CAMBRIDGE
Cambridge University Press & Assessment
978-1-108-94880-7 — Properties of Law
Kaarlo Tuori
Excerpt
More Information

Prologue

Elusiveness

The Stakes

This is a book about modern state law; about sociality, normativity, and plurality as its properties. Towards the end, it is also about what will come after modern state law. Legal Positivism, with Hans Kelsen and H. L. A. Hart as the undisputed Masters, is the dominant legal-theoretical (self-) description of modern state law. The main objective of this essay is to offer a legal-theoretical recapitulation of modern state law that avoids the fallacies of Legal Positivism. This calls for a relationist approach where law's sociality is related to normativity, and normativity to sociality. I start with sociality (Part I) and then move on to normativity (Part II), but the reverse order might also have been possible and, indeed, equally warranted. Avoiding Legal Positivism's fallacies also includes refraining from extrapolating from modern state law to law in general; replacing Legal Positivism's conceptual universalism with sensitivity to the varieties of law; and acknowledging that law existed before modern state law, that it will exist after modern state law, and that other law exists alongside modern state law. Part III, dealing with plurality, plays a crucial role in exposing the false pretensions of universalising legal theory. Indigenous, religious, and transnational law demonstrate that the distinctions typical of modern state law are not universal properties of law, and that the language of modern state law is not a universal legal language but merely a vernacular.

Part III also points to the shaking of societal presuppositions of modern state law and introduces discussion of the legal consequences of denationalisation (globalisation). The discussion of law after modern state law continues in the Epilogue, where the focus is on another contemporary mega-trend, namely digitalisation. How, exactly, digitalisation will affect law is still shrouded in ambiguity; it depends not only on the vagaries of technological development but also on political decisions: hence, the title *Incertitude*. In discussing the menaces that digitalisation entails to the principles of a democratic *Rechtsstaat*, the Epilogue also overtly indicates that the stakes are not purely intellectual (as if legal theory ever could be a purely intellectual exercise) but the essay is also animated by normative concerns.

© in this web service Cambridge University Press & Assessment www.cambridge.org

CAMBRIDGE

Cambridge University Press & Assessment
978-1-108-94880-7 — Properties of Law
Kaarlo Tuori
Excerpt
More Information

The dominance of Legal Positivism has not prevented rival legal-theoretical – or legal-sociological – recapitulations. Their wide array attests to yet another central property of law: evasiveness.

Three Modes of Existence

Law resists encasement by comprehensive theoretical grids, and 'law' is a slippery notion which defies unequivocal definition. It appears that no account of law can do without qualifications and exceptions or be immune to criticism and counterarguments. All definitions of 'law' create a penumbra of uncertainty, and a grey zone is opened in the borderland between law and non-law. Something of arguably legal character is always left over and outside any embracive account of law, while something that really does not fit is included. And what appears pertinent to one aspect of law may seem wholly inadequate to another.

At least three manifestations of and explications for the elusiveness of law exist. First, law possesses diverse modes of existence. Law is about norms, but it is not only about norms; it is also about particular, sociolegal, practices. Law is about social practices, but it is not only about social practices; it is also about norms. Secondly, law is traversed by binary distinctions. Thus, to take an example, law transmits, enhances, and legitimates power – say, political and economic – but law also constrains power – again, say, political and economic. Or, to take another example, law not only determines how we must act and restricts our options; it also creates spheres of autonomy and augments our practical possibilities. Finally, in a fundamental sense, law does not exist as such but only as viewed from a perspective. Law is not the same for lawyers and laymen, for private and public lawyers, or for judges and legal scholars.

Let us start canvassing the backdrop to law's elusiveness from its three modes of existence. Intuitively, both legal laymen and professionals seem to know what they are talking of when they speak of law. Law forms part of the world they take for granted, and knowledge of law forms part of the stock of tacit knowledge with which ordinary members of society orient themselves in their daily life and legal professionals in their professional activities. Yet situations arise where the reference to 'law' appears uncertain and cloudy, and where interlocutors no longer agree on what, exactly, they are speaking of. When asked about the law, in Continental Europe the majority of both laymen and professionals would probably point to statutes and other legislation, while in the USA and England the primary reference would be judicial precedents and the principles these reflect. Although the spontaneous responses presumably differ, they have something in common: they both treat law as a normative phenomenon; as a normative legal order, distinct from the social practices and relationships it addresses.

However, not all societies would share this spontaneous normativism. If members of indigenous peoples in general agreed to talk about something

© in this web service Cambridge University Press & Assessment www.cambridge.org

CAMBRIDGE
Cambridge University Press & Assessment
978-1-108-94880-7 — Properties of Law
Kaarlo Tuori
Excerpt
More Information

called law, they would most likely not allude to a distinct normative order but, rather, to their way of life, the way things have been done in their community since times of old. Such a response would convey non-comprehension of law as something separate from its substance; law is treated not as distinct from social relationships but as embedded in them, with no autonomous existence. In contrast, under the dominance of modern state law, those who recognise this type of law as their law usually share the spontaneous normativism.

In academic debates, the normativist position has not been as self-evident as it probably is to both legal laymen and professionals. Sociologists, including sociologists of law, tend to shun the idea of a separate normative order and prefer to see in law mere social or psychological facts. If reference in general is made to legal norms, these are not enclosed in an autonomous normative sphere but conceived of as beliefs or expectations with their ontological domicile in the world of Is rather than Ought. In turn, in legal theory positivism has provided the dominant account of modern state law. In a sense, Legal Positivism itself forms part of modern state law. The Grand Masters of Legal Positivism are Hans Kelsen and H. L. A. Hart; indeed, much of the legal-theoretical debate within the positivist school during the last, say, sixty years, is but glosses on their *oeuvre*.[1] Legal Positivism purports to be unwavering in its normativism: in the strict demarcation of legal norms and social facts. Yet even in legal theory the prevalence of the normativist stance, as epitomised by Legal Positivism, has never been uncontested.

Legal Positivism performs two fundamental delineations, both of which are facilitated by characteristic features of modern state law but which, so I will argue, both ultimately founder. Legal normativity is distinguished, first, from the social Is (social facticity) and, secondly, from non-legal normativity such as morality. By the same token, Legal Positivism performs two successive reductions. First, law is reduced to its normative aspect and, secondly, the normative aspect is reduced to its surface level. By no means have the legal positivist delineations or the concomitant reductions gone uncontested. Legal Positivism considers Natural Law a perennial opponent and, indeed, is inclined to label all its opponents natural lawyers. Yet the positivist separation of law and morals has also been criticised by legal theorists who do not subscribe to Natural Law but, rather, seek to elaborate and justify a third-way position; Ronald Dworkin, for instance.[2]

In turn, legal phenomenologists and realists have questioned the normativist reduction and exclusion of the social aspect from law. Legal phenomenologists, inspired by the writings of Edmund Husserl, Martin Heidegger, and Alfred Schütz, have developed conceptual tools to analyse law as it appears in everyday practices; in the lifeworld (*Lebenswelt*) of members of society. By

[1] Especially on the second edition of *Reine Rechtslehre,* 1960, Kelsen, 1967, and on Hart's *The Concept of Law*, Hart, 1961.
[2] Dworkin, 1978, 1986.

© in this web service Cambridge University Press & Assessment www.cambridge.org

CAMBRIDGE
Cambridge University Press & Assessment
978-1-108-94880-7 — Properties of Law
Kaarlo Tuori
Excerpt
More Information

contrast, the focus of legal realists has not been so much on lifeworld practices and relationships but, rather, on the behaviour of courts and judges. The general aspiration of both American and Scandinavian realists has been to define law in terms of empirical social and psychological facts, that is, in reference to what courts and judges do or what motivates them to do what they do. For realists, postulating the existence of law as a relatively autonomous normative order is metaphysics pure and simple. Yet, at the same time, they fall into a reductionist trap of their own.

Ultimately, reductionist moves misfire, and the repressed obstinately keeps reappearing. Failures of reductionism are instructive because they tell a legal theorist about the necessity to keep an eye on both the normative and the social side of law. I can be rather brief with realist reductionism. Legal normativity haunts realists in everything they write about courts and judges. If law is defined by reference to the behaviour or mental states of judges, then legal norms are already needed in telling who is a judge. A judge is an institutional fact, which does not exist and cannot be identified without a legal interpretative scheme thrown over empirical reality. Moreover, as many critics, among them Hart,[3] have noted, at least from the perspective of a judge the prediction theory of law cannot work. A judge who invokes the law to support a ruling is not predicting her own behaviour or testing predictions made by others. Clearly, a judge's phenomenological experience involves a dimension of normative constraints and guidance. Finally, the realists' view of even the sociality of law is narrow: it ignores first-order sociolegal practices, and of specialised legal practices it covers only the judicial ones.

Legal positivists conceive of law as a closed and self-contained normative order, whose autonomy – separation from both social facts and non-legal normativity – is guaranteed by its hierarchical structure, topped by a Master Rule, Kelsen's *Grundnorm* (basic norm) or Hart's rule of recognition. All (other) rules of the normative legal order derive their validity from the Master Rule. The Master Rule also provides the criteria for identifying the (other) norms making up the legal order and for distinguishing these from non-legal normativity. Yet, as Kelsen and Hart noted, such an autonomous legal order does not float freely in its non-legal environment or remain absolutely isolated in the sphere of the legal Ought. There are limits to the normativism of Legal Positivism. On some crucial points, legal positivists cannot but acknowledge the relevance of social practices; indeed, the necessity of these for the very existence of law as a normative legal order. Let me pinpoint three issues where the repressed social tends to reappear and where law's social modes of existence call for acknowledgement: the origins and sources of legal norms; the efficacy of law and legal norms as a precondition for validity; and the ambivalent nature of the Master Rule.

[3] Hart, 1959.

© in this web service Cambridge University Press & Assessment www.cambridge.org

Positivism understands all law as positive law; law as posited by human acts. Acts forming the origin of law clearly have their location in social reality. Evidently, autonomous positive law could not exist without legislative acts bringing legal norms into existence. Here the normativist stance of Legal Positivism hints at specialised legal practices; that is, one of law's social modes of existence. Kelsen and Hart note the indispensability of social practices for the existence of law as a normative legal order at another juncture as well. For both of them, validity is the particular ontological mode of law. Validity is defined and assessed by legal-normative criteria. Still, in the account of both Masters of positivism, intra-legal validity has extra-legal, social preconditions. Validity presupposes the efficacy of both the legal order as a whole and the particular norms under examination. And, to be efficacious, legal norms must by and large be complied with by the population and found applicable by the courts. Thus, efficacy intimates both first-order sociolegal practices and judicial practices as an instance of specialised legal practices. The intra-legal chain of validity ends up with the Master Rule – the third critical point where social facticity asserts itself. Hart is rather explicit about the dual nature of the rule of recognition. On the one hand, it is a rule in the sense of social regularity: it denotes how validity is in fact assessed and how valid rules making up the normative legal order are in fact identified in the judicial practices of a particular legal regime. On the other hand, the rule of recognition is a normative rule: judges are obligated to assess validity and identify valid rules by the criteria it indicates. Kelsen's position is more ambiguous: indeed, throughout his long career he had difficulties in making up his mind about the nature of the *Grundnorm*. He even played with a sociological, power-theoretical reading, where the *Grundnorm* is simply reduced to a founding act of a polity or a revolutionary act of constitution-giving, with no preceding legal authorisation or justification. The fundamental ambivalence sticking to the Master Rule explains the never-ending debate among legal positivists as to whether or not the Master Rule is part of the normative legal order or whether it merely constitutes a necessary precondition, in the same vein as the social practices which give rise to particular legal norms and which guarantee the efficacy of those norms. Finally, as Kelsen in particular stresses, law is a coercive normative order, and coercion, with its implication of violence, clearly takes us beyond the normative realm to the field of the social Is.

In sum, legal positivists approach the insight that the normative legal order is not law's only mode of existence. Yet they stop short of conceding that, in addition to its normative side, law displays a social aspect too. In this essay, I will argue that law is about legal norms but it is not only about legal norms; it is also about the social – or, to be more exact, sociolegal – practices without which it could not exist as a normative legal order. If legal norms cannot exist without the contribution of sociolegal practices, neither can sociolegal practices exist without the contribution of legal norms. The normativity of law requires its sociality, and its sociality requires its normativity. Whether law is

© in this web service Cambridge University Press & Assessment www.cambridge.org

CAMBRIDGE

Cambridge University Press & Assessment
978-1-108-94880-7 — Properties of Law
Kaarlo Tuori
Excerpt
More Information

approached from its normative or social side, a relational approach is needed; an approach where normativity is related to sociality and *vice versa*.

Sociolegal practices come in two types, which play different roles in the kaleidoscopic and constantly shifting whole called law. Looking at law from the perspective of legal norms, first-order sociolegal practices constitute the scene for law's realisation. They include, first, general practices, such as marriage and partnership, in which we engage in our daily life and which make up our common lifeworld (*Lebenswelt*), and, secondly, specialised or expert practices, such as accounting, banking, or doctoring, which require particular knowledge and other qualifications. Law participates in structuring both general and specialised practices and in defining role expectations characteristic of them; roles of, say, a partner, or an accountant, a banker, or a doctor. In first-order sociolegal practices, abstract norms of the normative legal order are transformed into rights, obligations, and legal relationships of particular subjects. The normative legal order takes the shape of a concrete order of behaviour and affects the behaviour of social actors through their legal knowledge. To examine how all this happens and to develop conceptual tools for this purpose is to probe into the sociality of law; to engage in an attempt to specify how and in what sense law exists as and in sociolegal practices.

Law may be indispensable for sociolegal practices, but, still, in a way, it is beside the point. The point of both general lifeworld practices and specialised expert practices lies elsewhere than in law. Law may – and is even expected to – contribute to the point of partnership or banking practices, but the point itself is not related to law. Law remains an auxiliary moment, providing form for social substance. However, among specialised social practices, one group stands out, the very point of which relates to law and which can be called legal practices *sensu stricto*. These are practices which participate in the production and reproduction – in shorthand (re)production – of law. Legislative, judicial, and scholarly practices constitute the main specialised legal practices of modern state law. Correspondingly, law-givers and legislative experts, judges, and legal scholars are the main participants in the legal discourse through which the (re)production of law transpires.

As I shall argue throughout this essay, the normative aspect of law cannot be reduced to its 'visible' surface where it is textually manifested in laws, court rulings, and scholarly standpoints. A normative legal order also possesses subsurface, legal-cultural layers without which surface-level legal texts – legal speech acts – would not make much sense or even come into being. The (re)productive function of specialised legal practices covers not merely the surface of the legal order but extends to legal-cultural supports. Neither do these practices (re)produce merely particular legal norms, enshrined in particular laws and precedents. Specialised legal practices also bring about the order of the legal order, be this order primarily of a formal nature, as is the

© in this web service Cambridge University Press & Assessment www.cambridge.org

CAMBRIDGE
Cambridge University Press & Assessment
978-1-108-94880-7 — Properties of Law
Kaarlo Tuori
Excerpt
More Information

case with Kelsen's hierarchical *Stufenbau*, or based on substantive values and principles, sedimented into law's cultural layers.

Law possesses three modes of existence which also open three alternative gateways into law for internal and external observers. Law can be approached as a normative legal order, or as first- or second-order sociolegal practices. Evidently, law's modes of existence possess a certain autonomy; otherwise it would make no sense to draw a distinction among them. Yet at issue is merely relative autonomy, to use an expression which to many ears may sound a worn-out platitude. Law's modes of existence are interrelated and interdependent, so that none of them could exist without the support of the others. It is wholly legitimate for a legal theorist to focus a reconstructive enterprise on one mode; say, on law as a normative legal order. Indeed, it may even be necessary to make a choice. What is harder to justify is ignoring the links between the prioritised mode and the others. The normativism of Legal Positivism should not be blamed for privileging law as norms but, rather, for isolating the legal order from law's social modes of existence. Yet, as I shall argue in Part I, positivist accounts themselves prove legal order's reliance on social practices and point to the critical junctures where law's sociality reminds a normativist of its ineradicability.

In turn, the structured character of sociolegal practices testifies to the contribution of legal norms; indeed, without the interpretative scheme provided by legal norms the legal nature of sociolegal practices could not even be identified or the legally relevant features extracted. Furthermore, the very point of specialised legal practices focuses on the normative aspect of law; on the realisation and (re)production of the legal order. In a sense, law's cultural layers create the possibility of specialised legal practices. They provide legal actors with the conceptual, normative and methodological *Vorverständnis* (preconception[s]) without which laws could not be drafted and their coherence guaranteed, reasoned rulings issued, or well-argued legal doctrine elaborated.

Because of their interdependencies, elevating one of the three modes of existence to primordial and defining the others as derivative is a futile enterprise. All turns on the gateway through which we enter law. If we choose the perspective of first-order sociolegal practices, these appear as primordial, with the normative legal order and specialised legal practices seemingly derivative. If, instead, we embark on our theoretical survey of law on the normative side – as we can legitimately do – the normative legal order appears as primordial and the social modes as derivative. And, finally, if we stress that neither the normative legal order nor the legal aspect of first-order sociolegal practices would exist without the contribution of specialised legal practices, we might use those practices as our starting point and, by the same token, label them as primordial. It is to the merit of legal phenomenologists to have brought in the first-person viewpoint of individual and collective social actors, and to have attempted to conceptualise how law functions and is perceived to function in

© in this web service Cambridge University Press & Assessment www.cambridge.org

CAMBRIDGE

Cambridge University Press & Assessment
978-1-108-94880-7 — Properties of Law
Kaarlo Tuori
Excerpt
More Information

sociolegal practices. Yet to declare these the primordial mode of existence *tout court* does not give credit to law's complicated perspectivism.

How, then, are the interrelations and interdependences between law's modes of existence channelled? A crucial link consists of social and legal actors and their knowledge of law: not only their explicit, discursive, knowledge but also – and even primarily – their social and legal preconceptions, their *Vorverständnis.* Legal actors in the narrow sense of the term are legal professionals as the primary subjects of specialised legal practices. Law stands in the centre of their focus; they are conscious of law's existence even as abstract legal norms; and they possess explicit, discursive, knowledge of the legal order and law's institutional workings, that is, law as specialised legal practices. Indeed, it is possession of such expert knowledge, often enough certified by academic degrees, which in general provides the entrance ticket to specialised legal practices. Yet, when tackling a particular legal task – drafting a law, deliberating a case or composing an article for a law review – legal professionals activate only that part of their legal knowledge which the task at hand calls for. The rest remain in a tacit, practical state, constituting the legal *Vorverständnis* which is also applied in all legal activities, though without legal actors being immediately conscious of this.

The legal knowledge and *Vorverständnis* of social actors participating in first-order sociolegal practices is different. At least in the context of general lifeworld practices, it is probably erroneous even to speak of distinct legal knowledge or *Vorverständnis*. Law is part of an undifferentiated normative cultural horizon of the lifeworld which mainly unfolds its effects unconsciously, through our tacit, practical knowledge and undifferentiated social *Vorverständnis*. A quasi-automatic way of functioning is typical of lifeworld legal normativity and, by the same token, crucial for the realisation of law. Yet situations arise where we become conscious of the presence of law and where the spotlight of our attention zooms in on the legal features of social practices and relationships. Then we cross what can be called the threshold of legal awareness. This mainly occurs when the ordinary course of things is interrupted and legal normativity is deprived of its natural and self-evident character.

Firstly, it may happen that social actors no longer comply with the law in the usual quasi-automatic manner but, from their first-person singular or plural perspective, explicitly pose the question whether or not to respect the law. The reasoning can be of a strategic, moral, or ethical nature. The legendary 'bad man' is engaged in a strategic cost-benefit analysis, weighing the benefits that breaking the law would bring him against the costs in terms of the risk of being caught and the ensuing sanction. Those considering trespassing in the grounds of an animal farm and releasing foxes from their cages are discussing the moral justification of their act of civil disobedience. And a conscientious objector opting for a prison sentence instead of obligatory military service has taken a decision on ethical grounds. Secondly, the

© in this web service Cambridge University Press & Assessment www.cambridge.org

CAMBRIDGE
Cambridge University Press & Assessment
978-1-108-94880-7 — Properties of Law
Kaarlo Tuori
Excerpt
More Information

threshold of legal awareness is crossed when social actors witness other social actors breaking the law; when they in their everyday lifeworld confront illegality (or a-legality) on the part of other social actors, say, when by chance they come across a mugging in the street or a puzzling instance of a-legality in a shopping mall. Instances of illegality or a-legality – whether based on deliberate instrumental, moral, or ethical reasoning, or not – constitute disturbances in the realisation of law. In the ordinary course of affairs, law is realised in ongoing lifeworld practices, without social actors being aware of law's involvement.

Thirdly, legal norms addressing ordinary citizens do not consist merely of rules of behaviour but even comprise rules of competence. These empower social actors to alter their legal position and even that of other private subjects. In the vast majority of daily contracting practices – say, at the counter of a café or the cash till of a supermarket – law plays its role in the usual unconscious way, through the practical lifeworld knowledge of social actors. Yet, there are contracts – say, renting an apartment or taking an insurance policy – which require explicit attention and where the legal nature of the act is conspicuous. Correspondingly, a social actor making a will heeds – or at least is expected to heed – the legal significance of doing so.

The moment social actors become aware of the legal aspects of their social practices and their lifeworld in general, they also become aware of law's other modes of existence; that is, law as a normative legal order and as secondary legal practices. Those witnessing a mugging realise that criminal law has been broken; that the police are empowered to intervene; and that the perpetrator can be brought before a court. Law stands out from the diffuse socio-cultural normativity of the lifeworld and is recognised as involving expressly enacted norms, as well as specialised legal practices monitoring observance of those norms. In other words, the social actors of sociolegal practices perceive that law possesses three interrelated and interdependent modes of existence.

Binary Distinctions

Law is pervaded by binary distinctions; arguably, binary distinctions are constitutive of law in general and of all its modes of existence in particular. Binary distinctions begin with the delineation of law from non-law. 'Law' and 'non-law' can also be defined in terms of (il)legality and a-legality. '(Il)legality' denotes the spatially, personally, substantively, and temporally defined domain where law's internal binary distinction between legal and illegal is applicable. In turn, 'a-legality' refers to the outside of this domain; to what the law has left unordered, and where the distinction between legal and illegal does not find application.[4]

[4] Lindahl, 2013.

© in this web service Cambridge University Press & Assessment www.cambridge.org

CAMBRIDGE

Cambridge University Press & Assessment
978-1-108-94880-7 — Properties of Law
Kaarlo Tuori
Excerpt
More Information

The binary divisions continue with the dimensions of normativity and sociality, and further with internal distinctions within those dimensions. Legal norms are divided into, say, norms of behaviour and competence, primary and secondary rules, and, from a diverse angle, into private and public law, as well as national and international law. Within law's sociality, specialised legal practices have become differentiated from first-order socio-legal practices. Correspondingly, social actors as subjects of first-order socio-legal practices should be kept apart from legal actors of specialised legal practices. In the same way, at the collective level, the legal community in the broad sense, comprising all those subject to a distinct legal regime, should be kept apart from the legal community in the narrow sense, consisting merely of legal professionals. In legal knowledge, discursive knowledge stands out from and against the horizon of practical knowledge; that is, the *Vorverständnis* of social and legal actors. Furthermore, two relevant meta-level comprehensive distinctions add to and reflect law's kaleidoscopic and elusive nature: law's *ratio* (reason) and law's *voluntas* (will) – alluding primarily to the origins of law – and law as institution and medium – alluding primarily to the law's basic orientation.

What is the nature of these distinctions, which may be related but are not equivalent? How should a legal theorist treat them? Are they mutually exclusive, with no possibility of conciliation or interaction? Or, by contrast, are they interdependent, interrelated, and interactive? A legal theorist may approach the distinctions, first, as dichotomies, the parties to which remain strictly separated. This is how Kelsen, for instance, conceived of the relationship between Is and Ought. The domicile of social and psychic facts lies in the world of Is, while the domicile of legal norms lies in the world of Ought, with – so Kelsen argued – an insurmountable wall separating these worlds. Kelsen ends up by negating the social existence of law: his view is both dichotomous and negatory. Yet, as we have already seen, sociality keeps obstinately asserting itself at crucial junctures of Kelsen's Pure Theory.

Another way of treating law's binary distinctions is reduction: one side is reduced to the other or defined in terms of the latter, and denied independent existence. Thus, reduction shakes hands with negation. This is the strategy of legal realists, who propose defining law by reference to, say, the actual or predictable behaviour of judges or the ideology prevailing among them and determining their rulings. However, empiricist reductions have failed: all the definitions proposed by realists include an irreducible normative element. Definitions invoke legal-institutional facts, such as judges, courts, or authorities, which cannot even be identified without reference to legal norms.

A dialectical approach is the main alternative to dichotomies, negations, and reductions. It allows for and even focuses on interdependences, interrelations, and interaction. Instead of 'either / or', the basic assumption is 'both / and'. The reader may not be surprised if I declare adherence to the dialectical programme. How, exactly, the dialectical relations which separate but, by the

© in this web service Cambridge University Press & Assessment www.cambridge.org