

## Review of the work *Theory of Legal Norms*, by Norberto Bobbio

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**Ibson Vieira Ruiz**

Affiliation: MUST University Lattes:

<http://lattes.cnpq.br/3230377299580446>

ORCID: <https://orcid.org/0000-0002-1759-3004>

### Summary

The book *Theory of Legal Norms*, by Norberto Bobbio, a prominent legal philosopher of the 20th century, is essential for the theoretical understanding of the legal phenomenon. Originally published in Italian and later translated into Portuguese, it presents an in-depth and systematic analysis of the main elements that make up the legal norm.

**Keywords:** Legal norm, Norberto Bobbio, Legal phenomenon

### Abstract

The book *Theory of Legal Norms*, by Norberto Bobbio, a prominent 20th century philosopher of law, is essential for the theoretical understanding of legal phenomena. Originally published in Italian and later translated into Portuguese, it presents an in-depth and systematic analysis of the main elements that make up legal norms.

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## 1 INTRODUCTION

The work *Theory of Legal Norms*, written by Norberto Bobbio, one of the most illustrious legal philosophers of the 20th century, is fundamental for the theoretical understanding of the legal phenomenon. Originally published in Italian and translated into Portuguese, this book presents an in-depth and structured analysis of the elements that constitute the legal norm.

Bobbio, known for his empiricist stance and his defense of philosophy as methodology, offers a positivist-analytical view of Law, seeking to clarify and give coherence with legal language.

This review is the 2nd revised edition, published in 2003 by Editora Edipro. translation into Portuguese was carried out by Fernando Pavan Baptista and Ariani Bueno Sudatti, and the work features a presentation by professor Alaôr Caffé Alves.

The work is divided into six chapters, in which the author explores everything from criticism to institutionalist and realist conceptions of Law up to the classification of legal norms. It addresses topics such as the criteria of validity, effectiveness and justice, the structure of propositions prescriptive, the imperativeness of Law and the relationship between sanction and Law. Its analysis,



although centered on the structure of Law, it opens space for discussions on the social function and evolution of legal thought.

This critical review aims to present an overview of the content of the book, analyzing each of the chapters and offering an assessment of the relevance of the work for the study of Law culminating in a brief discussion, final considerations and bibliographical references.

## 2 CHAPTER I: LAW AS A RULE OF CONDUCT

In the first chapter, Norberto Bobbio adopts a normative perspective for the study of Law. He argues that the best way to understand legal experience is consider it as a set of norms or rules of conduct.

Bobbio begins the chapter with the statement that legal experience is, fundamentally, a normative experience, permeating the lives of individuals from the birth to death. It highlights that individuals are immersed in an extensive network of rules of conduct, many of which become so habitual that their presence passes unnoticed.

Illustrates how a person's life is guided by rules of conduct, from education by parents to the influence of teachers and other authority figures. It also points to the existence of a variety and multiplicity of norms, including legal norms, religious precepts, moral, social, customary rules, rules of etiquette and rules of good education.

He observes that each individual belongs to different social groups, such as the Church, the State, family and associations with economic, cultural, political or recreational purposes, and that each of these associations is constituted and developed through an ordered set of rules of conduct.

It also addresses the issue of legal pluralism, recognizing the existence of different legal systems other than the state, such as International Law and the Law of Church.

Criticizes the theory of institution, which seeks to replace normative theory, arguing that normative theory is not limited to state law and can be compatible

with legal pluralism. It establishes the basis for the analysis of the legal norm, highlighting the omnipresence of norms in human life and the complexity of the legal phenomenon.

### **3 CHAPTER II: JUSTICE, VALIDITY AND EFFICACY**

In the second chapter Bobbio explores the three fundamental criteria for valuing a legal norm: justice, validity and effectiveness. It argues that each of these criteria represents a different point of view on the standard and it is important to distinguish them in order to a more complete understanding of the Law.

In summary, he defines them as follows:

a) Justice: assesses whether the rule is fair or unfair, that is, whether it is in accordance with certain values or ideals. Justice is therefore a value judgment that can vary from according to different philosophical and moral conceptions.

b) Validity: refers to the existence of the norm within a legal system. A standard is valid if it was created in accordance with the procedures established by the system legal and if it has not been revoked by a subsequent rule.

c) Effectiveness: concerns compliance with the standard in practice. A standard is effective if it is effectively applied and followed by the recipients, or if its violation entails sanctions foreseen.

Bobbio emphasizes that these three criteria are independent of each other, which means that a norm can be fair without being valid, valid without being effective, and effective without being fair. It criticizes theories that seek to reduce one criterion to another, such as natural law (which subordinates validity to justice), legal positivism (which identifies validity and effectiveness) and legal realism (which reduces validity to effectiveness).

Bobbio explores the possible confusions between these criteria and offers an analysis criticism of the main currents of philosophy of law, such as natural law, positivism legal and legal realism, demonstrating how each of them approaches the relationship between justice, validity and effectiveness.

### **4 CHAPTER III: PRESCRIPTIVE PROPOSITIONS**

In this chapter Bobbio delves into the analysis of the internal structure of the legal norm. It begins by examining the prescriptive proposition, which it considers to be the typical form of a norm. Prescription, according to Bobbio, is a command that seeks to influence the behavior of somebody.

Bobbio explores the essential elements of the prescription, such as the authority that issues it (who prescribes), the recipient of the prescription (to whom it is prescribed) and the behavior prescribed (what is prescribed). It also discusses the different classifications of prescriptions, including orders, advice and requests, and analyzes the specific characteristics of the standards legal in comparison with other forms of prescription.

The author addresses the issue of the imperativeness of Law, discussing whether all norms legal are imperative, that is, if they all contain a command. He examines the different theories about imperativeness, including the pure imperative theory (which states that all norms are commands) and the theory of the hypothetical imperative (which distinguishes between norms that impose duties and standards that confer powers).

Bobbio explores the distinction between primary norms and secondary norms, a classification proposed by Hart, which enriches the understanding of the normative structure of Law. Primary norms impose duties, while secondary norms confer powers and establish the procedures for the creation, modification and application of standards primary.

In this way, it offers a detailed analysis of the structure of the legal norm, examining its constituent elements, its forms of prescription and the question of imperativeness of the Law.

## 5 CHAPTER IV: PRESCRIPTIONS AND THE LAW

In this item, Bobbio explores in depth the relationship between prescriptions and the Law, addressing several crucial questions for understanding the legal norm.

He faces the problem of the imperativeness of Law, questioning whether all legal norms are imperative, that is, if they all contain a command. Examine the positive and negative imperatives, impersonal commands and imperatives, and the notion of Law as a technical standard.



Bobbio also dedicates himself to analyzing the recipients of the legal norm, investigating the who the norms are addressed to and how this influences their structure and function. It explores the complex relationships between imperatives and permissions, seeking to clarify how permissions fit into the normative system.

The author also delves into the links between imperatives and final rules, as well as the intricate relationships between imperatives and value judgments, offering a detailed analysis of the various ways in which legal norms can manifest themselves and influence the human behavior.

This chapter represents a deep dive into the complexities of prescriptions and its intrinsic connection with Law, revealing the subtleties of legal language and its implications for the theory and practice of Law.

## 6 CHAPTER V: LEGAL PRESCRIPTIONS

Bobbio explores the intricate relationship between sanction and law, a central theme in the theory legal. It begins by discussing the sanction as a consequence of the violation of a rule, highlighting its importance in ensuring the effectiveness of the Law.

Bobbio examines the different theories of sanction, including the sanction theory as an essential element of Law and the theory of sanction as an eventual element. It analyzes the arguments for and against each of these theories, seeking a better understanding comprehensive analysis of the role of sanctions in the legal system.

He also delves into the distinction between positive and negative sanctions, exploring how the law can use both punishments and rewards to influence the behavior of individuals. It also discusses the relationship between sanction and coercion, investigating how the threat or use of physical force connects with the application of legal norms.

Throughout the chapter, Bobbio offers a critical analysis of the various perspectives on the sanction, seeking to clarify its role in the structure and functioning of the Law. Examines how sanctions contribute to maintaining social order and guaranteeing rights and duties of citizens, weaving an investigation into the complex relationship between sanction and Law, revealing the multiple facets of this fundamental theme for theory legal.

## 7 CHAPTER VI: CLASSIFICATION OF LEGAL RULES

In this chapter Bobbio dedicates himself to the classification of legal norms, a topic fundamental for the organization and understanding of Law, highlighting from the outset that all prescriptive proposition is formed by two essential elements: the subject, that is, the recipient of the norm, and the object of the prescription, which represents the prescribed behavior by the standard.

Bobbio explores how both the subject-addressee and the object-action can assume the universal form, referring to a class of people or a type of action, or the form individual, referring to certain people or a particular action. This combination results in four distinct normative propositional situations.

The author criticizes the traditional doctrine that defends that legal norms have only the characteristics of generality and abstraction. Based on the previous classification, Bobbio proposes the existence of individual and concrete norms, arguing that norms Legal acts can be general, when universal in relation to the recipients, and abstract, when universal in relation to a class of shares.

On the other hand, the rules are particular if the addressee is an individual. determined, and concrete if they regulate a specific action. The chapter concludes by presenting the framework of logical oppositions of Aristotelian origin, addressing inference relations immediate and its application to prescriptive propositions.

Explores the equivalences of the deontic category of obligation with those of prohibition and positive and negative permissions, concepts that will be used later in the analysis of legal antinomies, offering a detailed analysis of the classification of legal norms, challenging the traditional view and presenting a more comprehensive perspective on diversity of norms in the legal system.

## 8 BRIEF DISCUSSION

This book stands out as an essential work for understanding the structure and foundations of Law. Throughout the chapters Bobbio guides us through a rigorous analysis and systematic of the elements that make up the legal norm, from its nature as a rule of conduct up to its classification and relationship with the sanction.

The author demonstrates mastery in exploring complex themes such as justice, validity and effectiveness, the structure of prescriptive propositions, the imperativeness of Law and the various classifications of legal norms. Its positivist-analytical approach, although centered on structure of Law, does not distance itself from discussions about the social function and the evolution of legal thought.

Bobbio offers us a valuable tool for the critical analysis of Law, allowing us to question and deepen our understanding of the legal phenomenon. Its work is an invitation to reflection and debate, stimulating the development of new theories and approaches in the field of philosophy of law.

## FINAL CONSIDERATIONS

The relevance of the Theory of Legal Norms transcends time, remaining current and indispensable for students, academics and legal professionals. In a world in constant transformation, Bobbio's work provides us with a solid foundation to face the challenges and complexities of contemporary law.

The careful translation and presentation of the work make the text accessible to the public Brazilian, contributing to the dissemination of legal knowledge and to the improvement of critical thinking. Norberto Bobbio, with his erudition and clarity, presents a legacy that will continue to influence generations of jurists and thinkers.

## REFERENCES

BOBBIO, Norberto. **Theory of Legal Norms**. Translated by Fernando Pavan Baptista and Ariani Bueno Sudatti. Presentation by Alaôr Caffé Alves. 2nd ed. rev. Bauru, SP: Edipro, 2003.