

**THE LONG ARC OF LEGALITY.
A DEBATE**

Edited by Luca Malagoli

Foreword

Luca Malagoli*

On 11 and 12 July 2023, braving a particularly annoying heat wave, a seminar took place at the University of Genoa, dedicated to the discussion of a recent and very interesting book.

Complex, fascinating and provocative, *The Long Arc of Legality. Hobbes, Kelsen, Hart*, by David Dyzenhaus, delves into a question at the core of legal-philosophical reflection about the legal order of the modern State: «How is sheer political power transformed into legal right, the right to tell legal subjects – those subject to the state's power – what to do?»¹.

Developing his in-depth investigation, Dyzenhaus engages, as the subtitle of the book suggests, with central figures of the modern legal philosophy, Hobbes, Kelsen and Hart, frequently offering the reader unorthodox and stimulating interpretations of their work.

The essays collected here extend and deepen the observations formulated by the discussants, and object of heated debates (both for the intellectual temperature of the book and for the environmental one) with the author himself.

Luca Malagoli deals with Dyzenhaus' intriguing chapter on Hobbes, who, as mentioned before, is one of the main pillars of the long arc. Contrasting some of the central elements of Dyzenhaus' reading with some tenets of Norberto Bobbio's classical interpretation, Malagoli argues that the latter poses relevant challenges to the former.

Brian Bix focuses on the challenge that Dyzenhaus imposes on himself, pursuing what seems to be a natural law, anti-positivistic position through the examination of the works of three authors – as mentioned, Hobbes, Kelsen, Hart – traditionally associated with both axiologically neutral and legal positivist stances. Reflecting on the many difficulties of this challenge, Bix highlights the important questions about our ideas concerning law and adjudication raised by Dyzenhaus while dealing with it.

Giovanni Battista Ratti deals with some of Dyzenhaus' views on central facets of Hart's theory of law, such as the question of the formal or substantial nature of the

* Istituto Tarello per la Filosofia del diritto, Dipartimento di Giurisprudenza, Università degli Studi di Genova, Via Balbi 30/18, 16126 Genoa, Italy, luca.malagoli@unige.it

¹ Dyzenhaus 2022: ix.

fundamental character of constitutions, the analysis of the rule of recognition, and the examination of Hartian legal positivism. While adopting many of Dyzenhaus' useful insights, Ratti arrives often to quite different conclusions.

Alejandro Calzetta chooses to concentrate his attention on “the puzzle of unjust law”, that Dyzenhaus take as a starting point of his reflections. Calzetta discusses some of the traditional ways in which legal theorists have framed the puzzle, pointing out their scarce relevance for legal practice, especially regarding adjudication.

The section is concluded by a contribution in which Dyzenhaus provides insightful, stimulating and often challenging responses to the comments and criticisms received. Of course, the conclusion of the debate is only provisional: it is easy to predict that Dyzenhaus's stimulating, controversial and splendid book will occupy the philosophy of law for a long time to come.

The seminar was supported by funding from the European Union under the HORIZON WIDERA project number 101079177, titled “Advancing Cooperation on the Foundations of Law” (ALF). The project is implemented by a consortium of the Universities of Belgrade, Genoa, Lisbon, and Surrey.

References

Dyzenhaus, D., (2022), *The Long Arc of Legality. Hobbes, Kelsen, Hart*, Cambridge-New York- Melbourne-New Delhi, Cambridge University Press.