint rules evoking a sputtering Red Cross ambulance on some Crimean or Flanders field, nobly distinct from the everyday of warfare. The law of collective war dreams of an international institutional regime that could enforce law in the everyday of international relations.

Military force in three rhetorics is more than felicitous phrase making, and it is in policy, or perhaps strategy, that these rhetorics are brought into the service of politics, brought to bear together as means in actual combat. I found myself earnestly reminding him that it was easy for us, floating across the ocean, to see these traditions as narratives, but people die for this, and it all does, in some sense, happen on a field of pain and death. He laughed. All your war stories, the particularities of disciplinary convention, so reminiscent of our Timor platform pieties.

He was right to take me back to Lisbon, where international law and Timor had been the ground on which we stood, the reality we knew. Like an audience, they had reassured us of the drama and stakes in our uncertain situation. In this they functioned like other great modern stabilizers: power, base, phallus, woman, community, autonomy, contradiction, expertise, models and their empirical confirmation, transactions and their costs, the unconscious, the real, family values, choice, voice, difference, blindness and insight, the violent, the sacred, the profane, the list seemed endless.

I was only briefly annoyed when he laughed, less that he should
laugh at suffering, than that I should not have recognized myself
teetering from policy to polemic. I guess I liked the conversation
better when we didn't focus too precisely on the meaning of either
law or the everyday, when we permitted ourselves to enjoy the reality
of our metaphors. Making the rhetoric real, after all, was the work
of the artist, of the warrior or statesman, or of the manager, judge,
or legal scholar. Perhaps policy less supported than restated a gesture
against modern skepticism, redeeming the tawdriness of its deploy-
ment and stabilizing the terms of its elaboration only as a gesture,
a pole of attraction for our empathy.

Perhaps these were but statements of faith in the possibility of
policy, of narrative, of pragmatism, as also of identity. A great ges-
ture, a contemporary humanism, grounded in an illusion whose only
future is repetition. Yes we can realize the precognitive in social life;
our characters, however dramatic, are earnestly acted. You can say
what you will, but for the victim the torturer brings law home as
pain, irreducible, inexpressible, inarticulate. Property rights might be
unbundled, traded, relativized, mortgaged, dispersed, be lost in rhet-
oric, but for the welfare mother a car repossessed is transport lost,
rent not paid yields, inexorably, predictably and often cruelly, evic-
tion, and why hesitate to call this law?

The danger was clear—that we'd back ourselves into all the
earnest clichés, back to familiar politics, the legal process and liberal
commitments, a process for speech. We'd soon seek movement from
code to communication, to a place where judges think like defendants
and act like legislators. We'd be back to the politics of representa-
tion, a stable process on which to project the exotic, calling always
for a turning of the tide from speaking to listening, from abstraction
to difference, from man to women, projector to project, law to
equity, dialogue to polylogue. Soon we'd be envisioning a new judi-
cial style, fragmented, sensitive, a dispersion of power to groups,
disempowering, decentering the state. We could call it all dialogue
or republicanism.

But after being in Timor, or anyway Lisbon, why not let the
primitive reinvigorate a law gone flaccid, pragmatic openness ener-
gized by the exotic? Why eliminate nostalgic pleasures, rather play
those old scripts one more time. We could keep it modest and self-
effacing, eschewing the traditions of idiosyncratic programs and grand
theoretical claims. If we wanted to join empathetically with those
who turn to the everyday, we might best begin with narrative, telling stories, every legal theorist a Studs Terkel, every lawyer a novelist. We'd have time for pragmatism, policy, program.

The flight was almost over, after all, and I wanted to come up with something for my essay, a life-style, or perhaps a management style, that could firm our opening delirium. Not all the elements went well together, and it was all amazingly familiar, lacking the charge of transgression and the addiction of insight. There were pragmatic protests against modernist anxieties on behalf of history and character. There was the modern avant-garde, with its irony and critical sensibility. We had bits and pieces of narrative—the specificity of the abstract everyman or a camp sensibility that in turn could seem complicit, apologetic, a cop out. There were the great pediments of policy, representational structures calling out to clients, citizens, customers. There was worry about the prurient, the pornographic, the self-confidence of nostalgia and the marginality of the primitive. And there were thoughts of sovereign missiles, of aged spinners and noble savages, of the holocaust and the electrocution of tabloid strangers that we were reluctant to deny their magic, glamour, and grit.

As we clapped our tray tables up for landing in Boston, these all seemed voices of modernism—those, perhaps, of the metropolis, with the rooted mechanics of secular humanism, and the cosmopolis, with its deracinated agnosticism. All claims, promises, and procedures. My narrative about Lisbon, begun, in a way, as the classic metropolitan story, had moved from an activist's call for the reconciliation of law and the everyday to the more confused zone of the cosmopolitan lawyer's own everyday life, struggling to relate the diverse calls of its experience.

Two weeks later, over a second weekend, I would trace the reverse trajectory, from a cosmopolitan everyday towards disentangled legal and social gestures that could renew metropolitan virtues, locations, and characters. This story would not end in an anxious riddle of empathetic gestures. And it would begin, not with the anxious metropolitan separation of law and the everyday, but with the easy everyday of the legal cosmopolis.

III. The Second Weekend

In 1385, the King of Spain established a Royal College in Bologna. In the ensuing 500 years, the College, living lavishly off its sur-
rounding properties, has hosted the cream of Spanish postgraduates for a year or more as fellows. Former fellows of the Royal College have formed a tight elite in the Spanish academy, in the liberal professions, in business, in politics. In 1991, the King of Spain established a second Royal College in Cambridge, Massachusetts, to continue the tradition over the coming centuries by hosting the cream of Spanish postgraduate students in residence at Harvard.

The second Royal College would be a modern affair, funded by bankers and businessmen rather than land rents, and managed by an array of joint Spain-Harvard committees, councils, and administrations. I had been asked by the outgoing Harvard president to serve on the Academic Council for the new Royal College. The Council meets a couple of times a year to set academic policy and distribute grants. Our autumn meeting this year was held in Madrid on the Tuesday morning before Thanksgiving. I left for Madrid the preceding Saturday evening.

I embarked on this cosmopolitan weekend with no fantasies about law’s application, no sense of myself as a lawyer moving onto the terrain of law’s engagement with the world. There was no primitive waiting to be civilized, no narrative of law’s autonomy or of my special role. In a way, nothing dramatic was supposed to happen: I was a functionary rather than an activist. I would sit in the Academic Council, represent the Harvard Law School to some alumni, and perhaps do some fundraising for a European Law Research Center we were in the process of establishing. At best I would squeeze in a couple of hours at the Prado. At worst it would be hotels and taxicabs, meetings and meals. I traveled as an academic and as an administrator.

I can see that this may all seem to have taken place somewhere other than in the “real world” of “everyday life.” Perhaps. At times it all seemed a bit unreal to me. The cosmopolitan world is distant from both everyday life and the dream of a law that might come into that life as sovereign. In the cosmopolis, management replaces activism as institutional pragmatism replaces social engineering. If the cosmopolitan urge had made the Lisbon weekend seem tawdry and provided the ground for my private affinity group, in Madrid, the absence of any purport to participate in a great project of legal activism removed the tawdry feeling. In a way, the cosmopolis exists in and for itself, pursuing a project of recruitment and proliferation.
In Madrid, I was confident on arrival that I and my American and Spanish colleagues would all be insiders together, living the dream of an autonomous professional culture. Over the three coming days, we would repeat a dozen familiar institutional behaviors and have conversations familiar from others I have had in many other cities. Our bureaucratic encounters in meetings of the Academic Council would only dimly echo the establishment conference in Lisbon two weeks before—the routines of membership, voting or adjourning now routinized into the normal practice of an ongoing institution.

I had traveled with the Spanish director of the Royal College, and we shared a taxi to my hotel. Having not been to Madrid in seven or eight years, I was grateful for his informed commentary on the striking architectural changes in the city. We agreed to meet for lunch after a brief nap, and he offered to show me a bit of the old town. On checking in, I received a message from an alum inviting me to dinner that evening with some of his friends.

Lunch proved the first of six lengthy and enjoyable meals I would have over my three days in Madrid. It also provided the opportunity to get to know a bit more about both Spain and the Royal College. We ate in an old inn, a bit touristic, but still authentic in feel. Most of the guests that Sunday afternoon were vertically integrated and apparently prosperous Spanish families. My friend urged me to take along a copy of the menu, helpfully presented in English. As we wandered a bit in the old town, an elaborate outdoor market for stamps and coins was underway in the Plaza Mayor. Everything looked tidy, everyone well dressed. My companion apologized for having taken me to a largely working or middle-class milieu, he hoped we would go to a better district the following afternoon. I had to admit I had pegged our surroundings to the upper middle class, at least a notch higher than he, but it may have been my expectations, my experiences in Spain before the new regime.

This, he explained, was the new Spain. And it soon became apparent that little could be seen in Madrid except through the optic of the new and the old Spain. The new Spain meant everything since democracy, modernization, membership in the European Communities, prosperity. It meant a palpable sense of a country on the move—everyone on the make, optimistic. It meant miles of new construction on the barren hills outside the city and blocks of dra-
matic postmodern office buildings superimposed on Franco's grand modern metropolis. It meant thousands of Timberland shoes.

So I was in a foreign country. The mood, the food, the history, the architecture, thousands of details reminded me that I was learning about Spain. That Spain was modernizing, developing, returning to Europe, reaching out to America. Despite the enthusiasm for American fashion, the desire for American legal education, the engagement with Brussels, the Benetton on every corner, it could not have been more clear that I was not in Boston any longer. My own private cosmopolis was situated here, in a Spain on the move between its national past and its international future.

And it was an exciting time to be in Spain. It appeared that the national process of renewal had set in motion a dramatic circulation of elites. This was most evident as a generational phenomenon: relatively young people seemed to be running everything. There were new career opportunities in business and administration, many apparently open to the educated middle class. There was new status in going abroad, working for a foreign company, studying at a foreign university, learning about European law. There were new educational paths—business schools and private law schools springing up beside the public universities. A new business sensibility held together a modern commercial elite, savvy about things international, liberal in sentiment, conservative in fiscal management.

On my second afternoon in Madrid, I had been invited to visit the law faculty at Complutense University and to meet with members of the faculty for an informal discussion in an enormous modern conference room around what was surely the largest trapezoidal table I had ever seen. Around the walls hung about three dozen nineteenth-century, life-size standing portraits of ex-rectors and ex-professors. The dean, a rather bland middle-aged figure, introduced me and my Spanish colleague from the Royal College to his faculty quite warmly, and we described the work of the College.

The assembled teachers were mostly young and seemed primarily interested in one question: how can I get funded by the Royal College to go to Harvard Law School to study or pursue research? They were quite sophisticated about it and had somehow accumulated a fair amount of information about a college and a law school with which they had had, until that point, absolutely no direct contact.
I had hoped for some more intellectual exchange and asked a few questions about approaches to legal scholarship at Complutense, the ideas or debates that moved the faculty or animated their teaching. In the ensuing discussion, as far as I could tell, no one over forty spoke. Those who spoke presented a sense of frustration and disappointment—teaching was a dismal science of rote lectures, there was no time for research, subject matters were rigidly departmentalized, there was no pattern of shared experience or discussion, they could identify no canon of non-law books or materials with which everyone on the faculty might be expected to be familiar, the genre of writing they were expected to produce struck them as formal and uninteresting, and so forth.

These criticisms were linked to an enthusiastic and insistent call for pragmatism, for real-life business concerns, for the abolition of legal history and legal philosophy and their replacement with more practical subjects. My interlocutors valued legal education in the United States for its pragmatic and anti-intellectual spirit. To find a Spanish law faculty so furiously pursuing a move to reason and pragmatism was perplexing and quaint, like finding an Enlightenment preserved in amber. For two generations, legal scholars in the United States have tried just about everything to counter the tide of pragmatism, enlisting economics, literary theory, sociology, psychiatry, anthropology, legal history, and a great deal more. And yet here I provided the lightning rod for a renewed assault on philosophy and formalism in the name of business reason.

Just when I thought I had the group pegged in an early twentieth-century struggle for modernization, one man sheepishly indicated how few of his colleagues—perhaps less than a dozen—were really familiar with Coase. Another explained how tired he and others were of Habermas. Someone else complained that his own work on Ely and Critical Legal Studies was simply not generally understood by his faculty. Could I explain where one might best pursue the study of leveraged buyouts using a law and economics approach? And I was back in Cambridge, the same names dropped, the same mainstream feelings that everyone’s own work is misunderstood or undervalued. The great struggle for modernism seemed suddenly to have been not only won but routinized.

I thought about this encounter in terms of the new and the old Spain. Younger faculty strutting their discontent with the old regime,
encouraged by the presence of a foreigner to articulate their desire for something new, their fealty to all that was already new. The battle between history and pragmatism may even have been a set piece in the presentation of that difference. Don't young law faculty everywhere bemoan the rigidity of the old pedagogy, defend themselves by reference to the needs of business and commerce, appeal to the student's interests in practicality? And what could be more modern and up to date than to tinker with the academic legal debates being pursued in the United States.

In a way, presentation of these stereotypical arguments worked to mark generational differences. Styles in the rotation of legal academic fashion had become postures identifiable as modern, ways of confirming and pursuing the project of national renewal. Far from transcending the clichés of modernism, the banal enthusiasms of a universal metropolitan culture, the cosmopolis was being built on their reiteration.

The possibilities for conflict between the new and the old Spain seemed ever present—in relations between old and new faculty, between the new, largely private professional training schools and the traditional faculties, between the new commercial interests and the traditional bureaucratic elites, between the new lawyers and the old civil service, or the new civil servant and the old bar. I spoke with a young cosmopolitan alum who was an associate in a leading Madrid firm about the possibilities for cultural conflict. He had a very good part-time position teaching law at an increasingly prestigious private business academy and felt the difficulty of moving into the traditional law faculties with either his commercial pragmatism or his intellectual postmodernism. But conflict, no he really didn't see any. He felt that the new Spain was experienced by the older generation as the fruit of their sacrifice—having built this utopia, they were simply happy that their children had inherited a country on the move. I was skeptical, but the next day, at lunch, I felt there may have been something to what he had said.

My best meal in Spain was in the private dining room of a leading Madrid law firm, where I lunched with a senior partner, an emeritus professor at Madrid who had recently retired as director of the Royal College in Bologna, and a young associate in the firm who had studied at Harvard while I was practicing law in Brussels. The food, table service, wine, and decor were superb in the small formal
dining room off the senior partner's richly appointed sitting area. The conversation was cordial and professional. The only possible glitch was the opening soup of baby eels, but we were able to share a laugh at my inauguration to Spanish cuisine, and indeed, they turned out to be delicious.

We described our various institutions, compared plans for the new Royal College with the experience of the old, considered changes in the Madrid bar, spoke of the food, the city, the desirability of foreign study, the importance of postgraduate academic training, the role for a legal background in the upper reaches of government, commerce, and university life. Whatever differences might have separated us, we found common ground in the vocabulary of a cosmopolitan law. The narratives of law's progress towards the international, towards the modern and the technocratic rendered the move from Bologna to Cambridge, from liberal arts to the professions, inevitable, untroubling. We were all carrying on each other's work.

And I wondered again what it meant to go to the law, as I puzzled over the meaning of Spanish renewal. The same familiar narratives that structured relations of development, discord, and cordiality in the Spanish cosmopolis seemed to play a role in the development of the cosmopolitan. I reflected on characters I had known in Harvard's graduate program. Young lawyers from peripheral capitals, Madrid, Vienna, Kuala Lumpur, Santiago, come to Cambridge. Where they encounter hundreds of middle-class Americans in the process of professionalization, struggling with hopes for fulfillment, class advancement, assimilation to the establishment, practical skills, and savvy reflections.

To come to the law, to come to Cambridge, was, for some of them certainly, to make a bid for the cosmopolis. Imagine a young man from Spain, brought up in a wealthy environment, well connected to the old, familial and corporatist establishment, offered numerous ways of assimilating to a Spain which was disappearing. How to escape, to join a world ahead of his milieu, a combination of escape from his everyday and commitment to pursuit of its dreams, perhaps to return with new skills for a new society, having passed his contemporaries, perhaps not to return, to live no longer in the periphery but in the cosmopolis itself. With such ambitions, one might well study the EC at an institute, perhaps in Italy or Belgium, and then move to Brussels to become a Community functionary. But
one would remain a civil servant—what if you wanted to hit a home run, becoming simultaneously a world-class intellectual and a player in the commercial world of international business. You might think about law school in the United States, perhaps even a doctorate.

Of course these are just cosmopolitan fantasies about the law: the new aristocratic modernizer. Imagine the children of _comprador_ traders in a Third World capital dreaming of a more honorable calling, a more secure place in the world of the _Financial Times_. Fantasies that combine elements of escape with promises to return. Or the children of diplomats with no place to which they might return. The Brazilian ambassador to India spawns administrators for the United Nations in Geneva who in turn spawn young Tamil-speaking, Swiss-educated lawyers who, after study in Cambridge, will seek work in the international nonprofit community as advocates. Perhaps they will do something about East Timor. Or imagine simply the earnest middle-class children of midlevel European executives in multinational companies or civil servants in the national capital or school teachers who seek a profession in law. Perhaps they went to an international school, had been exchange students, or volunteered for Amnesty International. In any event, they might hope to transcend the details of national practice for the broad generalities and courtesies of international affairs; their own capitals too provincial, the role of the metropolitan civil servant too banal.

For all of these, international law may be an arena of desire and fantasy, a trajectory of self-development. With all its shallow narratives of autonomy from politics, its heady pretenses to public service, its gestures to modern pragmatism, law seems the stuff of identity. Who was sitting in that lovely dining room but lawyers, professionals, spoken by the law, comfortably identifying ourselves through the rituals of shared legal narratives. A new society was being built in Spain and we were part of it. Our contribution may simply have been to tell one another one clichéd banality after another—and that would be enough for modernization, for participation in the cosmopolis. In a sense the law we shared was repository for dozens of incompatible dreams and obscure yearnings.

We might better think of law and the everyday as a rhetorical background to our conversations, appearing only as vague recollections, promises, fickle hints, flirtatious gestures of mutual recognition—how things really were, harumph, what we knew as a matter
of course, chuckle, where law was going, starry-eyed gaze. Fragmented into a dozen small exchanges, we were each pursuing our own ambitions, struggling for earnest assimilation, for amusement and interest, for riches and power, for recognition or conflict, at least in part by invoking and following the narratives of law and its twistingly ambivalent relations to the everyday, calling on a tool kit of rhetorical tidbits that could be strongly asserted or knowingly assumed.

Of course, such rhetorical tidbits are not just the fantasies of aspiring cosmopolites. They are also the institutional practices of the cosmopolis itself. Here, in Spain, I was more than a postcolonial agent for the center prospecting in the periphery. I was building a graduate program for a world law school, promising options opened, purveying credentials, contacts, connections. At once a symbolic and constitutive function, returning an identity in the reflection of their ambition. If the center, the metropolis exists to order, the cosmopolis exists to recruit, assimilate, proliferate.

Mostly, these dreams would remain obscure, for all those who came to law were learning how difficult it was to put law's sovereign and activist promises into play in any literal way. To work in an American law firm, to return to your uncle's office in Bombay, to teach at Complutense, to work for IBM. Somehow nothing seems up to the cosmopolitan dream, remaining enticingly offstage. At other times, a modern cliché could burst in on the cosmopolitan with energy and meaning. If I connected with any of these young cosmopolitans, it was not through empathy with their cynicism nor the seduction of irony as in Lisbon—the scene was too savvy for such a strategy. What worked seemed oddly the reverse: a blunt assertion of the boldest metropolitan banality about their roots, cultural origins, and aspirations.

One night, I had a delightful dinner with a group of young Spanish lawyers. Several had been at Harvard as graduate students and seemed to entertain me both to strut their newly jaded professional airs and to see whether I could ignite their nostalgia for academic idealism and social responsibility. In Cambridge, as in Lisbon, my work is to open a cosmopolitan everyday in what might otherwise be a tiresome imperialism. It took me a moment to see that in Spain, amongst these young graduates, I would find my function reversed. They were always already savvy and postmodern. Could they still
be tourists, still awaken to meaningful commitments and authentic experiences?

The three-hour feast, following hot on the heels of a lengthy and elaborate lunch, left me a bit tired. As we left the restaurant shortly before midnight, one of my hosts told me of her love for flamenco dancing and her plan that we adjourn to a flamenco restaurant where we might be able to dance and experience the “real Spain.” It was a familiar gesture—like the Timorese dancing two weeks before. In Lisbon I, like most of my little cosmopolitan affinity group, had turned it down—or gone only to feed an ironic sensibility. But I had never seen flamenco and didn’t place it as a standard modernist authenticity trope. Maybe I thought only I had papered my high-school bedroom with posters of bullfighters and flamenco dancers. In any event, we went and found the small restaurant filled with young Spanish professionals and Japanese businessmen, enjoying their fantasies with enthusiasm. It became clear after about an hour that this was simply the warm-up act. The waiter promised, with another round, the “best flamenco dancer in the kingdom,” and we decided to stay.

Back in Cambridge it may undermine my cosmopolitan credentials to romanticize this sort of commercial gesture, and it may have been the light, or the food, even the jet lag, but she seemed a John Singer Sargent portrait come alive: at once sexy, powerful, dramatic. I asked my friends about flamenco. It was truly Spanish, one explained, although perhaps she should say Catalan. Another thought perhaps Andalusian. But the dance seems almost Moorish. Yes, in part because the dancers have always been gypsies. At least the explanation, like her primitivism, was reassuringly indeterminate.

About 2:30 our dancer paused to address the audience. “I know the flamenco can be a difficult dance for you, for an audience. It comes from the emotions, from the heart.” Not from Africa after all. “I want you to understand the dance, and to enter into it because for me, the dance comes also from you, from your reaction and enjoyment.” I was bummed, my primitive scene a tawdry tourist exhibition. I remembered some dancers near Jackson Hole, and some more at Four Corners, the only place where four states meet. Sargeant faded into a turn of the century Brussels exhibition of Congolese primitives arranged on the palace grounds. “The last dance was loneliness. This one will be love.”
As cosmopolitan skepticism returned, I thought about my essay on law and the everyday. Where was law now? Could we really be meant to focus on the restaurant licensing rules? I looked to see if they had a mandatory exit sign, if Madrid required those posters of people choking and being Heimlich-maneuvered back to their plates. Were the waiters making minimum wage? Was my drink a standard half liter? Were the musicians in a union? Maybe I should think about the rules of flirtation, the rules for addressing an audience, for garnering our involvement, or of the life of the lawyers I was with, their pleasures, their enthusiasm for this evening of foreign languages, professional posturings, and dance.

Late that morning, the best dancer in the kingdom paused to accept a small scrap of paper from her guitarist and recognize three dignitaries in the audience. First, she was delighted to welcome the Interior Minister from Bolivia. Applause. Second, from Brussels, the Commissioner of, I think she said fisheries, but it might have been something else. In any event, nationality unknown. More applause. And now she had a special welcome, for she had saved the best for last. We had with us, from Los Angeles, Mr. name-garbled, who was responsible for the special effects in Raiders of the Lost Ark. Very strong applause, some cheers.

Three continents and three eras. And three forms of law in our cosmopolitan everyday. The first a juridical structure, the nation-state, with its bureaucracies, ministries, formalisms. A realm modeled on the desire for a juridical center of power, controlling the interior and authoritative for everyday life. This is a traditional zone, in which law and social life struggle with one another for supremacy. Law may be reason or ideology, the everyday routine or rebellion, but culture and nature can be distinguished and struggle for recognition in one another. To stand with the law is to stand with order, with the center, with reason, with belief.

The second is a more modern realm, detached from nationality, a pragmatic, technocratic metropolis in which law has relativized the everyday, parceling property into bundles of rights to be rearranged among departments, sold, mortgaged, reimagined as futures and institutionalized in secondary markets, in which rights have become things and individuals have become roles. In this scene, thousands of tiny functional calculations have sneaked up on sovereignty and law has merged with commerce. The law and the everyday have become
occasional cash payments in an economy of institutional procedures. Life continues in the knowledge that law or the everyday may at any moment be summoned, but they do their best work left in the vault, as reserve for our ongoing and elaborate rhetorical transactions.

The third is a space of culture, fantasy, and fashion. Law and the everyday appear as confusing terms, lapel widths, skirt lengths, as attitudes, tactics, philosophical positions, ambitions, and plot narratives. Sometimes they appear as stereotypes or clichés. And often the clichés are true. They might mark space or count time. They might provide identity, resolve family squabbles, or provide energy to national transformations. They might be simply amusing, standard jokes, or they might be strategies of combat and struggle.

We left just as our dancer had yielded the floor to her male partner. Three cosmopolitan phases, arrangements of law and everyday life contending for deployment. Politics, pragmatism, and play. Tradition, modernity, and the postmodern. Status, contract, and narrative. Identity, relation, and rhetoric. Two weekends and an airplane ride.