GIOVANNI BOMBELLI
Università Cattolica del Sacro Cuore di Milano
giovanni.bombelli@unicatt.it

NORMATIVITY, TRUTH, VALIDITY AND EFFECTIVENESS. REMARKS STARTING FROM THE HORIZON OF THE "COMMON SENSE"

abstract

The essay focuses on the rethinking of the conceptual circle normativity-truth-validity as regards its projection on the theory of law. Starting from the perspective of the "law in action", that is to say by considering the experience/behaviour of the "common man", the classical distinction between truth-validity can be rediscussed. This perspective is based on the concept of "common sense": it is a very complex dimension composed by different strata and entails a new meditation on the pair "deontic-psychological" also in light of some Edmund Husserl's clues. Accordingly, it is possible to grasp the pair truth-validity "in action" (i.e. within the common legal experience), in order to propose some "open" conclusions concerning the dimensions of law as well as the legal theory.

keywords

truth, validity, common sense, effectiveness

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1. A Synthetic Overview

This contribution aims at providing arguments for the rediscussion of the logical and normative pair truth-validity, particularly in light of the rethinking of the dimension related to the "effectiveness" and starting from the idea of "common sense".
In detail, the proposal relies on five steps.
Firstly, the "classical" distinction about the concepts of truth and validity in a normative perspective will be preliminarily discussed. Accordingly, the exposition of the fundamental thesis will be provided: it moves both from a particular pattern of "law in action" and from the category of "common sense" wherein the latter is considered as the horizon, or the theoretical condition, of the former.
Secondly, an attempt for clarifying the dimension of the "common sense" as well as of some related questions will be proposed, especially in order to highlight its intensional and extensional dimension.
Thirdly, in this way the consideration of some clues provided by Husserl's distinction between "deontic" and "psychological" level, including its possible rediscussion, seems very useful for rethinking the normative circle truth-validity-effectiveness.
At a fourth level, it will be necessary to draw a short analysis of some aspects underlying the pair truth-validity "in action", with particular regard to the legal experience.
Finally, the essay will focus on the proposal of some conclusions. They are to be understood as "open" questions concerning a new conceptualization of the nexus among law, truth, validity, effectiveness and behaviour.
To sum up. The contribution tries to emphasize the necessity to rediscuss the normative pair validity-truth, which involves a particular semiotics and semantics (according to the trichotomy elaborated by Charles Morris, 1938) for highlighting the pragmatic dimension of law. In other words, the paper contains a proposal of a new conceptual horizon, which is rooted in a sort of combination of semiotics and pragmatics.

2. "Truth"-"Validity": A Problematic Distinction

The distinction among the concepts of "truth" and "validity", as well as their problematic relation and connection with the dimension of the "(legal) normativity", belongs to the traditional theory of law. As it is well known, many authors (not only Kelsen, 1934 and his epigones) have paid great attention in order to distinguish the aforementioned levels.
By tracing a preliminary distinction, and starting from the idea that patterns of truth have been understood as intertwined with patterns of "validity", we can consider the two points in a distinct manner: truth and validity.

As regards the idea of truth, in a non-exhaustive manner some models are to be considered. They seem very useful both in order to underline the progressive ambiguity of the concept of truth and for highlighting their role within the theory of law of the last century. In particular, it is possible to distinguish at least three conceptual frameworks: an ontological model, a logical-formal paradigm and a pragmatic scheme.
The first one refers to some classical authors (from Aristotle to the following conceptual line rooted in the Christian tradition) classical authors and, in a legal perspective, gives rise to a theoretical pattern: law becomes an "expression" of the truth, that is to say the true nature of the reality (i.e. the ontological *status*). In this way, the doctrine of natural law, also understood as a form of legitimation of the validity of law, takes shape according to the classical sense (Aristotle and so on) as well as in the modern sense of "rational law" according to Grozio's clues and including some of its contemporary rethinking (A. Kaufmann, 1963).
The logical-formal paradigm can be understood according to two versions: the framework shaped by the Kantian-transcendentalism or, in another direction, the linguistic-epistemological perspective elaborated within the *Wiener Kreis* (both perspectives had an influence on Kelsen's theory). These are the conceptual bases of the legal positivism, including its distinction between truth and validity and, finally, encompassing some models of artificial or formalized languages (Tarski, 1933).
Finally, the pragmatic scheme develops in light of the post-modern scenario and includes a reflexive aspect, with a combination of the two dimensions. According to this framework and moving from some clues *lato sensu* proposed by Wittgenstein, "truth" should be understood as a pragmatic dimension and structurally defined by the actors/factors involved within contingent contexts: in this way, the idea of law as a "discursive or social practice" develops (also according to the version proposed by Patterson, 1996).
As regards the notion of "validity", we can overlook the debate strictly developed within the scenario of the logic studies and concentrate the attention on the legal conceptualization of validity.
In particular, for instance, let's consider the classical definition offered by Kelsen in his *Pure Theory of Law*:

> The legislative act, which subjectively has the meaning of *ought* also has the objective meaning – that is the meaning of a valid norm – because the constitution has conferred this meaning upon the legislative act (Kelsen, 1967, p. 8, emphasis added).

As it is well known, this is the most classical expression of the doctrine concerning the legal validity and, according to the principal interpretations of Kelsen's theory, it implies the deletion of the dimension of truth as a form of contextual/referential legitimation of the norms.[1] In other words: apart from its logical correctness and consistency, which is not a form of "truth", the legal norm is "valid" without reference to truth.
Beyond the many versions of "validity" elaborated for instance in Bobbio (1960; 1965), Hart (1994), García Máynez (1951; see also Conte, 1995, p. 80), in a paradigmatic manner we can consider the interesting attempt to rethink the nexus truth-validity proposed within Amedeo G. Conte's framework.
Conte discusses both the question of the patterns of truth and their relation with the idea of validity: in particular, the Italian author splits the notions of truth and validity.
On the one hand, by distinguishing between *veritas de dicto* and *veritas de re*, Conte suggests

1 Anyway, some authors put into question this interpretation: see, for instance, Nino (1978).

that truth does not concern the definition of the norms, but only their "deontic status": more precisely, he points out that, in a certain sense, the "norm" should be understood *like* a deontic state-of-affairs (also in light of Conte's pair anankastic validity-formal validity).
On the other hand, validity regards a different level. According to Conte, "validity" (legal validity) is to be considered as a relational dimension. The idea of "validity" can only be conceptualized with regard to a legal order (Conte, 1995, I, pp. 75-111 and 147-161): in other words, the "level" of validity belongs to the "totality" of the legal order (see also Conte, 1962; Conte, 2016, pp. 21-37).
Beyond the different perspectives an important corollary emerges.
On a closer view, even though this operation is, or appears to be, very sophisticated, all the mentioned paradigms and the consequent operations are based on two historical-epistemological premises: a) the *relevance* conferred to the pair truth-validity in order to grasp the *proprium* of the (legal) normativity; b) the *possibility* "to separate" *in principle* the levels of "truth" and "validity".
The present contribution moves from the following question: Is the pair 'truth-validity' always useful? Is it useful only in light of specific conditions? Should we go beyond the classical pair truth-validity?
Taking into account these preliminary remarks, the fundamental idea of the present paper can be formulated as follows. The "law in action", not in the sense of the legal realism but by considering the relation with the dimension of the "effectiveness", understood as the actual behaviour considered or experimented by the common people to the extent it is conceived as relevant in a normative manner (see also *infra*), *de facto* entails a sort of overlapping among the concepts or levels of "truth" and "validity".
In other words: the (effective or actual) behaviour of the "man of the street", namely the common people, shows a complex structure.
On the one hand it is based on "legal indications" (i.e., normative sentences or claims, symbolic entities, and so on), on the other the common behaviour involves a series of strata (beliefs, statements, practices, etc.), which can be synthesized through the idea of "common sense": this makes the behaviour of the "man of the street" nomotropic (about this concept see also *infra*).

3. Common Sense

In order to grasp the conceptual framework that I have suggested above, it is necessary to understand and precise the dimension of the "common sense".
Common sense is a topic frequently and widely discussed (see, for instance, Rescher, 2005; Lemos, 2004) also within the philosophical-legal debate. For instance, common sense plays an important role in an epistemological perspective (see, for instance, Redekop, 2020), as well as in the perspective of cognitive science (Elio, 2002): more widely, the point calls for the role played by the background knowledge within different theoretical patterns.
In light of this scenario and moving from a legal horizon, we have to focus on the pair common man-common sense, in particular on the notion of "common sense" variously conceptualized by some authors.
In particular, we could think of the early intuitions offered in Hart (1994) as well as to the similar idea of "general knowledge" elaborated by Ronald Dworkin (1986, pp. 139-140) and, in this way, to the role played by the horizon of background frameworks developed within the perspectives proposed by theorists like Jules Coleman and Michael Bratman and the exponents of the "shared cooperative activity" (on these conceptual frameworks see Bombelli, 2017, pp. 164ff.).
Always in this direction, some interesting passages concerning the idea of *Glauben* proposed

within Kelsen's theory are to be remarked (Kelsen, 1934/2008, p. 135),[2] also in the perspective of a possible re-reading of the Kelsenian framework. Furthermore, it is to be noticed that the idea of "common sense" has been sometimes conceptualized in a close connection with the category of reasonableness (Artosi, 2009; Kelly, 2009; Hoekstra & Breuker, 2007; Palma, 2006; Barzun, 2004).

At a logical level, the notion of "common sense" is a sort of black box: in other words, it is a multivelel dimension of which only some boundaries can be drawn.

The point can be discussed in light of two levels: the *intensional (conceptual) dimension* and the *extensional projection*.

With regard to the first level (that of the *intensional-conceptual dimension*), the common sense is rooted in a very complex structure involving two sub-points. The horizon of common sense encompasses a heterogeneous list of elements or components, in particular the category of "ought" as well as a wide range of beliefs and behaviours.[3] At the same time, these elements should be considered closely related to each other and in light of their reciprocal connection.

As regards the extensional aspect, the point implies the relation both with the dimension of the "space" and the institutional subject or the legal entity who "formalizes/defines" the common sense: in other words, common sense is to be "defined" as regards its territorial (or communitarian) reference.

From this point of view a question emerges: what is the degree of overlapping between a specific common sense and the corresponding "territory" (that is to say: the modern and legal translation of "space" when it is considered as a "statual space")? Moreover: how can we identify the "(legal, political) subject responsible for" the definition of the common sense and what are the conditions of this complex operation?

Two further remarks or corollaries can be formulated.

At the level of the common experience, the pair valid-invalid seems unsatisfactory.

On a closer view, the experience of the "man of the street" implies a sort of primitive "normative effectiveness" or, through the category proposed by Passerini Glazel (2012), a phenomenon of "operancy":[4] at this level "reality" and "deontic" seems connected. In this way, Conte's idea of "deontic regularity" (2004) seems insufficient or unfit to understand the legal experience and makes room for a different approach. From this point of view, also the notion of "deontic ascriptive proposition" (i.e. a deontic proposition, which is based on the sociological-anthropological observation of the social actors and through which it is possible to articulate the association between a deontic status and multiple conducts or events in order to understand a set of behaviours: Conte, 1995, vol. I, pp. 57-74, especially 69-70), could be useful, especially to remark the close connection between syntactics, semantics and pragmatics implied by ordinary legal experience (see Conte, 2011, pp. 13-26).[5]

In additon, it should be noticed that the dimension of common sense cannot be confused with the "rule of recognition" (Hart, 1994): the former is the pre-condition of the legal experience, the latter involves other levels (including cognitive levels**).**

2 In particular: "Zu Werkzeugen der staatlichen Macht werden sie nur, sofern sie von Menschen im Sinn einer bestimmten Ordnung bedient werden, sofern die Vor|stellung dieser Ordnung, der Glaube, ordnungsgemäß handeln zu sollen, diese Menschen bestimmt" (see also p. 39, p. 105, p. 115 and p. 140).

3 For a wider explanation of this topic Bombelli, 2017, chapter 1.

4 According to Passerini the concept of "operancy" (i.e. "operancy of a norm"), originally proposed by Paolo Di Lucia, is very complex and heterogeneous: it should not be confused with notions like "efficay" (or "fulfillment"), which is only *one* form of "operancy". See Passerini, 2012, pp. 238-244 (and more widely pp. 245ff.) for an analysis of the different dimensions of the idea of "operancy" through eight theoretical paradigms developed by Émile Durkheim, Max Weber, Leon Petrażycki, Theodor Geiger, Niklas Luhmann, Frederik Schauer and Amedeo Giovanni Conte.

5 See furthermore Conte, 2016, pp. 71-77, about the pair 'truth *de dicto*-truth *de actu*'.

4. Deontics and Psychology: Some Husserl's Clues

To this theoretical framework could be raised an important objection.
At a conceptual level, it could imply a confusion between the "deontic" level and "psychology" involving the overlapping between the psychological and the normative dimension. In this way the reference to Edmund Husserl (2005) is useful for two reasons.
Firstly, as it is well known, Husserl, in his *Logische Untersuchungen*, distinguishes between the psychological level and the logical (noetic) dimension. Aiming at a *Fundamentalarbeit*, his model also influenced the scientific debate of the first half of the last century about the nature of law (the idea of "norm") and the relation between law and psychology.[6]
Secondly, in some way there is a continuity between Husserl's framework and Conte's perspective mentioned above: even though in a problematic manner and *à la* Husserl, the Italian philosopher hypothesizes a possible truth of prescriptive propositions understood as their correspondence to "deontic state-of-affairs" (Conte, 1995, I, pp. 17-30).
In light of the topics discussed in the present contribution, Husserl's position can be taken into account with reference to three fundamental points: the relation between logic and practical valuation, the rediscussion concerning psychologism and, finally, the complex model of logic.
Firstly, moving from the idea that logic is a normative and a practical discipline (Husserl, 2005, I, chapter 1) and that the "theoretical disciplines" are to be considered the foundation of the normative ones (Husserl, 2005, I, chapter 2), the German philosopher points out that "[a]normative interest is naturally dominant in the case of *real* (*realen*) objects, as the objects of *practical* valutations". Accordingly "each normative, and, a fortiori, each practical discipline, presupposes one or more theoretical disciplines as its foundations": that is to say, "the theoretical sciences[are]absolutely essential to[the construction of a normative science], perhaps also the relevant groups of the theoretical propositions which are of decisive importance in making the normative discipline possible" (Husserl, 2005, I, pp. 37-39, emphases in the text).
The point for us is the connection with law. In this way, law (i.e., the legal science) should be understood as a "normative discipline" and a "practical dimension", which is closely related to the theoretical and epistemological patterns.
Secondly, we have to consider the rediscussion of the psychologistic perspective proposed by the German philosopher (Husserl, 2005, I, cap. 3). Husserl sums up his analysis as follows: "Have the arguments of psychologistic thinkers really settled this? [...] The argument only proves one thing, that psychology helps in the *foundation* of logic, not that it has the only or the main part in this, not that it provides logic's essential foundation". In addition: "The possibility remains open that another science contributes to its foundation, perhaps in a much more important fashion. [Hence]the place for the 'pure logic' which [...] has an existence independent of all psychology, and is a naturally bounded, internally closed-off science" (Husserl, 2005, vol. I, pp. 44-45; see also I, chapters 4-10).
In this way, we can appreciate the Husserlian idea of "pure logic" and his complex theoretical pattern. In particular, the concept of knowledge conceived as a unity of "objectivity" and "truth" is noteworthy: the expression "knowledge" is to be understood "wide enough to cover both simple acts of knowing, as well as logically unified interconnections of knowledge [...]" (Husserl, 2005, I, p. 145).
Husserl's distinction between logic and psychology, which is elaborated in a phenomenological perspective, is still useful. At the same time, it can be rethought, especially in the consideration of law as a "legal experience": that is to say, moving from the dimension of the

6 Also as regards Kelsen's position concerning the logical-deontic nature of the legal norm dating back to the *Wiener Kreis*: see also the previous remarks about the concept of validity.

"law in action" (the man of the street), which is to be understood as the (legal) norm in a dynamic manner and closely connected to the ordinary experience.
Within the "common experience" and by reasoning through the dimension of common sense, it is difficult to separate or to split the levels. On a closer view, common sense encompasses both levels and does not distinguish in a strict way the logical level, the deontic profile and the psychological sphere (according to an Husserlian/Kelsenian's acceptance).
More precisely, the point can be developed through Husserl's lexicon and categories. Beyond the psychologistic perspective, in consideration of the practical nature of law and also in light of Husserl's idea of logic as a "practical dimension", the "legal judgement" could be understood as a form of "knowledge" or "cognitive understanding" (Husserl, 2005, chapter 11). In other words, the notion of "law" rooted in the ordinary experience could be considered as a sort of theoretical *as well as* practical "act of knowledge": "every explanatory interconnection is deductive, but not every deductive interconnection is explanatory. All grounds are premises, but not all premises are grounds" (Husserl, 2005, I, p. 147).
In this way, always by reasoning through Husserl's categories, law can be understood as a "putative meaning" (Husserl, 2005, I, p. 206) and, in the same way, we could adapt to law what Husserl points out about the relation apperception-expressions/intuitive presentations (Husserl, 2005, I, pp. 213-215): "law" should be considered as a sort of "act of meaning", within which "we are not conscious of meaning as an object" (Husserl, 2005, I, pp. 232-233).[7]
More precisely, the theoretical as well as the practical intuition of "law", for instance the notion of general and legal disposition (i.e. its various names: loi, lex and so on), seems to play the role of the "general idea" described by Husserl concerning the processes of "abstraction" and "representation" (Husserl, 2005, I, pp. 277-278 and 278ff.).[8]
The point can be also deepened by referring to the phenomenological approach developed by Husserl.
Moving from the idea of "consciousness" as an intentional experience (Husserl, 2005, II, pp. 94ff.), which involves a particular concept of "presentation" and "presentational content" (Husserl, 2005, II, pp. 146,175), the common sense underlying the "experience" of law involves a form of "presentational" (to speak *à la* Conte: deontic) content. In the same way, the Husserlian pair form-content and the function of "categorial forming" appears very useful (Husserl, 2005, II, pp. 306-308): at the conceptual level, is law understandable as a "forming category"? From this point of view, some analogies with the idea of "legal formants" developed by Rodolfo Sacco are to be remarked (Sacco,1991a; 1991b), especially in light of the role played by implicit dimensions underlying law and the "experience" of law.
By reasoning on "non-objectifying acts as apparent fulfilments of meaning" and with particular regard to the idea of "decision", Husserl summarizes his position as follows: "*The ostensible expressions of non-objectifying acts are really contingent specifications of statements and other expressions of objectifying acts which have an immense practical and communicative importance*" (Husserl, 2005, II, pp. 333, but see also pp. 323-334; emphases in the text).
In this way, it is noteworthy that within the contemporary philosophical-legal debate there are some tracks or clues in order to rethink the separation or distinction between different dimensions.

7 Furthermore, see pp. 239-240 as regards the intentionality concerning "universal objects".
8 Furthermore, see II, pp. 51-55 concerning the "complexity of meaning and complexity of the concrete act of meaning", including the implied meanings and the question of the meaningfulness of the "syncategorematic components of complex expression".

In particular, we should refer to some recent philosophical-legal and sociological-legal research:[9] they are different attempts to redefine and rediscuss the boundaries between the normative approach and the psychological dimension, in order to highlight the possible and reciprocal "intersections" also as regards to the pair truth-validity.

5. Truth and Validity "in Action"

This conceptual framework can be analyzed in depth by considering the dimension of "effectiveness" or, according to another perspective, the *actual* behaviour of the "man of the street".

The point will be developed through two steps closely related to each other: the analysis of two meanings of "effectiveness"-"efficacy" (i.e. hereinafter understood as the real legal behaviour: on this pair Conte, 2011, pp. 73-86) and, in light of a logical connection, the horizon of beliefs.

With regard to the first point, it is necessary to distinguish two meanings of "effectiveness" (i.e., real legal behaviour). The first meaning concerns the conceptual assessment about the degree of the adhesion of the social actor to the normative disposition. In other words, the space or distance between a "norm" and the actual behaviour: this is the traditional acceptation of "effectiveness" belonging to the continental legal dogmatics.

The second meaning entails the pure "fact" of the behaviour. In this case the reference encompasses a series of frameworks related to behaviours *in some way* concerned with law, or better with what is commonly felt and understood as a normative or legal *vinculum*.

From this point of view, the behaviour of the common people implies a sort of overlapping or interconnection between the two levels: in other words, in some way it is *always* nomotropic (i.e. understood as an agency with reference to a known or supposed universe of "rules"). This is why for the common man the conceptual distinction between "true" and "valid" is not relevant and is secondary: one could say that the common man, the "man of the street", is reflexively and practically nomotropic.[10]

The "man of the street" is a sort of nomotropic animal "in action". To put it in another way: the "man of the street" normally *believes* that rules, that is to say the element and facts generally felt or believed and understood as legally relevant for him, are true. In other words, he cognitively *supposes* that they are true and/or valid.[11]

Two corollaries are to be remarked.

First corollary. At the level of common sense, the (possible, potential) "control" of the distinction between "truth" and "validity" occurs only *after* the "experience of law". That is to say: in a successive step and only in light of specific conditions: for instance, the historical-contextual necessity to establish the relation between truth and validity. In other words: a "true norm" *becomes* valid or, in another direction, a "valid norm" has no relation with the dimension of truth.

Second corollary. The analysis seems to suggest the necessity to find out a particular semiotics in order to understand the legally relevant behaviour of the "man of the street". More precisely, there is a sort of intersection between the deontic level and the pragmatic

9 See, for instance, Celano, 2017, who talks about a psycho-deontic; Cominelli, 2018 and Bombelli, 2022a.

10 See also Conte's model of nomotropism: Conte, 1995-2001, I, pp. 117-145 concerning the effectiveness of the legal orders; Conte, 1995-2001, II, pp. 47-56 and 57-72; Conte, 2011, pp. 47-56.

11 In this way, for instance, some passages of Blaise Pascal's "Thoughts" [Pensées] concerning the relation between "custom" (i.e. "habit", "practice"; "habitude", "coutume") and the range of "beliefs" underlying (and beyond) the legally relevant behaviour are paradigmatic: when compared with other perspective (i.e. Montesquieu's "Essays"[*Essais*]), Pascal's framework highlights the complexity of the ordinary experience of the legal normativity (on this topic Gazzolo 2022). Anyway, see also *infra* about the customary law.

dimension: within the legal experience "validity" and "truth" in some way are closely intertwined.[12]

These remarks introduce to the second aspect above mentioned: the horizon of "beliefs". As it is well known, the attention to this horizon dates back to Weber's and Wittgenstein's sociological-philosophical perspectives (Weber, 1922; Wittgenstein, 1974; furthermore, Bombelli, 2017), but it also involves the legal sphere.
In a paradigmatic manner, we can refer to the classical problem of customary behaviour and its relation with law. From the positions elaborated by the German Historical School of Jurisprudence (Savigny, 1840-1849; Puchta, 1828) till Norberto Bobbio's theory of "custom" (Bobbio, 1942), the debate about the role played by the "beliefs" (*opinio*) within law has highlighted the necessity to clarify the relation between the "norm" and the complex universe of conducts (including the world of "beliefs": Bombelli, 2022b). As regards this aspect, the crucial point is the definition of the *nature* as well as the *identification* of the origins of the common behaviour considered as customary law (including the conditions of its legal relevance).
Two further corollaries.
First corollary. In light of these premises, the "psychological" (better and *lato sensu* mental) dimension becomes crucial. Some of the aforementioned works aim at providing some keys in order to explore and to highlight the complex horizon underlying the "normative" behaviour, which is rooted in the "common sense": in the present contribution this framework has been defined as a "black box" closely related to the "cognitive" level.
Second corollary. Placed on the ambiguous line separating the implicit background (common sense) and the explicit dimension (i.e., the positivist idea of normative source) underlying the legal experience, the universe of the "norms (rules)" becomes a series of tools oriented to a double goal: for the "man of the street" the distinction between norms and principles is irrelevant. On the one hand they can be considered as a sort of "indication" for the correct (i.e., in a positivist sense) conducts, on the other hand they play the role of an "orientation" of the behaviours: in other words, the condition for a rule-guided behaviour (for a comparison concerning this latter notion see, for instance, Shapiro, 2005).
Finally, once again it is to be emphasized that for the "man of the street" the different levels are always closely related to each other and, in some way, intertwined. In this perspective, Wittgenstein's idea of *Lebensform* can be fruitful (Conte, 1995, II, pp. 267-312 and 315-346): in the last analysis, the notion of "law" elaborated and experimented by the "man of the street" gives rise to a form of "legal *Lebensform*".

6. Some (Provisional) Conclusions

We can try to fix some final points, or provisional conclusions, through some questions.
First question. Is the distinction truth-validity really decisive within the legally relevant common behaviour (i.e. actual behaviour)? In other words: does the distinction truth-validity matter for the common people?[13]

12 This framework could be also described by Kripke's model based on the idea of "possible worlds" (Kripke, 1959: Hintikka, 1967) or, starting from another perspective, through Wittgenstein's concept of "rule" and "following rule" connected to the horizon of common sense and a set of assumptions (Wittgenstein, 1958, I, nr. 54, 27; on this point Conte, 1995, I, pp. 173-191, in particular footnote 11 concerning the notion of "presuppositions" and "assumptions", and pp. 237-254 as regards the concept of "rule" within Wittgenstein's model; furthermore Conte, 2001, III, pp. 921-945 and 947-986; Conte, 2016, pp. 181-199), which can be compared to the category of *Annahme* developed by Alexius Meinong (Meinong, [1902]1977: see also Raspa, 2012 and Lenoci, 1972, especially chapters 4-5 concerning the notions of *Meinen* and *Denken*).
13 Conte (2011, pp. 1-12). Furthermore pp. 87-92 as regards the possible meanings of the concept of "effectiveness" and pp. 93-96, concerning the complex relation between "*Norm*" and "*Normsatz*" within Theodor Geiger's framework

Second question. In the case that the distinction truth-validity has only a conceptual relevance, what is the relation among the many levels connected to the legal experience?[14]
Third question. What are the reflexes of this approach as regards the theory of law? More generally: what is the "model" of law emerging from the framework suggested in this paper?
The final impression is that the pair truth (variously understood at many levels)-validity (especially understood according to the paramount theory of law elaborated within the last century) belongs to a particular conceptual-cultural context (the last two centuries) and it gradually loses relevance. The increasing modification of the "legal environment", that is to say the political-institutional changes and the implementation of the legal orders, involves a paramount reconfiguration of the relation between the concepts of "form" (validity?) and "content" (truth).
In other words: the increasing role of the pragmatic or "performative" dimension, which moulds the legal scenario of the contemporary complex societies, puts in question some classical/modern conceptual distinctions (like the pair truth-validity).
This does not imply that the mentioned couple should be disregarded, but it maybe requires or elicits new conceptual tools. In conclusion and in a wider perspective: what is the consequence of the approach suggested in this paper about the relation between the "theory of law" and the "practice of law" or, in a similar way, between "(legal) theory" and "(legal) praxis"?

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and, more generally, the comparison between "*Normsatz*" and "*Satznorm*" including a reference to Rodolfo Sacco's perspective.
14 Conte, 2011, pp. 1-12; furthermore pp. 87-92 on the complex levels implied by the relation among behaviors, facts and rules.

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