

**MOSCOW STATE INSTITUTE OF INTERNATIONAL RELATIONS  
(MGIMO-UNIVERSITY),  
THE MINISTRY OF FOREIGN AFFAIRS OF RUSSIA**

**B.A. in Government and International Affairs  
School of Government and International Affairs**

**«Approved»**

**Dean, School of Government and International Affairs**

**Mikhail Troitskiy**

**«\_\_\_» \_\_\_\_\_ 2018**

**Origins of Norms in International Politics and Law**

The course program developed by Professor Tim Potier: 2018

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The course “Origins of Norms in International Politics and Law” is elaborated in accordance with the MGIMO Educational Standard for the Bachelor’s Program in International Affairs (program track “Government and International Affairs”).

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**PART 1:  
INSTRUCTOR INFORMATION, COURSE DESCRIPTION  
AND TEACHING METHODS**

**1.1 General information**

- Full course title: Origins of Norms in International Politics and Law
- Type of course: Optional
- Level of course B.A.
- Year of study: 2nd
- Number of ECTS credits allocated: 3
- Name of lecturer(s) and office hours:

Professor Tim Potier,  
Professor of International Law  
Department of International Law  
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E-mail: t.potier@inno.mgimo.ru

**1.2. Course aims, thematic structure and learning outcomes**

**Aims**

The course aims to explain a range of concepts and principles (more commonly termed as norms) which are much-used and quoted in modern life, but rarely studied. Democracy is a system of government familiar to all. It has ancient (Athenian) origins. However, until recently, it was only one of a whole host of different systems which were commonly employed by States and Empires. Of course, Aristotle maintained that there were different types of democracy. The notion of justice developed firm roots in Roman Law. Today, it is reflected much more explicitly in modern law and its jurisprudence. Even prior to the Modern Age, the notion of justice assisted the development of the Law of Equity in the English Common Law tradition. A civil society relies for its success on the rule of law if, essentially, a partial return to the state of nature is to be avoided. In the Early Modern era there emerged the necessity for a compact between citizen and government. It was just such a social contract which provoked the American revolution, resulting in the drafting of the U.S. Constitution at the Philadelphia Convention.

The civil law today is much more codified and still reliant on the positive law, which has become ever more secularised; leading to greater attention being paid towards ethics rather than (simply) morality. Nevertheless, these have not displaced dogma entirely and the horrors of the 20<sup>th</sup> century led to greater emphasis (once again) on Natural Law theory. Inspired by the American and French revolutions, and the natural rights theory that emerged from them, international relations as well as law is today dominated by a human rights consciousness and resultant discourse. Both municipal law and international law have their own sources and the very legitimacy of any system of government (even if not so democratic) relies very much on the separation of powers. It is such matters, familiar yet unfamiliar, and the normative framework established in order to provide a sense of order (for society), which shall command the students' attention in this course.

The objectives of the course are:

- To indicate the view in Ancient Athens towards democracy, including its many variants. To

compare these with the other forms of government (for example, oligarchy, aristocracy and tyranny) that predominated in the Hellenic world at that time. To examine how they were viewed by the two leading philosophers of the age, Plato and Aristotle, as well as to reflect on what, for Plato, was his ideal form of government, Plato's *Republic* being the earliest surviving utopian work.

■ To set out the first extended discussion of justice (which has survived) in Aristotle's *Nicomachean Ethics*. In the English language, we speak of the "golden mean". Few, though, will appreciate that this comes from Aristotle and his desire for balance and harmony, and the need to avoid extremes. From here 25 centuries of discourse, including up to the present day, on justice has proceeded.

■ To confirm the debt we owe to the Romans for their law. In English, Latin words dominate our legal vocabulary because the Medieval world was inspired by the normative framework established by the Romans. The *corpus iuris civilis* of the Emperor Justinian is a treasure trove of knowledge. The vast majority of the norms, principles and doctrines that both the Civil and Common Law worlds rely on today derive from Roman law, and the course shall select but a very few for consideration.

■ To explain the central importance of the word "equity" and the Law of Equity in English law; having a tremendous impact on the development of the law across the globe and of international law. Few realise that the English legal system is made up of two bodies of law: the Common Law and the Law of Equity. The Law of Equity is arguably one of English law's most important innovations for modern jurisprudence, and its development and continued relevance shall be considered.

■ To explain how from the Early Modern Age the law ceased to be top-down, but increasingly began to be seen as bottom-up. Society and the law was not to be received by its citizens, but, in the eyes of the great philosophers of the early Enlightenment, constructed from the bottom-up. From the works of Hobbes, Locke and Rousseau developed the idea that society rested upon a contract, devised by its citizens and conferring both power and legitimacy upon their rulers (which could be withdrawn if the contract, that is the protection of the citizens, was broken).

■ To confirm that not only did society need to endure (in the opinion of the Enlightenment thinkers) on the basis of a (social) contract, but also that safeguards needed to be introduced to ensure that power was dispersed, in order to protect citizens from its potential abuse (by government). From here emerges the notion of the separation of powers, developed by the French theorist Montesquieu. It was reflected in the U.S. Constitution, drafted at the Philadelphia Convention. However, the mood of that time extended further via the theory of natural rights that was inspired during the American Revolution, was developed during the French Revolution and in its modern incarnation is reflected in the vast literature we have today on human rights.

■ To reflect, at the end of the course, on what norms are and what their function is in society. The Austrian legal theorist Hans Kelsen viewed the law in almost scientific terms and devised a normative basis for all decisions rooted in one original basic norm (from which all the others further down the line acquired their legitimacy).

### **Thematic/area coverage and structure**

The course examines the origins of norms. Words and phrases such as democracy, the rule of law and equity are frequently used in modern discourse, but few realise that they are frequently ancient in origin. In addition, the meaning of such norms is often different to when they were originally devised. For example, the English word justice derives from the Latin word *ius*. However, *ius* in Roman law equated more with a right or entitlement than with justice. The course shall begin with an examination on what democracy meant to the Ancient Greeks (and how it compared with the alternative forms of government of that time). The course shall conclude, in the 20<sup>th</sup> century, with consideration of Hans Kelsen's normative jurisprudence and his most famous work, *Pure Theory of Law*. Nine topics will be covered during the semester. Reliance will be placed on both primary and secondary works. The course having time to pause for some dedicated seminars and other class discussion during the semester.

## Planned learning outcomes

Competency contents	Planned learning outcomes
<p>Knowledge and understanding of some of the most important norms in international politics and law</p>	<p><b>Know:</b></p> <ul style="list-style-type: none"> <li>– the debt that is owed to antiquity in devising many of the norms we take for granted today, including such concepts as democracy and justice;</li> <li>– the importance of the Age of the Enlightenment in enabling mankind not only to separate himself somewhat from religion, but also endow future generations with a rights consciousness which most separates the Modern from the Ancient and Medieval worlds; and,</li> <li>– that discussion about norms themselves is a relatively recent phenomenon, being inspired by the materialists of the Early Modern Age, as social science was born (being the bridge between the natural sciences and the humanities).</li> </ul>
	<p><b>Manage:</b></p> <ul style="list-style-type: none"> <li>– the necessary shifts in direction throughout the course, from concentration on politics to law, from the Civil Law to the Common Law traditions, and, the quasi-scientific emphasis employed to identify the basic norm;</li> <li>– the continuum presented (over a period of four centuries) from a citizen-led contract, to the removal of despotic rule, to the emergence of individual rights; and,</li> <li>– the concept of the rule of law, a norm frequently spoken of but rarely explained.</li> </ul>
	<p><b>Master:</b></p> <ul style="list-style-type: none"> <li>– the asymmetrical approaches employed, over the centuries, in order to generate and maintain such norms, as well as the more normative framework;</li> <li>– the different timeframes under consideration, in order to appreciate and better comprehend the bases for the emergence and development of such norms; and,</li> <li>– the terminology, including acquisition of the roots of such and their uses in their original linguistic settings.</li> </ul>
<p>Being able to identify the main discussion points both in the primary and secondary literature.</p>	<p><b>Know:</b></p> <ul style="list-style-type: none"> <li>– that such concepts as democracy once assumed many different forms, and therefore appreciate that it is only in relatively recent times that it has assumed a much narrower focus;</li> <li>– that even norms such as equity, despite being rooted very much in the English legal tradition have much more ancient roots; and,</li> <li>– the notion of human rights is a relatively recent innovation, far-removed from the much more patriarchal and dogmatic normative framework that dominated during previous ages.</li> </ul>

Competency contents	Planned learning outcomes
	<p><b>Manage:</b></p> <ul style="list-style-type: none"> <li>– a range of difficult concepts, which have developed their own meanings and senses through time (for example, the ebb and flow of natural law);</li> <li>– norms which may not be employed by professionals (not only scholars) in the exact same way in different environments (for example, appreciation and use of the word ‘equity’ in the politics of the English as compared with the non-English speaking world); and,</li> <li>– a literature which inevitably crosses subject boundaries and to be aware of the caution with which one should approach such different angles on such norms.</li> </ul> <p><b>Master:</b></p> <ul style="list-style-type: none"> <li>– the key primary works, in order to know how to locate the norms studied (as well as others related to them) efficiently; and,</li> <li>– the various methods employed by scholars to address the norms, usually (somewhat unfortunately) being hidden in much wider and more general discussions on Schools of thought.</li> </ul>
<p>Being able to apply that knowledge in other spheres of the students’ future scholarly and professional work.</p>	<p><b>Know:</b></p> <ul style="list-style-type: none"> <li>– the time periods when the norms under consideration emerged and why they emerged;</li> <li>– their uses in a modern setting, whether from the perspective of constitutional law or (by extension) international law; and,</li> <li>– the significance of the theorists studied on the course; why their philosophy and works are still relevant today.</li> </ul> <p><b>Manage:</b></p> <ul style="list-style-type: none"> <li>– a wide-range of material, being able to locate it and understand how one would attempt to direct oneself deeper (into the subject), as well as introduce others to it.</li> <li>– the key ideas presented on the course in a thematic way, in order to be able to cross-reference theorists and periods of history with the norms themselves; and,</li> <li>– to build an awareness of the challenges faced in being able to present such a normative framework to an uninitiated target audience.</li> </ul> <p><b>Master:</b></p> <ul style="list-style-type: none"> <li>– the core primary sources, the types of works written and their influence on modern literature; and,</li> <li>– an appreciation of the key secondary works on the subject, in the given subject fields, being aware of overlaps in the discourse (for example, between the humanities, social sciences and law).</li> </ul>

### 1.3. Course methods, requirements and guidelines

#### Teaching Methodology

The main characteristic of the course's learning process and teaching methods is that they are constructed:

- to balance lectures with students' activities;
- to require students to become familiar with primary works of relevance to each topic covered;
- to develop and explicitly support the ability to think in an original, inquisitive manner, demonstrating good comprehension, as well as the ability to interpret and discuss.

A combination of these intellectual and practical skills does not exclude, but is given preference over memorisation, conceptual fluency or abstract theorizing.

- The one hour and twenty-minute sessions shall be a combination of lecture and seminar (besides the three mandatory in-class tests), with three specially dedicated seminars. The students shall be required to review the material covered in each topic and to have mastered it both for the seminars and in-class tests.
- The lecture notes and readings are complementary, the one not substituting the other.
- The students are expected to attend lectures, complete the readings assigned for each topic and participate in all class discussions.
- Assessment of the students' course performance shall be reflected in three in-class tests each of 30 minutes, in order to make sure that the students have acquired a sound command of the material addressed.

#### In-class:

There shall be three in-class tests. All three in-class tests shall be 30 minutes in length. A student absent during either or both of the first two in-class tests shall be given a second opportunity to sit these tests.

#### **Guidelines for self-study**

In addition to attending lectures, and sitting the in-class tests, the students are expected to engage in active self-study along the following suggested lines:

- To have completed the reading assigned for each lecture and formulate their own notes based on their reading;
- To have gained an appreciation of the advantage in consulting and reviewing primary texts;
- To remain engaged with the material both prior to the relevant lecture on a given topic and subsequently. To this end, to make sure that the reading is undertaken and to develop the confidence to research more widely on the subject;
- To prepare for the three in-class tests, in accordance with the guidelines and advice tendered by the instructor;

#### **Assessment criteria for in-class tests:**

**Strength and clarity of argument:** the answers should present an argument in an organised and coherent manner and follow it through. Summarising someone else’s ideas or reiteration of primary material is insufficient. The answer must address the question asked.

**Conceptual clarity:** the answers should demonstrate a clear understanding of the works studied during the course. Alertness to conceptual issues is encouraged.

**Relevance:** the answers should only present material that is relevant to the question asked. Failure to answer the question will lead to a lower mark.

**Critical analysis:** the answers should be based on analysis of the main and important ideas (of relevance to the question) of the given topic under consideration. The phenomena and processes outlined in the answers should be explained, rather than simply described.

## 1.4. Grading plan

The final grade will be calculated on the basis of performance in the three in-class tests. The three in-class tests are designed, in part also, to ensure that the students keep up with the material. Attendance is mandatory. A student failing (overall) in the in-class tests shall be required to sit an additional test at the end of the course.

### PART 2:

#### WEEKLY SCHEDULE & READINGS

##### 2.1 Types of work

Types of work	Academic hours
<b><i>Total class contact time</i></b>	<b>32 hours</b>
Lectures	16
Seminars	16
<b>Homework</b>	<b>76 hours</b>
Preparation for lectures	46
Preparation for in-class tests	30
<b>Total</b>	<b>108 hours</b>

##### 2.2. Course content and readings by topic

#### Key books in the English language:

(in no particular order: latest edition indicated)

#### Legal Theory

M.D.A. Freeman (ed.), Lloyd’s Introduction to Jurisprudence (ninth edition, Sweet & Maxwell, 2014)

Nigel E. Simmonds, Central Issues in Jurisprudence (fifth edition, Sweet & Maxwell, 2018)

Wayne Morrison, Jurisprudence: from the Greeks to post-modernism (Cavendish, 1997)



James Penner and Emmanuel Melisarris, McCoubrey & White's Textbook on Jurisprudence (fifth edition, Oxford, 2012)

Raymond Wacks, Understanding Jurisprudence: An Introduction to Legal Theory (fifth edition, Oxford, 2017)

Brian H. Bix, Jurisprudence: Theory and Context (seventh edition, Sweet & Maxwell, 2015)

Jules Coleman and Scott Shapiro (ed.s), The Oxford Handbook of Jurisprudence and Philosophy of Law (Oxford, 2002)

Howard Davies and David Holdcroft, Jurisprudence: Texts and Commentary (Butterworths, 1991)

James Penner, David Schiff and Richard Nobles, Introduction to Jurisprudence and Legal Theory: Commentary and Materials (Butterworths, 2002)

J. G. Riddall, Jurisprudence (second edition, Oxford, 1999)

Scott Veitch, Emilios Christodoulidis and Lindsay Farmer, Jurisprudence: Themes and Concepts (third edition, Routledge, 2018)

Suri Ratnapala, Jurisprudence (third edition, Cambridge, 2017)

Nicholas J. McBride and Sandy Steel, Great Debates in Jurisprudence (Palgrave, 2014)

### Political Theory

Cambridge History of Political Thought series (Cambridge University Press):

(in chronological, by time period, order)

Greek and Roman Political Thought, edited by Christopher Rowe and Malcolm Schofield (2005);

Medieval Political Thought c.350-c. 1450, edited by J.H. Burns (1991)

1450-1700, edited by J.H. Burns with the assistance of Mark Goldie (1994);

Eighteenth-Century Political Thought, edited by Mark Goldie and Robert Wokler (2016);

Nineteenth-Century Political Thought, edited by Gareth Stedman Jones and Gregory Claeys (2013);  
and,

Twentieth Century Political Thought, edited by Terence Ball and Richard Bellamy (2006).

Iain Hampsher-Monk, A History of Modern Political Thought: Major Political Thinkers from Hobbes to Marx (Wiley-Blackwell, 1993)

Peri Roberts and Peter Sutch, An Introduction to Political Thought (second revised edition, Edinburgh University Press, 2012)

J.S. McClelland, A History of Western Political Thought (Routledge, 1998)

Quentin Skinner, *The Foundations of Modern Political Thought*, volumes 1 and 2 (Cambridge, 1979)

Janet Coleman, *A History of Political Thought: From Ancient Greece to Early Christianity* (John Wiley & Sons, 2000)

Janet Coleman, *A History of Political Thought: From the Middle Ages to the Renaissance* (John Wiley & Sons, 2000)

Ryan K. Balot, *Greek Political Thought* (Wiley-Blackwell, 2005)

Antony Black, *Political Thought in Europe 1250-1450* (Cambridge, 2008)

John S. Dryzek, Bonnie Honig and Anne Phillips, *The Oxford Handbook of Political Theory* (Oxford, 2008)

Jonathan Wolff, *An Introduction to Political Philosophy* (third edition, Oxford, 2015)

David Boucher and Paul Kelly (ed.s), *Political Thinkers: From Socrates to the Present* (third edition, Oxford, 2017)

Alan Ryan, *A History of Political Thought from Herodotus to the Present* (in two volumes) (Liveright, 2013)

George Sabine, *A History of Political Theory* (third edition, Harrap, 1960)

John Plamenatz, *Man and Society* (volume one): *From the Middle Ages to Locke* (revised edition, Longman, 1992)

John Plamenatz, *Man and Society* (volume two): *From Montesquieu to the Early Socialists* (revised edition, Longman, 1992)

John Plamenatz, *Man and Society* (volume three): *Hegel, Marx and Engels, and the Idea of Progress* (revised edition, Longman, 1992)

### **Additional reading:**

#### Week 1: Introductory lecture

There is no reading for this initial week.

#### Week 2: Democracy in Ancient Greece

Weblink:

(Plato, *The Republic*)

Books I-V: <https://archive.org/details/L237PlatoTheRepublicI15/page/n6>

Books VI-X: <https://archive.org/details/L276PlatoVITheRepublicII610/page/n6>

(Aristotle, *Politics*) <https://archive.org/details/L264AristotleXXIPolitics/page/n6>

Reading:

Jerome Hall, "Plato's Legal Philosophy", 31 Indiana Law Journal 171 (1955-1956).

Huntington Cairns, "Plato's Theory of Law", 56 Harvard Law Review 359 (1942-1943).

Hans Kelsen, "Plato and the Doctrine of Natural Law", 14 Vanderbilt Law Review 23 (1960-1961).

Donald H.J. Hermann, "Socrates on Justice and Legal Obligation", 11 Seton Hall Law Review 663 (1980-1981).

Jill Frank, "Aristotle on Constitutionalism and the Rule of Law", 8 Theoretical Inquiries in Law 37 (2007).

James E. Moody, "Plato, Aristotle, and St. Thomas Aquinas: The Relationship Between Philosophy and Law", 1 USAFA Journal of Legal Studies 105 (1990).

Max Salomon Shellens, "Aristotle on Natural Law", 4 Natural Law Forum 72 (1959).

Anthony Kronman, "Aristotle's Idea of Political Fraternity", 24 American Journal of Jurisprudence 114 (1979).

Richard Mulgan, "Aristotle and the Value of Political Participation", 18 Political Theory 195 (1990).

Week 3: Justice in Aristotle's Nicomachean Ethics

Weblink:

(Aristotle, Nicomachean Ethics) <https://archive.org/details/in.ernet.dli.2015.183486/page/n2>

Reading:

Anton-Hermann Chroust, "Aristotle's Conception of Equity (Epieikeia)", 18 Notre Dame Lawyer 119 (1942-1943).

Anton-Hermann Chroust and David L. Osborn, "Aristotle's Conception of Justice", 17 Notre Dame Lawyer 129 (1941-1942).

Jason W. Neyers, "The Inconsistencies of Aristotle's Theory of Corrective Justice", 11 Canadian Journal of Law and Jurisprudence 311 (1998).

Steven J. Heyman, "Aristotle on Political Justice", 77 Iowa Law Review 951 (1991-1992).

Eric Engle, "Aristotle, Law and Justice: The Tragic Hero", 35 Northern Kentucky Law Review 1 (2008).

L.R. Lind, "The Modernity of Aristotle's Ethics", 30 The Classical Journal 418 (1935).

Paul Shorey and Paul Vinogradoff, "Universal Justice in Aristotle's Ethics", 19 Classical Philology 279 (1924).

Susan D. Collins, "Moral Virtue and the Limits of the Political Community in Aristotle's 'Nicomachean Ethics'", 48 American Journal of Political Science 47 (2004).

Delba Winthrop, "Aristotle and Theories of Justice", 72 The American Political Science Review 1201 (1978).

D.G. Ritchie, "Aristotle's Subdivisions of 'Particular Justice'", 8 The Classical Review 185 (1894).

Bernard Yack, "Natural Right and Aristotle's Understanding of Justice", 18 Political Theory 216 (1990).

William Mathie, "Political and Distributive Justice in the Political Science of Aristotle", 49 The Review of Politics 59 (1987).

F. Rosen, "The Political Context of Aristotle's Categories of Justice", 20 Phronesis 228 (1975).

Week 4: Seminar One, Systems of Government in Plato and Aristotle

Week 5: in-class test one, followed by class discussion

Week 6: Roman Law legal transplants

Reading:

Adolf Berger, Encyclopedic Dictionary of Roman Law (Transactions of the American Philosophical Society, Volume 43, Part 2, 1953):

<https://archive.org/details/Berger1953DictionaryOfRomanLaw/page/n3>

W.W. Buckland, A Text-Book of Roman Law (third edition, revised by Peter Stein, Cambridge University Press, 1963):

[https://archive.org/details/textbookofroman00buck\\_0](https://archive.org/details/textbookofroman00buck_0)

W.H. Hastings Kelke, A Primer of Roman Law (London, Sweet & Maxwell, 1912):

<https://archive.org/details/in.ernet.dli.2015.97563/page/n7>

Week 7: Equity and the English Legal System

Reading:

A.T. Carter, Outlines of English Legal History (Butterworth & Co, 1899):

<https://archive.org/details/outlinesenglish00cartgoog/page/n5>

Frederic W. Maitland and Francis C. Montague, A Sketch of English Legal History (G.P. Putnam's Sons, 1915): <https://archive.org/details/cu31924069476020/page/n11>

Hessel E. Yntema, "Equity in the Civil Law and the Common Law", The American Journal of Comparative Law, volume 15, no.1/2 (1966-1967), pp.60-86.

Week 8: The social contract

Weblink:

(Thomas Hobbes, The Leviathan) <https://archive.org/details/in.ernet.dli.2015.32247/page/n161>

(John Locke, Second Treatise of Government)

<https://archive.org/details/JohnLockeTheSecondTreatiseOfGovernmentThomasP.Peardon/page/n77>

(Jean-Jacques Rousseau, The Social Contract)

<https://archive.org/details/in.ernet.dli.2015.45275/page/n55>

Reading:

Huntington Cairns, "Hobbes' Theory of Law", 4 Seminar Jurist 58 (1946).

Brian Tierney, "Historical Roots of Modern Rights; Before Locke and After", 3 Ave Maria Law Review 23 (2005).

Sir Frederick Pollock, "Hobbes and Locke: The Social Contract in English Political Philosophy", 9 Journal of the Society of Comparative Legislation n.s. 107 (1908).

E. Clinton Gardner, "John Locke: Justice and the Social Compact", 9 Journal of Law & Religion 347 (1991-1992).

Suri Ratnapala, "John Locke's Doctrine of the Separation of Powers: A Re-Evaluation", 38 American Journal of Jurisprudence 189 (1993).

W. Blake Odgers, "A Defence of Rousseau's Theory of the Social Contract", 16 Journal of the Society of Comparative Legislation 322 (1916).

Léon Duguit, "Jean-Jacques Rousseau and the Doctrine of the Social Contract", 31 Harvard Law Review 27 (1917-1918).

Cornelius F. Murphy, "Jurisprudence and the Social Contract", 33 American Journal of Jurisprudence 207 (1988).

John B. Noone, Jr., "The Social Contract and the Idea of Sovereignty in Rousseau", 32 The Journal of Politics 696 (1970).

W. Blake Odgers, "A Defence of Rousseau's Theory of the Social Contract", 16 Journal of the Society of Comparative Legislation 322 (1916).

Week 9: Seminar Two, The social contract in Hobbes, Locke and Rousseau

Week 10: in-class test two, followed by class discussion

Week 11: The Separation of Powers in Montesquieu's Spirit of the Laws

Weblink:

(Montesquieu, The Spirit of the Laws)

<https://archive.org/details/MontesquieuTheSpiritOfLawsCambridgeIntegral/page/n519>

Reading:

Iain Stewart, "Men of Class: Aristotle, Montesquieu and Dicey on Separation of Powers and the Rule of Law", 4 Macquarie Law Journal 187 (2004).

Robert G. Hazo, "Montesquieu and the Separation of Powers", 54 American Bar Association Journal 665 (1968).

James T. Brand, "Montesquieu and the Separation of Powers", 12 Oregon Law Review 175 (1932-1933).

Matthew P. Bergman, "Montesquieu's Theory of Government and the Framing of the American Constitution", 18 Pepperdine Law Review 1 (1990-1991).

#### Week 12: Natural rights theory in Thomas Paine's Rights of Man

Weblink:

(Thomas Paine, Rights of Man)

<https://archive.org/details/rightsofman033385mbp/page/n37>

Reading:

R.B. Bernstein, "Rediscovering Thomas Paine", 39 New York School of Law Review 873 (1994).

Gary Kates, "From Liberalism to Radicalism: Tom Paine's Rights of Man", Journal of the History of Ideas, vol.50, no.4 (Oct.-Dec. 1989), pp.569-587.

J.J. Jenkins, "Locke and Natural Rights", Philosophy, vol. 42, no.160 (Apr. 1967), pp. 149-154.

Eric Mack, "Locke's Arguments for Natural Rights", The Southwestern Journal of Philosophy, vol. 11, no.1 (Spring 1980), pp. 51-60.

Gary B. Herbert, "John Locke: Natural Rights and Natural Duties", Jahrbuch für Recht und Ethik / Annual Review of Law and Ethics, vol. 4, Themenschwerpunkt: Bioethik und Medizinrecht / Bioethics and the Law (1996), pp. 591-613.

#### Week 13: A. V. Dicey and the rule of law

Weblink:

(A.V. Dicey, Introduction to the Study of the Law of the Constitution (eighth edition, Macmillan and Co., 1927)) <https://archive.org/details/cu31924030503720/page/n5>

Reading:

Tom Bingham, The Rule of Law (Penguin Books, 2011)

Lord Bingham, "The Rule of Law", The Cambridge Law Journal, vol.66, no.1 (Mar. 2007), pp.67-85.

Julia Stapleton, "Dicey and his Legacy", History of Political Thought, vol.16, no.2 (Summer 1995), pp.234-256.

Csaba Varga, "Varieties of Law and Rule of Law", ARSP: Archiv für Rechts- und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy, vol. 82, No. 1 (1996), pp.61-72.

Week 14: Hans Kelsen and the basic norm

E-book to be supplied.

Reading:

Hans Kelsen, "What is the Pure Theory of Law", 34 Tulane Law Review 269 (1959-1960).

Hans Kelsen, "Law, State and Justice in the Pure Theory of Law", 57 Yale Law Journal 377 (1947-1948).

Hans Kelsen, "On the Basic Norm", 47 California Law Review 107 (1959).

Hans Kelsen, "The Pure Theory of Law and Analytical Jurisprudence", 55 Harvard Law Review 44 (1941-1942).

Andras Jakab, "Problems of the Stufenbaulehre: Kelsen's Failure to Derive the Validity of a Norm from Another Norm", 20 Canadian Journal of Law & Jurisprudence 35 (2007).

Edwin W. Patterson, "Hans Kelsen and His Pure Theory of Law", 40 California Law Review 5 (1952).

Earl Snyder, "Hans Kelsen's Pure Theory of Law", 12 Howard Law Journal 110 (1966).

Reginald Parker, "The Pure Theory of Law", 14 Vanderbilt Law Review 211 (1960-1961).

Julius Stone, "Mystery and Mystique in the Basic Norm", 26 Modern Law Review 34 (1963).

Erich Voegelin, "Kelsen's Pure Theory of Law", 42 Political Science Quarterly 268 (1927).

Week 15: Seminar Three: The impact of the Enlightenment on modern society (Montesquieu and Paine: a case study)

Week 16: in-class test three, followed by class discussion

**Disclaimer**

Instructor could modify schedule of the classes as necessary.

**2.3. Consolidated reading list (in alphabetic order, by first name: excluding only the Cambridge History of Political Thought series)**

A.T. Carter, Outlines of English Legal History (Butterworth & Co, 1899).

Adolf Berger, Encyclopedic Dictionary of Roman Law (Transactions of the American Philosophical Society, Volume 43, Part 2, 1953).

- Alan Ryan, *A History of Political Thought from Herodotus to the Present* (in two volumes) (Liveright, 2013)
- Andras Jakab, "Problems of the Stufenbaulehre: Kelsen's Failure to Derive the Validity of a Norm from Another Norm", 20 *Canadian Journal of Law & Jurisprudence* 35 (2007).
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### **PART 3. FINAL REMARK**

- Plagiarism is considered a severe violation and an indication of incompetence in the course. Plagiarism is understood as making of one's text using compilation method for other people's publications, even connected with own phrases and sentences. Collective performance of individual tasks is unacceptable. Proven plagiarism will receive an F-mark regardless of the fulfilment of all other requirements.