

# A Response to Four Critics of *The Long Arc of Legality*

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## Abstract

The four participants in the panel on my book offered very different critiques, so I responded to them separately. But, as will be clear from my responses, I have learned from all of them much about not only the arguments I made which attracted their criticism, but also about how to take forward those arguments in my future work. My first response to Luca Malagoli focuses on how best to interpret Hobbes. My responses to both Brian Bix and Giovanni Battista Ratti relate mainly to differences in methodology. Finally, I respond to Alejandro Daniel Calzetta's challenge based on the problem of unjust law.

**Keywords:** Hobbes. Norberto Bobbio. HLA Hart. Legal Positivism. Natural Law. Unjust Law.

The four participants in the panel on my book offered very different critiques, so I will for the most part respond to them in separately below. But as will be clear from my responses, I have learned from all of them much about not only the arguments I made which attracted their criticism, but also about how to take forward those arguments in my future work.

## 1. Luca Malagoli

In *A Tale of Two Hobbes: Brief Remarks (through Turinese eyes) on the Second Chapter of David Dyzenhaus, The Long Arc of Legality*, Professor Luca Malagoli says

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that it is surprising that I did not «fully engage in a detailed discussion» of Norberto Bobbio's interpretation of Hobbes<sup>1</sup>. I regard Bobbio as not only one of the leading political and legal philosophers of the last century, but also as one of its best Hobbes scholars, so I agree that a full engagement with his wonderful essays on Hobbes is a most worthwhile undertaking. But the chapter of my book devoted to Hobbes was not the place to do this, nor is it appropriate here to write as much as would be required to respond fully to Luca's provocative yet constructive critique of my chapter on Hobbes. Indeed, he has inspired me to one day take up the challenge of a closer engagement with Bobbio, not only his essays on Hobbes, but also those essays set in the perspective of his sophisticated and complex general legal theory<sup>2</sup>. For now, I will confine myself to a response to Luca's main argument.

The aim of the chapter on Hobbes in my book is to present in its best light the common orthodox view to which Bobbio and most other leading Hobbes scholars subscribe and then to show both why my unorthodox view makes better sense of more of the text than they manage and why Hobbes considered the correct design of legal order to be crucial to the normative mission of the modern state. In this regard Luca's title is instructive, though not precisely in the way he supposes. For him *A Tale of Two Hobbes* is about two conflicting interpretations, my interpretation of Hobbes as a pioneer of our conception of the modern rule-of-law state, in which an account of natural law plays a role, and Bobbio's interpretation of Hobbes as a positivistic absolutist with the role of natural law confined to underpinning the legal subject's duty of obedience to law. But that's not the real issue. Rather, the issue is that Hobbes himself, as Bobbio was very aware, told both tales and the problem for Hobbes scholars is whether these can be reconciled. I believe the tales can be reconciled and offer extensive text-based arguments to show that Hobbes's laws of nature amount to something equivalent to the fundamental principles of legality the American legal theorist Lon L. Fuller argued must be observed if a legal order is to be maintained and, if maintained, give rise to an «inner morality» of order that establishes «a bond of reciprocity» between ruler and ruled<sup>3</sup>.

However, Luca does not consider any of these arguments, nor the textual evidence for them. Instead, he quips that my «Hobbes is not only a brilliant disciple of Hart, but also an attentive reader of Fuller, Dworkin and Raz»<sup>4</sup>. But that's not the way my argument works. Rather, it sets out Hobbes's legal theory and then interprets the debates in philosophy of law of the twentieth century in the light cast by that theory. Here I find instructive the advice of one of the most eminent philosophers of our time, Thomas Nagel, who criticized an author of a book on the phi-

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<sup>1</sup> *Supra*: 127.

<sup>2</sup> For a first attempt at getting to grips with Bobbio's general legal theory, see Dyzenhaus 2025.

<sup>3</sup> Fuller 1969: 38-44.

<sup>4</sup> *Supra*: 126.

losophers of the Enlightenment, including Hobbes, for saying that we should resist the temptation to think that such philosophers speak «our language and live in our world». Nagel pointed out very effectively that the issue «isn't that they speak our language, but that we speak *their* language, because our world has been significantly formed by them»<sup>5</sup>. My book is thus an extended argument that we need to recover the rich resources in the language of Hobbes's legal theory in order to become better speakers ourselves of our contemporary version of *his* language. This legal theory Hobbes set out most elaborately in *Leviathan*.

That *Leviathan* is my main source for my view is of some significance. Before the war, Hobbes scholarship, particularly in Europe, tended to take Hobbes's *De Cive* as its main text and Bobbio explains that his own journey as a Hobbes scholar began in 1948 when he revised an Italian translation of the book and edited it for publication<sup>6</sup>. While he often referred to *Leviathan*, I think it fair to say that for him *De Cive* remained the main text. So much is reflected in the argument of his *Natural Law and Civil Law in the Political Philosophy of Thomas Hobbes* on which Luca relies in his attempt to refute me.

Luca adopts Bobbio's claim that the laws of nature are «empty formulas, which civil power alone can fill with specific content», a claim which Bobbio bases on the following passage from *De Cive*: «Theft, murder, adultery, and all injuries, are forbid by the laws of nature; but what is to be called *theft*, what *murder*, what *adultery*, what *injury* in a citizen, this is not to be determined by the natural, but by the civil law»<sup>7</sup>. He says that in my «rather quick assessment of Bobbio's position on this (central) point», I seem to «overlook» this «crucial» passage<sup>8</sup>.

But both he and Bobbio fail to notice that even in *De Cive* this passage occurs in chapter VI, where Hobbes is discussing the rights of sovereign authority, not the earlier chapters II and III where Hobbes sets out the laws of nature. In addition, Hobbes in this passage says the crimes he lists are forbidden by the law of nature, and that it is up to the civil power to give them content, not that they themselves are laws of nature. Hence, it cannot follow from a passage about criminal law that the laws of nature are «empty formulas, which civil power alone can fill with specific content», only that the laws of nature require that the sovereign establish a system of criminal law and give specific content to the individual laws. Indeed, it does not even follow that these criminal laws are empty formulas. Imagine a sovereign who commands that marriage is a union of a man and a woman, that marriages will be invalidated if not consummated, that adultery is a crime punishable by death, and the law prohibiting adultery defines it as sexual relations between a lawfully wedded

<sup>5</sup> Nagel 2023: 229. Emphasis in the original.

<sup>6</sup> Bobbio 1993: viii.

<sup>7</sup> *Supra*: 132; Bobbio 1993a: 130-1, quoting Hobbes 1998: 6.16, 86.

<sup>8</sup> *Supra*: 132.

husband and wife. Hobbes would be aghast if his legal theory committed him to the position that subjects should think that this law on adultery is not only correct law, but also required by the laws of nature. Indeed, his chapters in *Leviathan* on crime and punishment are clear that the content of the criminal law of the modern rule-of-law state is structured by the laws of nature set out in chapters 14 and 15.

That Bobbio and Luca fail to notice these important features of Hobbes's position, present in *De Cive*, but much more pronounced in *Leviathan*, has much, I think, to do with the inevitable influence of the assumptions that come from the particular traditions of thought in which we all operate, in their case the mindset of civilian lawyer attuned to Kelsen and the mindset of someone like Hobbes operating within the common law tradition. I am of course keenly aware of Hobbes's opposition to Sir Edward Coke, one of the leading exponents of the common law tradition, an opposition which Bobbio charted in his *Introduction to De Cive*<sup>9</sup>. But Hobbes himself, as I have argued elsewhere<sup>10</sup>, could not but help being deeply marked by that tradition in ways that Bobbio and others from his tradition are disposed to overlook.

In *Natural Law and Civil Law in the Political Philosophy of Thomas Hobbes*, Bobbio does notice that the passage on which Luca relies from *De Cive* is not to be found in *Leviathan*, saying that «[n]ot only does Hobbes expunge it from *Leviathan*, he also assigns a much greater role to natural law». It follows, Bobbio thinks, that the thesis of «empty formulas» «holds only for *De Cive*»<sup>11</sup>. What then does he make of this greater role for natural law? While he suggests that we should be cautious in seeing in Hobbes's theory a rigorously positivistic system *tout court*, «which is still centuries away», he proceeds to throw caution to the winds. He does so by pinning on Hobbes the Kelsenian thesis that Hobbes confronts this problem of the greater role by portraying judges as filling in the «gaps in the legal order» that arise when the civil law is indeterminate, that is, deciding on the basis of their subjective views of right and wrong<sup>12</sup>. Natural law, on this account, amounts to judicial moral subjectivism.

But that is far from what Hobbes sets out in his account of the judicial role, which is not one of “gap-filling”, but of “interpretation”. Useful here is Bobbio's observation in an essay on HLA Hart in which he offers as an example of the «confusion» that arises when philosophers try to communicate across language barriers and between traditions, the fact that European philosophers of law tend to make a distinction, which Anglo-American philosophers of law do not, between «legal order» and «legal system». Bobbio illustrates the distinction thus

<sup>9</sup> Bobbio 1993b: 110-13.

<sup>10</sup> Dyzenhaus 2021.

<sup>11</sup> Bobbio 1993a: 132.

<sup>12</sup> Bobbio 1993a: 132-36.

Two works (of considerable value) on the legal system have appeared in a short time: *The Concept of a Legal System* by Joseph Raz<sup>13</sup> and *Normative Systems* by Carlos E. Alchourrón and Eugenio Bulygin.<sup>14</sup> If you think that the two works deal with more or less the same topics, you are mistaken: the two works are fundamentally different in content. But this is precisely due to the fact that one work deals mainly with problems that we would rather classify under the label of legal order, while the other one examines and discusses mainly while the other one examines and discusses mainly the problem of gaps, which is one of the fundamental problems of the theory of legal order as a system<sup>15</sup>.

However, in Hobbes's case, the distinction is useful mainly because it brings to the surface that he contests it, as do Fuller and Dworkin centuries later. As I set out in my book, Hobbes states that before validly enacted laws can become binding, there is another «very material» condition to be met: the laws have to be given an «authentique Interpretation», a condition necessary because «All Laws, written, and unwritten, have need of Interpretation»<sup>16</sup>. In stating this condition as one that must be fulfilled for a legal order to function, Hobbes makes the interpretability of laws, which for Bobbio is a phenomenon belonging to inquiry into legal system, into an existence condition of legal order.

Moreover, Hobbes emphasizes that the judge's duty is to give a «reasonable interpretation», which is the interpretation that accords with the laws of nature lest he insult the sovereign by supposing that his intention could be other than «Equity». If the judge cannot reach a reasonable judgment, he should «respit Judgement till he have received more ample authority»; the judge should, that is, defer judgment and consult the sovereign<sup>17</sup>. Thus, legislative intention is for Hobbes a matter of construction by judges in light of their understanding of the laws of nature, which makes his account of judicial interpretation of statute law quite similar to that put forward by the common lawyers, save for Hobbes's hostility to precedent. But even that hostility is qualified because Hobbes did not oppose a doctrine of precedent when it comes to «mutable» laws or statutes<sup>18</sup>. Even a mistaken interpretation by a judge of statute law binds into the future. It is true that its force into the future depends on the sovereign permitting this state of affairs to persist. However, this marks no practical disagreement with the common lawyers since they also think that the persistence of such precedent is conditional on the legislature not choosing to overrule the judgment.

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<sup>13</sup> Raz 1970.

<sup>14</sup> Alchourrón, Bulygin 1971.

<sup>15</sup> Bobbio 2025b.

<sup>16</sup> Dyzenhaus 2022: 111-15; Hobbes 1994: xxvi. 20, 180.

<sup>17</sup> Hobbes 1994: xxvi.26 183.

<sup>18</sup> Hobbes 1994: xxvi.24 181.

I'll close this part of my response by noting that Bobbio differed from both Kelsen and Hart in that he recognized «the ethical postulates of legal positivism»: «i.e. the principle of legality, order as the main objective of the state, certainty as the value of law, were developed in the eighteenth century by liberal doctrine, from Montesquieu to Kant, in order to curb despotism, that is, as a brake against the arbitrariness of the prince, as a defence of individual liberty against the excessive power of the executive, as a guarantee of equal treatment against privilege»<sup>19</sup>. In my book, I argue that with such recognition the differences between legal positivism and theories of law of the sort put forward by Fuller and Dworkin begin to vanish. Moreover, it follows that legal officials should understand their role in interpreting the law as seeking to further these «ethical postulates», not conceived as extra-legal considerations, but as principles intrinsic to legality. That is an understanding from what Hart called the «internal point of view»<sup>20</sup>; and that viewpoint, as Fuller and Dworkin argued, regards the exercise as interpretation of what the law requires, not as one that amounts to filling in gaps because the law has run out.

## 2. Brian Bix

In *Legality as Such: Further Thoughts on David Dyzenhaus, The Long Arc of Legality*, Professor Brian Bix presents for the most part a reconstruction of the methodology of my overall argument. His account is not only generous, but also really helpful to me in understanding what I was trying to achieve, and so I'm most grateful. Here I will focus on the two challenges he identifies.

The first is that Brian sketches a «stark alternative» to my position which I did not sufficiently confront: «the argument that law has *no* necessary or implied content, that it involves, on its own, *no* express or implied promise to subjects, and that it can contain the most egregious immorality (or procedural irregularity) and still be “law”, “legal”, or “a legal norm”»<sup>21</sup>. He illustrates this with an example taken from philosopher of law Matthew Kramer of a hypothetical country, «Despotia», where «the norms which establish legal requirements are imperatives rather than prescriptions» and «the pronouncements that affirm legal duties ... do not necessarily advert or profess to advert to any more reasons-for-action»<sup>22</sup>.

Here I confess that I have trouble understanding why this hypothetical should trouble me. Kramer says further that the

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<sup>19</sup> Bobbio 2025a.

<sup>20</sup> Hart 1994: 88-9.

<sup>21</sup> *Supra*: 143. His emphasis.

<sup>22</sup> Kramer 1999: 89.

Despotian officials do not mince words when they invoke the directives which they enforce. Their assertions of those directives amount to variations on a circular theme: “You [the addressees] must do these things because the prevailing norms enjoin you to do them”. Thus, since the requirements imposed by the Despotian regime will be characterized by officials and other people as legal duties, the pronouncements that affirm legal duties in such circumstances do not necessarily advert or profess to advert to any moral reasons-for-action<sup>23</sup>.

Kramer is defending here Hart’s position that legal duties are only contingently moral duties and his target is Joseph Raz’s claim that a legal order must claim legitimate authority, even though it may not have it, and that officials must therefore ally themselves with that claim. In enforcing the law, the officials are at least pretending that when they say to X «You have a legal duty to do ...» they are implying that «You have a legal duty to do ... because you have a moral duty»<sup>24</sup>.

I may be collateral damage if Kramer is correct because I do ally myself with Raz in this debate with Hart insofar as I accept that if we are going to explain the authority of law, as both Hart and Raz following him thought it incumbent on philosophy of law to do, Raz is correct that the task is to explain law’s legitimate authority, and thus I reject Hart’s position that the authority of law should be explained without any reference to legitimacy. However, the way I just put things also indicates my alliance with Hart insofar as Hart does not seek, like Raz, to explain the authority law *claims*, but the authority law *has* as law. That leaves me with the difficult task of explaining why it is that all actual legal orders are to some significant extent legitimate; and I do undertake that task, mainly in chapter 5 of my book.

I will not summarize my argument there other than to say that the chapter seeks to vindicate Fuller’s argument, sketched in my response to Luca Malagoli, by reverting to a social theory of ideal types of state that shows that legal orders lose their quality of legality as they lose their ability to answer the question that I argue throughout the book should be central to philosophy of law: the legal subject’s question, «But, how can that be law for me?» Of course, if Kramer’s Distopia is a genuine counterexample to my argument, I am in serious trouble. Here are the main reasons why I think I can remain untroubled.

The first relies on Hart’s *Jhering’s Heaven of Concepts* in which he expresses his affinity to that great German lawyer’s distrust of philosophy of law when it confines itself to inquiry in such an ethereal space and urges us to embrace «the need to return to earth»<sup>25</sup>. But Hart’s call to philosophers of law is ironic given that his legacy in philosophy of law is conceptual analysis which disdains inquiries into the real world of law as “parochial”. Notice that an inquiry that takes place in the heaven

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<sup>23</sup> Kramer 1999: 89.

<sup>24</sup> Raz 2983.

<sup>25</sup> Hart 1983: 277.

of concepts is one susceptible to counterexample from the hell of concepts, that is dystopian counterexamples. Since my inquiry is one on earth, my first reason is that I simply don't care about feats of imagination that go to show that things would be different if, for example, legal theory focused not on actual legal orders, but on orders as imagined in dystopian novels.

The second reason does enter into the conceptual game. Kramer needs to explain what "must" means in «You [the addressees] must do these things because the prevailing norms enjoin you to do them». If it means «because otherwise you will be punished», he would be assuming a command theory of law and, according to both Hart and Raz, failing to address law's dimension of authority. So I think that when he says «Their assertions of those directives amount to variations on a circular theme», the "must" refers to nothing outside of the command. If that's right, I am baffled.

When I was a small child and questioned one of mother's prescriptions with "Why?" she would respond «Because Y is a crooked letter and you can't make it straight». I understood of course that I might be punished in some way if I did not obey. But I did not understand the response itself until later in life, which was precisely the point. That is, she was saying something like: «You are too young to understand now, but my say so suffices because as your mother I'm an authority over you, and that's because of my superior wisdom and experience and general devotion to your interests, as evidenced in my judgments about what's in your interests, all of which makes me a legitimate authority». All claims to legitimate authority, indeed to authority as such, are elliptical in this way.

That brings me to the third reason. In his debate with Raz, Hart confessed that the idea of morally inert norms entailed in his theory is deeply unsatisfactory<sup>26</sup>. In my book, I argue at some length that when Hart and Raz following him made the issue of law's authority central to their inquiry into the nature of law, they found themselves caught in a dilemma between an account of authority which seemed vacuous because legal obligations are seen as morally inert, as in Hart, and one that came perilously close to a natural law account which builds moral aspirations into the concept of law, as in Raz. They both saw the need for a way out of this dilemma but could not offer one. My book as a whole is devoted to the task of making such an offer.

Brian's second challenge is that my legal theory faces a problem for legal theory in general – «that jurisprudential views about the enforcement of law often hide in their premises about law aspects of their conclusions regarding what judges should be enforcing». I think the answer here is not to hide. One needs to make explicit the value-basis of one's theory so that it can be properly contested, as we saw Bobbio did above when he stated the ethical postulates of legal positivism. This challenge in fact has little or no purchase against those who with me, for example, Fuller and Dworkin do not subscribe to the myth of value-free analysis.

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<sup>26</sup> Hart 1982: 266-68.

### 3. Giovanni Battista Ratti

I agree with almost all of Professor Giovanni Battista Ratti's most generous set of reflections so will focus on the few points of difference. But I would also like to mention that the source of my inspiration for my critique of Hart's rule of recognition is the same as his, that is, Riccardo Guastini's perceptive account of Hart, itself inspired by Bobbio<sup>27</sup>.

In regard to the points of difference, I can be brief. Giovanni charges me with having confused methodological positivism with theoretical positivism. But, as I mentioned above, I think such distinctions are useful only because they make explicit that some approaches to philosophy of law reject the distinction in question. I also wonder about the utility of affirming, as Kelsen did, that all judgments about what the law requires involve a moment of choice or discretion. That is trivially true and so not at stake in the debate between exclusive and inclusive legal positivists, though I will repeat my claim in my book that I do not think there was anything ever much at stake in this debate.

The only important difference is that Giovanni thinks Hart's positivism can escape some of the problems I pose by ditching the "internal point of view" and the issue raised by the introduction of that idea in having to account for "acceptance" as constitutive of the authority of legal order. Here my response is that the theory that would emerge after such steps would bear little relation to what Hart set out in *The Concept of Law*, so I find it difficult to see how this suggestion helps Hart.

In addition, I think I may have a different understanding from Giovanni's of Bobbio's critique of Hart's ideas of the internal point of view and acceptance. As I understand Bobbio, he was not in any way suggesting that Hart should ditch these ideas because of the problems they raised for him, only that Hart needed to confront these problems fully. The argument of my book that philosophy of law needs to explain the legitimate authority intrinsic to legal order, and that Hart's positivism can be understood as an attempt to do just that, seems to me one way of confronting these problems. This argument is very effectively summarized in Giovanni's essay and in general his account of what I was trying to achieve will be most useful as I try to take the project of my book forward.

### 4. Alejandro Daniel Calzetta

Professor Alejandro Daniel Calzetta's paper focuses on what I call «the puzzle of unjust law» by setting out his own position on this topic. Since he does not address my formulation of the puzzle, and since it drives the whole argument of

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<sup>27</sup> Dyzenhaus 2022: 219-22.

my book, I first set it out and then conjecture how his position might address it.

At the very outset of my book, I claim that the puzzle of unjust law is central to philosophy of law. It arises when the content of a law is deeply immoral, yet it appears that because the law is valid it has some normative force such that officials, including judges, are under an obligation to apply and enforce it, and subjects are under an obligation to obey it. That puzzle is derivative of a deeper puzzle – the puzzle of legal authority. It arises when one regards law as both a matter of right and might<sup>28</sup>.

However, it arises if and only if one supposes that law is more than might. If with Bentham and Austin one reduces law to coercion, or with Alf Ross to predictions about implementation, there is no puzzle. Hence it arises only for those philosophers of law who do not make that reduction since they think it is incumbent on philosophy of law to explain law as a matter of authority. Since Hobbes, Hart, Kelsen, Raz, Fuller, and Dworkin accept that explaining the authority of law is perhaps the central task for philosophy of law, they are all confronted by these puzzles. In my book, I try to draw on resources common to all of them to offer an analysis of the puzzle of unjust law that arrives at an attractive explanation of law's authority as legitimate.

As far as I can tell, Alejandro accepts something like Hart's position that a judge is under a morally inert legal duty to apply an unjust law and under a moral duty not to apply it. Hart would add in *The Concept of Law* that the judge in such a dilemma should heed the call of moral duty and not apply the law<sup>29</sup>. I say "something like" because Alejandro, in contrast to Hart, seems to endorse a very strong non-cognitivist position according to which the claim that there is a moral duty is merely an expression of subjective preference. It would follow that the only available objectively determinable duty is the one to apply the law. Hence, the judge should apply it. But, as both Fuller and Dworkin pointed out, if the legal duty is morally inert or weightless, it is hard to make sense of this kind of position, whether Hart's version or the version that I think one can infer from Alejandro's paper<sup>30</sup>. Note that Hart in his last reflections on this topic confessed that his account of legal duty is unsatisfactory<sup>31</sup>.

Since such puzzles trigger the whole argument of a long book, I will not attempt here to summarize it. I do, however, think that two parts of my response to Luca Malagoli may be helpful. The first, also invoked in my response to Brian Bix, is my sketch in chapter 5 of a social theory of ideal types of state that shows that legal orders lose their quality of legality as they lose their ability to answer the question that I argue throughout the book should be central to philosophy of law: the legal subject's question, «But, how can that be law for me?» My second is to Luca's Bobbian account of Hobbes in which I claim that for Hobbes the reasonable interpretability

<sup>28</sup> Dyzenhaus 2022: 1-5, chapter 1.

<sup>29</sup> Hart 1994: 211.

<sup>30</sup> Dyzenhaus 2022: 74-75, note 77 at 171.

<sup>31</sup> Hart 1982: 266-7.

of the law is an existence condition of legal order. Together these may address the position Alejandro has in mind since the first may address his claim about “easy cases” of unjust laws and the second his contrast class of «not-quite-so-unjust laws»<sup>32</sup>.

Moreover, when Alejandro gives examples of the second, he exposes a rather severe tension in his argument. On the one hand, from his own account it seems clear that the judges in these matters found through an exercise of interpretation legally cogent reasons to avoid an unjust conclusion. On the other hand, Alejandro’s non-cognitivism obliges him to assert that «[j]ustice is in the eye of the beholder»<sup>33</sup>, that is, this was just an expression of subjective opinion disguised as a judgment about what the law required, the kind of judicial moral subjectivism I identified above. If, as Hart rightly urged, we need to take the internal point of view of judges seriously in order to understand law in the register of authority, we also, as Dworkin famously argued, need to take seriously their view that their conclusions about what the law requires are fully determined by law.

My sense from Alejandro’s paper, and also from Giovanni Battista Ratti’s, is that for them philosophy of law should be done from a position that espouses non-cognitivism about ethics and correspondingly a theory of law that reduces law to some supposedly observable facts, for example, coercion or implementation. In my view, that position has the great virtue of making the choice in philosophy of law clear. Either a legal theory that does without any account of law’s authority or one that seeks to understand not, as Raz would have it, that law necessarily claims legitimate authority, but why law has the legitimate authority it claims. The latter claim is the argument of my book and I’m most grateful to my four critics for prompting me to attempt some clarifications here.

## References

- Alchourrón, C.E., Bulygin, E. (1971). *Normative Systems*, New York, Springer Verlag.
- Bix, B. (2025) *Legality as Such: Further Thoughts on David Dyzenhaus*, The Long Arc of Legality, in this volume.
- Bobbio, N. (1993). *Thomas Hobbes and the Natural Law Tradition* (Translation by Daniela Gobetti of N. Bobbio, *Thomas Hobbes e il diritto naturale*, Torino, Einaudi, 1989), Chicago, Chicago University Press.
- Bobbio, N. (1993a). *Natural Law and Civil Law in the Political Philosophy of Thomas Hobbes*, in id., 114-148.

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<sup>32</sup> *Supra*: 164.

<sup>33</sup> *Supra*: 168.

- Bobbio, N. (1993b). *Introduction to De Cive*, in Id., 74-113,
- Bobbio, N. (2025a). *Aspects of Legal Positivism*. (Translation by Giovanni Battista Ratti of “Sul positivismo giuridico” in (1961) LII *Rivista di filosofia* 14), «Jurisprudence», forthcoming.
- Bobbio, N. (2025b). *On Secondary Rules*. (Translation by Giovanni Battista Ratti of *Per un lessico di teoria generale del diritto*, in *Studi in memoria di Enrico Guicciardi*, Padova, Cedam, 1975, 47-55), «Jurisprudence», forthcoming.
- Calzetta, A.D. (2025). Once More unto the Breach, Dear Friends, Once More. *The Puzzle of Unjust Law between Theoretical and Practical Realities: A Brief Comment on The Long Arc of Legality*, in this volume.
- Dyzenhaus, D. (2021). *Thomas Hobbes and the Rule by Law Tradition*, in J. Meierhenrich, M. Loughlin (eds.), *The Cambridge Companion to the Rule of Law*, edited by, Cambridge, Cambridge University Press, 261-277.
- Dyzenhaus, D. (2022). *The Long Arc of Legality. Hobbes, Kelsen, Hart*, Cambridge, Cambridge University Press.
- Dyzenhaus, D. (2025). *Norberto Bobbio and HLA Hart: An Introduction*, «Jurisprudence», forthcoming.
- Fuller, L.L. (1969). *The Morality of Law*, New Haven, Yale University Press.
- Hart, H.L.A. (1982). *Essays on Bentham: Jurisprudence and Political Theory*, Oxford, Oxford University Press.
- Hart, H.L.A. (1983). *Jhering's Heaven of Concepts and Modern Analytical Jurisprudence*, in Id., *Essays in Jurisprudence and Philosophy*, Oxford, Clarendon Press, 265-277.
- Hart, H.L.A. (1994). *The Concept of Law* (1961), Oxford, Clarendon Press, II ed.
- Hobbes, Th. (1998). *De Cive* (the English Version, 1651, Latin Version 1642), edited and introduced by Richard Tuck and Michael Silverthorne, Cambridge, Cambridge University Press.
- Hobbes, Th. (1994). *Leviathan* (1651), edited and introduced by Edwin Curley, Indianapolis, Hackett.
- Kramer, M. (1999). *In Defense of Legal Positivism*, Oxford, Oxford University Press.
- Malagoli, L. (2025). *A Tale of Two Hobbes: Brief Remarks (through Turinese eyes) on the Second Chapter of David Dyzenhaus, The Long Arc of Legality*, in this volume.
- Nagel, T. (2023). *Analytic Philosophy and Human Life*, New York, Oxford University Press.
- Ratti, G.B. (2025): *Three Puzzles on the Foundations of Law*, in this volume.
- Raz J. (1970). *The Concept of a Legal System*, Oxford, Clarendon Press.
- Raz, J. (1983). *Legitimate Authority*, in Id., *The Authority of Law: Essays on Law and Morality*, Oxford, Clarendon Press, 3-33.







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