

Preface

If this book has one particular message, it is a message about method in legal study. Law is an aspect of human society, and ‘human society is a society of persons’ (p. 184 below) whose activities and institutions are understandable only through interpretation of their meaning to those engaged in them. The method of understanding legal and other human institutions by reference to their meaning from an insider’s or an ‘internal’ point of view is central to Herbert Hart’s work. That method I argue to be the correct one. Where I criticize more detailed aspects of his theories about law, I do so mainly on the ground that he has not always taken his own method far enough. The corrections and extensions which I propose, as against other critics, involve pressing Hartian arguments further than Hart pressed them.

His work has fascinated me since I first read *The Concept of Law* and attended his lectures in Oxford in the years 1963–65 while adding legal studies to my prior studies at Glasgow in philosophy and literature. As a Fellow of Balliol College from 1967 till 1972, I got to know Hart as a senior Oxford colleague whom I had cause both to like and to admire. If as a result my judgment of his work is flawed by the bias of friendship, there may be some offsetting gain by way of insight into his line of thought.

He very kindly gave me advice about the biographical part of the first chapter. I then had the pleasure of giving him a copy not only of that chapter but of the whole typescript, but this was not done with a view to my seeking nor, from his point of view, to his giving any kind of *imprimatur*. The book stands or falls as its author’s, not its subject’s, view of a leading contribution to jurisprudence.

As well as to Herbert Hart, I have other large debts of gratitude. To William Twining as general editor; to Sarah Cohen and Helen Tuschling as publisher's editors; to Michael Machan, Robert Moles, David Nelken, and Jes Bjarup as acute critics and advisers; to Sheila Macmillan, Sheila Smith, Kim Chambers, Annette Stoddart, and Moira Sefter as clear typists of obscure manuscripts; and to my family as tolerant victims of neglect, I owe and give unstinted thanks.

Neil MacCormick
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FURTHER WORDS ON THE SECOND EDITION

The reasons for producing a second edition are sufficiently stated in the Introduction (Chapter 1). It is now fifteen years since Herbert Hart's death, and one hundred since his birth. So it is a good time to attempt, even in a short introductory way, a comprehensive account and assessment of his work both as jurist and as moral critic of positive law. The passage of time has also given the opportunity to take a longer perspective on the subject matter of the book, acknowledging that I have come to characterise my own work as decidedly post-positivist, and my position much less closely aligned with that of Hart than in 1981. I thank Max Del Mar for help in preparing the text.

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