A Note on the Author and the Contributors
Editor’s Preface
Assistant Editor’s Preface

Part One - The Reality That Ought to Be:
Problems and Critical Issues

Chapter 1 - A First Glance
1.1. The Reality That Ought to Be as Opposed to the Reality That Is
1.2. The Law and the Right. What Is Objectively Right and What Is Subjectively Right
1.3. What Is Objectively Right as the Content of Norms. Four Meanings of “Right”

Chapter 2 - Dualism and Interaction between the Reality That Ought to Be and the Reality That Is:
Validity as a Pineal Gland
2.1. Constitutive Types and Valid Tokens as Independent of Norms
2.1.1. Validity as Congruence
2.1.2. Some People Speak of Types. The So-called Typicality of Law
2.1.3. Other People Presuppose Types
2.1.4. Types Are Constitutive, Rules Are Regulative
2.1.5. Simple and Compound Types and Tokens
2.1.6. Competence, or Capacity
2.2. The Chain of Normative Production. The So-called Typicality of Law
2.2.1. The Prima of the Reality That Ought to Be
2.2.2. Valid and Invalid Behaviours
2.2.2.1. Noblesse Oblige
2.2.2.2. Four Possibilities
2.2.3. Ought-Effects Are neither Valid nor Invalid

Chapter 3 - Taking a Dive into the Sources of Law
3.1. Where to Jump in From
3.2.1. Generalia
3.2.2. Is-Facts Strictly Understood
3.2.3. Is-Acts Strictly Understood
3.2.4. Transactions, or Declarations of Will
3.5. Sources of Law as Ought-Effects (in What Is Objectively Right) Caused by Sources of Law as Valid Is-Events
3.6. The Sovereign Normative Will as the Source of Positive
Law in the Natural-Law School and in German Legal Positivism Alike
3.6.1. Two Glorious Examples
3.6.2. The State of Nature and the Promise
3.6.3. What Divides and What Unites the Natural-Law School and German Legal Positivism

Chapter 4 - The Problem of the Matrix
4.1. The Matrix of Normativeness as the Ultimate Source of What Is Right by Virtue of Human-Posited Norms
4.2. A Problem of Authenticity
4.2.1. Orthogonal Norms and Straight Rules
4.2.2. A Few Qualifying Remarks
4.2.3. Umm al-Kitāb: The Mother of the Book, or the Matrix of the Koran
4.2.4. The Great-Grandmother of Positive Human Law
4.3. Nature as the Matrix of Normativeness
4.3.1. A Traditional Starting Point
4.3.2. Nature as the Will of God
4.3.3. Nature as Biological Instinct
4.3.4. Nature as Divine and Human Reason
4.3.5. Nature as the Cosmic Order
4.4. The Origin of the Term *Jus Positivum*

Part Two - The Reality That Ought to Be: A Monistic Perspective. Norms as Beliefs and as Motives of Behaviour

Chapter 5 - The Motives of Human Behaviour
5.1. Summary of Part One and Brief Considerations on Some Legal-Philosophical Orientations
5.2. Encoding of Behaviour Types: Human Personality and Culture
5.3. The Conditional Connection between Types of Action and Types of Circumstance. Habits and Practices
5.4. Needs, Interests, Values, and Norms

Chapter 6 - Norms as Beliefs
6.1. The Concepts of Norm and Custom
6.2. The Existence of a Norm Presupposes at Least One Believer (Doxia)
6.3. The Conditionality of the Content of a Norm: The Type of Action and the Type of Circumstance. More on What Is Objectively Right
6.4. The Referents of a Norm: Being a Duty-Holder (Deontia) or a Right-Holder (Exousia). More on What Is Subjectively Right
6.5. The Being-in-Force of a Norm: Being a Duty Holder and a Believer (Nomia). The Not-Being-in-Force of a Norm: Being a Duty-Holder and a Nonbeliever (Anomia)
6.6. The Efficaciousness and Inefficaciousness of a Norm: Abiding
Chapter 7 - How Norms Proliferate in Human Brains

7.1. Subsuming Valid Tokens under a Type of Circumstance and Producing Derivative Norms from the Type of Action Conditionally Connected with the Type of Circumstance

7.2. Proliferation from Norms of Conduct. Static Systems and Dynamic Systems

7.3. Proliferation from Competence Norms

Part Three - Family Portraits. Law as Interference in the Motives of Behaviour

Chapter 8 - No Law without Norms


8.1.1. A Caution for All Visitors
8.1.2. A Critique of Voluntarism in Favour of Normativism
8.1.3. Norms versus Commands
8.1.3.1. Diversity among the Contextual Requirements
8.1.3.2. What Is Objectively Right: The Internal Point of View, a Point of View Internalised in the Brains of Believers, and Which Manifests Itself in Their Use of a Typically Normative Language
8.1.3.3. Universalisability of Norms (Catholodoxia)
8.1.3.4. Justified Reaction to Transgression (Dikedoxia)
8.1.4. In What Sense Can a Norm Be Said to Exist (Doxia)
8.1.5. Constitutional Norms (Hägerström and Olivecrona) and the Rule of Recognition (Hart)
8.1.6. Misinformation about Scandinavian Legal Realism
8.2. A More Targeted Reckoning with “Validity” in Legal Discourse
8.2.1. The Broad and the Narrow Sense of Competence Norms and Norms of Conduct
8.2.2. On the Function of a Valid Slap
8.2.3. The Metonymic Validity of Legal Directives and Texts of Law
8.2.4. The Slippery Slope of Validity. Norms Cannot Be Issued, or Enacted
8.2.5. Validity in Its Traditional Sense as a Source of Misguided Legal Normativism. Validity, Law in Force, and Normativeness
8.2.6. Going beyond Hart in Treating the Relationship between...
Validity and Normativeness in Law
8.2.6.1. Intra-Systemic Norms
8.2.6.2. The Difference between Criteria and Rules as a Difference between Types and Norms
8.3. Hart’s “Postscript” Compared with Hart 1961: An Abjuration of Normativeness in Law
8.3.1. Hart’s Masterpiece of 1961
8.3.2. Hart the Iconoclast: The Postscript Destruction of the 1961 Portrait
8.3.3. Summing up on Hart 1961 and on Hart’s “Postscript”

Chapter 9 - But Norms Are Not Enough
The Interaction between Language and Motives of Behaviour
9.1. From Norms to Propositions: The Analytical Emasculation
9.2. Indices, Symbols, and Conative Effects. Directives
9.3. Language That Bypasses the Motives of Behaviour: Suggestion and Charisma
9.4. Language That Overwhelms the Motives of Behaviour: Power
9.5. Language That Affects the Motives of Behaviour: Influence
9.5.1. Influence Affecting Needs, Interests, and Values
9.5.2. Influence Affecting Norms
9.6. Language That Modifies the Internalised Reality That Ought to Be: Authority (Integration between Norms and Validly Enacted Directives or Texts)

Chapter 10 - The Law in Force: An Ambiguous Intertwining of Normativeness and Organised Power
10.1. Underscoring the Role of Force in Law in order to Avoid Misunderstandings with regard to Normativism
10.2. The Law in Force
10.2.1. Orthodoxia and Catholodoxia. The Normative Social Control on Believers: Dogmas, Heterodoxia, Paradoxia, Heresy
10.2.3. The Characters of the Play, the Play of Characters
10.2.4. Who Is to Say What Is the Law in Force: The Judges as Managers of What Is Subjectively Right (Dikaspoloi)
10.2.5. The Law in Force as Domination (Herrschaft)
10.2.6. On Authority, Autonomy, and Heteronomy

Part Four - In Search of Confirming Others

Chapter 11 - The Reality That Ought to Be as Fate
11.1. Consciousness of Death, Anxiety, and Self-Defensive Creation of Myth
11.2. Heimarmenē and Moira: To Each His Own
11.3. The Double Conditionality of Fate. Huper Moron at the Origins of Chisholm’s Paradox
11.3.1. Kata Moiran: In Accordance with the Norm
11.3.2. The Possibility of Acting beyond the Norm: 
Huper Moron
11.3.3. The Fulfilment of the Second Condition: Huper Moron 
Behaviour, the Violation of the Norm. Chisholm’s Paradox

Chapter 12 - What Is Right in Homeric Epic
12.1. Homage to Eric A. Havelock
12.1.1. Why Havelock?
12.1.2. A Heresy Unaccomplished
12.1.3. The Anthropology of the Homeric Poems: The Didactic Function of Epic in the Oral Civilisation of the Early Greek City-States
12.2.1. Premise
12.2.2. Norms and Society
12.2.3. Dikē as What Is Objectively Right
12.2.4. Dikai as What Is Subjectively Right and Its Management, That Is, Dikē as the Restoration of What Is Right
12.2.5. “Right’ and “Wrong as Adjectives Used to Qualify Things and People

Chapter 13 - What Is Right, What Is Just, Ratio as Type: Sanctus Thoma Docet
13.2. Three Senses of Quod Est Rectum, or What Is Right. Jus as What Is Right (Quod Est Rectum) toward Others
13.3. Jus as the Objective of Justice: Justitia Est Rectitudo Causaliter Tantum
13.4. The Justice of Human-Posited Norms (Justitia Legalis) Presupposes the Constant and Perpetual Just Will of the Ruler Who Has the Community in His Care
13.5. In What Sense Is the Justice of Human-Posited Norms (Justitia Legalis) General
13.6. Prudence and Justice in the Judgments That Judges Are To Pass
13.7. Jus (What Is Right toward Others) Is Made Right, in What Concerns Its Essence (Essentialiter), by the Type (Ratio) Contained in a Lex (Norm)
13.8. The Redde Rationem (the Day of Reckoning): Ratio as Type in the Rendition of the Fathers of the English Dominican Province

Chapter 14 - The Law and What Is Right. Hans Kelsen under Suspicion
14.1. Prologue
14.2. Kelsen in the 1940s
14.3. A Few Other Contemporary English Translations of objektives
Recht and subjektives Recht
14.4. The “Dualism” between objektives Recht and subjektives Recht: A Further Investigation into Kelsen
14.6. How What Is Subjectively Right, Having Been Pushed out the Front Door, Slips in through the Back Disguised as an Individualised Norm

Chapter 15 - Nature and Culture
15.1. Summing up on My Confirming Others
15.2. Eighteen Thousand Centuries of Culture
15.2.1. From Homo Habilis to Homo Sapiens Sapiens
15.2.2. Culture Encoded in Human Brains and Culture Inscribed in Documents and Artifacts
15.2.3 Types and Memory
15.2.5. Norms in the Formation of Individual Personality. Socialisation and Normative Revolution (Metanoia)
15.3. The Micro-Macro Link
15.3.1. Cognitive and Social Action: A Society of Minds
15.3.2. The Interaction between Social Structure and Character Structure
15.3.3. Norms and the Mental Implementation of a Social System
15.3.4. Internalising the Reality That Ought to Be: From Significant Others to the Generalised Other
15.4. The Palingenesy of the Psychological Aspects of the Internal Point of View. Overcoming the Analytical Paradigm: Willard Van Orman Quine, John R. Searle, and the Neurosciences

Appendix - Elements for a Formalisation of the Theory of Norms Developed in This Volume
(by Alberto Artosi, Antonino Rotolo, Giovanni Sartor, and Silvia Vida)
1. Preliminaries
2. The Definition of “Norm”
3. Duty-Holder (Deontia) and Right-Holder (Exousia). The Being-in-Force and Not-Being-in-Force of a Norm. Efficaciousness and Inefficaciousness of a Norm
4. How Norms Proliferate in Human Minds

Bibliography
(Compiled by Antonino Rotolo)
Index of Subjects

Index of Names
A Treatise of Legal Philosophy and General Jurisprudence
Pattaro, E. - Editor-in-chief: Pattaro, E.
2005, XCVIII, 1958 p. In 5 volumes, not available separately., Hardcover