Princeton University
Department of Politics

POL 5** – Philosophy of Law, Reading Course
Fall 2014

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An introduction to general jurisprudence and philosophy of law.

Requirements: 5 short papers

Items marked with * are also on the public law field reading list.

Schedule:

1. **Starting Points**

   Required:
   
   *John Austin, *The Province of Jurisprudence Determined*, analysis and lectures I-II

   Suggested:
   
   *John Locke, *The Second Treatise of Government*, ch. 8-13
   William Blackston, *Commentaries on the Laws of England*
   Jeremy Bentham, *Of Laws in General*
   *Benjamin Cardozo, *The Nature of the Judicial Process*
   *Roberto Unger, *The Critical Legal Studies Movement*
   *Frederick Schauer, *Playing by the Rules*
   *Friedrich Hayek, *The Constitution of Liberty*, ch. 10
   Oliver Wendell Holmes, *The Common Law*
   Hugo Grotius, *On the Law of War and Peace*
   Hans Kelsen, *The Pure Theory of Law*
   Karl Llewellyn, *The Bramble Bush*
   Jerome Frank, *Law and the Modern Mind*
   *Neil McCormick, *Legal Reasoning and Legal Theory*
Kent Greenawalt, Law and Objectivity
Max Weber, Max Weber on Law in Economy and Society
Carl J. Friedrich, The Philosophy of Law in Historical Perspective
Gerald J. Postema, Bentham and the Common Law Tradition

Andrew Altman, Critical Legal Studies: A Liberal Critique

2. Hart’s Concept of Law
Required:
Suggested:
H.L.A. Hart, Essays on Bentham
Neil MacCormick, H.L.A. Hart
Leslie Green and Brian Leiter, eds., Oxford Studies in Philosophy of Law I

3. Hart-Fuller Debate
Required:
*Lon Fuller, The Morality of Law, ch. 1-4
Suggested:
Lon Fuller, “Positivism and Fidelity to Law – A Reply to Professor Hart,” Harvard L. Rev. (1958)
Lon Fuller, “Consideration and Form,” Columbia Law Review (1941)
Joseph Raz, *The Authority of Law* (chapter on Fuller and the Rule of Law)

4. Hart-Dworkin Debate

**Required:**
* Ronald Dworkin, *Taking Rights Seriously*, ch. 2-3

**Suggested:**
Brian Bix, *Law, Language and Legal Determinacy*

5. Legal Positivism (Raz)

**Required:**
* Joseph Raz, *Practical Reason and Norms*, intro-ch. 3, ch. 5
  Joseph Raz, *The Morality of Freedom*, ch. 2-4

**Suggested:**
* Joseph Raz, *The Authority of Law*, ch. 1, 4
  Joseph Raz, *Ethics in the Public Domain*
  Edna Ullman-Margalit, *The Emergence of Norms*

6. Natural Law Theory (Finnis)
Required:

*John Finnis, *Natural Law and Natural Rights*, ch. I-II, V-XII

Suggested:

Robert George, *In Defense of Natural Law*
Robert George, *Making Men Moral*
*Robert George, ed., *Natural Law Theory*
Robert George, ed., *Law, Liberalism and Morality*
Robert George, “Natural Law,” in *Oxford Handbook of Law and Politics*
Russell A. Hittinger, *A Critique of the New Natural Law Theory*
David Lyons, *Moral Aspects of Legal Theory*
Jacques Maritain, *The Rights of Man and Natural Law*
Lloyd Weinreb, *Natural Law and Justice*

7. Legal Positivism II

Required:

Scott J. Shapiro, *Legality*

Suggested:

Robert P. George, ed. *The Autonomy of Law*
Matthew H. Kramer, *In Defense of Legal Positivism: Law without Trimmings*
Matthew H. Kramer, *Where Law and Morality Meet*
W.J. Waluchow, *Inclusive Legal Positivism*

8. Dworkin’s Moral Philosophy

Required:

*Ronald Dworkin, Taking Rights Seriously*, ch. 4-5
*Richard Posner, The Problematics of Moral and Legal Theory*

Suggested:
9. **Dworkin’s Constructive Interpretation**

**Required:**
*Ronald Dworkin, *Law’s Empire*, ch. 1-3, 6-7, 11

**Suggested:**
Andrei Marmor, *Interpretation and Legal Theory*
Scott Hershovitz, ed., *Exploring Law’s Empire*
Alan Hunt, ed., *Reading Dworkin Critically*

10. **Obligation to Obey the Law**

**Required:**
Leslie Green, *The Authority of the State*

**Suggested:**
Leslie Green, “Authority and Convention,” *Philosophical Quarterly* (1985)
Leslie Green, “Law and Obligation,” in *Oxford Handbook of Jurisprudence*
Michael Walzer, *Obligations*
A. John Simmons, *Moral Principles and Political Obligation*
Ronald Dworkin, *Taking Rights Seriously*, ch. 7-8

**General Overviews:**
Dennis Patterson, ed., *A Companion to Philosophy of Law and Legal Theory*
Brian Bix, *Jurisprudence: Theory and Context*
Jules Coleman and Jeffrie Murphy, *Philosophy of Law*
John Finnis, *Philosophy of Law, Chapter 5* (“A Grand Tour of Legal Theory”)
Andrei Marmor, ed., *Law and Interpretation: Essays in Legal Philosophy*  
Martin Golding and William Edmundson, eds., *The Blackwell Guide to Philosophy of Law and Legal Theory*  
Mark Murphy, *Philosophy of Law: The Fundamentals*