1. In discussing (F1), you argue that an instrument can have non-instrumental values. We have two questions about this:

a. We were wondering whether Fuller would not be the first to agree; is it not his main argument about the rule of law that the way in which law, as an instrument of guiding conduct by rules, must, as matter of functional necessity, meet certain conditions, and those conditions are such that they are valuable over and beyond their functional/instrumental value?

b. Would you agree that there are two ways in which an instrument can have non-instrumental value: incidentally, like the flute that also happens to be beautiful, and non-incidentally, as in the appreciation of the achievement, or perfection, of the instrument as such [for example, it is arguable that we appreciate a Stradivarius violin not only because it produces great sound, but also because it is so perfect; we may appreciate, non-instrumentally, that is, the achievement or the perfection itself.]

If you agree with the distinction, would you also agree that the law can have non-instrumental value in this second, non- incidental sense? Is this, perhaps, what you meant by the “organic” appreciation of law?

2. The rejection of (F2) seems to be the main argument against Teleological Instrumentalism; the argument seems to be that from the fact that any particular law has an end or purpose, it does not follow that law as a whole has any generic or distinct ends. We have two questions about this argument:

a. Is it not possible that particular areas of law, such as torts, or contracts, etc., have generic ends?

b. Consider the following argument: suppose it is the case that law, as such, is particularly suitable as means to certain types of ends and not others. (e.g. law is particularly suitable to solve collective action problems, but not particularly suitable to serve ends such as generating more love in the world, or great works of art.) Would there not be a sense, then, in which law could be said to have some generic ends or end-types? If knives are particularly suitable for cutting things, isn’t there a sense in which cutting things is, generically, what knives are for?
3. With respect to your discussion of (F3), we were not quite sure what is at stake in this fallacy, over and beyond your point in section 2 that nothing can have instrumental value if there is no value in the end that it serves. By way of clarification, can you explain how your discussion of certain aspects of the normativity of law bear on this alleged fallacy?

4. In discussing (F4) you seem to agree with Raz that the rule of law is neutral to whatever ends the law may have. We were wondering whether this thesis depends on Raz’s view that any value there is to the conditions of the rule of law is purely functional value, not moral? Would you agree that if Raz is wrong about this, and the conditions of the rule of law actually promote certain values, then the rule of law is not necessarily neutral with respect to some ends? For example, as Fuller argued, the publicity of law, which is necessary for law to function properly, is such that it promotes certain values of openness and accountability, which favors certain forms of governance over others? And similar things can be said about the conditions of generality, non-retroactivity, etc.