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海外特別研究員最終報告書

独立行政法人日本学術振興会 理事長 殿

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(氏名は必ず自署すること)

海外特別研究員としての派遣期間を終了しましたので、下記のとおり報告いたします。

なお、下記及び別紙記載の内容については相違ありません。

記

1. 用務地(派遣先国名) 用務地: フランス (国名: 仏国)
2. 研究課題名(和文) ※研究課題名は申請時のものと変わらないように記載すること。
ジャン・ボダンにおける「国際社会」とその理論的背景
3. 派遣期間: 平成 31 年 4 月 1 日 ~ 令和 3 年 3 月 31 日
4. 受入機関名及び部局名
受入機関名: Université Paris 1 Panthéon-Sorbonne
部局名: Institut des Sciences juridique et philosophique de la Sorbonne
5. 所期の目的の遂行状況及び成果…書式任意 **書式任意(A4判相当3ページ以上、英語で記入可)**
(研究・調査実施状況及びその成果の発表・関係学会への参加状況等)
(注)「6. 研究発表」以降については様式 10-別紙 1~4 に記入の上、併せて提出すること。

Description of Research Program

My JSPS Overseas Research Program, entitled “Jean Bodin’s notion of international society and its theoretical backbone”, proposed to relocate Bodin’s political and legal thought in the 16th century’s intellectual context to clarify its development. For this purpose, I decided to examine the place the notion of international society occupies in Bodin’s thought.

Jean Bodin (1529/30-1596) is well-known for his theory of sovereignty, which he elaborated as the supreme legal power of a governing body without any interference from outside it. Many specialists have studied his theory in the historical context of religious wars. Bodin indeed gave a definitive formulation to his idea of sovereign State in the *Les Six Livres de la République* [Six Books of the Commonwealth] (1576) in direct response to the St. Bartholomew’s Day massacre in 1572. Concentrating mainly on this legal masterpiece, the specialists have tried to explain the elements of sovereign power and its limits imposed by the divine and natural law and the law of Nations (*ius gentium*). However, Bodin’s theory did not derive only from the historical context of religious wars. The definitive formulation was the only outcome of his long reflection on the legal power. It seems indeed necessary to pay much more attention to his earlier works, in which Bodin had already developed his sovereignty theory, owing to the intellectual trend of his time, the so-called “legal humanism”. As I have shown in my Ph.D. thesis, Bodin’s precursors had elaborated in this trend the natural law theory, which would permit him to give rise to the theory of sovereign State in close relationship with his notion of international society, governed by the law of Nations.

My Research Project aims to clarify the historical and theoretical dimension of his legal and political thought. For this purpose, I proposed to devote the first part of my project to study why he was attached to the notion of international society. Afterward, I plan to dedicate the second part to examine François Connan’s legal thought, the key to understand Bodin’s reflection on

international society, because it is Connan's universal law project that Bodin himself tried to develop amid the judicial court of Parlement of Paris.

Results

(1) Bodin's notion of international society in French historical context

I tried to clarify the theoretical importance of the notion of the international society in Bodin's thought. I focused on the theme of the "double birth of sovereign State" (A. Gouron) in France and investigated Bodin's *République*. The resume of the results is below.

In the historiography, it is said that since the sovereign State had already been born in the last centuries of Medieval France, the formulation of the sovereignty by Bodin in his *République* only marked its second birth. In fact, in the so-called Middle-Ages, the capacity of edifying the norms had already been monopolized by Capetian kings, supported by royal bureaucrats. The originality of the 16th century resides in the royal efforts to minimize the distance between the king's legislative power and subjects. For this purpose, royal bureaucrats attempted to construct the so-called "secular theocracy". In their eyes, the king, to establish the human law, is such that he directly interprets divine will excluding Ecclesiastical authorities. However, once being relentless promoters of monarchical absolutism, the magistrates of the Parlement became the main obstacle to king's theocracy. Identifying themselves with the "priests of justice" (D. 1.1.1.1), they insisted on their role to bring the royal legislation to divine justice. Their capacity consists of interpreting God's will, which, based on their "conscience", allows them, in need, to oppose the king's laws. For them, it is only their intervention that can formulate the true king's will because they are one part of the king's crown.

In the *République*, Bodin tries to limit the exercise of their conscience, considering its abuse as a rebellion against the king's authority, the sole interpreter of God's will. But at the same time, he recognizes the essential role of the magistrates of the Parlement as governors of the Kingdom. How can it be possible? From the 1560s, more than ten years before the publication of the *République*, Bodin continues to think it is necessary to attribute to the magistrates the genuine knowledge of divine order because it permits them to govern the Kingdom according to the divine justice. It is for this purpose that Bodin, from his younger period, elaborated the reflection on international society. For this philosopher, the divine order must be represented by harmonic order of the latter whose perception must lead the magistrates to realize the true divine justice. To this effect, Bodin proposes two different methods of exercising their conscience. In the sphere of private law, he admits the exercise of conscience by the magistrates to accomplish "equity" because of the complex circumstances of affairs. It will bring distributive justice. In the field of public law (criminal law), he pretends that divine will in king's law must be presumed so that the magistrates must applicate it directly without any contestation. This application will bring corrective justice. From these two justices realized by the magistrates of each sovereign State emerges the harmonic justice in the international society. The worldly order approaches then to the divine order. The important thing is that only the genuine knowledge of international society can make the magistrates possible to attain this justice, the foundation of the law of Nations.

I integrated these results into the new introduction of my Ph.D. thesis, and proposed to a library *Classiques Garnier*, to publish it. The director of the collection "Esprits des Lois, Esprits des Lettres" accepted the publication [Outcome (1)-3]. Besides, in February 2020, I obtained two qualifications MCF in section 03 (Legal history) and in section 17 (Philosophy) of Centre National des Universités [Outcome (4)-1]. In March 2020, I was awarded the Ph.D. thesis' prize by University Paris 1 Panthéon-Sorbonne, which was given to 10 distinguished Ph.D. thesis of 2019 among 309 [Outcome (4)-2].

After finishing writing the new introduction of the Ph.D. thesis, I wrote in Japanese a section of "Jean Bodin" for the textbook for new-learners of political ideas, which will be published in 9 April, 2021. This section naturally reflects a part of my studies in Europe [Outcome (1)-2]. Meanwhile, my book review to the contribution of Anna Di Bello (*Stato e sovranità nel De republica libri sex di Jean Bodin*, Napoli, Liguori, 2014) written in 2018, was finally published in 2020 in *Les Études philosophiques*, 201(1), 2020, p. 143-147 [Outcome (1)-1]. Her book is essential in that she provides the very basis of the comparison of the French definitive edition of the *République* in 1583 and its Latin edition translated by Bodin himself in 1586.

(2) “Legal humanism” and the magistrates of Parlement of Paris

Before attacking Connan’s legal theory, I revisited Guillaume Budé’s natural law theory, which constitutes the theoretical foundation of the legal thought of almost all the French jurists of the 16th century. To reconstruct more precisely the debate concerning the natural law in which Budé took part, I traced the refutation of the existence of natural law by Lorenzo Valla and its Christianization by Desiderius Erasmus. Indeed, Budé’s natural law theory is not directly related to the notion of “international society”. Yet it is worth studying. His reflection would constitute indeed the ideological basis of the exercise of the conscience by magistrates, which leads them to realize divine justice amid the Kingdom. Besides, it is on the basis of his natural law theory that Connan will develop the notion of “international society” in the framework of the law of Nations. I communicated the results of this study on the occasion of the Internal Seminar of my laboratory ISJPS, held on March 9, 2020 [Outcome (2)-2].

In the second year of my post-doctoral research in France, it became difficult to tackle the second part of my research program which I intended to dedicate to Connan’s legal thought. Because of the propagation of covid-19, many libraries were temporarily closed. Meanwhile, I decided to deepen my knowledge about Greek and Roman history. The fruit of this study is the communication which I did on the occasion of the Seminar *La relecture du vote romain*, held on January 15, 2021, on Video-conference [Outcome (2)-3]. In this seminar, I showed how much Bodin owed to his contemporary antiquarian researchers to elaborate his sovereignty theory. In the *Methodus*, he developed Nicolas Grouchy’s understanding of the Roman voting assemblies of the republican period, in introducing to it the historical dynamics. In Bodin’s eyes, despite the change of the regime (from democracy to ochlocracy), the Roman voting assembly always held sovereign power during the republican period.

In parallel to this research, I tried to relocate Connan’s *Commentarii juris civilis* in the intellectual context of his period. This work was composed in a very particular way in that after his death, his colleague of Parlement of Paris, Barthélemy Faye, completed it and published it in 1553. Many legal humanists read this book written by maître des requêtes of François 1^{er}, high magistrate of the Kingdom, which aims to propose a new universal law system. I studied the reception of this work to show how legal humanists of the mid-16th century, reading this Commentary, presented two opposed visions and to clarify the intellectual cleavage then appeared. On the one hand, the jurists attached to the philological corrections of legal texts do not attribute any importance to the Commentary, based on the defective vulgate version of Digest. In collaboration with antiquarians, they seek to fix a solid basis of Digest for uses in the court of justice. They consider that Connan’s legal system aims only to create a magic wand for judgment, without taking seriously the philological restitution. On the other, practitioners of the Parlement of Paris, highly appreciating his work, consider that his system permits them to judge according to justice and to realize the equity in all transactions. For Connan, since justice (equity in the transactions) is a philosophical notion which must be applied to all Nations, it is in the global order that justice shall realize. Thus, if practitioners largely appreciated and accepted Connan’s system, Bodin, lawyer of the court of Parlement, tried to develop his system and to give a new formulation to his notion of international society. I presented the result of this study on the occasion of the Seminar *L’Humanisme juridique*, held at the Institut d’Histoire du Droit Jean-Gaudemet on February 5, 2021 [Outcome (2)-4]. This communication will be published in the acts of this seminar.

(3) Participations to various research projects

Apart from these research activities, I participate in various research projects.

From September to December 2019, I had a chance to be involved in the Digitalization Program of the collection of the Interuniversity Library Cujas. This program aims to digitalize rare legal books conserved in this Library and selected by Professors Franck Roumy and Laurent Pfister for the futures uses of researchers and students. It must be noted that the rich collection extends from medieval legal books to modern ones including not only theoretical books but also practical manuals. For me, the latter are especially interesting. It is true that from a theoretical point of view, they are not enough sophisticated to be great masterpieces. But they demonstrate

how practitioners worked in a given moment. I could look over many of them, establishing their tables of contents (often defective). This Program thus enriches my knowledge of law books and permits me to be in contact with some librarians familiar with legal history [Outcome (3)-1].

During my JSPS Overseas Research Program, I become a member of three research projects and established research networks. (1) The first research network is called *L'humanisme juridique* [Legal humanism], directed by Luigi-Alberto Sanchi and Xavier Prévost. A monthly seminar is organized at the Institute of Legal History (Institut d'Histoire du Droit) of University Paris 2 Panthéon Assas. (2) The second is a program entitled *La relecture du vote romain*, which proposes to examine how modern thinkers read Roman sources concerning vote for establishing their theory's basis. (3) The third is a program entitled *Nouveaux organons: Ramus, Bacon, Descartes et la fabrique de nouveaux outils de pensée à l'aube de la modernité*, directed by M.-D. Couzinet, in collaboration with Guido Giglioni and Rafael Ramis-Barceló. [Outcomes (3)-2, 3, 4]

Outcomes

(1) Publications

1. Book-review (Anna di Bello, *Stato e sovranità nel De republica libri sex di Jean Bodin*, Napoli, Liguori, 2014), *Les Études philosophiques*, 201(1), 2020, p. 143-147.
2. 「ジャン・ボダン」、『よくわかる政治思想』、ミネルヴァ書房、2021年、22-23頁。
3. *La naissance de la science politique moderne dans la Methodus de Jean Bodin : l'héritage de Budé et de Connan, du droit à la politique*, Paris, Classiques Garnier (Publication accepted by the director of the collection "Esprit des lois, Esprits des lettres").

(2) Presentations

1. Conclusions to the Study Day (Journée d'étude): *L'institution philosophique française et la Renaissance: l'époque de Victor Cousin*, organised by M.-D. COUZINET (Université Paris 1) and M. Meliadó (Universität Siegen), Bibliothèque interuniversitaire de la Sorbonne, Paris, July 21, 2019.
2. « La place de la philosophie dans l'humanisme juridique au XVI^e siècle », *Séminaire interne EXeCO*, ISJPS, Bibliothèque interuniversitaire de la Sorbonne, Paris, March 9, 2020.
3. « Jean Bodin et les études antiquaires : sa compréhension des comices romains », *Séminaire Vote romain*, videoconference, January 15, 2021.
4. « François Connan et l'essor de la philosophie au parlement de Paris - la réception des *Commentariorum juris civilis libri* », *Séminaire L'Humanisme juridique*, Institut d'Histoire du Droit Jean Gaudemet de l'Université Paris 2, Paris, February 5, 2021.

(3) Participation to various research programs

1. Digitization program directed by Franck ROUMY (Université Paris 2) and Laurent PFISTER (Université Paris 2) and organized at the Bibliothèque interuniversitaire Cujas.
2. Program « Humanisme juridique », directed by Luigi-Alberto SANCHI (CNRS, IHD Paris 2) and Xavier PREVOST (Université de Bordeaux).
3. Program « La relecture du vote romain », directed by Virgine HOLLARD (Université Lumière-Lyon 2) and Romain MELTZ (PRAG à ASSP, Université Lumière-Lyon 2).
4. Program « Nouveaux organons : Ramus, Bacon, Descartes et la fabrique de nouveaux outils de pensée à l'aube de la modernité », directed by M.-D. COUZINET (Université Paris 1), in collaboration with Guido GIGLIONI (Università di Macerata) and Rafael RAMIS-BARCELO (Universitat de les Illes Balears). Projet au titre de la politique scientifique (2019-2020) de l'Université Paris 1 Panthéon-Sorbonne.

(4) Awards

1. Qualification MCF in section 03 (Legal History) and section 17 (Philosophy), Conseil National des Universités, February 2020.
2. Prix de thèse [Ph. D thesis prize], Université Paris 1 Panthéon-Sorbonne, March 2020.