

Hart's Readers

LUÍS DUARTE D'ALMEIDA, JAMES EDWARDS AND
ANDREA DOLCETTI

I. TO THE STUDENT

‘IN LAW AS elsewhere, we can know and yet not understand.’ Thus began HLA Hart’s 1953 inaugural lecture as Professor of Jurisprudence at Oxford.¹ To promote, not principally our knowledge, but our understanding of law: this was how Hart saw his task. *The Concept of Law* opens on a similar note. Hart’s ‘aim in this book’, he announces, is ‘to further the understanding of law, coercion, and morality as different but related social phenomena’.²

The point is not that there is some radical divide between knowing and understanding. To further one’s understanding, of law or anything else, is to further one’s knowledge. The point is that there may be things we simultaneously know and yet do not fully understand. To further one’s understanding of something is to further one’s knowledge in depth, as it were, rather than in breadth. Hart expands on this in chapter I of *The Concept of Law*, but he had put matters more straightforwardly in a 1957 essay:

[I]t is characteristic not only of the use of legal concepts, but also of many concepts in other disciplines and in ordinary life, that we may have adequate mastery of them for the purpose of their day-to-day use; and yet they may still require elucidation; for we are puzzled when we try to understand our own conceptual apparatus. We may know how to use these concepts, but we cannot say how or describe how we do this in ways which are intelligible to others and indeed to ourselves. We know, and yet do not fully understand, even quite familiar features of legal thinking – much in the way perhaps that a man may know his own way about a familiar

¹ HLA Hart, ‘Definition and Theory in Jurisprudence’, in his *Essays in Jurisprudence and Philosophy* (Oxford, Clarendon Press, 1983 [1953]) 21.

² Hart, *The Concept of Law*, 3rd edn (Oxford, Oxford University Press, 2012 [1961]) vi.

town by rote without being able to draw a map of it or explain to others how he finds his way about the town.³

In a sense, then, Hart does not in his work set out to tell his readers new things about law. He sets out to tell them new things *about things they already know* about law.⁴ It follows that if one is to count oneself among Hart's intended readers there is a certain body of knowledge about law that one must already have. This does not mean that *The Concept of Law* is a book addressed to experts, a book for trained lawyers only. For the body of knowledge about law with which Hart is concerned is a body of general rather than specialised knowledge. It is general, in fact, in at least two ways. First, it is a body of knowledge about law that Hart takes 'virtually everyone' ('any educated man', at any rate) to have.⁵ Second, it is a body of knowledge about law *in general*, not about the distinctive details of any particular legal system at any particular moment. It is knowledge about the 'structure' and 'salient features', as he often puts it,⁶ of legal systems everywhere.

What propositions form part of this body of 'common knowledge'?⁷ Here is a list. (1) The laws of any country 'form some sort of system'.⁸ (2) Legal systems are in all countries 'broadly similar in structure'.⁹ Among the points of similarity, the 'most prominent' is that (3) law's existence 'means that certain kinds of human conduct are no longer optional but in *some* sense obligatory'.¹⁰ Another is that (4) '[t]he legal system of a modern state is characterized by a certain kind of *supremacy* within its territory and *independence* of other systems'.¹¹ And (5) legal systems in all countries also similarly comprise 'rules of many different types',¹² namely

- (i) rules forbidding or enjoining certain types of behaviour under penalty; (ii) rules requiring people to compensate those whom they injure in certain ways; (iii) rules specifying what must be done to make wills, contracts or other arrangements which confer rights and create obligations; (iv) courts to determine what the rules are and when they have been broken; (v) a legislature to make new rules and abolish old ones.¹³

³ Hart, 'Analytical Jurisprudence in Mid-Twentieth Century: A Reply to Professor Bodenheimer' (1957) 105 *University of Pennsylvania Law Review* 964f, 971; cf also his 'Theory and Definition in Jurisprudence' (1955) 29 *Proceedings of the Aristotelian Society. Supplementary Volumes* 244f.

⁴ See 'Theory and Definition in Jurisprudence' (n 3) 241; and 'Analytical Jurisprudence in Mid-Twentieth Century' (n 3) 965.

⁵ *The Concept of Law* (n 2) 2f.

⁶ *ibid* 3, 5, 51, 75, 79, 100, 240.

⁷ *ibid* 3, 240.

⁸ *ibid* 3.

⁹ *ibid*.

¹⁰ *ibid* 6, 82.

¹¹ *ibid* 24.

¹² *ibid* 9.

¹³ *ibid* 3.

'Familiar' as these facts may be,¹⁴ 'even skilled lawyers', Hart says, 'cannot explain and do not fully understand' much about them.¹⁵ This may strike you as a somewhat immodest claim. How can Hart know what his readers, skilled lawyers or otherwise, do and do not understand? And supposing he were right, why should anyone bother to 'understand' those facts any better? If even professional jurists may happily go about their lives equipped with whatever little 'understanding' of law Hart is willing to grant them – what reason could one have for developing more?

To think along these lines is to miss the point of Hart's endeavour. He is not telling his readers that they *need* to improve their current understanding of law. Perhaps that common body of knowledge does contain all one needs to know about law in general. After all, what one *needs* to know about law is dependent on one's own goals. We can be sure, however, that the common body of knowledge is relatively superficial. How do we know that? Because for more than two millennia, as Hart remarks, many 'serious thinkers'¹⁶ have been trying precisely to increase their understanding (as well as ours) of law in general – and all have felt recurrently compelled to tackle the same issues. This is solid evidence, thinks Hart, not only that there are questions to which law seems 'naturally'¹⁷ to give rise, but that such questions are far from easy to put to rest. The 'deep perplexity' which has kept these questions alive is certainly not a product of 'ignorance or forgetfulness or inability to recognize the phenomena to which the word "law" commonly refers'.¹⁸ It is a product of the fact that reflection on the body of knowledge we share about law soon gives rise to many puzzles. And this is why Hart thinks there will be things about law his readers do not fully understand.

To see Hart's point, consider the three 'persistent questions' he identifies at the outset of *The Concept of Law*:

How does law differ from and how is it related to orders backed by threats? How does legal obligation differ from, and how is it related to, moral obligation? What are rules and to what extent is law an affair of rules?¹⁹

Take this last query – a good example of what Hart means about knowing something and yet not fully understanding it. We *know*, it seems safe to say, that 'a legal system consists, in general at any rate, of *rules*'. At first blush this 'could hardly be doubted or found difficult to understand'.²⁰ Yet once the 'seemingly unproblematic notion' of a rule 'is queried' – once the apparently

¹⁴ *ibid* 5.

¹⁵ *ibid* 14; cf also the 'Introduction' to his *Essays in Jurisprudence and Philosophy* (n 1) 5f.

¹⁶ *The Concept of Law* (n 2) 1.

¹⁷ *ibid* 9.

¹⁸ *ibid* 5; cf also 'Analytical Jurisprudence in Mid-Twentieth Century' (n 3) 961 fn 17.

¹⁹ *ibid* 13.

²⁰ *ibid* 8.

simple question 'What *are* rules?' is asked – 'dissatisfaction, confusion, and uncertainty' are sure to emerge.²¹ And soon other difficult questions will be prompted by further reflection. 'What does it mean to say that a rule *exists*? Do courts really apply rules or do they pretend to do so?'²² 'How do rules differ from mere habits or regularities of behaviour? Are there radically different types of rules? How may rules be related? What is it for rules to form a system?'²³

These are philosophical questions about law in general: questions we face when we try to deepen our understanding of it.²⁴ Why should anyone mull over them? Again, Hart's claim is not that anyone should. Not everyone will consider philosophical questions unsettling or feel the urge to spend time thinking about them. Perhaps it is true that, as Richard Hare is once said to have put it, 'philosophers, like poets and gardeners, are born not made'. On the other hand, it may be that you do regard questions like these as sufficiently puzzling to arrest your attention. You will then find yourself in the company of those many 'serious thinkers' that Hart mentions. You will be joining a long-lasting discussion about law in general. *The Concept of Law* was written for readers like you.

What does Hart suppose he can bring to the 'unending' philosophical debate about law, as he calls it?²⁵ The adjective is not derogatory. Most important controversies in philosophy are 'unending' by their very nature, and Hart is certainly not seeking to solve, once and for all, any of jurisprudence's perennially 'persistent questions'. He also believes that many before him have made important progress in furthering our understanding of law in general. But such authors, he thinks, seem often to have assumed that the success of a theory of law is measured by its ability to explain law's many aspects in terms of a few 'basic' notions, or even a single such notion. Hart disagrees. There is no doubt, of course, that simpler theories, all else being equal, are to be preferred. His point, though, is that the explanatory power of many jurisprudential theories has often been compromised by an urge to reduce the complex structure of law to as few elements as possible.²⁶ For there is just no reason to presume that there is *any* 'basic' element common to all instances of what we properly call 'law'.

²¹ *ibid.*

²² *ibid.*

²³ HLA Hart, 'Comment' in R Gavison (ed), *Issues in Contemporary Legal Philosophy. The Influence of H.L.A. Hart* (Oxford, Clarendon Press, 1987) 38. See also Hart's 1967 'Problems of the Philosophy of Law', in his *Essays in Jurisprudence and Philosophy* (n 1) for a much richer catalogue of jurisprudential issues.

²⁴ The passage quoted above to n 3 continues: 'This surely is the predicament that makes the philosophical elucidation of concepts necessary and philosophy has always found its chief stimulus in this predicament'; cf 'Analytical Jurisprudence in Mid-Twentieth Century' (n 3) 964.

²⁵ *The Concept of Law* (n 2) 2.

²⁶ *ibid* 7, 32, 38, 41, 43, 49, 284ff.

There is little sense, in fact, thinks Hart, in trying to articulate a definition of 'law', at least if by 'a definition' one means a list of 'common qualities' necessary and sufficient for anything to count as an instance of 'law'.²⁷ The aspects of law that underlie each of jurisprudence's 'persistent questions' are just 'too different from each other and too fundamental',²⁸ he says, to be reducible to any common definitional feature.²⁹ This is not to claim that they are unrelated; only that they seem to be 'linked together in quite different ways from that postulated by the simple form of definition'.³⁰

So Hart proposes to follow a different course. His strategy is to focus, not on the meaning of the term 'law', but on 'the distinctive structure of a municipal legal system' in 'a modern state'.³¹ Why? First, because he subscribes to the 'analytical principle' that 'in the analysis of concepts' (or at any rate 'in the case of a concept so complex as a legal system'³²) we 'need first to establish what may be called the paradigm or standard case of the use of an expression'.³³ It is then by their relations to that 'central case' – often relations of analogy of either form or content – that we are to understand the 'diverse range of cases of which the word "law" is "properly" used'.³⁴ Second, Hart takes 'legal systems of modern states'³⁵ – that is, 'municipal systems which exhibit the full complement of *juge, gendarme et législateur*'³⁶ – to constitute the paradigmatic instance of law, the 'settled situation in which there is law'.³⁷

Even here it is in terms of a 'central set of elements'³⁸ – not of any single, common feature – that the notion of a legal system, thinks Hart, is to be

²⁷ *ibid* 13, 213, 279.

²⁸ *ibid* 16.

²⁹ These are themes addressed in great detail in Frederick Schauer's and Pierluigi Chiassoni's contributions to this volume. Timothy Endicott and Leslie Green also touch upon methodological issues in their chapters; both take the opportunity to reply to Brian Leiter's 'The Demarcation Problem in Jurisprudence: A New Case for Scepticism' (2012) 32 *Oxford Journal of Legal Studies* 4.

³⁰ *ibid* 16. This was a point on which Hart insisted throughout much of his early work: see also eg 'Definition and Theory in Jurisprudence' (n 1) 22; 'Analytical Jurisprudence in Mid-Twentieth Century' (n 3) 969f; 'Dias and Hughes on Jurisprudence' (1958) 4 *Journal of the Society of Public Teachers of Law* 144f; or 'Problems of the Philosophy of Law' (n 23) 91. In 'The Ascription of Responsibility and Rights' (1949) 49 *Proceedings of the Aristotelian Society* 173 we also find the similar-sounding contention that 'usually the request for a definition of a legal concept . . . cannot be answered by the provision of a verbal rule for the translation of a legal expression into other terms or one specifying a set of necessary and sufficient conditions', though here Hart's arguments are of a very different character.

³¹ *The Concept of Law* (n 2) 17, 79.

³² 'Theory and Definition in Jurisprudence' (n 3) 253.

³³ 'Analytical Jurisprudence in Mid-Twentieth Century' (n 3) 968.

³⁴ *The Concept of Law* (n 2) 81, 279f; and 'Introduction' (n 15) 4.

³⁵ *The Concept of Law* (n 2) 3.

³⁶ *ibid* 156.

³⁷ *ibid* 23. Arguably this approach is not without costs: see Jeremy Waldron's contribution to this volume.

³⁸ *ibid* 16 (emphasis added).

'elucidated'. One should neither neglect nor seek to play down the fact that the existence of a legal system is a highly 'complex social phenomenon'.³⁹ The 'complexity of the notion' becomes apparent if one begins simply to catalogue 'the main elements which are present in the standard case of an advanced modern society'.⁴⁰ A 'formidable list' of features will quickly take shape:

- (1) Courts.
- (2) Rules conferring jurisdiction on Courts and providing for the appointment and conditions of tenure of judicial office.
- (3) Rules of procedure for Courts.
- (4) Rules of evidence for Courts.
- (5) Substantive civil laws.
- (6) Substantive criminal law.
- (7) A Legislature.
- (8) Constitutional rules providing criteria valid for the system for the identification of the rules of the system (sources of law).
- (9) Sanctions.
- (10) Possibility of argument.
- (11) Universality of scope.⁴¹

Hart's determination to resist jurisprudence's traditional 'itch for uniformity'⁴² and "'reductionist" drive'⁴³ is a methodological watermark of his work. It also enables him to make regular use of past theorists' main insights, incorporating them into his own theory. Time and again in *The Concept of Law* we find that Hart manages to steer a seemingly sensible middle path between competing exaggerated views on some given issue.⁴⁴ Indeed, it was not with regard to their insights about law that many past thinkers were most often mistaken. (Hart was 'heavily and obviously indebted to other writers', as he says in his Preface,⁴⁵ nor is he being too modest.) What these writers were primarily wrong about, Hart thinks, was the relative importance of their insights, whose illuminating power and centrality to legal theory they – or their followers – were somewhat prone to overstating.

John Austin's imperative theory is a case in point. In his 1832 *The Province of Jurisprudence Determined* Austin had claimed to have found the 'key to the

³⁹ *ibid* 61.

⁴⁰ 'Theory and Definition in Jurisprudence' (n 3) 252.

⁴¹ *ibid*; as Timothy Endicott notes in his contribution to this volume, the *executive* functions of the state are conspicuously absent from Hart's account.

⁴² *The Concept of Law* (n 2) 32.

⁴³ 'Analytical Jurisprudence in Mid-Twentieth Century' (n 3) 959.

⁴⁴ Which is not to say that he does not sometimes ignore or misrepresent the theses of some of his predecessors – an issue raised by John Finnis, Nicola Lacey and Pavlos Eleftheriadis in their contributions to this book.

⁴⁵ *The Concept of Law* (n 2) vii.

sciences of jurisprudence and morals': it was, he said, the notion of a *command*, of which 'laws or rules, properly so called' are, he held, 'a *species*'.⁴⁶ Now there is only one way, Hart suggests, of testing a claim like this: by checking whether this 'key' does open all the requisite theoretical doors. Can all legal rules be seen as commands or orders issued by a sovereign? Hart thinks not, and his paramount objection (among many) is that the very notion of a sovereign commander, even a legally unlimited one, is conceptually dependent on a constitutional 'rule conferring powers'⁴⁷ – something that looks nothing like a command or an order backed by threats.

To say this, however, is not to discredit Austin's theory, which contains, as Hart observes, 'strong points'⁴⁸ and 'certain truths about certain important aspects of law'.⁴⁹ For 'there is of course no doubt', says Hart – thinking of the 'vertical or "top to bottom"' image of law-making⁵⁰ he associates with Austin – 'that a legal system often presents this aspect among others'.⁵¹ There is indeed 'at least a strong analogy between the criminal law and its sanctions' and 'general orders backed by threats', and 'some analogy' as well 'between such general orders and the law of torts'.⁵² But what about rules that 'do not impose duties or obligations', and whose 'social function' is instead to 'provide individuals with *facilities*' – with private powers – for realising their wishes?⁵³ More importantly even, what about 'the whole official side to law'? What about the use 'in legislation and adjudication'⁵⁴ of rules 'conferring and defining the manner of exercise'⁵⁵ of the corresponding public powers?

These are salient features of law which become 'obscured' or 'distorted', Hart tirelessly protests,⁵⁶ if we look at 'all law from the point of view of the persons on whom its duties are imposed'.⁵⁷ Should we then make 'official activities, especially the judicial attitude or relationship to law'⁵⁸ our 'key' to jurisprudence (as Hans Kelsen, at least as Hart reads him, may be said to have done) and treat the notion of a power as explanatorily prior to that of a duty? This would be, says Hart, to make the 'opposite error'.⁵⁹ We would now be

⁴⁶ See J Austin, *The Province of Jurisprudence Determined*, WE Rumble (ed) (Cambridge, Cambridge University Press, 1995 [1832]) 21.

⁴⁷ *The Concept of Law* (n 2) 77.

⁴⁸ *ibid* 60.

⁴⁹ *ibid* 100.

⁵⁰ *ibid* 42.

⁵¹ *ibid* 7.

⁵² *ibid* 27.

⁵³ *ibid*.

⁵⁴ *ibid* 113 (emphasis added).

⁵⁵ *ibid* 31, 36, 41.

⁵⁶ *ibid* 7, 28, 31, 38, 40f, 49, 61, 70, 79, 80, 112, 155, 217, 285.

⁵⁷ *ibid* 41.

⁵⁸ *ibid* 113.

⁵⁹ *ibid*.

obscuring the *non*-official side to law, its 'social function' of guiding 'ordinary citizens in the activities of non-official life'.⁶⁰

Hart's suggestion? The natural one: that we treat neither duty-imposing nor power-conferring rules as *the* 'key' to the science of jurisprudence, and prioritise neither the official nor the non-official sides to law – but acknowledge instead that a legal system is a 'complex union'⁶¹ of rules of *both* kinds, and that the way in which legal officials relate to the rules that concern them *qua* officials is quite different from the way in which citizens relate to the legal rules that concern *them*.⁶² This is, by Hart's own admission, the core thesis of *The Concept of Law*.⁶³ It is also an equanimous 'mean between juristic extremes'⁶⁴ – as are so many other claims in the book.

'Professor Hart's favorite jibe at his opponents', Lon Fuller once remarked,⁶⁵ 'was that they were not clear, that they perceived things dimly, etc.' Indeed in *The Concept of Law*, as we have just seen, Hart's stock rejoinder to rival views is that they 'obscure' important features of law. (Not surprisingly, he avails himself of kindred light-related metaphors in support of his own proposal; law can 'most illuminatingly' be characterised, he says,⁶⁶ as a union of different types of rule – which union should be assigned a central place 'in the elucidation of the concept of law'.⁶⁷) One may have one's doubts about the strength or even the point of this Hartian rejoinder. It is not as if previous thinkers had simply failed to grasp the importance of power-conferring as well as duty-imposing rules.⁶⁸ True, some had claimed that the former could be logically 'reduced' to the latter: that both types of rule could be seen, as Hart puts it, as 'versions' of 'the same form'.⁶⁹ But Hart does not really seek to dispute the logical viability of this 'reduction', which he accuses instead – he finds this 'the natural protest'⁷⁰ – of 'concealing' or 'distorting the different social functions which different types of legal rule perform'.⁷¹ Yet *how*, exactly, does the reductionist

⁶⁰ *ibid* 39.

⁶¹ *ibid* 114.

⁶² *ibid* 115.

⁶³ *ibid* 155, 283.

⁶⁴ *ibid* 213.

⁶⁵ In correspondence; see N Lacey, 'Out of the "Witches" Cauldron"? Reinterpreting the Context and Reassessing the Significance of the Hart-Fuller Debate', in P Cane (ed), *The Hart-Fuller Debate in the Twenty-First Century* (Oxford, Hart, 2010) 20.

⁶⁶ *The Concept of Law* (n 2) 94.

⁶⁷ *ibid* 110. It is this proposal that John Gardner describes, in his contribution to this volume (at 96) as 'an authentic "Eureka!" moment in the history of ideas'.

⁶⁸ Kelsen, for one, had discussed legal powers, eg in his *General Theory of Law and State*, A Wedberg (trans) (Cambridge, Mass, Harvard University Press, 1945) 90f and indeed at the core of the theory of 'legal dynamics' (cf *ibid* 110ff) is the notion of a norm-creating power. See also Hart's endnotes in *The Concept of Law* (n 2) at 284–85 and 286.

⁶⁹ *ibid* 24.

⁷⁰ *ibid* 40.

⁷¹ *ibid* 38.

theorist 'distort' the point about social functions? Arguably there is nothing preventing the reductionist from consistently supplementing his logical point with a full-throated defence of the idea that law performs different 'social functions' by imposing duties and conferring powers.⁷²

This is a fair criticism to press against Hart. It assumes, quite naturally, that Hart's charge that reductionist theories 'obscure' the salient features and functions is *addressed to the proponents* of such reductionist theories. But perhaps a different interpretation can be offered. Perhaps his insistent reminders that law is not *simply* a matter of orders backed by threats – or indeed not simply a matter of duties – are meant, not really as watertight rebuttals of views actually held by past theorists, but as salutary warnings to those of Hart's *readers* who might perhaps be tempted by the thought that the 'command model' does capture the workings of law.

Who might these readers be? The answer, of course, is 'students'. *The Concept of Law* was after all 'primarily designed' and written with 'undergraduate readers in mind',⁷³ which clearly influenced its structure and tone.⁷⁴ Why might students need to be reminded that the existence of a legal system is not simply a matter of orders or even mandatory rules? Because, first, this 'top-to-bottom' picture of law is, 'in its simplicity', immediately 'attractive'⁷⁵ (which also makes it, pedagogically, an excellent starting-point). Second, the imperative theory, Hart found, cast a 'shadow' over the (then) 'standard terminology of legal and political thought'.⁷⁶ Given that theory's 'hold over the minds of many thinkers',⁷⁷ its 'great influence on jurists',⁷⁸ it was educationally important to undermine it from an early stage.

Indeed Hart spends his first three chapters discussing, not really *Austin's* theory, but the very sort of 'simple model' of a legal system that a student who felt the initial appeal of the imperative image of law might begin by trying to articulate. Hart's discussion of this simple model, up to the conclusion that a 'fresh start' is in order,⁷⁹ seeks patiently and exemplarily to get his readers – his students – to submit to critical scrutiny ideas that they might at first regard as plausible or even obviously true. This exercise not only 'fosters clarity of thought and expression', but 'develops analytical and critical skills which may be freely transferred to other disciplines'.⁸⁰ Teaching students 'to think clearly

⁷² Richard HS Tur raises this objection in his contribution to this volume.

⁷³ See *The Concept of Law* (n 2) v, 238.

⁷⁴ See *ibid* vii, on the 'pedagogical aim' that presided over Hart's arrangement of the book's argument.

⁷⁵ *ibid* 7, 42.

⁷⁶ *ibid* 112.

⁷⁷ *ibid* 100.

⁷⁸ *ibid* 19.

⁷⁹ *ibid* 78.

⁸⁰ HLA Hart, 'Answers to Eight Questions', ch 16, this volume, at 281.

and precisely even when, as is the case with the fundamental notions involved in the structure of a legal system . . . the subjects themselves may be vague': here lies, as Hart thought, the 'educational value'⁸¹ of jurisprudence, and the 'main justification' for its inclusion in law curricula 'as a compulsory subject'.⁸²

II. READING HART

For all his invectives against 'obscurity', Hart was not as clear a writer as one might have wished. Not that his prose is not accessible; indeed on reading *The Concept of Law* for the first time one has a sense that a series of level-headed theses are being laid down in simple, straightforward terms. Whether or not Hart is concerned *with* ordinary language to any significant extent – the topic is debated⁸³ – he certainly *speaks* it.⁸⁴ But Hart's ideas seem to grow *less* clear with every re-reading, and it is often difficult to give rigorous formulations of the claims he wishes to defend. Hart was aware of his expository flaws; in a 1988 interview given near the end of his career (the original version of which is published for the first time in the present collection), he describes himself as a 'somewhat careless writer' whose views were sometimes expressed 'inaccurately, ambiguously or too vaguely'.⁸⁵

This dual aspect of Hart's book's discourse – a cool and readable first exposition of sensible ideas, but one that can quickly morph into something that cries out for refinement and development – has perhaps been an important factor in the book's extraordinary success. While *The Concept of Law* rapidly became, and remains, one of the most discussed books in the scholarly community, it is also successfully used to teach undergraduates in classrooms all over the world.

The present collection was put together with these two facets of Hart's book very much in mind. Though not exclusively designed *for* undergraduates, all chapters in this book (including this one) were written for an audience inclusive of students. But they critically engage with Hart's claims and theses at all steps. The overall project began two years ago, when the three editors were convening the Oxford Jurisprudence Discussion Group. In May 2011, to celebrate the 50th anniversary of the publication of *The Concept of Law*, we organised at the

⁸¹ *ibid* vi.

⁸² Hart, 'Philosophy of Law and Jurisprudence in Britain (1945–1952)' (1953) 2 *The American Journal of Comparative Law* 363; see also 'Analytical Jurisprudence in Mid-Twentieth Century' (n 3) 972f.

⁸³ cf Leslie Green's recent 'Introduction' to the 3rd edition of *The Concept of Law* (n 2) at xlvii–xlviii, as well as his chapter in the present volume; but contrast, also in this volume, Pierluigi Chiassoni's characterisation of what he calls Hart's 'model of ordinary analysis'.

⁸⁴ See 'Philosophy of Law and Jurisprudence in Britain (1945–1952)' (n 78) 364.

⁸⁵ See 'Answers to Eight Questions' (n 80) at 282. See also the 'Introduction' to his *Essays in Jurisprudence and Philosophy* (n 1) 7.

Oxford Law Faculty a weekly series of four events on Hart's book. Each of our speakers was invited to deliver and discuss a paper on one of Hart's chapters. Most contributors were legal and political philosophers from Oxford; the project became, in a sense, an Oxonian homage to the founder of the 'Oxford school' of jurisprudence. This collection was from the beginning a part of that project; our goal has been to put together, again with students in mind, a 'companion' of sorts to *The Concept of Law*.

The 2011 series of talks was a great success.⁸⁶ It began with a paper on chapter II of *The Concept of Law*, and rounded off with a group of four papers on those 'persistent questions' that Hart raises in chapter I. The present collection retains this structure. Part I contains essays on chapters II to X of *The Concept of Law*; each contributor focuses on a single of Hart's chapters, evaluating its claims in light of subsequent developments in the field. Part II (which we had decided might have a slightly more international shade) is dedicated to Hart's opening chapter. Here the contributors address, in more or less explicit terms, the question of how persistent Hart's 'persistent questions' have proved to be. Also included – in Part III – is the already mentioned interview in which Hart looks back at his book and its impact.

We are indebted to our contributors; to the Oxford Law Faculty, to Hart Publishing and to the Oxford University Press, for supporting our 2011 events; to Vinit Haksar, Tony Honoré and William Twining, for their generous participation in those events; to Timothy Endicott, John Gardner and Nicola Lacey, for advice and stimulus; and to Suzannah Moxey, for research assistance. We also thank Juan Ramón de Páramo, the editorial board of *Doxa. Cuadernos de Filosofía del Derecho*, Joanna Ryan and the Warden and Scholars of New College, Oxford, for permission to publish HLA Hart's 'Answers to Eight Questions'; and Jennifer Thorp, Archivist at New College, Oxford, who helped us locate the original typescript of Hart's interview.

Special thanks are due to Richard Hart, long-standing supporter of the Oxford Jurisprudence Discussion Group, who encouraged and guided our project from the beginning.

⁸⁶ Timothy Endicott, Dean of the Faculty, had expressed the wish that our series, reaching beyond the specialist circle of jurisprudential scholars, might captivate a broader audience and 'fill the Gulbenkian Lecture Theatre with undergraduates'. It did.