A THEORY OF LEGAL OBLIGATION

The focus of this monograph lies in the construction of a theory of legal obligation, understanding it as a discrete notion with its own defining traits. In this work, Stefano Bertea specifically addresses the question: how should legal obligation be distinctively conceptualized? The conceptualization of legal obligation he defends in this work gradually emerges from a critical assessment of the theories of legal obligation that have been most influential in the contemporary legal-theoretical debate. Building on such critical analysis, Bertea’s study purports to offer a novel and unconventional conceptualization of legal obligation, which is characterized as a law-engendered intersubjective reason for carrying out certain courses of conduct.

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A THEORY OF LEGAL OBLIGATION

STEFANO BERTEA

University of Leicester
To Linda,
who has brought the sun along
everywhere we have travelled
for longer than I can remember
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In the elder days of Art,
Builders wrought with greatest care
Each minute and unseen part;
For the Gods see everywhere.

—H. W. Longfellow, ‘The Builders’

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Nowadays senior management at different UK universities is informed by a deep-rooted belief that research is a competitive enterprise, not a cooperative one. That view seems to me to carry a misconception. I would not have come fully to this realization had I not met a good many marathoners whose ability to physically sustain a 42 km run and still enjoy the effort has pointed me to a larger truth: that those who commit themselves to the same activity share something, as opposed to competing for something. By the same token, my occasional frequentation with marathoners keeps reminding, that long-distance running is a humble and patient enterprise, and that captured in these adjectives are virtues that need to be valued and nurtured in any long-term project (inclusive of academic projects). This, too, is a lesson that seems to me to get lost on most UK senior academic managers, who in referring to themselves as ‘leaders’ in my view display a genuinely peculiar (one may be tempted to say, idiosyncratic) sense of decorum, intellectual honesty, self-perception, and self-knowledge.

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