To express admiration for the intellectual work of someone, we sometimes say that he or she has charted what until then was uncharted territory. I would like to take this geographical metaphor quite literally and argue that it very much depicts the way legal inquiry is (and—perhaps—should be) conducted. The work of Professor Pierre-Marie Dupuy offers a wealth of examples of how uncharted territory can become familiar land and thereby be incorporated into the body of legal knowledge. It is, however, not easy to pinpoint what makes good scholarship such. Pierre once told me over lunch that when his father René-Jean was called to the Collège de France to what became the Chaire de droit international, the eminent Claude Lévy-Strauss was somewhat puzzled by the possibility that one may actually conduct ‘legal research’. This comment stayed in my mind and I started to think about what we, as lawyers and/or academics, actually do when we conduct legal research. I would like to outline in this chapter my current thinking on this, which, as I shall endeavour to show, can be described as a ‘legal cartography’.

The array of diverse materials, such as the beliefs, practices, norms, institutions, treaties, laws and instruments that, together, we understand as constituting the ‘law’ will be called the topography of our field. Legal inquiry seeks to understand this topography highlighting certain accidents and fault lines, which I shall call features. The techniques used to highlight particular features of the legal topography are quite diverse, but they are largely a function of two abilities: (i) the ability to set the proper scale of the chart by zooming in on certain areas of the topography to focus on one or more particular features or, conversely, by zooming out in order to capture more general features; (ii) the ability to select, at a given scale, the most appropriate criteria to highlight certain features

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(e.g. looking for ‘human rights’ will direct our attention to features that will not necessarily be captured when looking for ‘primary and secondary norms’ or ‘peremptory norms’). These two abilities largely define the types of concepts that we craft or use to capture and analyse certain features of the topography. The concepts gathered, crafted, transposed and/or used (see sub-section 2.1. below) to shed light on the topography can be called a conceptual chart and the reflection on how to craft such charts a legal cartography (i.e. a conceptual chart of conceptual charts used in legal inquiry). Let me now illustrate this preliminary understanding of legal inquiry by reference to one conceptual chart derived from the work of P.-M. Dupuy.

In his general course at The Hague Academy, Professor Dupuy introduces a distinction between ‘formal unity’ (‘unité formelle’) and ‘substantive unity’ (‘unité matérielle’) in order to capture certain features of international law that a substantially narrower focus on a given ‘branch’ would obscure. Formal unity (i.e. the rules of recognition, adjudication and change shared by all the different ‘branches’ or ‘regimes’ of international law) and substantive unity (i.e. the common roots of modern international law in the values protected by the United Nations Charter) are, in Dupuy’s powerful account, the key features characterising international law as a single legal order. These features could not be captured by an account using as its starting-point a focus on a particular area of international law. Indeed, while looking from the specific angle of trade law, investment law or criminal law one may gather the impression that these are ‘self-contained regimes’, a broader view encompassing international law (a broader conceptual chart) unveils features that lie beyond the radar of a narrower inquiry.

I do not intend to open the vast debate on the purported ‘fragmentation’ of international law here. My goal in referring to this example is only to show how, through a careful tuning of the scale and criteria selected to capture certain features of the topography, certain concepts can be crafted to revisit the findings of other conceptual charts. This is of course not exclusive to legal inquiry. Most other disciplines proceed in a similar manner. What appears as an anomaly under a given conceptual chart (a ‘theory’) may in fact be predicted or explained by another conceptual chart. Sometimes, a new conceptual chart may explain all the features highlighted by another conceptual chart plus some others that had remained obscure. In other cases, there may be a trade-off between the two, in that a given conceptual chart captures a feature that had so far remained obscure but only at the prize of losing sight of other features highlighted by the previous chart. This raises the question of what type of conceptual charts should we aim at?

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2 Dupuy refers in this connection to H.L.A. Hart, see below footnote 3.