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No Rule of Law without the Hobbesian State

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Abstract. Two functions of the Hobbesian state are essential (though not sufficient) for the existence and protection of the rule of law: nonarbitrariness and enabling individuals to make autonomous long-term plans. This view matters in times of uncertainty about the state's relevance and existence. However, when either composing or performing the requiem for the state, the accounts I discuss in this article neglect and overshadow crucial rule-of-law desiderata. They do this because they see the state and the rule of law as either incompatible or independent of each other. However, I show that there is no rule of law without at least the Hobbesian state.

1. Introduction

Two elements of the Hobbesian state are essential (though not sufficient) for the existence and protection of the rule of law: nonarbitrariness and enabling individuals to make autonomous long-term plans. This view is significant in times of doubt about the appeal, presence, and fate of the state, times when some seek to reduce its size, and others declare its imminent demise (Stråth and Skinner 2003, 1), loss of importance as a philosophical concept (Foucault 1980, 121), and decline (van Creveld 2009), suggesting that it is "on the way out" (Ankersmit 2007, 36). Testing the validity of this claim and diagnosis is essential, as the potential waning of the nation-state, allegedly "the most momentous development of our era" (Dasgupta 2018), raises concerns about the future of the rule of law.

In this article, I look at two groups of legal and political theories that echo these diagnoses and demands for the disappearance of the state, and I juxtapose them against Hobbes's account.

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I focus on these theories given their prominence and influence, because they grapple explicitly with how the concept of the rule of law influences their perspectives on the state, and because they are relevant for understanding whether this form of human association *is* disappearing or *should* disappear.

The first two identify the state with the notion of government and with a legal system, which respectively leads them to either wish the state away for rule-of-law reasons, or to remain indifferent to the role the state may play in securing the rule of law. However, in either composing or performing the requiem for the state, these views neglect and overshadow crucial rule-of-law desiderata. They value the rule of law for different reasons, but both share what in my view is the mistaken belief that there is no necessary connection between the rule of law and the fact that a state of a certain kind should be in place to bring it about. Mind you, this is not to say that the rule of law *cannot*, as a matter of fact, coexist alongside a legal system of the sort these theories imagine. However, this coexistence would be accidental or coincidental, and therefore not the fulfilment of an obligation on the part of the state to bring about and secure the rule of law. And so, we should not defray the costs of buying into their conclusions. By contrast, in the interpretation of Hobbes's theory of the state I present both elements as necessarily connected. The stakes are high: There is no rule of law without at least the Hobbesian state.

Hobbes's political theory provides us with rule-of-law reasons for championing the state and with a compelling way of accounting for the existence and the consequences of its alleged disappearance. The Hobbesian state is a minimal but essential condition for subjects to live under nonarbitrary rules allowing them to make autonomous long-term plans. This also means that the death or retreat of the state, called for by some and a matter of indifference to others, is either unwarranted or best understood as a rule-of-law feature of the Hobbesian state that I call "latency": as a sign that the state has generated the conditions under which individuals may be able to plan their lives autonomously with some degree of predictability and certainty.

The argument lies at the core of classical debates in the history of legal and political thought. It holds significance for legal scholars, political philosophers, and intellectual historians seeking to understand the state's nature and its role in establishing and safeguarding the rule of law. Although these questions have been addressed separately by many,[1] my approach integrates them across disciplines. This strategy

[1] To name a few: Chen and Deakin 2015; Dyzenhaus 2001; Garrard 2022; King 2018; Pavel 2021; Pettit 2023, 15; Skinner 2018. I build on these insights. Yet, unlike Pavel, I think the presence of the Hobbesian state is a necessary condition for the existence of the rule of law. King reaches conclusions I agree with, but he does not delve into the nature of the state, an approach I believe we should take. Skinner's genealogy of the state omits what the notion entails for the rule of law. Garrard (2022, 5) assumes that "the modern state now looks increasingly like a beached whale rather than the mighty leviathan of Hobbes" and that it should be resuscitated. But the state has never gone away, and we should resist thinking otherwise if we care about the rule of law. Chen and Deakin's approach leaves out functional aspects of the state that are central for my analysis. Unlike Dyzenhaus, I argue that the constraints imposed on the Hobbesian state are functional, not moral. Finally, while I agree with Pettit that the state is functional, we take different roads towards that conclusion. Whereas he follows Hart in explaining the emergence of the polity as the result of emergent, noncontractarian spontaneous processes, the rule-of-law function I attribute to the state derives from the terms of the Hobbesian social contract (Bello Hutt and Kristan 2024). And, unlike him, and as I argue in Section 4.1, I read Hobbes as presenting us with a picture of the state that, while equipped with extraordinary prerogatives, must act *discretionarily*, not arbitrarily.

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offers two benefits: enhanced clarity in understanding the concepts and their interrelationships and an improved normative toolkit to assess whether our states meet the demands of the rule of law.

These pages will also interest Hobbes scholars. The number of commentaries on Hobbes's theory of the state is nothing short of staggering, and most of them highlight its absolutist connotations and its potential for arbitrariness (Lloyd and Sreedhar 2022). Admittedly, Hobbes's arguments, rhetoric, and tone carry the blame for that. However, this received image prevents us from extracting resources from Hobbes's political theory that are valuable for thinking more clearly about the concept of the state and about the role it may serve today. Here I use those resources to advance an original functionalist conception situated between formalist and moral interpretations of the Hobbesian state available in the existing scholarly literature.[2] This means that while I argue that the concept of the Hobbesian state is conditioned by its function and that this function is normative, I admit that the means and the prerogatives by which it fulfils this task can be morally or politically reprehensible. It follows, on the one hand, that the existence and the function of the state can be analysed separately from the rights and prerogatives of the sovereign. On the other, my interpretation entails that critiques of the extent and use of the exorbitant, and to a large degree morally unpalatable, prerogatives that Hobbes's theory grants to sovereigns will not be best framed by employing the conceptual apparatus of rule-of-law theories. Notions such as justice, rights, and legitimacy may be more fit for those purposes. And while we should understand the part these normative categories play in making the state acceptable—a part perhaps even more important than that played by the rule of law—they deserve separate examination. This also suggests that one can have a Hobbesian state without fully accepting that the only way to instantiate it is by accepting every single prerogative granted to sovereigns by institution. My main point, in short, is that the Hobbesian state may be, by many standards, immoral. Whether it is rule-of-law-less is a different story.

I proceed as follows. I first examine what are the rule of law and the state. In the case of the rule of law, I overview a divide, common in the literature, between its formal or thin conception and its substantive or thick conception and reflect on what relation exists between the principle of the rule of law and the different subprinciples it comprises. I conclude that the rule of law is a legal and political ideal committed to making law predictable and whose core incarnates two values that are also constitutive functions of the Hobbesian state: nonarbitrariness and enabling individuals to make autonomous long-term plans (Section 2).[3]

As to the state, I discuss the three aforementioned conceptions. My descriptions are canonical, so I will be brief. I begin by describing theories that equate the state with the concept of government. I then examine conceptions that equate it with the law or the legal system. I finish with Hobbes's conception of the state as a distinct

[2] The two positions are clear in Dyzenhaus (2012, 186–9). A third way, which I see as compatible with my view here, is Olsthoorn's (2024, 2–270). However, his views deserve more analysis than I can provide here.

[3] I use "autonomy" in a loose sense. Determining its precise meaning goes beyond the limits of this article. I tackle this problem briefly in Bello Hutt 2018.

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form of political association different from the apparatus of the institutions of government and from the rules and laws it enacts (Section 3).

The first two conceptions either wish the state away or have little to say about its disappearance. But this jeopardises the rule of law, because they either warrant the possibility for private power to be exerted arbitrarily and unpredictably, or they lack a criterion by which arbitrary forms of political associations may be differentiated from a state. The function of the Hobbesian state is, by contrast, to establish the conditions under which political power may be exerted in nonarbitrary ways and life planned autonomously. That function is a standard by which states can be differentiated from other rule-of-law-less forms of association.

Accordingly, there is no rule of law without at least the Hobbesian state. I offer two arguments for this claim, which are linked to the values that Section 2 takes as deriving from rule-of-law subprinciples (Section 4). A Hobbesian conception of the state is desirable, and overall preferable to, the alternatives here considered, first because in it the state embodies the rule-of-law function of avoidance of arbitrariness in the exercise of power (Section 4.1). And second, because while the Hobbesian state may refrain from acting all the time, it does not mean that it is on its deathbed. Rather, latency is a sign that the conditions for subjects to live autonomous and predictable lives are in place (Section 4.2). These functional features are well accounted for as rule-of-law demands.

I finish by reflecting on why a Hobbesian conception is more attentive than its alternatives to the fact that states are not only not receding but are increasingly pervading our lives, oftentimes not in the best directions (Section 5).

2. The Rule of Law

This section distils the elements around which I champion the Hobbesian state against the alternatives here considered. It concludes that the "rule of law and not of men" means at least absence of arbitrariness in the exercise of public power and that individuals should be able to plan their lives autonomously with some degree of certainty. The path towards that conclusion starts with a commonplace: The concept of the rule of law is elusive. There is little agreement on its content other than that it is an umbrella principle under which different subprinciples determining how laws are to be created, interpreted, and applied coexist. Lists of those subprinciples vary, but they at least include the following: that laws ought to be general, clear, prospective, coherent, enforceable, and public—think of Fuller's eight principles of legality (Fuller 1969, 162), features that the laws have *qua* laws.

Some think these subprinciples suffice for rule-of-law-compliant legal systems to obtain. Their conceptions are called formal, functional, or thin (Waldron 2023a). Others think that additional substantive requirements should inform a legal system respectful of the rule of law. Examples include human rights (Bingham 2010, 66), private property (Cass 2004, 131), human dignity (Stein 2009, 302), or morality and justice (Craig 1997, 108; Dworkin 1985, 11–2). These are substantivist or thick conceptions.

Formalists reject substantivism on the basis that it leads to conceptual inaccuracy; it opens the door for theorists to consider legal systems as being compliant with the rule of law to the extent that they embody their preferred social philosophy (Raz 1979, 211). Substantivists, in turn, think that thin conceptions lack normative appeal (Bingham 2010, 67).

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These positions are commonplace in the literature,[4] and they point to two dimensions or ways of looking at the rule of law. For some it "consists in the individually necessary and jointly sufficient conditions for the existence of a legal system."[5] This is a list of subprinciples that bring about a legal system irrespective of the system's morality or legitimacy. For others, it "consists in the existence of a legal system that exemplifies the values of liberal democracy both procedurally and substantively" (Kramer 2018, 160).

The discussion raises questions about what relation exists between these two dimensions and which of the principles of a liberal democracy are captured by the expression "rule of law." While it seems clear that the rule of law will include the virtues of legality,[6] what those virtues are is less so. The answer must lie in some feature(s) of liberal democracies that are brought about or secured by the principles considered as jointly sufficient conditions for the existence of a legal system. Now, some of those conditions (among which predictability, stability, and publicity) are constitutive of some rule-of-law liberal democratic values, and at least two of them we should pay attention to, for they are also constitutive functions of the Hobbesian state. These functions—considered integral to the rule of law *qua* political ideal,[7] but neglected in the alternative theories of the state discussed below—are (a) to keep arbitrariness in check in the use of power and (b) to ensure that individuals can plan their lives without fear of arbitrary interference, and they in turn entail the furtherance of certain conceptions of freedom or autonomy.

These values—which lie at the core of any conception of the rule of law, formalist or substantivist—bear heavily on my claim that the Hobbesian state is a basic necessary condition for the existence of the rule of law. But before I show how, I must overview the three alternative conceptions of the state relevant to the question at hand.

3. The State

The state's role in upholding the rule of law depends on how we define the state itself, and that is no simple task. The concept of the state is multifaceted (Kantorowicz 1932, 1; Kelsen 1945, 181) and subject to the influence of ideological debates (Skinner 2008, 326), and it has evolved over time (Harding 1994, 72). Understanding its nature requires careful examination from different perspectives (Weber 1949). In this section, I explore three specific conceptions of the state in relation to the rule of law and to narratives about its potential disappearance. I focus on these because they are prominent, because they deal explicitly with how the concept of the rule of law influences their perspectives on the state, and because they are relevant for understanding whether this form of human association is disappearing or should disappear, even if there may, of course, be other ways of looking at the state.

The first equates the state with the institutions of government and sees it as incompatible with the rule of law. The second equates the state with a legal system and sees it as independent of the rule of law. The third, which is both compatible with and necessary for the rule of law, is Hobbesian.

[4] For an overview, see Bello Hutt 2022 and Tasioulas 2020. Some have questioned the utility of the distinction, examples being Barber (2018, 116–7); Gardner (2012); and Tamanaha (2004, 156).
[5] The distinction is Kramer's (2018, 160).
[6] As mentioned by Vinx (2007, 21) in the context of a discussion of Raz.
[7] For example, Bingham 2010, 38; Christiano 1996, 20; Fuller 1969, 162; Hayek (1960) 2006, 152; Lovett 2016, 106–8; Raz 1979, 220–1; Sunstein 2018, 123; Waldron 2023.

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I leave critical remarks for Section 4. For now, I can say that the first two capture partial truths about the state but neglect aspects captured by the third that are key to the emergence and safeguarding of the rule of law. They also lead to misleading rule-of-law conclusions about the meaning of the presence or disappearance of the state. The third one does not.

3.1. *The State as Government*

Some equate the state with the institutions of government and resist treating it as an abstract corporation. In the words of Sir Walter Raleigh (1642), they see it simply as the "set order […] of the Governours that rule the same." These commentators also champion the rule of law.

This story of resistance towards understanding the state as an abstract or fictional corporation can be said to begin with Bentham's critique of Blackstone's contractarian conception of the state as a *persona ficta* (Skinner 2008, 3–4). Bentham ([1756] 1988, 52) was adamant that "[t]he indestructible prerogatives of mankind have no need to be supported upon the sandy foundation of a fiction." Hence, he proclaims, "the season of fiction is now over" (ibid., 53), a programme he then extends to the domain of ethics: "enough of metaphor and declamation: it is not by such means that moral science is to be improved" (Bentham [1789] 2007).

If the season of fiction is over, then the state—the legal and political fiction in whose name you are sent to jail, required to pay taxes, and sent to war—must be questioned and hopefully the first to go. Only then may one pursue the truly warranted task of entrusting the administration of the polity to institutions mandated to increase their subjects' happiness and to diminish their pains, institutions embodied by flesh-and-blood individuals bound to increase utility and not follow commands issued by an abstraction (Bentham [1756] 1988, 54)—an abstraction embodied, that is, by the institutions of government.

Others followed suit. The contemporary and most influential rejection of the state along these lines was Hayek's, who gave the preceding narrative a rule-of-law twist. As it happens, although he was not totally opposed to government intervention,[8] it is hard to tell whether he was a theorist of the state at all (Kukathas 2015, 284), for he barely uses the term in his writings.

The distinction between state and government upon which this narrative is grounded is part of a broader philosophical system that takes civil society as a distinct form of interaction among individuals that exists detached from centrally planned decisions.[9] Government, in that sense, is just one of many social institutions. Now, unlike society, which arises spontaneously as the result of individual voluntary interactions, government

[8] For example, regulations affecting the environment and reduction of poverty (Tanzi 2020, 32–50). The rejection of state-centrism is pushed by others even farther than Hayek. Boykin, for example, charges Hayek and Herbert Spencer with failing to see that a coherent liberal evolutionist would simply not support the nation-state at all. A proper evolutionary social theory, he tells us, "should not be employed to form defenses of the modern nation-states, which are not the product of spontaneous social evolution but rather are destructive of it because they create societies too large for evolved cultural rules to persist" (Boykin 2020, 387).

[9] In criminal law, Vallentyne (2007, 195) finds the notion of "crimes against society" implausible, as members of society in general "have no enforcement rights with respect to some specific right violations, except as authorized by specific individual victims." See also Huemer 2013, pt. II.

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becomes the embodiment of coercive patterns of interaction. So the shift from state to government is not terminological but conceptual and normative. Freedom and the rule of law, Hayek's guiding stars, are preserved once we "get away from a state-centric understanding of political order" (Kukathas 2015, 281–2), leaving individuals to interact spontaneously and voluntarily through the use of unconscious knowledge, giving way to a growth of explicit knowledge "of formulated generic rules that can be communicated by language from person to person" (Hayek 2012, 30).[10] And that order operates detached from the centralised coercive apparatus traditionally referred to as the state.

These views are thus wary of conceiving the state as a corporation that is different from the institutions of government and from the persons over whom government rules. They accordingly downplay the role of public ordering in the operation of legal and political systems. In short, they reject conceptions of political order threatening "to bring together state and society" (Kukathas 2015, 285). The rejection generates the image of a relationship between government and society well captured by Steinberg's description of what he refers to as the "liberal ideal of society." Such an ideal

> involves the notion of a realm of voluntary interaction where individuals may incur moral obligations and commitments to one another based upon genuine relationships of individual consent. The state, being distinct from society […] is considered to be a sphere of compulsion and coercion necessary to the ordered functioning of a society based upon free and voluntary individual relationships. (Steinberg 1978, 29)

What we are left with is society and, separately, an institutional coercive apparatus best accounted for by using the term "government." And, generally, less government intervention means more rule of law. As one Hayek commentator once put it, "the point is that the individual must know, in advance, just how […] rules are going to work. He cannot plan his own business, his own future, even his own family affairs, if the 'dynamism' of a central planning authority hangs over his head" (Chamberlain 2007, 254).

3.2. The State as the Legal System

A second conception relevant to my analysis is advanced by jurisprudents who equate the state with a legal system, and for whom the methodological criteria by which they identify both are not normative but purely methodological. Consequently, these theories admit that just as legal systems can exist and be identified without recourse to extralegal normative standards, so the state exists independently of normative functions. Accordingly, just as wicked legal systems are law, rule-of-law-less states are states. Now, once more, while these views champion the rule of law, the implication of their arguments is that this ideal can emerge and be secured without a state.

The main representative of this view is Kelsen, but several others adopt it as well.[11] Kelsen defined the state as a legally centralised form of political organisation

[10] A contemporary version of this distinction in relation to the rule of law is Barnett 2014, 44.

[11] For example, García (2021, 227–32); Green (2003, 366); Guastini (2016, 283, 286); MacCormick (1984, 67); Tebbit (2005, 36–9); Troper (2020, 47–9). Vinx (2007) interprets the pure theory in closer connection to Kelsen's political philosophy than the standard interpretation. An analysis of his views deserves more room than the one I am able to give here, alas.

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whose distinctive element is coercion. The state is then the regulation of coercive actions exerted by some people over others "which the legal order attaches to certain conditions stipulated by it." It follows that "[a]s a political organization, the state is a legal order" (Kelsen 1967, 286).

This view is then one that, while admitting that the state is indeed made of a people, a territory, and sovereign power, those elements are comprehended "only as the validity and the spheres of validity of a legal order" (ibid.). The upshot: "there is no sociological concept of the State different from the concept of the legal order" (Kelsen 1945, 192). The concept of the people, for example, emerges only by legal fiat: "only a *legal* element can be conceived more or less precisely as the unity of the people: the *unity of the state's legal order*, which rules the behavior of the human beings subject to its norms" (Kelsen 2000, 90). Accordingly, the state is a legal fiction, a creature of the law, a "juridical fact determined by an otherwise loose plurality of persons being submitted to one and the same legal order." In Kelsen's wording, "[a]s that unity, the 'people' is by no means—as is naively believed—an embodiment, a conglomerate, as it were, of human beings, but merely a system of the acts of single human beings determined by the state's legal order" (ibid.).

This is the standard Kelsenian picture of the relation between law and the state. In this view, legal science and the law are autonomous from other disciplines and normative phenomena and are thus defined in terms of their formal characteristics irrespective of their content. Kelsen's remarks on the axiological neutrality of the pure theory, and so of his theory of the state, are grounded in neo-Kantian methodological assumptions that give legal science and its main theoretical presupposition, the basic norm, a constitutive role in the creation of its object—the law (Somek 2006, 755). Put differently, the state is the epistemological condition for the possibility of law (Albrecht 2021, 281). Law springs from legal science inasmuch as "the latter provides us with tools necessary to give legal meaning to what otherwise would be human actions interpreted naturalistically, say, in terms of causes and effects" (García 2021, 230). And that creation "has a purely epistemological character" (ibid., 281; see also Albrecht 2021, 281). This accounts for a certain way of understanding normativity not as a mapping onto moral or political values but as a predicate of a principle of legality considered as within the domain of the *cultural* sciences, not the natural ones. From these considerations, it follows that "the science of law maintains its autonomy with respect to the conditions (rights and freedoms), and the means (protections of minorities, independent revisory bodies and general legal norms), that allows [the state] to contribute more effectively to the stability of political systems" (García 2021, 259).

What follows is that, should there be a connection between the rule of law and the state, it is not to be found in Kelsen's thesis that the law and the state are identical:

> A relatively centralized, autocratic coercive order which, if its flexibility is unlimited, offers no legal security is a legal order too; and—so far as order and community are differentiated—the community, constituted by such coercive order, is a legal community and as such, a state. […] The definition says nothing about the moral value or justice of positive law. (Kelsen 1967, 319)

So portrayed, the state and society are creatures of the legal system and their internal connections are defined by this feature. And while under this view it is possible to argue in favour of states subject to limits of the kind that in the next section I will be attributing to the Hobbesian state, those limits are not integral to the legal system and must then be argued for by recourse to standards external to the law. In a nutshell,

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if the state is the law, and the law is defined independently of moral or political values, then there is no necessary connection between the state and the rule of law *qua* political ideal.

3.3. The Hobbesian State

The remainder of these pages tell a different story about the role the state plays in bringing about and safeguarding the rule of law, a story more compelling than the ones discussed above. The first step is knowing what the Hobbesian state is.

The Hobbesian state is a distinct abstract person (Hobbes [1651] 1991, 3), a corporation "separate from both the ruler and the ruled, and constituting the supreme authority within a certain territory"; a "locus of power distinct from either the ruler or the body of the people" (Olsthoorn 2021; Harding 1994, 58; Skinner 1978, 353; 2008, 327). It is a form of political association inclusive of, but different from, the individuals living under that person's sovereign power—different from the multitude, in Hobbes's parlance.

Moreover, the Hobbesian state is *functional* corporation—it serves purposes, the most important of which is to avoid the perils of the state of nature (Hobbes [1651] 1991, 171). Its existence derives from individuals consenting to the terms of a contract conditional on the sovereign being capable of directing its actions "to the common benefit" (ibid., 120), with subjects acknowledging to be the authors of whatever the sovereign may do insofar as its acts "concern [their] common peace and safety" (ibid.). This constitutive function of the polity is repeated in almost every discussion of almost every right held by sovereigns by institution (ibid., 121–9), rights which are subservient to that function, which in turn is summarised by Hobbes as follows:

> if we consider any one of the said rights, we shall presently see, that the holding of all the rest will produce no effect, in the conservation of peace and justice, the end for which all commonwealths are instituted. (Ibid.)

Should there still be doubts, they are dissipated by Hobbes's definition of the commonwealth:

> one person, of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all, as he shall think expedient, *for* their peace and common defence. (Ibid., 121, italics added)

The Hobbesian state is then a person inclusive of, but distinct from, the institution of government, from the rules it uses to act, and from the persons over whom it rules, a person brought to life for the common peace and defence of the latter, a feature that is part of its concept, a condition for its coming into being. Hobbes's introduction to *Leviathan*, which enumerates the elements *constituting* the state, is clear in this respect: "The *Wealth* and *Riches* of all the particular members, are the *Strength*; *Salus Populi* (the *peoples safety*) its *Businesse* […]" (ibid., 9).

So the Hobbesian state is functional. But the idea that its functionalism is about the people's safety needs to be further developed.[12] Accordingly, the next section

[12] As mentioned in the introduction, I interpret the Hobbesian state's function as nonmoral. Functions can be morally neutral (Kramer 2003, 257–62), and given Hobbes's efforts at unmoralising justice, we have good reason to think that his functionalism is unmoralised as well (Olsthoorn 2015, 20).

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builds on this insight to further specify how the functions of the Hobbesian state are rule-of-law functions.

4. The Hobbesian State and the Rule of Law

Let me take stock. I have claimed that the rule of law has a twofold dimension. *Qua* legal concept, the rule of law insists that, among other things, laws ought to be predictable, public, abstract, and so on. *Qua* political virtue of a legal system, those features mean that power ought to be exerted in a nonarbitrary fashion, allowing individuals to form autonomous long-term plans with an acceptable degree of certainty. I then asked whether the state plays a role in the emergence and securement of the rule of law so understood and surveyed three different interpretations of the concept bearing on this question: the state as government, the state as legal system, and the Hobbesian state.

Before I proceed to elaborate on how the function of the state is a rule-of-law function, I must establish why the first two conceptions falter where the Hobbesian state does not. Accounts identifying the state with government raise the question of "whether anything of value may have been lost as a result of the widespread abandonment of the [Hobbesian] view that states must be conceptually distinguished from governments and recognized as separate persons distinct from both rulers and ruled" (Skinner 2018, 42). Hayek ([1960] 2006, 34) would answer that past times were better times, times when "the spontaneous forces of growth, however much restricted, could usually still assert themselves against the organized coercion of the state." However, he continues, "[w]e are not far from the point where the deliberately organized forces of society may destroy those spontaneous forces which have made advance possible" (ibid., 35). And so he and others would welcome the practices by which Western governments increasingly dismantle the welfare state, ceding their powers to multinational corporations, NGOs, and supranational organisations inasmuch as these practices reduce the size of the state.[13] Are states receding? According to those holding these views, they better be.

As I have argued elsewhere (Bello Hutt and Kristan 2024), these views overlook the fact that the rule of law—or any value, for that matter—does not necessarily emerge from spontaneous, unconscious processes or, as Pettit (2023, 318) describes it, "behind people's backs," without individuals considering in a contractarian manner whether they consent to the outcomes that would result from their unreflective collective action. Rousseau's account in his *Discourse on Inequality*, for example, is one instance of several that illustrate how such unconscious processes can produce results at odds with the rule of law or other cherished values. His central question challenges these theories: What guarantees do we have that unconscious emergent processes won't lead to oppressive conventions, like those Rousseau describes? Without conscious and voluntary reflection, we can only hope for favourable outcomes. However, hope is not enough to demand that those outcomes occur and to secure them.

Moreover, these views fail to consider how we speak of states as entities whose practices can only be accounted for as more than just governmental action. States bear responsibilities that transcend the actions of individual governments or the population they govern; they function as corporations—legal *persons* capable of holding

[13] Some suggest that this reduction has salutary effects on economic growth. See, for example, Allen, Qian, and Zhang 2011; Hadfield and Weingast 2012. See, *contra*, Chen and Deakin 2015.

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rights and bearing responsibilities.[14] And corporations are more than just the sum of their officers, executives, and personnel.

If the state is not a distinct entity, if when we speak of the state we mean government acting independently of society, a society understood as a collection of isolated individuals lacking a common point of view from which their differences may be adjudicated, then we are entitled to question whether there are norms and standards that can guide and potentially sanction individuals in a way that is public, general, predictable, and so forth. What we are left with is a bureaucratic apparatus that administers private actions likely to reflect private correlations of forces. We are left, to put it differently, with what contractarians call a state of nature.

In turn, Kelsenian views capture the abstract and legal features of the state also captured by the Hobbesian conception, but they lack a normative toolkit internal to the theory that may account for the meaning and the consequences of reducing the scope of influence the state may exert on the population over which it claims authority. They are blind to a constitutive element of the state which cannot be rescued by sole recourse to methodological positivism. Is the state receding? "Not my problem," these views would respond.

In sum, these views are either committed to the disappearance of the state or they are indifferent to it.

And some are indeed ready to declare the death of the state or, at least, to say they are witnessing its death throes. As van Creveld (2009, 414) puts it, presumably echoing Hobbes's idea that the Leviathan is a mortal god, "[t]he days when […] [the state] could set itself up as a god on earth are clearly over." But as indicated at the outset, and as I now explain, if we care about the rule of law we must resist that conclusion for Hobbesian reasons relating to the rule of law. First, because while the Hobbesian state may indeed appear to be passive, or act as such, this should not be read as a sign of its passing. That is, unlike other conceptions of the state, Hobbes's does not require constant presence or action. Its function is to create the conditions for nonarbitrariness under which life-planning by the subjects themselves becomes possible, and to that end it may not need to act at all times. I call this "latency." And there is a rule-of-law language for latency: The Hobbesian state must create the conditions for individuals to be able to plan their lives with some degree of certainty. And second, Hobbes's theory of the state takes the rule-of-law principle of avoidance of arbitrariness in the exercise of power as essential for its coming into being.

These features show that the Hobbesian state is constituted by functions that are not threats to the rule of law. Rather, they are conditions for its existence and survival. They also invite us to see the retreat of the state as a sign, not of its impending death, but of its latency. I begin with nonarbitrariness.

4.1. The Nonarbitrary Hobbesian State

Without the state, interactions among individuals would look like what contractarians call a state of nature. In such a place there is no benchmark by which actions are measured, no common point of view from which particular

[14] Of course, in the end, flesh-and-blood individuals suffer the consequences of this attribution. For a discussion, see Fleming 2020; Pettit 2023, 304–12.

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demands may be adjudicated (Rawls 1971, 123).[15] It is a place where private desire is the be-all and end-all criterion for the correctness of individual interactions. In rule-of-law terms, this means arbitrary uncertainty—the absence of public rules under which individuals may plan their lives with some degree of predictability and certainty.

Hobbes's worries concerning arbitrariness were explicit. Even "men […] who naturally love Liberty" are willing to relinquish their right to all things and restrain themselves because they are concerned with "the *foresight* of their own preservation" (Hobbes [1651] 1991, 117, italics added). The state of nature and the natural liberty that defines it mean arbitrary uncertainty and unpredictability. So the Hobbesian state is an answer to what can be adequately described as a rule-of-law concern. It secures the conditions under which individuals may have recourse to a common, public, and known set of rules preventing arbitrariness, preventing the dangers of the state of nature, which are reasonably accounted for as the result of living in the absence of a rule of law.

This claim can be first evaluated against the background of the traditional objection that the rule of law is meant to protect individuals from the exercise of arbitrary power *by the state*.[16] For even if there were parts of our lives not covered by the law, under a Hobbesian arrangement "the sovereign gets to decide which those parts are" (Runciman 2021, 27). Subjects live in conditions of uncertainty, the objection goes, because the sovereign may decide that you or some aspect of your life has become a threat to the state. Or it may not. The point is that you never know, and "that's what makes Hobbes's Leviathan terrifying" (ibid.). And indeed, for all their worries about the uncertainty in the state of nature, Hobbesian individuals give the sovereign a worrying array of prerogatives to determine what counts as common peace and safety and bear all the responsibilities for its actions; they believe in Laertes's remark that "best safety lies in fear." The Hobbesian state is then one where "there is always the risk of arbitrariness" (ibid.).

But an alternative interpretation is possible and desirable. Consider, first, that the function of the Hobbesian state as framed in the social contract, is to offer individuals something better—not great, better—than the state of nature. And so it is for the essence of the commonwealth to deliver "peace at home, and mutuall ayd against their enemies abroad"; "Common Defence," and in general, safety, by which "is not meant a bare Preservation, but also all other Contentments of life, which every man by lawfull Industry, without danger, or hurt to the Common-wealth, shall acquire to himselfe" (Hobbes [1651] 1991, 231). The sovereign is authorised and the right to all things relinquished in exchange for protection and for the possibility of a predictable life. And, as is well known, individuals authorise the sovereign for such purposes but, crucially, "no farther" (ibid., 112). We are then told that due to this process of authorisation, subjects own "all the actions the Representer doth, in case they give him Authority without stint: Otherwise, when they limit him in what, and how farre he shall represent them, *none of them owneth more, than they gave him commission to Act*" (ibid., 114, italics added).

[15] This is what Chen and Deakin (2015, 123) call a "meta-norm."
[16] Against this idea see, for example, King 2018.

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The conditional nature of that assertion—"*in case they* […]: *Otherwise, when they* [...]"—shows that individuals may grant arbitrary powers to the sovereign. But then that makes us wonder why, in which cases, and under what circumstances individuals would sign a contract to obey an unchecked arbitrary sovereign without stint. Albeit in a different context, Joyce said it better in his portrait of young Stephen Dedalus: "What kind of liberation would that be to forsake an absurdity which is logical and coherent and to embrace one which is illogical and incoherent?" Hobbesian individuals living in a condition of natural liberty live in constant fear and are rational in their calculations, and so they abandon the state of nature for prudential reasons (Pettit 2023, 247), searching for things they cannot have there (the arts, navigation, industry, a commodious life, and so on).

The moral of this story is that while it is legally possible for individuals to grant their representative unlimited authority, we should at least question whether they would pact their exit from the state of nature without some protection against the evils that led them to sign the contract in the first place. Would individuals have contracted away and transferred their right to all things to a potentially *arbitrary* sovereign? Wouldn't this amount to nothing but swapping one arbitrary status—a ruleless state of nature—for another—an unbounded state?

"Well yes," you may reply, "it means exactly that." After all, "he that can bind, can release; and therefore he that is bound to himselfe onely, is not bound" (Hobbes [1651] 1991, 184). You could further argue that Hobbes is clear: The sovereign is the only legislator in the commonwealth and is not subject to civil laws. And you could further add that subjects do not enter civil society cheerily and without concerns, the unbound character of the sovereign being most likely a prominent one. As it happens, individuals "love" the liberty they have in the state of nature, and one should expect they enter civil society grudgingly, "as affectionally as [they would] a trip to the dentist" (Nozick 1974, 5).

Yet it does not follow that the state is arbitrary. If anything, it means that granting the sovereign unlimited authority must be quite the calculated move, the most calculated of all the moves that individuals make in the predicament they find themselves in when pursuing their goals absent a common power keeping everyone in awe, namely, the predicament of war. Hobbes was attentive to the worries raised by an unbounded state, worries that, in their own time, Locke (2012, 326) and later Rousseau (1997, 52) expressed against absolute monarchy, ironically and, in my view mistakenly, most likely with Hobbes in mind.[17] But, while it is true that Hobbes's tone and rhetoric give room for thinking that individuals may be foolish enough to avoid "what Mischiefs may be done them by *Pole-Cats*, or *Foxes*," and be "content […] to be devoured by *Lions*" (Locke 2012, 328), he did address these worries in admitting that while "the Condition of Subjects is very miserable," the power of a commonwealth—whether monarchical or democratic—is the same *if* it is "perfect enough to protect them" (Hobbes [1651] 1991, 128).

The italicised *if* makes all the difference. It is where the distinction between arbitrariness and discretion lies. Arbitrariness means that there is no frame of reference within which the state should decide, no goal to be achieved, no need to justify one's actions, and no action unwarranted. Discretion, by contrast, means that however

[17] Rousseau is explicit in this regard. As for Locke, see Waldmann 2021.

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extensive the prerogatives possessed by an authority may be, these are framed by some functional or normative standard orienting decisionmakers. Hobbesian subjects dismiss the first and accept the second. This condition appeases concerns that the Hobbesian state may be arbitrary. Changes in the Leviathan's behaviour must be susceptible to be justified on the grounds of its function.

Now, as noted earlier, Hobbes's rhetoric, claims, and arguments, and the prerogatives with which his version of the social contract endows sovereigns, as well as the fact that he/she is not bound by civil laws, imply that these sovereigns may only be bound to themselves when solving disputes and interpreting what peace and safety entail.[18]

While this is indeed a challenge to my claim, two arguments limit the scope of the critique. The first insists that while the sovereign is not a party to the contract, it is nevertheless limited by its function. While the sovereign interprets what may count as arbitrary versus discretionary, it does not follow that it cannot be mistaken in its interpretation, as Hobbes certainly admits when accepting that although sovereigns cannot be unjust, they can nevertheless be iniquitous (Hobbes [1651] 1991, 124). Second, that civil laws do not bound sovereigns does not mean that there are no functional limits to their actions. Civil laws are tools by which the sovereign speaks to its subjects, and in that respect, they are never addressed to itself. But the question at hand is not whether civil laws bind the sovereign but whether there are external limits against which its actions may be evaluated. Granted, civil laws do not do this. However, even if Hobbesian subjects have limited institutional means to hold sovereigns accountable, it does not follow that there are no resources in Hobbes's political theory for demanding them.

I must be careful not to overstate my case. There is indeed a dissonance or disconnection between, on the one hand, the rationale for creating the Hobbesian state—which is expressive of the sorts of limits I here champion as functional features—and, on the other hand, the broad prerogatives that Hobbes believes should be granted to sovereigns—which open the door for arbitrary rule. Yet the dissonance should not lead us to believe that every Hobbesian state must have sovereigns with the degree and scope of rights and prerogatives outlined in chapter 18 of *Leviathan*. As mentioned before, even if the precise nature of its personhood is a matter of heated scholarly debate (Olsthoorn 2021), there is broad agreement that a Hobbesian state and its sovereign representative remain two different persons (Tuck 2016, 91). The means by which the sovereign pursues the ends of the commonwealth will certainly vary across polities and contexts. Hobbes's experience of civil war led him to advocate for powers we now consider illegitimate and morally unacceptable. But, as suggested by the notion that a Hobbesian state can be a welfare state (Dyzenhaus 2015, 259), nothing in its nature prevents us from granting sovereigns more morally acceptable powers compatible with the goals of the state.

In a nutshell, a Hobbesian state functionally committed to nonarbitrariness does not require a sovereign with arbitrary prerogatives. The critical question is how these prerogatives can be used to safeguard the rule of law. To that question I now turn.

4.2. The Latent Hobbesian State

In a slightly different context, Waldron has asked the following question:

[18] I thank a reviewer for pressing me on this point.

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> If the rule *of* law is a matter of a government's observance of legal constraints, then it may be posed, philosophically, as a question about the nature constraint. Is constraint necessarily an affirmative existence—something one can point to in this or that statutory or constitutional prohibition or requirement? Or does the "constraint" that the rule of law involves mean submission to a spirit of limitation, which can sometimes be inferred from the silence of the constitution and which means never acting without specific authorization. (Waldron 2023b, 252, italics in the original)

With Waldron, I believe both understandings are connected to the rule of law as a matter of principle. In this section, I expound an analogous idea, namely, the notion that the rule of law can sometimes "be inferred from the silence" of the state.

As we have seen, some may not share the view that the state is receding, but they would in any event be happy to deliver a coup de grace. Others, in turn, would have little to say about such a prospect. But what does this amount to? I previously claimed that the state's alleged disappearance hinders individuals from living under nonarbitrary rules. To this I now add that without at least a Hobbesian state, individuals lack the conditions under which they can make autonomous long-term plans. Given this problem, I will argue in this section that we have good reasons to look at the state's retreat as something other than its disappearance. Rather, we should interpret its silence as latency: as a sign that the state must have generated the conditions under which individuals may be able to plan their lives autonomously with some degree of predictability and certainty. Absent those conditions, we are in a position to interpret silence as a breach of the state's function.

The rule of law matters to us because "we value the ability to choose styles of forms of life, to fix long-term goals and effectively direct one's life towards them" (Raz 1979, 220). The law can help fix such points by stabilizing social relationships so that they are not erratic and unpredictable, but also by implementing policies "of self-restraint designed to make the law a stable and safe basis for individual planning" (ibid.).

I agree with Raz. And since the law is the voice of the state and the sovereign its mouthpiece (Hobbes [1651] 1991, 184), we could indeed describe the state's potential disappearance as equivalent to the full instantiation of the law's self-restraint—as a return to the state of nature. But we should resist that conclusion. Policies of self-restraint adopted to allow individuals to plan their lives on their own and into the future differ from those that simply leave them to their own devices. I thus submit that the silence of the Hobbesian state is best interpreted as an indication that the conditions under which individuals may be able to plan their lives in advance are in place.

One way of reflecting on latency and state disappearance is by thinking about the distinction between the state and civil society.[19] As we have seen, the first two conceptions of the state described above admit such separation. This is certainly the case with Hayek, but also with Kelsen (1945, 192), who admitted as much in claiming "that we can describe the social reality without using the term 'State.'"

[19] Dyzenhaus (2015) has explored an analogous question through an analysis of Oakeshott's account of the rule of law.

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However, the distinction is problematic from a rule-of-law standpoint. It entails that the domains left vacant by the state's retreat are spaces where power may be exercised without public criteria defining what actions count as warranted. In a Hobbesian state, by contrast, what we today call civil society is both a consequence of the social contract and an element of the state (Skinner 2008, 345).[20] They are co-original, as shown by Hobbes's contention that when individuals confer their power and strength on one man or assembly of men, they reduce their own individual wills, "by plurality of voices, unto one Will" (Hobbes [1651] 1991, chap. 18, p. 120). Put in Barber's (2018, 145) wording, "the creation of the public simultaneously creates the private, and, by doing so, creates a relationship between these two elements."

This marks a central difference between the attitudes a latent state may adopt and, for example, the attitudes of a subsidiary one, whose retreat does leave individuals to their own devices, in a condition of natural liberty. The latter pushes the state's authority down to the lowest possible level when performing a task. Latency, by contrast, sets no such limits. The duty of a Hobbesian state is not so much to limit itself as it is to enhance the capabilities of its subjects to live under nonarbitrary rules and plan their lives on their own as much as possible without fear of arbitrary interference. Its explicit interventions, then, should be accounted for not as extraordinary but as expressions of a task that is not intermittent or sporadic but constant even if not always visible. Those interventions are compatible with substantive policies such as the recognition of social rights and the welfare state, meant to secure the material conditions by which robust forms of life planning may become possible when and if the state steps back. By contrast, a subsidiary state is "the most effective antidote against any form of all-encompassing welfare state" (Benedict XVI 2009, sec. 57), and its interventions should, "at its core" (Vermeule 2022, 157), be interpreted as exceptional.[21]

Hence, in a latent Hobbesian state, citizens can lead *their* lives not guided or conditioned by the law at every step of the way. They live under normative structures allowing *them* to know that *they* can plan *their* lives with a certain degree of certainty about the future. Latency is a faculty and a duty of the state conditional on its bringing about that normative structure. Hence, state activity is subservient to the possibility of life planning, such that when such conditions for autonomy fail to obtain, the state must act visibly to bring them about and to secure them. Once those conditions obtain, the state may take a back seat.

There is evidence of latency in Hobbes's writings. For example, the incommodities of the state of nature express the state's obligation to generate the conditions for autonomous long-term planning by its subjects. Individuals in the state of nature "live without other security, than what their own strength […] shall furnish them withall" (Hobbes [1651] 1991, 89). And from there Hobbes draws a well-known conclusion:

> In such condition, there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death. (Ibid.)

[20] The term "civil society" is, it should be noted, a later development in political theory.
[21] I thank Anna Lukina for calling my attention to this difference.

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And so life becomes solitary, poor, nasty, brutish, and short, because it is uncertain and because, absent the state, individuals are left to their own devices. This is crucial, for notice that the Hobbesian state fulfils its mandate not by choosing life plans *for* its subjects or in their stead. Rather, it is a remedy for a war that puts individuals and subjects-to-be in a position whereby *they* cannot lead commodious lives. It is *their* life that cannot be industrious, cultivated, commodious, knowledgeable, and social. So the solution to this war of all against all cannot simply consist in bringing about commodities, industry and so forth by the state itself and for its subjects. Rather, the state must replace the incentives that in the state of nature provoke fear of death and war with others where those activities requiring certainty and planning may indeed be performed by the subjects themselves. As Hobbes himself states, the passions that incline men to leave the state of nature are "Feare of Death; Desire of such things as are necessary to commodious living; and a Hope *by their Industry* to obtain them" (ibid., 90, italics added). And so the end of the commonwealth is the subjects' "foresight of their *own* preservation" (ibid., 117, italics added), which must be understood as not as "bare," but "also as all other Contentments of life, which every man by lawfull Industry, without danger, or hurt to the Common-wealth, shall acquire to himselfe" (ibid., 231).

This leads us back to the task at hand. These are not exegetical antiquarian readings of Hobbes. We can fully relate to them when expressed in contemporary rule-of-law language. The law—i.e., the voice by which the state speaks, and of which the sovereign is its mouthpiece—relies constantly on its self-application by its addressees,[22] and it is oriented towards making life autonomous. The law is public, certain, written, prospective, etc., because there is an expectation that citizens will be leading their lives knowing that there exist institutional structures facilitating them so that *they* may act and plan their lives stably, allowing *them* to imagine forms of life, to fix long-term goals, and to effectively direct their choices towards them. Whether the state advances or retreats, this should not be read as a sign of its life or death but as a sign of its fulfilling that duty in a more or less acceptable fashion.

5. Conclusion

States are actively recovering the prominence they had before talk of the death of sovereignty became part of our vocabulary.[23] Citizens, too, are asking for this (Gray 2022, 20). But the rule of law will not be secured just because the state is again increasingly present in our lives. This is what a healthy dose of political realism and research suggests (Lavelle 2019). And this is why I insist that we need *at least* the Hobbesian state for the rule of law to exist and be safeguarded. It is a necessary and important condition, but certainly not a sufficient one, for securing

[22] Burgess (2017, 489–95) sees this as a combination of what he calls "comprehension" and "procedural pellucidity."

[23] Management scholars have been more explicit than political theorists about the "return of the state," specifically in the context of discussions on the intervention of the state in the economy in the midst of a global shift in world economy from "West" to "East." See Sallai and Schnyder 2021, 1315–22).

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a host of other values central to our liberal democracies.[24] Nor is the Hobbesian state the be-all and end-all in our search for making sure that power is exerted nonarbitrarily, allowing us to plan our lives on our own in ways *we* consider acceptable. For example, I have argued elsewhere that the rule of law must be thought of as part of a theory of political representation that is more demanding than Hobbes's.[25] Also, autonomous life planning may require less latency than what my tone here may have suggested. This is not the place to detail how much of it is necessary or how visible the state should be, though the answer will probably be best framed in terms of whether and how much the welfare state and social rights are warranted and desirable,[26] for it is by no means obvious that the state is regaining strength in the direction of welfare and rights. Yet there is some comfort in the knowledge that Leviathan is mandated to make life less arbitrary and uncertain. Whether this suffices for a robust conception of the rule of law to obtain is up for debate. Surely, we need more, but at least Hobbes gave us a start from where we may walk in that direction.

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References

Albrecht, K. Y. 2021. Conditions, Fictions and the Basic Norm. *The American Journal of Jurisprudence* 66(2): 279–90. https://doi.org/10.1093/ajj/auab015.

Allen, F., J. Qian, and C. Zhang. 2011. *An Alternative View on Law, Institutions, Finance and Growth*. Working Paper 11-64. The Wharton School, University of Pennsylvania.

Ankersmit, F. R. 2007. Political Representation and Political Experience: An Essay on Political Psychology. *Redescriptions: Political Thought, Conceptual History and Feminist Theory* 11: 21–44. https://doi.org/10.7227/R.11.1.3.

Barber, N. W. 2018. *The Principles of Constitutionalism*. Oxford: Oxford University Press. https://doi.org/10.1093/oso/9780198808145.001.0001.

Barnett, R. E. 2014. *The Structure of Liberty: Justice and the Rule of Law*. 2nd ed. Oxford: Oxford University Press. https://doi.org/10.1093/0198297297.001.0001.

Bello Hutt, D. 2018. Republicanism, Deliberative Democracy, and Equality of Access and Deliberation. *Theoria* 84(1): 83–111. https://doi.org/10.1111/theo.12138.

Bello Hutt, D. 2022. Rule of Law and Political Representation. *The Hague Journal on the Rule of Law* 14: 1–25. https://doi.org/10.1007/s40803-021-00163-5.

[24] As argued as well by Vinx (2012, 163).
[25] Bello Hutt 2022. I take my cue from Raz 2019.
[26] This is at the centre of King's (2018) focus on the social dimension of the rule of law and Dyzenhaus's (2015, 259) contention that the Hobbesian state is compatible with an "extensive welfare State." See also Pettit 2023, 225–63.

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Bello Hutt, D., and V. Kristan. 2024. Review of *The State*, by P. Pettit (Princeton: University Press, 2023). *Res Publica* 30: 617–22. https://doi.org/10.1007/s11158-023-09653-9.

Benedict XVI. 2009. Caritas in Veritate. *Encyclical letter*, June 29. https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate.html.

Bentham, J. (1756) 1988. *A Fragment on Government*. Ed. J. H. Burns and H. L. A. Hart. Cambridge: Cambridge University Press.

Bentham, J. (1789) 2007. *An Introduction to the Principles of Morals and Legislation*. New York: Dover.

Bingham, T. 2010. *The Rule of Law*. London: Penguin.

Boykin, S. A. 2020. Spencer and Hayek's Liberal Evolution, and Why It Should Omit the Nation-State. *Journal of Libertarian Studies* 24(2): 385–422. https://jls.mises.org/article/24278-spencer-and-hayek-s-liberal-evolutionism-and-why-it-should-omit-the-nation-state.

Burgess, P. 2017. The Rule of Law: Beyond Contestedness. *Jurisprudence* 8(3): 480–500. https://doi.org/10.1080/20403313.2017.1341203.

Cass, R. 2004. Property Rights Systems and the Rule of Law. In *The Elgar Companion to the Economics of Property Rights*. Ed. E. Colombatto, 131–63. Oxford: Edward Elgar Publications.

Chamberlain, J. 2007. Foreword to the 1944 American edition of *The Road to Serfdom*. In *The Collected Works*. Ed. F. A. Hayek and B. Caldwell, 253–254. Chicago: The University of Chicago Press.

Chen, D., and S. Deakin. 2015. On Heaven's Lathe: State, Rule of Law, and Economic Development. *Law and Development Review* 8(1): 123–45. https://doi.org/10.1515/ldr-2014-0031.

Christiano, T. 1996. *The Rule of the Many: Fundamental Issues in Democratic Theory*. Oxford: Westview Press.

Craig, P. 1997. Formal and Substantive Conceptions of the Rule of Law: An Analytical Framework. *Public Law* 3: 467–87.

Dasgupta, R. 2018. The Demise of the Nation State. *The Guardian*, April 5. https://www.theguardian.com/news/2018/apr/05/demise-of-the-nation-state-rana-dasgupta.

Dworkin, R. 1985. *A Matter of Principle*. Cambridge, MA: Harvard University Press.

Dyzenhaus, D. 2001. Hobbes and the Legitimacy of Law. *Law and Philosophy* 20(5): 461–98. https://link.springer.com/article/10.1023/A:1017515528495.

Dyzenhaus, D. 2012. Hobbes on the Authority of Law. In *Hobbes and the Law*. Ed. D. Dyzenhaus and T. Poole, 186–209. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9781139137034.010.

Dyzenhaus, D. 2015. Dreaming the Rule of Law. In *Law, Liberty and State: Oakeshott, Hayek and Schmitt on the Rule of Law*. Ed. D. Dyzenhaus and T. Poole, 234–60. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9781316144930.010.

Fleming, S. 2020. *Leviathan on a Leash: A Theory of State Responsibility*. Princeton: Princeton University Press.

Foucault, M. 1980. Truth and Power (1976), an interview by A. Fontana and P. Pasquino. Chap. 6 in *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977*. Ed. C. Gordon, 109–33. New York: Pantheon Books.

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14679337, 2025, 2, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/raju.12428 by Universidad De Valladolid, Wiley Online Library on [07/10/2025]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

Fuller, L. 1969. *The Morality of Law*. New Haven, CT: Yale University Press.
García, M. G. 2021. Against the Revisionary Political Reading of Kelsen. *Problema: Anuario de Filosofía y Teoría del Derecho* 15: 232–62. https://doi.org/10.22201/iij.24487937e.2021.15.16123.
Gardner, J. 2012. *Law as a Leap of Faith: Essays on Law in General*. Oxford: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199695553.001.0001.
Garrard, G. 2022. *The Return of the State and Why It Is Essential for Our Health, Wealth and Happiness*. New Haven, CT: Yale University Press.
Gray, J. 2022. How Britain's Failure to Reckon with Global Forces Led to a Cost-of-Living Crisis. *The New Statesman*, May 25, 19–21. https://www.newstatesman.com/politics/economy/2022/05/how-britains-failure-to-reckon-with-global-forces-led-to-a-cost-of-living-crisis.
Green, M. S. 2003. Hans Kelsen and the Logic of Legal Systems. *Alabama Law Review* 54(2): 365–413. https://scholarship.law.wm.edu/facpubs/173.
Guastini, R. 2016. *La Sintaxis del Derecho*. Barcelona: Marcial Pons.
Hadfield, G. K., and B. R. Weingast. 2012. What Is Law? A Coordination Model of the Characteristics of Legal Order. *Journal of Legal Analysis* 4(2): 471–514. https://doi.org/10.1093/jla/las008.
Harding, A. 1994. The Origins of the Concept of the State. *History of Political Thought* 15(1): 57–72. https://www.jstor.org/stable/26214385.
Hayek, F. A. (1960) 2006. *The Constitution of Liberty*. New York: Routledge.
Hayek, F. A. 2012. *Law, Legislation and Liberty*. London: Routledge.
Hobbes, T. (1651) 1991. *Leviathan, or The Matter, Forme, & Power of a Common-Wealth, Ecclesiasticall and Civill*. Ed. R. Tuck. Cambridge: Cambridge University Press.
Huemer, M. 2013. *The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey*. Houndmills: Macmillan.
Kantorowicz, H. 1932. The Concept of the State. *Economica* 35: 1–21. https://doi.org/10.2307/2548973.
Kelsen, H. 1945. *General Theory of Law and State*. Trans. A. Wedberg. Cambridge, MA: Harvard University Press.
Kelsen, H. 1967. *Pure Theory of Law*. Trans. M. Knight from the 2nd German edition (1960). Berkeley: University of California Press.
Kelsen, H. 2000. Of the Essence and the Value of Democracy (1929). In *Weimar: A Jurisprudence of Crisis*. Ed. A. Jacobson and B. Schlink, 84–109. Berkeley: University of California Press.
King, J. 2018. The Social Dimension of the Rule of Law. In "Constitutional Boundaries." *I-CONnect* symposium, April 27. https://www.iconnectblog.com/i-connect-symposium-on-constitutional-boundaries-the-social-dimension-of-the-rule-of-law/.
Kramer, M. H. 2003. *In Defense of Legal Positivism: Law without Trimmings*. Oxford: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199264834.001.0001.
Kramer, M. H. 2018. *H. L. A Hart: The Nature of Law*. Cambridge: Polity Press.
Kukathas, C. 2015. Hayek and the State. In *Law, Liberty and State: Oakeshott, Hayek and Schmitt on the Rule of Law*. Ed. D. Dyzenhaus and T. Poole, 281–94. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9781316144930.012.
Lavelle, P. 2019. Europe's Rule of Law Crisis: An Assessment of the EU's Capacity to Address Systemic Breaches of Its Foundational Values in Member States. *Trinity College Law Review* 22(1): 35–50.

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14679337, 2025, 2, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/raju.12428 by Universidad De Valladolid, Wiley Online Library on [07/10/2025]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

Lloyd, S. A., and S. Sreedhar. 2022. Hobbes's Moral and Political Philosophy. In *Stanford Encyclopedia of Philosophy*. Fall 2022 edition. Ed. E. N. Zalta and U. Nodelman. https://plato.stanford.edu/archives/fall2022/entries/hobbes-moral/.

Locke, J. 2012. *The Second Treatise of Government: An Essay Concerning the True, Original, Extent, and End of Civil Government*. In *Two Treatises of Government*. Ed. P. Laslett, 265–428. Cambridge: Cambridge University Press.

Lovett, F. 2016. *A Republic of Law*. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9781316440698.

MacCormick, N. 1984. Der Rechtsstaat und die Rule of Law. *JuristenZeitung* 39(2): 65–70.

Nozick, R. 1974. *Anarchy, State, and Utopia*. New York: Basic Books.

Olsthoorn, J. 2015. Why Justice and Injustice Have No Place Outside the Hobbesian State. *European Journal of Political Theory* 14(1): 19–36. https://doi.org/10.1177/1474885113514709.

Olsthoorn, J. 2021. Leviathan Inc.: Hobbes on the Nature and Person of the State. *History of European Ideas* 47(1): 17–32. https://doi.org/10.1080/01916599.2020.1779466.

Olsthoorn, J. 2024. *Hobbes on Justice*. Oxford: Oxford University Press. https://doi.org/10.1093/9780191904585.001.0001.

Pavel, C. E. 2021. The Rule of Law and the Limits of Anarchy. *Legal Theory* 27(1): 70–95. https://doi.org/10.1017/S1352325221000045.

Pettit, P. 2023. *The State*. Princeton, NJ: Princeton University Press.

Raleigh, W. 1642. The Prince, or Maxims of State, Written by Sir Walter Ravveigh (London: Sapere & Silere). In *Early English Books Online*. University of Michigan Library Digital Collections. https://quod.lib.umich.edu/e/eebo/A57525.0001.001?rgn=main;view=fulltext.

Rawls, J. 1971. *A Theory of Justice*. Cambridge, MA: The Belknap Press of Harvard University Press.

Raz, J. 1979. The Rule of Law and Its Virtue. In *The Authority of Law: Essays on Law and Morality*, 210–29. Oxford: Clarendon Press. https://doi.org/10.1093/acprof:oso/9780198253457.003.0011.

Raz, J. 2019. The Law's Own Virtue. *Oxford Journal of Legal Studies* 39(1): 1–15. https://doi.org/10.1093/ojls/gqy041.

Rousseau, J.-J. 1997. *The Social Contract*. In *The Social Contract and Other Later Political Writings*. Ed. and trans. V. Gourevitch, 39–152. Cambridge: Cambridge University Press.

Runciman, D. 2021. *Confronting Leviathan: A History of Ideas*. London: Profile Books.

Sallai, D., and G. Schnyder. 2021. What Is "Authoritarian" about Authoritarian Capitalism? The Dual Erosion of the Private-Public Divide in State-Dominated Business. *Business and Society* 60(6): 1312–48. https://doi.org/10.1177/0007650319898475.

Skinner, Q. 1978. *The Foundations of Modern Political Thought*. Vol. 2, *The Age of Reformation*. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9780511817892.

Skinner, Q. 2008. A Genealogy of the Modern State. *Proceedings of the British Academy* 162: 325–70. https://www.thebritishacademy.ac.uk/documents/2073/pba162p325.pdf.

Skinner, Q. 2018. On the Person of the State. In *State Formations: Global Histories and Cultures of Statehood*. Ed. J. L. Brooke, J. C. Strauss, and G. Anderson, 25–44.

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Cambridge: Cambridge University Press. https://doi.org/10.1017/9781108241380.003.
Somek, A. 2006. Stateless Law: Kelsen's Conception and Its Limits. *Oxford Journal of Legal Studies* 26(4): 753–74. https://doi.org/10.1093/ojls/gql028.
Stein, R. 2009. Rule of Law: What Does It Mean? *Minnesota Journal of International Law* 18: 293–303. https://scholarship.law.umn.edu/faculty_articles/424.
Steinberg, J. 1978. *Locke, Rousseau, and the Idea of Consent: An Inquiry Into the Liberal-Democratic Theory of Political Obligation*. Westport, CT: Greenwood Press.
Stråth, B., and Q. Skinner. 2003. Introduction to *State and Citizens: History, Theory, Prospects*. Ed. B. Stråth and Q. Skinner, 1–10. Cambridge: Cambridge University Press.
Sunstein, C. R. 2018. *Legal Reasoning and Political Conflict*. 2nd ed. Oxford: Oxford University Press.
Tamanaha, B. Z. 2004. *On the Rule of Law: History, Politics, Theory*. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9780511812378.
Tanzi, V. 2020. *The Economics of Government: Complexity and the Practice of Public Finance*. Oxford: Oxford University Press. https://doi.org/10.1093/oso/9780198866428.001.0001.
Tasioulas, J. 2020. The Rule of Law. In *The Cambridge Companion to the Philosophy of Law*. Ed. J. Tasioulas, 117–34. Cambridge: Cambridge University Press. https://doi.org/10.1017/9781316104439.007.
Tebbit, M. 2005. *Philosophy of Law: An Introduction*. London: Routledge.
Troper, M. 2020. The Structure of Legal Systems and the Emergence of the State. In *Legal Rules in Practice: In the Midst of Law's Life*. Ed. B. Dupret, J. Colemans, and M. Travers, 44–66. London: Routledge.
Tuck, R. 2016. *The Sleeping Sovereign: The Invention of Modern Democracy*. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9781316417782.
Vallentyne, P. 2007. Libertarianism and the State. *Social Philosophy and Policy* 24(1): 187–205. https://doi.org/10.1017/S0265052507070082.
van Creveld, M. 2009. *The Rise and Decline of the State*. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9780511497599.
Vermeule, A. 2022. *Common Good Constitutionalism*. Cambridge: Polity Press.
Vinx, L. 2007. *Hans Kelsen's Pure Theory of Law: Legality and Legitimacy*. Oxford: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199227952.001.0001.
Vinx, L. 2012. Hobbes on Civic Liberty and the Rule of Law. In *Hobbes and the Law*. Ed. D. Dyzenhaus and T. Poole, 145–64. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9781139137034.008.
Waldmann, F. 2021. John Locke as a Reader of Thomas Hobbes's *Leviathan*: A New Manuscript. *The Journal of Modern History* 93(2): 245–82. https://doi.org/10.1086/714068.
Waldron, J. 2023a. The Rule of Law. In *Stanford Encyclopedia of Philosophy*. Fall 2023 edition. Ed. E. N. Zalta and U. Nodelman. https://plato.stanford.edu/archives/fall2023/entries/rule-of-law/.
Waldron, J. 2023b. *Thoughtfulness and the Rule of Law*. Cambridge, MA: Harvard University Press.
Weber, M. 1949. "Objectivity" in Social Science and Social Policy. In *Max Weber on the Methodology of the Social Sciences*. Ed. and trans. E. Shils and H. Finch, 49–112. Glencoe, IL: The Free Press.

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