L

Legal Statements: Internal, External, Detached

Mathieu Carpentier
Institut Maurice Hauriou, University of Toulouse, Toulouse, France

Introduction

Lawyers, judges, legal academics, officials, etc. use normative language in a pretty routine fashion. Legal language is, at heart, normative: it uses notions of duty, obligation, rights, permission, authorization, powers (e.g., in the sense of *vires*), etc. A *legal statement* is, then, a subset of normative statements: it is a statement "about" a norm or about some normative state of affairs that the norm entails. Legal statements can then be reduced to statements of the following form: *legally*, one ought to (has a right to, is empowered to, etc.) φ. As a subset of normative statements, legal statements are *about* legal norms or legal normative state of affairs. They ought to be distinguished from statements *of* norms, that is the utterances by which normative authorities aim to "express" or "create" norms (whether successfully or not). Normative statements are about the norms thus "created" and the normative states of affairs which can be derived from them.

Legal statements may have different functions according to the attitude of the speaker. This variety of functions raises a series inter-related (though orthogonal to one another) puzzles, which this entry aims to explore summarily.

Internal and External Statements: An Overview

The distinction between internal and external statements was coined by Hart in his *opus magnum The Concept of Law* (Hart 2012). Although it is related to other concepts (such as Kelsen's propositions of law, see *infra*) and although it was already present to some extent in Alf Ross's work (see Ross 2019, 185), Hart's distinction is the starting point of much of the subsequent literature on legal statements and it deserves special attention.

Hart's theory of legal statements is part of his theory of rules. According to Hart, rules are normative social practices made up of two aspects, one internal and one external. The *external aspect* is the behavioral habit of obedience corresponding to what is prescribed by the rule. In any social group, the fact that there is a rule can be observed by pointing out some regularity of behavior. Deviation from this regularity elicits the same kind of response, for example, social pressure, sanctions, out-casting, and so forth. This external aspect of rules is essential to rules, but it is not *all* what rules are about. Rules also have *an internal aspect*, which is key to their normative character. The internal aspect of rules is their ability to guide behavior, which is the result of

M. Sellers, S. Kirste (eds.), *Encyclopedia of the Philosophy of Law and Social Philosophy*,
https://doi.org/10.1007/978-94-007-6730-0_214-1

an attitude of acceptance of what the rule prescribes; members of the group endorse the rule and criticize deviations from it. This internal aspect is essential for there to be a rule rather than a mere external regularity.

The basic distinction between the internal and external aspects of rule explains how rules function in a rather "primitive" kind of social group, in which each rule must have such an internal aspect to exist (think of rules of etiquette, or even rules of social morality). In an "advanced" legal system this attitude of acceptance is not necessarily directed at every rule in such a piecemeal fashion. Rather, officials must accept as guiding their action what Hart calls "the rule of recognition" which picks out the criteria of validity for all the rules of the legal system. Thus, in a legal system, whether someone ought to φ does not necessarily depend on a widespread attitude of acceptance of the rule which prescribes to φ but rather on the fact that this rule is valid under the rule of recognition, which law-applying officials accept as binding.

The distinction between the internal and external aspects of rules is closely related, but quite not identical, to another distinction made by Hart between internal and external *points of view* and between the kinds of statements made from a point of view. The internal point of view is the point of view of someone who accepts the rule as biding and takes it as a reason for his own action. Internal statements (or statements made from the internal point of view) are used to endorse the rule or criticize deviations from it. Internal statements are part and parcel of the internal aspect, since the attitude of acceptance is made explicit by internal statements.

The external point of view is the point of view of someone (e.g., an external observer) who does not accept the rule as binding. External statements are used to give information on the rule, or to describe it, from the point of view of an external observer. As Hart observed there are two different kinds of external statements, depending on which aspect of the rule the speaker aims to describe.

Radical external statements bear on the external aspect of the rule. They describe the behavioral habit corresponding to what the norm prescribes ("in country X, people stop at red lights"). They may also describe the facts that are likely to happen if the norm is violated. The Holmesian "bad man" (Holmes 1997) typically makes radical external statements tracking causal probabilities between acts or omissions and possible negative consequences.

Moderate external statements or, as Neil MacCormick calls them, hermeneutical statements (MacCormick 1994, 288–292; 2008, 53) are statements about the internal aspect of the rule: they describe the fact that members of the group have an attitude of acceptance of the rule as they take them as action-guiding and criticize others for deviating from the rule. In "advanced" legal systems, moderate external statements describe the fact that officials (as well as many citizens) hold the rule to be binding because it is valid according to the criteria set out in the rule of recognition: the statement "you cannot park here" describes either that all members of the group accept the no-parking rule as binding or that (in legal systems) at least a subset of the group accept it as valid because the legislature posited such a rule.

The Describability Problem

Statements About Facts or Statements About Norms?

Hart's notion of external legal statements is closely related to what legal philosophers and deontic logicians call normative propositions (see on this Bulygin 1982, 137).They distinguish between norms and normative propositions (see notably Von Wright 1963, 104; Alchourrón 1969; Alchourrón and Bulygin 1971, 121; Bulygin 1982; Hilpinen 2006). Norms are ought-propositions, which can be formalized by the use of a deontic operator; normative propositions are descriptive propositions about norms.

Whenever one aims to describe the existence or the content of a given legal norm, one will typically use legal statements to express normative propositions (here, "statement" refers to a linguistic utterance, of which the "proposition" is the semantic content, that is, the truth-bearer).

This raises the question whether a mere description of a norm is even possible or whether normative propositions are indeed propositions about facts.

Whenever I utter "you cannot park here" in a *descriptive* way, I do not mean to guide the behavior of my utterance's addressee. I mean to be informative about the existence and content of their obligations. The function of my utterance is to express a truth-apt normative proposition: this proposition will be true iff you cannot park here. The question is: what makes this proposition true? In other words what is (truth-aptly) described by such a proposition?

The main difficulty seems to be that both moderate and radical external statements describe *facts* rather than *norms*. This is obviously true for radical external statements, which merely record behavioral patterns; but it may very well be also the case for moderate external statements, since the internal aspect of rules, on which such statements report, is ultimately a matter of social fact. Here again, what is actually described is a fact, or a set of facts. It is not a norm.

At the end of the day, the answer to that difficulty depends on one's conception of norms and normativity (Raz 2009, 134–135). According to Raz, if one's focus is on "social normativity," one is bound to reduce external statements to statements of fact: if norms are defined as normative social practices (Hart 2012) or as speech acts (Alchourrón and Bulygin 1981), external normative statements in general – and legal statements in particular – are ultimately descriptive statements of facts. But if, with a focus on "justified normativity," norms are defined as objective *ought-propositions*, it appears that one cannot describe such propositions without making ought-propositions oneself. Hans Kelsen's theory of legal statements is a case in point.

Descriptive *Sollen*?

The notion of descriptive *Sollen* (or *ought in a descriptive sense*) is perhaps one of the most elusive and disputed aspects of Kelsen's theory of law (Kelsen 1949, 163; 1967, 73–75). Kelsen distinguishes between *Rechtssätze*, that is, legal statements, which are a subset of *Sollsätze*, *ought*-statements, and *Rechtsnormen*, that is, legal norms. Legal norms are issued by legal authorities (legislatures, judges, etc.), whereas legal statements are typically descriptive statements uttered by legal science. Legal science aims to describe the law; it does not aim to issue legal norms.

Kelsen's theory of legal statements is thus closely linked to his epistemology of law. The statements used by legal science, such as "in system S, in case C, sanction S ought to be applied" are both descriptive (insofar as they are truth-apt) and normative, since they indicate that something *ought* to be the case. This is due to Kelsen's strong notion of legal validity, defined as the norm's specific mode of existence: a non-valid norm simply does not exist. A norm is valid if and only if it is the case that what it prescribes ought to be. A legal statement does not describe a *Sein* (e.g., the fact that the legislature enacted such and such instrument) but a *Sollen*. Hence legal statements are *ought-statements*, albeit in a descriptive way.

This notion of descriptive *Sollen* has puzzled many readers of Kelsen's work (see notably Nino 1978; Bulygin 1982; Guastini 1998; Ross 2019, 18). For instance, Martin Golding surmised that the distinction between norms and normative statements could be made clearer by a reference to the use/mention distinction (Golding 1961). Kelsen's *Sollsätze* would be an instance of what RM Hare called "ought in inverted commas" (Hare 1952, 18). On this reading, legal statements (and normative statements in general) do not *use* normative operators, they merely mention them. According to this "oblique" interpretation (Vernengo 1986, 101) the legal statement "according to Law No X one ought to φ" is equivalent to "Law No X means the same as 'one ought to φ'."

When he visited Kelsen at Berkeley, Hart submitted this interpretation to Kelsen's approval (Hart 1983, 292), but Kelsen refused to accept it. Legal statements, he insisted, do not mention words; they express *propositions* which describe what these words mean. Hart then proposed another reading of Kelsenian normative statements, according to which normative statements bear with norms the same relation than a

translation vis-à-vis the original text (Hart 1983, 293). Suppose a German officer in a stalag gives the following order to American or English prisoners of war "*Stehen sie auf!*" This norm is then translated by a translator: "Stand up!" The translator is not the one giving the order; he is merely reproducing in another language what the officer ordered. This, according to Hart, eschews the use/mention solution, since it is plain that the translator uses the words "stand up" and does not merely mention them. Thus, the translator uses normative words in a descriptive way.

As Bulygin observed, this solution is not quite satisfactory (Bulygin 1982, 135), since the function of a translation is not to *describe* the *interpretandum,* unless we accept that – at least in this context – "stand up" has the same meaning as "the officer said 'stand up'," in which case we fall back onto the very use/mention distinction that Kelsen refused to accept.

Detached Statements

Joseph Raz's theory of "detached statements" aims both to solve this Kelsenian puzzle and to provide a self-standing theory of normative statements (Raz 1980, 234–238; Raz, "Kelsen's Theory of the Basic Norm" in Raz 2009, 122–145; Raz, "Legal Validity" in Raz 2009, 146–159; Raz, "The Purity of the Pure Theory" in Raz 2009, 293–312; Raz 1999, 170–177). Whether it is correct as an exegetical matter has been disputed (for doubts see, e.g., Paulson 2012; Vernengo 1986; Bayón 1991, 28; Vinx 2007, 13–14).

Raz takes from Hart the notion of normative statements as statements *from a point of view.* Normative statements are either *committed*, insofar as they presuppose the validity of the norm they refer to, or *detached,* insofar as they aim to provide reasons for action without endorsing or presupposing the validity of the norm. For instance, the statement directed at a vegetarian person "you ought not eat that dish! It has meat in it!" is not issued from the same point of view, and does not serve the same function, whether it is uttered by a vegetarian person, who presupposes the validity of the norm prohibiting the consumption of meat, or by a meat-eater, who doesn't. In the former case, the statement is committed. In the latter, it is detached. It bears noticing that detached statements are not mere descriptive statements of fact. They have normative valence, and they are to be used in the vegetarian's practical deliberation about what they ought to do. Such statements do not *presuppose* the validity of the norms they describe, but they adopt the *point of view* of someone who does.

According to Raz, the same goes for legal statements. Legal statements are typically statements made from the point of view of the "legal man," that is, the person who shows full commitment to the norm or to the rule of recognition which gives the norm its validity. The lawyer who advises his client to do this or that does not need to be fully committed to the validity of the norms he mentions, that is, to the notion that the client *ought* to follow such norms. However, the lawyer will adopt the point of view of someone who does presuppose the validity of those norms. Therefore, his advice aims to guide the client's behavior by giving him reasons for action. It is both normative, insofar as it aims to give normative reasons, and descriptive, insofar as it intends to be informative of what someone who is committed to this validity would claim what the client *ought to do* according to those norms.

Hence the Holmesian bad man (or the Kelsenian anarchist: see Kelsen 1967, 218; Raz 1999, 148) need not use only descriptive statements of fact. They may use detached statements, as Hart agreed when he somewhat reluctantly endorsed Raz's notion of detached statements (Hart 1982, 153; Hart 1983, 14). This theory of detached statements allows Raz to salvage the strong Kelsenian notion of normative validity as the objective binding force of ought-propositions. If one adopts a weaker notion of validity, for instance that of membership within a given normative system (see Hart 2012, 100–110; Bulygin 2015, 171–173), the need for a separate category such as detached statements disappears: asserting that a legal norm belongs to a legal system does not need showing any kind of commitment to the notion that what the norm prescribes ought to be done. Raz's strong notion of normative validity equates stating that a norm is valid, or presupposing such validity, with stating or

presupposing that what the norm prescribes *ought* to be done. Therefore, while committed statements can be described as a sort of internal statements, detached statements eschew the Hartian internal/external framework altogether (for a rebuttal, see Toh 2007).

Indeed, Raz's anti-reductionist strategy forces him to maintain the normative/descriptive ambiguity, which has elicited the puzzlement of many legal theorists (see Shapiro 2011, 415–416; Duarte d'Almeida 2011; Mullins 2018). Contrary to what Hart himself appears to have thought at some point (Hart 1983, 14; see also MacCormick 2008 p. 204), detached statements are not moderate external statements since they are to some extent normative and not merely descriptive; they do not only aim to describe the internal point of view, but to adopt it (without sharing it) in order to guide behavior (Postema 1987, 84). Nor are detached statements *conditional* statements since they share the syntactic properties of committed statements (Raz 1999, 175); they do not state that "if the norm is valid, then this or that ought to be done," rather they are statements made "on the assumption that" the norm is valid (for a conditional interpretation of detached statements see, however, Bulygin 1981; Duarte d'Almeida 2011; McBride 2017).

Internal Statements and Moral Commitment

The crux of Raz's theory of normative statements is that of *normative commitment*, since the point of viewed adopted, but not necessarily shared, by the utterer of a detached statement is the point of view of someone who considers the norm as valid, that is, as binding. According to Raz, normative commitment is a kind of *moral* acceptance of the norm. This is a hotly debated claim which goes at the heart of two important (and interrelated) jurisprudential issues, to which this entry cannot fully do justice: the normativity of law and legal positivism. However, this raises the question whether Razian committed statements can be seen as an instance of Hartian internal statements, and whether internal statements necessarily presuppose a kind of *moral* acceptance of the rules with regard to which they are uttered.

Can "This Is Valid, yet Morally Iniquitous, Law" Be an Internal Statement?

Hart claimed that deontic terms have different meanings in moral and in legal contexts (Hart 1982, 146–147; see Kramer 1999, 78). Therefore, whenever one uses such terms in a legal statement (be it internal or moderately detached), one refers to *sui generis* rights and obligations; one does not make a claim about the moral reasons that the norm aims to create. This is why in the Postscript to the *Concept of Law*, Hart maintained that the internal point of view does not necessarily entail an attitude of moral acceptance of the norm (Hart 2012, 257; see Hatzistavrou 2007). The reason why one accepts the norm and takes it as a guide for one's own actions need not be one of moral acceptance.

Hart expressed his puzzlement at the Kelsenian claim (Kelsen 1949, 374–376) that one cannot at the same time and without contradiction hold that norm N is both legally valid and morally invalid (Hart 1983, 302). Since, according to Hart, the reasons why someone accepts the rule need not be moral but may very well be the result of either tradition or sheer convention (see *infra*), there is no contradiction in holding both claims, be it from the moderate external point of view or even from the internal point of view. According to Kelsen, "one cannot serve two masters at the same time" (Kelsen 1967, 326): one cannot say at the same time "this is valid and invalid," or "(legally) one ought to φ" and "(morally) one ought not to φ." Either one adopts the point of view of legal science, and one treats the moral claim as a set of facts or beliefs; or one adopts the point of view of the moralist, and one treats law as a mere set of coercive acts.

Raz's theory of committed and detached statements allows him to solve this Kelsenian puzzle. According to him, internal/committed statements are full-blooded moral statements. The law aims to impose moral obligations, rights, and duties, and deontic operators have exactly the same meaning in all contexts (Raz 2009, 36, 154). Whenever one accepts legal norms as valid

(in the strong sense, see *supra*), that is, whenever one accepts that what legal norms prescribe ought to be done, one expresses a moral commitment to the law (for arguments to the same effect see also, MacCormick 1994, 284; Holton 1998). It does not entail that legal obligations *are* moral obligations. Detached statements allow the speaker to assert that a norm is valid, that is, that one ought to do what the norm prescribes, without sharing this kind of moral commitment. Therefore, in a statement such as "N is legally valid but morally invalid," one holds two legal statements at the same time: a detached statement about law and a committed statement about morality. As Raz puts it, the fact that "normative language when used to state the law does not always carry its full normative force . . . does not justify the view that terms like rights and duties are used with a different meaning in legal and moral context" (Raz 2009, 39).

Hart (2012, 203; see also 207–211, 257–258) and many subsequent authors maintain that the statement "N is legally valid but morally iniquitous" can be a non-contradictory internal statement, insofar as internal legal statements do not necessarily show moral commitment to the law (either to the norm itself or to the rule of recognition which gives it its validity), and that one can use "ought," "right," and other normative categories in a non-moral way (see, on Hart, Shapiro 2006). Matthew Kramer (1999) distinguishes between "prescriptions" and "imperatives," and disputes that law necessarily claims moral authority, and that those who accept law's authority necessarily do so for moral reasons. Kevin Toh argues (alongside Alan Gibbard) that moral statements are domain-specific, in that they are concerned with norms governing guilt and impartial anger (Toh 2011, 130–131) and may, but need not, overlap with equally domain-specific legal statements.

Weak and Strong Acceptance

It is undisputed that it is possible at the same time to utter an internal statement and to express some kind of moral acceptance of the norm. The crux of the dispute is whether it is necessarily so.

Raz offered an olive branch by proposing a distinction between weak and strong acceptance (Raz 2009, 155; Raz, "The Purity of Pure Theory" in Raz 2009). Weak acceptance is manifested when someone accepts the norm for their own reasons (because of their own preferences or self-interest); strong acceptance, on the contrary, means moral commitment. According to Raz, weak acceptance amounts to *insincere* commitment. The focal meaning of normative acceptance is sincere commitment (see McBride 2011, 228). It bears noticing that an insincere committed statement does not amount to a detached statement.

In his *Essays on Bentham* (Hart 1982, 265–266), Hart both accepted the distinction between weak and strong acceptance and rejected the charge of insincerity regarding the former. Indeed, if one denies that all committed statements presuppose moral acceptance, weak acceptance claims need not be described as insincere moral statements. As Hart argued, judges are not independent moral agents; they are part of an institutional framework whose functioning is guided by a "settled practice of adjudication according to which any judge of the system is required to apply in the decision of cases the laws identified by specific criteria or sources" (Hart 1982, 168). According to Hart, this institutional form acceptance need not entail a strong moral commitment. It rests on a *shared* institutional practice among officials vis-à-vis the rule of recognition (for a critical take on this move, see notably Toh 2007, 2011). The reasons for upholding this practice need not be purely prudential (pace McBride 2011). They must rest on the postulate that other participants share these reasons, since without this shared acceptance the practice would not exist in the first place. Therefore, Hart's notion of weak acceptance is stronger than Raz's characterization of it as merely reasons for oneself. Although internal statements *may* presuppose only prudential reasons (Raz's weak acceptance) as well as moral reasons (Raz's strong acceptance), they need not do so. This is because these are additional reasons to the one primarily presupposed by an internal statement, which are non-moral normative reasons, derived from a shared institutional practice. Of course, as

Michael S. Green pointed out, Hart's theory does not tell us why officials should justify their decisions by appealing to this institutional practice rather than to prudence or morality (Green 2017).

The Normative/Moral Equation and Legal Positivism

Raz's main tenet is that all internal or committed normative statements are moral claims, even when they are confined to the limited domain of law. This seems somewhat inconsistent with Raz's self-avowed legal positivism (Raz 2009). Indeed, legal positivism holds that a law's validity is independent from its moral merit (Gardner 2001). This seems to entail that not all normative claims are moral claims. Otherwise, one could not sincerely claim that legally one ought to φ without at the same time stating that one morally ought to do φ. This is precisely what Raz seems to think.

The easiest solution to the dilemma is, as we saw *supra*, to break the normative/moral equation, which is Hart maintained was the right strategy. However, there are ways to make the normative/moral equation consistent (at least *prima facie*) with the tenets of legal positivism. Let me briefly explore three different solutions.

The first solution is offered by Raz himself. According to Raz, law necessarily claims to have morally legitimate authority: its legal claims are therefore necessarily moral claims. Law also both enjoys de facto authority, which presupposes that a segment of the population believe that law is morally legitimate. However, an authority necessarily aims to pre-empt the balance of reasons by giving content-independent reasons for action. Therefore, whenever someone states "legally one ought to φ," they use "ought" in a moral sense – insofar as they make a committed statement – but they identify the existence and content of the legal norm which makes it obligatory to φ without any recourse to moral evaluation (Raz 1985, 2009, 27–33). Whether a norm is legally valid depends on the norm having been issued by an authority and not on the moral merit of the norm.

Another solution is provided by Richard Holton (1998). Holton agrees that normative operators (ought, right, etc.) have the same meaning in legal and moral contexts. However, Holton resists the conclusion that saying "legally one ought to φ" one *means* "morally one ought to φ": indeed, if the latter statement is false, then the former is necessarily false too, which seems inconsistent with the tenets of legal positivism. According to Holton, the sentence "legally you ought to φ" only pragmatically *implicates* that "morally you ought to φ," but like all implicatures, this particular one is cancellable. Therefore, an internal statement can be morally committed, without necessarily entailing that the norm thus accepted is morally meritorious.

A last example is provided by Scott Shapiro (2011, 184–188), who agrees with Raz that committed legal statements are moral claims. However, there are two different interpretations of legal statements. Under the *adjectival* interpretation, every statement such as "legally one ought to φ" means that morally one ought to φ. This entails that immoral laws are impossible, since the legal authority to issue the norm is always to be equated with a kind of moral authority. Under another, *perspectival*, interpretation, all one has to assert is that from the *legal point of view* (that is from the point of view of someone who makes committed statements about law) the legislature has the moral authority to issue norm N and one has a moral obligation to do what N prescribes. However, such statements do not *ascribe* moral worth to legal norms. Whereas the adjectival interpretation is incompatible with legal positivism, the perspectival interpretation is not. While Shapiro's theory of statements from a point view is quite close to Raz's, Shapiro denies that perspectival statements have normative valence, and that they are to be analyzed in terms of detached statements: they merely describe the legal point of view, without even pretending to share it.

References

Alchourrón C (1969) Logic of norms and logic of normative propositions. Logique et Analyse 12:242–248

Alchourrón C, Bulygin E (1971) Normative systems. Springer, New York/Vienna

Alchourrón C, Bulygin E (1981) The expressive conception of norms. In: Hilpinen R (ed) New studies in

deontic logic. Reidel, Dordrecht, pp 95–124. (reprinted in: Bulygin 2015, 146–170)
Bayón JC (1991) La Normatividad del Derecho. Deber juridico y razones para la accion. Centro de Estudios Constitucionales, Madrid
Bulygin E (1981) Enunciados juridicos y positivism: Repuesta a Raz. Analisis Filosófico 1:49–59. (reprinted as Legal Statements and Positivism: a Reply to Joseph Raz in: Bulygin 2015, 136)
Bulygin E (1982) Norm, normative propositions and Legal statements. In: Fløistad G (ed) Contemporary philosophy. A new survey, vol 3. Philosophy of Action. Martinus Nijhoff, The Hague. (reprinted in: Bulygin 2015)
Bulygin E (2015) Essays in legal philosophy. Oxford University Press, Oxford
Duarte d'Almeida L (2011) Legal statements and normative language. Law Philos 30(2):167–199
Gardner J (2001) Legal positivism: $5^{1/2}$ myths. Am J Jurisprudence 46(1):199–227
Golding M (1961) Kelsen and the concept of "Legal System". Archiv für Rechts- und Sozialphilosophhie 47: 355–386
Green MS (2017) A puzzle about Hart's theory of internal legal statements. In: Poggi F, Capone A (eds) Pragmatics and law: practical and theoretical perspectives. Springer, Dordrecht, pp 195–221
Guastini R (1998) Normativism or the normative theory of legal science. In: Paulson SL, Litschewski Paulson B (eds) Normativity and norms. Critical perspectives on Kelsenian themes. Clarendon Press, Oxford, pp 317–330
Hare RM (1952) The language of morals. Oxford University Press, Oxford
Hart HLA (1982) Essays on Bentham. Clarendon Press, Oxford
Hart HLA (1983) Essays in jurisprudence and philosophy. Clarendon Press, Oxford
Hart HLA (2012) The concept of law, 3rd edn. Oxford University Press, Oxford. (first published 1961)
Hatzistavrou A (2007) An epistemic account of the internal point of view. In: Freeman M, Harrison R (eds) Law and philosophy. Current legal issues 2007. Oxford University Press, Oxford, pp 118–136
Hilpinen R (2006) Norms, normative utterances and normative propositions. Analisis Filosófico 26(2): 229–276
Holmes OW (1997) The path of the law. Harvard Law Review 10:457–478
Holton R (1998) Positivism and the internal point of view. Law Philos 17:597–625
Kelsen H (1949) General theory of law and state (trans: Wedberg A). Harvard University Press, Cambridge, MA
Kelsen H (1967) Pure theory of law, 2nd edn (trans: Knight M). University of California Press, Berkeley/Los Angeles.
Kramer MH (1999) In defense of legal positivism. Law without the trimmings. Oxford University Press, Oxford
MacCormick N (1994) Legal reasoning and legal theory, 2nd edn. Clarendon Press, Oxford
MacCormick N (2008) HLA Hart, 2nd edn. Stanford University Press, Redwood City
McBride M (2011) Raz on the internal point of view. Legal Theory 17(3):67–73
McBride M (2017) Detached statements. Crítica, Revista Hispanoamericana de Filosofía 49:75–89
Mullins R (2018) Detachment and deontic language in law. Law Philos 37(4):351–384
Nino CS (1978) Some confusions around kelsen's concept of validity. Archiv für Rechts- und Sozialphilosophie 64(3):357–377
Paulson SL (2012) A 'justified normativity' thesis in Hans Kelsen's Pure Theory of Law? Rejoinders to Robert Alexy and Joseph Raz. In: Klatt M (ed) Institutionalized reason: The jurisprudence of Robert Alexy. Oxford University Press, Oxford, pp 61–112
Postema G (1987) The normativity of law. In: Gavison R (ed) Issues in contemporary legal philosophy. The Influence of H.L.A. Hart. Clarendon Press, Oxford, pp 81–104
Raz J (1980) The concept of a legal system, 2nd edn. Clarendon Press, Oxford
Raz J (1985) Authority, law and morality. The Monist 68(3):295–324
Raz J (1999) Practical reason and norms, 2nd edn. Clarendon Press, Oxford
Raz J (2009) The authority of law, 2nd edn. Oxford University Press, Oxford
Ross A (2019) On law and justice (trans: Bindreiter U, ed: Holtermann JVH). Oxford University Press, Oxford
Shapiro SJ (2006) What is the internal point of view? Fordham Law Rev 75(3):1157–1170
Shapiro SJ (2011) Legality. Harvard University Press, Cambridge, MA
Toh K (2007) Raz on detachment, acceptance and describability. Oxford J Legal Studies 27:403–427
Toh K (2011) Legal judgments as plural acceptances of norms. In: Green L, Leiter B (eds) Oxford studies in philosophy of law, vol 1. Oxford University Press, Oxford, pp 107–137
Vernengo RJ (1986) Kelsen's *Rechtssätze* as detached statements. In: Tur R, Twinning WL (eds) Essays on Kelsen. Clarendon Press, Oxford, pp 99–108
Vinx L (2007) Hans Kelsen's pure theory of law. Oxford University Press, Oxford
Von Wright GH (1963) Norm and action. Routledge, London