



PROBLEMA

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50th ANNIVERSARY OF HART'S
THE CONCEPT OF LAW

INTRODUCTION

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Reconsider the influence of H. L. A. Hart's *The Concept of Law* (1961)¹ in its fiftieth anniversary, in particular, and the legacy of his work, in general, is an idea that first came to mind in informal discussions between Tom Campbell, Imer B. Flores, and Wilfrid J. Waluchow during the Conference *The Legacy of H. L. A. Hart: Legal, Political, and Moral Philosophy*, organized by the Cambridge Forum for Legal and Political Philosophy, in Cambridge University, Cambridge (United Kingdom), July 27-28, 2007.² Actually, the idea that it is necessary not only to reconsider Hart's *The Concept of Law* but also to re-read and even to re-write it, can be traced back to Nicola Lacey's *A Life of H. L. A. Hart. The Nightmare and the Noble Dream*, where she points out that

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¹ H. L. A. Hart, *The Concept of Law*, Oxford: Oxford University Press, 1961. (There is 2nd ed., with "Postscript" (ed. Penelope A. Bulloch and Joseph Raz), Oxford: Oxford University Press, 1994.)

² *Vid.* Matthew H. Kramer, Claire Grant, Ben Colburn & Antony Hatzistavrou (eds.), *The Legacy of H. L. A. Hart: Legal, Political, and Moral Philosophy*, Oxford: Oxford University Press, 2008.

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the Appendix to *The Concept of Law*, which is now known as the “Postscript”, was conceived at some point by Hart himself as an essay with the title “The Concept of Law Reconsidered”.³

Along these lines, Enrique Cáceres, Imer B. Flores, and Juan Vega Gómez agreed to pay tribute to Hart’s *The Concept of Law* in its golden anniversary not only by dedicating to him and his masterpiece the Discussion of *Problema*, Volume 5, but also by devoting themselves to the organization of different activities, during 2011, including a *tête à tête* Seminar Discussion between Kenneth E. Himma and Wilfrid J. Waluchow, two of the most representative heirs of Hart’s “soft positivism”, *i.e.* “inclusive legal positivism”. In addition, Flores proposed a Special Workshop “H. L. A. Hart’s *The Concept of Law* Reconsidered” to the organizers of the XXV IVR World Congress of Philosophy of Law and Social Philosophy “Law, Science, Technology”, which was held in Frankfurt am Main (Germany), August 18, 2011, with the participation of Tom Campbell, Pierluigi Chiassoni, Imer B. Flores, Noam Gur, Eerik Lagerspetz, and Roger Shiner. In the meantime, Jorge Fabra, approached Waluchow with similar proposals and was redirected to Flores, with whom he joined forces calling for submissions to this volume as guest editors.

It is worth to mention that the Discussion is inaugurated with a biographical and bibliographical memo filled of references by Matthew H. Kramer and a more personal note full of anecdotes by Wilfrid J. Waluchow, in which the last student supervised by H. L. A. Hart re-tells some of the stories that depict his supervisor, mentor, friend and inspiration.⁴ The Discussion also includes the revised papers that both Himma and Waluchow presented both in the International Conference on Legal Philosophy hosted by the Graduate Program in Law at UNAM in Acatlán, one of the campus in

³ Nicola Lacey, *A Life of H. L. A. Hart. The Nightmare and the Noble Dream*, Oxford: Oxford University Press, 2004, p. 350.

⁴ *Ibidem*, pp. 334-5.

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the Metropolitan Area of Mexico City, and in the Discussion Seminar “Problema” organized by the Legal Research Institute at UNAM, in the main campus, and also a reply from Himma to Waluchow. In addition, the volume incorporates the revised versions of the papers presented in the Special Workshop, and other papers submitted by Keith Culver and Michael Giudice, Pavlos Eleftheriadis, Giorgio Pino, Dan Priel, and Fabio P. Schecaira.

As editors of this Discussion we are very pleased with the result and hope that the reader will enjoy the articles collected in this volume, which by the way contains original contributions. Most of them reconsidering the place of Hart’s *The Concept of Law* in Legal Theory and Philosophy (Campbell, Lagerspetz, Priel, and Schecaria); some pointing to the virtues of Hart’s methodology (Chiassoni, Culver and Giudice, Eleftheriadis, and Waluchow); and still others developing critical reassessments of his main thesis (Flores, Gur, Himma, Pino and Shiner). Finally, we are extremely grateful to all the contributors for their enthusiasm that made possible this little homage to the “aristocracy of our intellect”,⁵ *i.e.* H. L. A. Hart’s *The Concept of Law*.

⁵ *Ibidem*, p. 54.