

AUSTIN, HART, AND SHAPIRO:
THREE VARIATIONS ON LAW AS AN ENTITY
GROUNDED IN A SOCIAL PRACTICE*

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I. Social Ontology and the Nature of Law

The law is all around us. We are daily involved in countless legal activities: we buy and sell material and immaterial objects, we drive, we get married, we hire persons and rent things, we pay taxes, we abide by legal prohibitions and commands, and we exercise legal powers. These activities are objectively real. However, their existence gives rise to puzzlement. We cannot account for them in the same way in which we account for the reality natural kinds (like trees or tigers). Therefore, they cannot be described in terms of the natural sciences.

A plausible intuition is that the reality of legal activities depends on the ability that we, as human beings, have to act collectively, that is to say, as members of groups or plural subjects. This ability is called sociality.¹ The exercise of this ability allows us to create a special part of reality, which might be named: social reality. By means of our acting together, in groups, we are able to create social facts – like the fact that there is a state called Australia and that Barack Obama is the current

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¹ On the concept of sociality: See *Margaret Gilbert, Living Together. Rationality, Sociality and Obligation*, New York/London 1996, p. 6 and 263 f.; *id.*, *Sociality and Responsibility*, New York/London 2000, p. 1 f.; and *Raimo Tuomela, The Philosophy of Sociality*, Oxford 2007, p. 11 and 66.