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The Normativity of Law. Outline of a Theory

This essay aims at providing a sketch of a new theory of law's normativity. I begin by defining normativity as a feature of rules: rules are normative if they are objective reasons for action. Also, I argue that one can explain normativity only within a well-defined ontological framework. Next, I criticize two general ontological conceptions: monism and dualism. I show that both are incapable of providing a foundation for a theory of normativity. Further, I utilize Popper's idea of three worlds and Wittgenstein's remarks concerning rule-following in order to outline an ontological background for the developed conception of normativity. I claim that rules (legal, moral, conventional etc.) are emergent entities which supervene on both mental states and regularities of social interactions. Against this backdrop I sketch a conception of normativity, which is antifoundational and relativistic. I claim that one should distinguish between three types of rules, and three kinds of normativity: rudimentary, intermediate and abstract. I further say that it is the intermediate rules that we "live by".