

estuviera imbricada alguna noción de lógica no clásica; sin embargo, en este trabajo se ha intentado probar que los cambios de perspectiva son fundamentales para el desarrollo de una teoría no sólo aceptable, sino también resistente. Para la mayoría de los autores que hemos citado en el último capítulo de este trabajo, la fuerza justificativa de los argumentos de primero y segundo nivel tendrían mayor eficacia, es decir, serían más ampliamente aceptados, si no tuvieran detrás de sí un compromiso tan fuerte como el que exige la lógica clásica. Aunque desarrollar esta tesis, aún más amplia que la expuesta en este trabajo, rebasa los propósitos de esta investigación, me parece un proyecto digno de llevarse a cabo. En este sentido, con esta tesis pretendo dar un paso hacia adelante en la búsqueda de una interpretación más sólida de los criterios de corrección de Neil MacCormick.

REFERENCIAS

- Alexy, Robert, 2003, "On Balancing and Subsumtion. A Structural Comparison", *Ratio Juris*, Vol. 16, No. 4, pp. 433-449.
- _____, 2010, *Teoría de la argumentación jurídica. La teoría del discurso racional como teoría de la fundamentación jurídica*, Manuel Atienza e Isabel Espejo (trad.), Palestra Editores.
- Anscombe, Elizabeth, 1958, "On Brute Facts", *Analysis*, Vol. 18, No. 3, Oxford University Press, pp. 69-72.
- Ansuategui, Francisco, 1996, *El positivismo jurídico neoinstitucionalista. (Una aproximación)*, Departamento de derecho público y filosofía del derecho, Universidad Carlos III de Madrid, Dykinson.
- Atria, Fernando, 1998, "Constitutive and Regulative Institutions. On John Searle's General Theory of Institutional Facts", inédito, ponencia presentada en el congreso *Applied Ontology: A Marvin Farber Conference on Law and Institutions*

- in Society*, en la Universidad del Estado de Nueva York, EE.UU. Disponible en <http://ontology.buffalo.edu/FARBER/atria.html>.
- _____, 2003, "Legal Reasoning and Legal Theory Revisited", en Atria, Fernando y MacCormick, Neil (eds.), *Law and Legal Interpretation*, Ashgate, pp. 71-111.
- Austin, John, 1955, *The Providence of Jurisprudence Determined*, Cambridge University Press.
- Baker, Gordon, 1977, "Defeasibility and Meaning", en Hacker, Peter y Raz, Joseph (eds.), *Law, Morality and Society: Essays in Honour of H. L. A. Hart*, Oxford Clarendon Press, pp. 26-57.
- Bańkowski, Zenon, 2006, "In the Judgment Space: The Judge and the Anxiety of the Encounter", en Bańkowski, Zenon y Maclean, James (eds), *The Universal and the Particular in Legal Reasoning*, Ashgate, pp. 25-40.
- Bayles, Michael, 1992, *Hart's Legal Philosophy. An Examination*, Kluwer Academic Publishers, Law and Philosophy Library, Vol. 17.
- Bayón, Juan, 2002, "Why is Legal Reasoning Defeasible?", *Diritto & Questioni Pubbliche. Rivista di filosofia del diritto e cultura giuridica*, No. 2, pp. 1-18.
- Bentham, Jeremy, 1970, *Of Laws in General*, Hart, Herbert (ed.), Athlone Press.
- Bell, John, 2006, "The Institutional Constraints of Particularism", en Bańkowski, Zenon y Maclean, James (eds), *The Universal and the Particular in Legal Reasoning*, Ashgate, pp. 41-52.
- Bertea, Stefano, 2008, "MacCormick's Latest Views of Legal Reasoning and the Positivist Concept of Law", en Menéndez, Agustín y Fossum, John (eds.), *The Post-Sovereign Constellation Law and Democracy in Neil D. MacCormick's Legal and Political Theory*, Arena, pp. 87-107.
- Bix, Brian, 1996, *Teoría del derecho: ambiciones y límite*, Pablo Navarro (trad.), Marcial Pons.

- _____, 2003, *Law, Language and Legal Determinacy*, Oxford University Press.
- Den Boer, Monica, 1991, "Two in one Trolley: Reflections on the Relation between MacCormick's Institutional and Narrative Theory of Law", *International Journal for the Semiotics of Law*, Vol. 12, Springer, pp. 255-266.
- Brink, David, 2001, "Legal Interpretation, Objectivity and Morality", en Coleman, Jules (ed.), *Hart's Postscript. Essays on the Postscript to the Concept of Law*, Oxford University Press, pp. 12-65.
- Brożek, Bartosz, 2003, "Law, Defeasibility and Logical Consequence", en Svein Eng. (ed.), *Proceedings of the 21st IVR World Congress*, Suecia, Agosto 12-17, Archive für Rechts und Sozialphilosophie Beiheft, No. 97, pp. 69-78.
- Bustamante, Thomas, 2010, "On MacCormick's Post-Positivism: Comment on Karen Petroski's 'Is Post-Positivism Possible'", *German Law Journal*, Vol. 12, No.12, pp. 693-727.
- Coleman, Jules, "Incorporationism, Conventionality, and the Practical Difference Thesis", en Coleman, Jules (ed.), *Hart's Postscript. Essays on the Postscript to the Concept of Law*, Oxford University Press.
- David-Hillel, Ruben, 1997, "John Searle's The Construction of Social Reality", *Philosophy and Phenomenological Research*, Vol. 57, No. 2, International Phenomenological Society, pp. 443-447.
- Detmold, Michael, 2003, "Law as Practical Reason", en Atria, Fernando y MacCormick, Neil (eds.), *Law and Legal Interpretation*, Ashgate, pp. 35-70.
- Dworkin, Ronald, 1977, *Taking Rights Seriously*, Harvard University Press.
- _____, 1986, *Law's Empire*, Harvard University Press.
- Endicott, Timothy, 2001, "Herbert Hart and the Semantic Sting", en Coleman, Jules (ed.), *Hart's Postscript. Essays on the Postscript to the Concept of Law*, Oxford University Press.

- _____, 2003, *Vagueness in Law*, Oxford University Press.
- García, Miguel, 2011, *La poderación de principios en la teoría de la argumentación jurídica de Robert Alexy* (tesis de licenciatura inédita), Facultad de Estudios Superiores "Aragón", Universidad Nacional Autónoma de México.
- Gilbert, Margaret, 2007, "Searle and Collective Intentions", en Tsohatzidis, Savas (ed.), *Intentional Acts and Intentional Facts. Essays on John Searle's Social Ontology*, Springer. pp. 31-48.
- Grodine, Candace, 1980, "Authority: H.L.A. Hart and the Problem with Legal Positivism", *The Journal of Libertarian Studies*, Vol. IV, No. 3, pp. 273-288.
- Günther, Klaus, 2003, "Critical Remarks on Robert Alexy's 'Special Case Thesis'", en Atria, Fernando y MacCormick, Neil (eds.), *Law and Legal Interpretation*, The International Library of Essays in Law and Legal Theory, pp. 251-264.
- Hage, Jaap, 2003, "Law and Defeasibility", *Artificial Intelligence and Law*, Vol. II, pp. 221-243.
- _____ y Peczenik, Aleksander, 2000, "Law, Morals and Defeasibility", *Ratio Juris*, Vol. 13, No. 3, pp. 305-325.
- Halpin, Andrew, 2009, "Methodology and the Articulation of Insight: Some Lessons from MacCormick's Institutions of Law", en Del Mar, Maksymilian y Bańkowski, Zenon (eds.), *Law as Institutional Normative Order*, Ashgate, pp. 145-160.
- Hart, Herbert, 1948, "The Ascription of Responsibility and Rights", en *Proceedings of the Aristotelian Society*, pp. 171-194.
- _____, 1994, *The Concept of Law. With Postscript*, Oxford University Press.
- _____, 2001a, *Essays in Jurisprudence and Philosophy*, Oxford Clarendon Press.
- _____, 2001b, *Essays on Bentham. Studies in Jurisprudence and Political Theory*, Oxford University Press.

- Horty, John, 1997, "Nonmonotonic Foundations for Deontic Logic", en NUTE, Donald (ed.), *Defeasible Deontic Logic*, Kluwer Academic Publishers, pp. 17-44.
- Hume, David, 1896, *A Treatise of Human Nature. Being an Attempt to Introduce the Experimental Method of Reasoning into Moral Subjects*, reimpresso de la version original de 1739 en tres volúmenes, L.A. Selby-Bygge, M.A., Clarendon Press.
- _____, 2007, *An Inquiry Concerning Human Understanding and Other Writings*, Buckle, Stephen (ed.), Cambridge University Press.
- Jackson, Bernard, 1991, "Semiotic Scepticism: A Response to Neil MacCormick", *International Journal for the Semiotics of Law*, Vol. 11, Springer, pp. 175-190.
- _____, 1992, "MacCormick on Logical Justification in Easy Cases: A Semiotic Critique", *International Journal for Semiotics of Law*, Vol. 14, Springer, pp. 203-214.
- Kalinowski, Jerzy, 1963, "La Norme, L'Action et la Théorie des Propositions Normatives (Réponse à M. Ota Weinberger)", *Studia Logica*, Tomo XIV, pp. 99-111.
- La Latta, Marina, 2008, "On Law and Morality, Reflections on MacCormick's Philosophy of Law", en Menéndez, Agustín y Fossum, John (eds.), *The Post-Sovereign Constellation Law and Democracy in Neil D. MacCormick's Legal and Political Theory*, Arena, pp. 73-86.
- Lacey, Nicola, 2004, *A Life of H. L. A. Hart. The Nightmare and the Noble Dream*, Oxford University Press.
- Leiter, Brian, 2001, "Legal Realism and Legal Positivism. Reconsidered", *Ethics*, Vol. 111, No. 2, pp. 278-301.
- _____, "Legal Realism, Hard Positivism, and the Limits of Conceptual Analysis", en Coleman, Jules (ed.), *Hart's Postscript. Essays on the Postscript to the Concept of Law*, Oxford University Press.
- Ludwig, Kirk, 2007, "Foundations of Social Reality in Collective Intentional Behavior", en Tsohatzidis, Savas (ed.), *Intentional Acts and Intentional Facts. Essays on John Searle's Social Ontology*, Springer. pp. 49-72.

- MacCormick, Neil, 1980, "The Coherence of a Case and the Reasonableness of Doubt", *The Liverpool Law Review*, Vol. II, pp. 45-50.
- _____, 1981, "Natural Law Reconsidered", *Oxford Journal of Legal Studies*, Vol. 1, No. 1, Oxford University Press, pp. 99-109.
- _____, 1984, "Coherence in Legal Justification", *Theory of Legal Science*, Vol. 176, *Synthese Library*, pp. 235-251.
- _____, 1989a, "Discretion and Rights", *Law and Philosophy*, Kluwer Academic Publishers, vol. 8, pp. 23-36.
- _____, 1989b, "The Ethics of Legalism", *Ratio Juris*, Vol. 2, pp. 184-193.
- _____, 1992, "Legal Deduction, Legal Predicates and Expert Systems", *International Journal for the Semiotics of Law*, Vol. 14, pp. 181-202.
- _____, 1994, *Legal Reasoning and Legal Theory*, Clarendon Law Series, Oxford University Press.
- _____, 1995, "Defeasibility in Law and Logic", en Bańkowski, Zenon et al. (eds.), *Informatics and the Foundations of Legal Reasoning*, Kluwer Academic Publishers, pp. 99-117.
- _____, 1998, "Norm, Institutions, and Institutional Facts", *Law and Philosophy*, Vol. 17, Kluwer Academic Publishers, pp. 301-345.
- _____, 2002, *Questioning Sovereignty. Law, State and Nation in the European Commonwealth*, Oxford University Press.
- _____, 2003, "Reasonableness and Objectivity", en Atria, Fernando y MacCormick, Neil (eds.), *Law and Legal Interpretation*, Ashgate, pp. 527-555.
- _____, *Rhetoric and the Rule of Law. A Theory of Legal Reasoning*, Oxford University Press.
- _____, 2006, "Particulars and Universals", en Bańkowski, Zenon y Maclean, James (eds.), *The Universal and the Particular in Legal Reasoning*, Ashgate, pp. 3-22.

- _____, 2007a, *Institutions of Law. An Essay in Legal Theory*, Oxford University Press.
- _____, 2007b, "La argumentación silogística: una defensa matizada", Juan Antonio Pérez Lledó (trad.), *Doxa. Cuadernos de filosofía del derecho*, No. 30, Universidad de Alicante, pp. 321-334.
- _____, 2008a, "MacCormick on MaCormick", en Menéndez, Agustín y Fossum, John (eds.), *The Post-Sovereign Constellation Law and Democracy in Neil D. MacCormick's Legal and Political Theory*, Arena, pp. 11-20.
- _____, 2008b, *Practical Reason in Law and Morality*, Oxford University Press.
- _____, 2010, *H. L. A. Hart*, Manuel Pérez Bermejo (trad.), Marcial Pons.
- _____, 2011, *Legal Rights and Social Democracy: Essays in Legal and Political Philosophy*, Oxford University Press.
- _____ y Bańkowski, Zenon, 1991, "La teoría de los actos de habla y la teoría de los actos jurídicos" (trad. José Calvo González), *Anuario de filosofía del derecho*, VIII, pp. 219-237.
- _____ y Weinberger, Ota, 1992, *An Institutional Theory of Law. New Approaches to Legal Positivism*, Reidel Publishing Company.
- _____, y Wróblewski, Jerzy, 2003, "On Justification and Interpretation", en Atria, Fernando y MacCormick, Neil (eds.), *Law and Legal Interpretation*, Ashgate, pp. 421-434.
- Del Mar, Maksymilian, 2009, "Law as Institutional Normative Order: an Introduction", en Del Mar, Maksymilian y Bańkowski, Zenon (eds.), *Law as Institutional Normative Order*, Ashgate, pp. 1-15.
- _____, 2012, "The Smithian Categorical Imperative: How MacCormick Smithified Kant", *Archiv für Rechts und Sozialphilosophie*, Vol. 98, No. 2, pp. 233-254.

- Marmor, Andrei, 2001a, "Legal Conventionalism", en Coleman, Jules (ed.), *Hart's Postscript. Essays on the Postscript to the Concept of Law*, Oxford University Press.
- _____, 2001b, *Positive Law and Objective Values*, Oxford University Press.
- Michelon, Claudio, 2006, "Practical Reason and Character Traits: Remarks on MacCormick's Sentimentalist Theory of Moral Perception", en Bańkowski, Zenon y Maclean, James (eds), *The Universal and the Particular in Legal Reasoning*, Ashgate, pp. 115-128.
- _____, 2009a, "MacCormick's Institutionalism between Theoretical and Practical Reason", *Diritto & Questioni Pubbliche. Rivista di filosofia del diritto e cultura giuridica*, No. 9, pp. 53-62.
- _____, 2009b, "Princípios e Coerência na Argumentação Jurídica", *Edinburgh School of Law Working Paper Series*.
- Moore, Michael, 2003, "A Natural Law Theory of Interpretation", en Atria, Fernando y MacCormick, Neil (eds.), *Law and Legal Interpretation*, Ashgate, pp. 113-236.
- Navarro, Pablo, 2000, "Enunciados jurídicos y proposiciones normativas", *Isonomía. Revista de Teoría y Filosofía del Derecho*, No. 12, ITAM, pp. 121-155.
- Nute, Donald, "Defeasible Logic", *Web Knowledge Management and Decision Support Lecture Notes in Computer Science*, Vol. 2543, pp. 151-169.
- Peczenik, Alexander, 2006, "Particulars and Universals in Legal Justification", en Bańkowski, Zenon y Maclean, James (eds), *The Universal and the Particular in Legal Reasoning*, Ashgate, pp. 191-201.
- Petroski, Karen, 2012, "Varieties of PostPositivism", *St Louis University Legal Studies Research Paper*, 2013, consultado en la internet el 10 de abril de 2012 en: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1984159.

- Pintore, Anna, 1990, *La teoria analitica dei concetti giuridici*, Pubblicazioni della Facoltà di Giurisprudenza, Università di Cagliari, serie 1, Vol. 41, Jovene–Napoli.
- _____, 1991, "Law as Fact? MacCormick's Institutional Theory of Law: Between Legal Positivism and Sociological Jurisprudence", Vol. 12, Springer, pp. 233-253.
- Pollock, John, 1987, "Defeasible Reasoning", *Cognitive Science*, Vol. 11, pp. 481-518.
- Prakken, Henry, 1997, *Logical Tools for Modelling Legal Argument. A Study of Defeasible Reasoning in Law*, Kluwer Academic Publisher.
- Rawls, John, "Two Concepts of Rules", *The Philosophical Review*, Vol. 64, No. 1, Duke University Press, pp. 3-32.
- Raz, Joseph, "Two Views of the Nature of the Theory of Law: A Partial Comparison", en Coleman, Jules (ed.), *Hart's Postscript. Essays on the Postscript to the Concept of Law*, Oxford University Press.
- Reiter, Raymond, 1980, "A Logic for Default Reasoning", *Artificial Intelligence*, No. 13, pp. 81-132.
- Royakkers, Lambèrs y Dignum, Frank, 1997, "Defeasible reasoning with rules", en Nute, Donald (ed.), *Defeasible Deontic Logic*, Kluwer Academic Publishers, pp. 263-286.
- Sartor, Giovanni, 1993, "Defeasibility in legal reasoning", *Rechtstheorie*, pp. 281-316.
- Schauer, Frederick, 1994, "Fuller's Internal Point of View", *Law and Philosophy*, Vol. 13, Kluwer Academic Publishers, pp. 285-315.
- _____, 2008, "Is Defeasibility an Essential Property of Law?," en Ferrer, Jordi y Ratti, Giovanni (eds.), *The Logic of Legal Requirements: Essays on Defeasibility*, Oxford University Press, pp. 77-88.

- _____, 2009, "Institutions and the Concept of Law: A Reply to Ronald Dworkin (with some help from Neil MacCormick)", en Del Mar, Maksymilian y Bańkowski, Zenon (eds.), *Law as Institutional Normative Order*, Ashgate, pp. 35-44.
- _____, 2010, "Positivism before Hart", *Virginia Public Law and Legal Theory Research Paper Series*, consultado en la internet el 20 de marzo de 2012 en http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1512646.
- Schiavello, Aldo, 2011, "Neil MacCormick's Second Thoughts on *Legal Reasoning and Legal Theory*. A Defence of the Original View", *Ratio Juris*, Vol. 24, No. 2, pp. 140-155.
- Searle, John, 1962, "Meaning and Speech Acts", *The Philosophical Review*, Vol. 71, No. 4, Duke University Press, pp. 423-432.
- _____, 1969, *Speech Acts: An Essay in the Philosophy of Language*, Cambridge University Press.
- _____, 1964, "How to Derive 'Ought' From 'Is'", *The Philosophical Review*, Vol. 73, No. 1, Duke University Press, pp. 43-58.
- _____, 1979, "What is an Intentional State?", *Mind*, New Series, Vol. 88, No. 349, Oxford University Press, pp. 74-92.
- _____, 1995, *The Construction of Social Reality*, The Penguin Press.
- _____, 2007, "Social Ontology: The Problem and Steps toward a Solution", en Tsohatzidis, Savas (ed.), *Intentional Acts and Intentional Facts. Essays on John Searle's Social Ontology*, Springer. pp. 11-29.
- Selznick, Philip, 1996, "Institutionalism 'Old' and 'New'", *Administrative Science Quarterly*, Vol. 41, No. 2, Sage Publications, pp. 270-277.
- Schafer, Burkhard, 2006, "The Courtroom as Laboratory", en Bańkowski, Zenon y Maclean, James (eds.), *The Universal and the Particular in Legal Reasoning*, Ashgate, pp. 205-222.

- Shapiro, Scott, 2001, "On Hart's Way Out", en Coleman, Jules (ed.), *Hart's Postscript. Essays on the Postscript to the Concept of Law*, Oxford University Press.
- _____, 2006, "What is the Internal Point of View?", *Fordham Law Review*, Vol. 75, pp. 1157-70.
- _____, 2007, "The 'Hart-Dworkin Debate: A Short Guide for the Perplexed'", *Public Law and Legal Theory Working Paper Series*, No. 77, disponible en http://papers.ssrn.com/sol3/papers.cfm?abstract_id=968657.
- Siltala, Raimo, 2011, *Law, Truth and Reason. A Treatise on Legal Argumentation*, Law and Philosophy Library, Vol. 97, Springer.
- Starr, William, 1984, "Law and Morality in H.L.A. Hart's Legal Philosophy", *Marquette Law Review*, Vol. 67, pp. 673-689.
- Stelmach, Jerzy y Brożek, Bartosz, 2006, *Methods of Legal Reasoning*, Law and Philosophy Library, Vol. 78, Kluwer Academic Publishers.
- La Torre, Massimo, 2010, *Law as Institution*, Law and Philosophy Library, Vol. 90, Springer.
- Toumela, Raimo, 1997, "Searle on Social Institutions", *Philosophy and Phenomenological Research*, Vol. 57, No. 2, International Phenomenological Society, pp. 435-441.
- Tsohatzidis, Savas (ed.), 2007, *Intentional Acts and Intentional Facts. Essays on John Searle's Social Ontology*, Springer.
- Twining, William, 2009, "Institutions of Law from a Global Perspective: Standpoint, Pluralism and non-state Law", en Del Mar, Maksymilian y Bańkowski, Zenon (eds.), *Law as Institutional Normative Order*, Ashgate, pp. 17-34.
- Van der Torre, Landert (et al.), 1997, "The Many Faces of Defeasibility in Defeasible Deontic Logic," en Nute, Donald (ed.), *Defeasible Deontic Logic*, Kluwer Academic Publishers, pp. 79-121.

- Van Dunne, Jan, 2003, "Normative and Narrative Coherence in Legal Decision-Making", en Atria, Fernando y MacCormick, Neil (eds.), *Law and Legal Interpretation*, Ashgate, pp. 409-420.
- Villa, Vittorio, 2009, "Neil MacCormick's Legal Positivism", en Del Mar, Maksymilian y Bańkowski, Zenon (eds.), *Law as Institutional Normative Order*, Ashgate, pp. 45-65.
- Walker, Neil, 2006, "The Burden of Universalism", en Bańkowski, Zenon y Maclean, James (eds.), *The Universal and the Particular in Legal Reasoning*, Ashgate, pp. 53-68.
- Weinberger, Ota, 1985, "Freedom, Range for Action, and the Ontology of Norms", *Synthesis*, No. 65, Reidel Publishing Company, pp. 307-324.
- _____, 1991, *Law, Institution and Legal Politics. Fundamental Problems of Legal Theory and Social Philosophy*, Kluwer Academic Publishers.
- _____, 1994, "Natural Constituents of Justice", *Law and Philosophy*, Vol. 13, Kluwer Academic Publishers, pp. 1-25.
- Von Wright, Georg, 2003, "¿Hay una lógica de las normas?", Daniel González (trad.), *Doxa. Cuadernos de filosofía del derecho*, No. 26, Universidad de Alicante, pp. 31-52.
- Wróblewski, Jerzy, 1992, *The Judicial Application of Law*, MacCormick, Neil y Bańkowski, Zenon (eds.), Law and Philosophy Library, 15, Springer.