

**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

Political and Legal Theory

The course program developed by Professor Tim Potier: 2018

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The course “Political and Legal Theory” is elaborated in accordance with the MGIMO Educational Standard for the Bachelor’s Program in International Affairs (program track “Government and International Affairs”).

Author: (Professor) Potier, Tim

Director of the MGIMO library _____ Marina Reshetnikova

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

1.1 General information

- Full course title: Political and legal Theory
- Type of course: Elective
- Level of course B.A.
- Year of study: 3rd
- Number of ECTS credits allocated: 2
- Name of lecturer(s) and office hours:
Professor Tim Potier,
Professor of International Law
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1.2. Course aims, thematic structure and learning outcomes

Aims

The main political and legal theorists are frequently quoted by scholars, the media and (today) even in social media. Yet, their works are read and studied by very few. The consequence of this is to give post-modern man (in society) the impression that his/her own experiences and findings are in some way novel. The reality, though, is that man (both the natural and social animal) has not changed over 2,500 years of recorded philosophy.

The principal aim of this course, therefore, is to introduce some of the key works of political and legal theory which have had an impact on society and helped shape history up until today. Nine works have been selected. Each work is fundamental to an appreciation of at least one of the Schools of Political and Legal Theory. They begin with St Thomas Aquinas' Treatise on Law (the first full account of natural law theory) and conclude, in the late 20th century, with John Rawls' A Theory of Justice (surely, the classic modern statement on justice). These works have discussed the basis for authority; advanced the modern discourse on human rights; and, recommended to the citizen the desirable level of State intervention (for instance, the liberal state as propounded by Mill or a planned one, Marx).

By the end of the semester, the students will have an outstanding knowledge of the texts studied. This knowledge will hopefully inspire them to further reading on the subject, with an additional range of theorists. We are currently in danger of losing knowledge. This course will at least attempt in its small way to reverse that trend.

The objectives of the course are:

- To offer the students a thorough grounding in the main (historic) schools of political and legal theory: including, Natural Law and Positivism. Is the law nothing more than its rules or is it rooted in a higher morality? This discussion has dominated man's consciousness since even before the Ancient Greeks, and this course hopes to provide at least some possible answers.
- To illustrate the impact of Christian theology and dogma upon political and legal theory

following the Classical Age. It is common to speak of a ‘Dark Age’ descending on western Europe after the fall of Rome. Yet, the knowledge that was inspired, during the succeeding centuries, has contributed much to the more tolerant, liberalised and humane world that we live in today. This needs to be much more greatly acknowledged.

■ To remind students of the fundamental importance of the Enlightenment and the American and French revolutions to Western civilisation. It is impossible to understand why the West, even in the 21st century, thinks and behaves in the way that it does, without having a thorough knowledge and appreciation of the events from the late seventeenth through to the early nineteenth centuries. To reflect the roots of modern conservatism, Edmund Burke’s *Reflections on the Revolution in France* will be studied in close detail during the semester. This is quite a journey from the standpoint of Machiavelli, only some two and a half centuries earlier.

■ To illustrate the impact that ideology can have on subsequent generations. It is commonplace to acknowledge the debt that Western societies owe to theorists such as John Stuart Mill. However, the fashion of dismissing what Karl Marx wrote, in recent decades, deserves some correction. It is very likely that the labour movement would not have achieved so much, so quickly in the period since had it not been for Marx’s writings.

■ To illustrate how, during the 20th century, the leading theorists attempted to bring up-to-date both Natural Law and Positivism. In *The Concept of Law*, H.L.A. Hart responds to the criticisms levelled against Austin. Hart and Lon Fuller then, in the *Harvard Law Review*, proceeded to have a famous debate on the connection between law and morality. This is, of course, not to overlook John Rawls’ take on modern liberalism in *A Theory of Justice*; along with Hart’s, the other most important work of political and legal theory of the 20th century.

Thematic/area coverage and structure

This course covers political and legal theory. The course will not be delivered, though, in its customary abstract manner, each School being treated separately and in turn, but, rather, by key works (nine in all), from some of the most important theorists in history; the works themselves being allowed to speak for themselves. The course shall commence, in the Middle Ages, with St Thomas Aquinas’ *Treatise on Law*, forming a part of his monumental and unfinished *Summa Theologiae*. The course shall then embark on an 800-year journey, bringing us to the late 20th century with Harvard University’s John Rawls’ most famous work, *A Theory of Justice*. One book will be considered each week during the semester. This will help the students to gain, from the primary texts themselves, a better appreciation of the Schools with which they are associated.

Planned learning outcomes

Competency contents	Planned learning outcomes
<p>Knowledge and understanding of the main ideas of political and legal theory, particularly those represented in the works of the theorists studied during the semester</p>	<p>Know:</p> <ul style="list-style-type: none"> – the essential differences between Positivism and Natural Law; be able to chart their historical development and progression; and, appreciate the way in which they have both been adapted, to suit modern conditions, during the 20th century; – the contemporary factors which may have inspired the theorists to emphasise their ideas at the time they did, to be able to place these works also in their historical context and not merely regard them in the abstract; and, – in what ways a given work inspired a reaction / clarification from contemporaries and successors, and appreciate the reasons for such occurring.

Competency contents	Planned learning outcomes
	<p>Manage:</p> <ul style="list-style-type: none"> – the material provided in the lecture notes, enabling them to cross-reference across works and Schools, in order to be able to take a comparative approach to a given issue (for example: morality and the law); and, – the knowledge obtained in such a way that it enables the student to review and research additional works (including from a wider range of theorists); this being possible only with a good command of the main ideas outlined in the works studied. <p>Master:</p> <ul style="list-style-type: none"> – the key concepts of the discipline, the timelines and factors of influence; – the important terminology of the subject, in order that the student can use it accurately and with confidence in his/her scholarly or professional work; and, – the essential ideas propounded in each of the works studied, in order to have an appreciation of why each work has had the impact it has had.
<p>Being able to identify the main Schools of political and legal theory; explain in a few sentences the fundamental vantage point of each; and, provide examples of the points of emphasis / differences reflected in the works of the theorists.</p>	<p>Know:</p> <ul style="list-style-type: none"> – that some of the Schools operate at different conceptual levels (compare, for example, Natural Law with Communism) and be able to explain why this might be so; – why different Schools of political and legal theory may have emerged / predominated at particular moments in history, and be able to evaluate why and when their influence may have waned; and, – the other factors (non-legal/political) which might have influenced the direction of the field at any given time (for example, during the 19th century, advances in the field of biology and industrialisation). <p>Manage:</p> <ul style="list-style-type: none"> – to separate the works, by being able to illustrate (at least to begin with) a handful of the main ideas presented in each work; – to engage with the secondary literature and identify the main criticisms levelled at each of the works studied and the theorist; and, – to be able to tender one’s critique of the continued relevance of each work, where it might have become anachronistic, and where (giving reasons), in the opinion of the student, the scholarly critiques have been justified or not. <p>Master:</p> <ul style="list-style-type: none"> – the current discourse in the field, its points of emphasis and the areas it has chosen to ignore / overlook; and, – the historiography of the subject (for example, why did Natural Law theory experience a revival after the Second World War?).

Competency contents	Planned learning outcomes
Being able to apply that knowledge in other spheres of the students' future scholarly and professional work; the works studied having been very carefully selected with this in mind, and not merely for the purposes of obtaining academic knowledge.	Know: – the contemporary applications of the main ideas studied in international politics and relations today, including the extent to which these ideas may have been misinterpreted; and, – the ideological barriers / prejudices, still in existence, which may be acting as a barrier to certain of these ideas being given a fair and reasonable critical appraisal by (particularly, but not exclusively) political leaders.
	Manage: – to read more widely in the field, including other works written by the theorists studied (for example, Machiavelli's Discourses).
	Master: – political and legal theory's place in the social sciences; appreciate the different points of emphasis (certainly since the 20 th century) in both political and legal theory; and, understand the reasons why this may have been less apparent prior to the last century.

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 political and legal theory;
- 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. They shall be required to have mastered the material and come to class ready to discuss its main and important ideas.
- 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 work 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 work 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 organized 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 work 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
<i>Total class contact time</i>	32
Lectures	16
Seminars	16
<i>Homework</i>	40
Preparation for lectures, seminars	28
Preparation for in-class tests	12
Total	72

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, Emiliios 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: St. Thomas Aquinas, Treatise on Law

Weblink for the work: <http://www.newadvent.org/summa/2.htm>

Reading:

Edward J. Damich, "The Essence of Law According to Thomas Aquinas", 30 *American Journal of Jurisprudence* 79 (1985).

Elmer T. Gelinas, "Ius and Lex in Thomas Aquinas", 15 *American Journal of Jurisprudence* 154 (1970).

Norman Kretzmann, "Lex Iniusta Non Est Lex: Laws on Trial in Aquinas' Court of Conscience", 33 *American Journal of Jurisprudence* 99 (1998).

Daniel Westberg, "The Relation Between Positive and Natural Law in Aquinas", 11 *Journal of Law and Religion* 1 (1994-1995).

Anton-Hermann Chroust and Frederick A. Collins Jr, "The Basic Ideas in the Philosophy of Law of St. Thomas Aquinas as Found in the *Summa Theologica*", 26 *Marquette Law Review* 11 (1941-1942).

Raymond Bradley, "The Relation between Natural Law and Human Law in Thomas Aquinas", 21 *Catholic Lawyer* 42 (1975).

Peter J. Riga, "Prudence and Jurisprudence: Authority as the Basis of Law according to Thomas Aquinas", 37 *The Jurist* 287 (1977).

Miriam T. Rooney, "The Philosophy of Natural Law of St. Thomas Aquinas", 2 *Catholic Lawyer* 286 (1980-1981).

William E. May, "The Meaning and Nature of Law in Thomas Aquinas", 22 *American Journal of Jurisprudence* 168 (1977).

Anton-Hermann Chroust, "The Philosophy of Law of St. Thomas Aquinas: His Fundamental Ideas and Some of His Historical Precursors", 19 *American Journal of Jurisprudence* 1 (1974).

Week 3: Seminar One: the influence of Christianity on natural law theory (Aquinas: a case study)

Week 4: Niccolo Machiavelli, The Prince

Weblink for the work: <https://archive.org/details/MachiavelliPrinceChic.Integral/page/n47>

Reading:

Haig Patapan, "Laws as Arms: The Poetry, Rhetoric and Violence of Law in Machiavelli's The Prince", 23 Australian Journal of Legal Philosophy 28 (1998).

William R. Thayer, "Machiavelli's Prince", International Journal of Ethics, vol.2, no.4 (Jul. 1892), pp.476-492.

Eric Voegelin, "Machiavelli's Prince: Background and Formation", The Review of Politics, vol. 13, no.2 (Apr. 1951), pp.142-168.

Week 5: Edmund Burke, Reflections on the Revolution in France

Weblink for the work:

<https://archive.org/details/EdmundBurkeReflectionsOnTheRevolutionInFrench/page/n57>

Reading:

Louis Gottschalk and Edmund Burke, "Reflections on Burke's 'Reflections on the French Revolution'", Proceedings of the American Philosophical Society, vol.100, no. 5 (Oct. 15, 1956), pp. 417-429.

David Bromwich, "The Context of Burke's 'Reflections'", Social Research, vol. 58, no. 2 (Summer 1991), pp. 313-354.

Frederick Dreyer, "The Genesis of Burke's Reflections", The Journal of Modern History, vol. 50, no.3 (Sep. 1978), pp. 462-479.

Week 6: in-class test one, followed by class discussion

Week 7: John Austin, The Province of Jurisprudence Determined

Weblink for the work: <https://archive.org/details/provincejurispr05austgoog/page/n58>

Reading:

Robert Moles, "John Austin Reconsidered", 36 Northern Ireland Legal Quarterly 193 (1985).

Alfrid Rumble, "John Austin, Judicial Legislation and Legal Positivism", 13 University of Western Australia Law Review 77 (1977-1978).

Wilfrid E. Rumble, "Divine Law, Utilitarian Ethics, and Positivist Jurisprudence: A Study of the Legal Philosophy of John Austin", 24 American Journal of Jurisprudence 139 (1979).

John Underwood Lewis, "John Austin's Concept of Having a Legal Obligation: A Defence and Reassessment in the Face of Some Recent Analytical Jurisprudence", 14 Western Ontario Law Review 51 (1975).

Samuel Enoch Stumpf, "Austin's Theory of the Separation of Law and Morals", 14 Vanderbilt Law Review 117 (1960-1961).

Week 8: John Stuart Mill, On Liberty

Weblink for the work: <https://archive.org/details/in.ernet.dli.2015.96362/page/n89>

Reading:

Filimon Peonidis, "A Note on Mill's Early Theory of Free Speech", 33 Australian Journal of Legal Philosophy 60 (2008).

Raphael Cohen-Almagor, "Ends and Means in J.S. Mill's Utilitarian Theory", 26 Anglo-American Law Review 141 (1997).

Wilson Ray Huhn, "Mill's Theory of Liberty in Constitutional Interpretation", 22 Akron Law Review 133 (1988-1989).

John Gray, "John Stuart Mill On Liberty, Utility, And Rights", Nomos, vol.23, Human Rights (1981), pp.80-116.

Week 9: Seminar Two, libertarianism in Mill

Week 10: Karl Marx and Friedrich Engels, The Communist Manifesto

Weblink for the work: <https://www.marxists.org/archive/marx/works/download/pdf/Manifesto.pdf>

Reading:

Andrew Vincent, "Marx and Law", 20 Journal of Law & Society 371 (1993).

Len Findlay, "Karl Marx and Friedrich Engels, Manifest der Kommunistischen Partei/The Communist Manifesto (1848)", Victorian Review, vol.35, no.1 (Spring 2009), pp.23-27.

Week 11: in-class test two, followed by class discussion

Week 12: H.L.A. Hart, The Concept of Law

MGIMO library: Харт Г.Л.А., The Concept of Law; пер. с англ. под общ. ред. Е.В. Афонасина, С.В. Моисеева. - Санкт-Петербург : Изд-во С.-Петербур. ун-та, 2007. - 300 с. - ISBN 978-5-288-04211-9.

Reading:

H.L.A. Hart, "Positivism and the Separation of Law and Morals", 71 Harvard Law Review 593 (1957).

H.L.A. Hart, "Between Utility and Rights", 79 Columbia Law Review 828 (1979).

H.L.A. Hart, "Social Solidarity and the Enforcement of Morality", 35 *University of Chicago Law Review* 1 (1967-1968).

William C. Starr, "Law and Morality in H.L.A. Hart's Legal Philosophy", 67 *Marquette Law Review* 673 (1983-1984).

Barry Hoffmaster, "Professor Hart on Legal Obligation", 11 *Georgia Law Review* 1303 (1976-1977).

Dennis Patterson, "Explicating the Internal Point of View", 52 *SMU Law Review* 67 (1999).

Anthony Dickey, "The Concept of Rules and the Concept of Law", 25 *American Journal of Jurisprudence* 89 (1980).

Stephen Perry, "Hart on Social Rules and the Foundations of Law: Liberating the Internal Point of View", 75 *Fordham Law Review* 1171 (2006-2007).

Wesley Cragg, "H.L.A. Hart and the Justification of Punishment", 5 *Canadian Journal of Law & Jurisprudence* 43 (1992).

Robert S. Summers, "Legal Institutions in Professor H.L.A. Hart's Concept of Law", *Notre Dame Law Review* 1807 (1999-2000).

Anthony J. Sebok, "Is the Rule of Recognition a Rule", 72 *Notre Dame Law Review* 1539 (1996-1997).

Rachael Patterson, "The Minimum Moral Content of Law: A Critique of Hart's Descriptive Theory of Positive and Natural Law", 8 *Canberra Law Review* 9 (2005).

Cristobal Orrego, "H.L.A. Hart's Arguments against Classical Natural Law Theory", 48 *American Journal of Jurisprudence* 297 (2003).

Keith Lovin, "H.L.A. Hart and the Morality of Law", 21 *American Journal of Jurisprudence* 131 (1976).

Neil MacCormick, "The Concept of Law and the Concept of Law", 14 *Oxford Journal of Legal Studies* 1 (1994).

George Breckenridge, "Legal Positivism and the Natural Law: The Controversy between Professor Hart and Professor Fuller", 18 *Vanderbilt Law Review* 945 (1964-1965).

Week 13: Lon Fuller, The Morality of Law

E-book to be supplied.

Reading:

Lon L. Fuller, "An Afterword: Science and the Judicial Process", 79 *Harvard Law Review* 1604 (1965-1966).

Lon L. Fuller, "Human Interaction and the Law", 14 *American Journal of Jurisprudence* 1 (1969).

Lon L. Fuller, “Human Purpose and Natural Law”, 3 *Natural Law Forum* 68 (1958).

Lon L. Fuller, “Positivism and Fidelity to Law – A Reply to Professor Hart”, 71 *Harvard Law Review* 630 (1957).

Samuel Mermin, “On Defining Law – A Dissent from Fuller’s Approach”, 6 *Indiana Law Review* 683 (1972-1973).

Anthony D’Amato, “Lon Fuller and Substantive Natural Law”, 26 *American Journal of Jurisprudence* 202 (1981).

Douglas Sturm, “Lon Fuller’s Multidimensional Natural Law Theory”, 18 *Stanford Law Review* 612 (1965-1966).

Jeremy Waldron, “Positivism and Legality: Hart’s Equivocal Response to Fuller”, 83 *New York University Law Review* 1135 (2008).

Kenneth I. Winston, “Is/Ought Redux: The Pragmatist Context of Lon Fuller’s Conception of Law”, 8 *Oxford Journal of Legal Studies* 329 (1988).

Daniel E. Wueste, “Fuller’s Processual Philosophy of Law”, 71 *Cornell Law Review* 1205 (1985-1986).

Nicola Lacey, “Philosophy, Political Morality, and History: Explaining the Enduring Resonance of the Hart-Fuller Debate”, 83 *New York University Law Review* 1059 (2008).

Benjamin C. Zipursky, “Practical Positivism Versus Practical Perfectionism: The Hart-Fuller Debate at Fifty”, 83 *New York University Law Review* 1170 (2008).

George Breckenridge, “Legal Positivism and the Natural Law: The Controversy between Professor Hart and Professor Fuller”, 18 *Vanderbilt Law Review* 945 (1964-1965).

Week 14: Seminar Three, on the Hart-Fuller Debate in the Harvard Law Review

Week 15: John Rawls, A Theory of Justice

E-book to be supplied.

Reading:

John Rawls, “Justice as Fairness: Political not Metaphysical”, 14 *Philosophy and Public Affairs* 223 (1985).

John Rawls, “Fairness to Goodness”, 84 *The Philosophical Review* 536 (1975).

John Rawls, “The Sense of Justice”, 72 *The Philosophical Review* 281 (1963).

John Rawls, “Two Concepts of Rules”, 64 *The Philosophical Review* 3 (1955).

John Rawls, “Justice as Fairness”, 67 *The Philosophical Review* 164 (1958).

John Rawls, “Justice as Fairness”, 54 *The Journal of Philosophy* 653 (1957).

Gilbert Merritt, “Justice as Fairness: A Commentary of Rawls’s New Theory of Justice”, 26 Vanderbilt Law Review 665 (1973).

Ronald Dworkin, “Rawls and the Law”, 72 Fordham Law Review 1387 (2003-2004).

Rex Martin, “Rawls’s New Theory of Justice”, 69 Chicago – Kent Law Review 737 (1993-1994).

Thomas W. Pogge, “The Incoherence between Rawls’s Theories of Justice”, 72 Fordham Law Review 1739 (2003-2004).

H.L.A. Hart, “Rawls on Liberty and Its Priority”, 40 University of Chicago Law Review 534 (1972-1973).

Ronald Dworkin, “The Original Position”, 40 University of Chicago Law Review 500 (1972-1973).

James W. Nickel, “Rethinking Rawls’s Theory of Liberty and Rights”, 69 Chicago – Kent Law Review 763 (1993-1994).

D.J. Bentley, “John Rawls: A Theory of Justice”, 121 University of Pennsylvania Law Review 1070 (1972-1973).

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)

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

Alfrid Rumble, “John Austin, Judicial Legislation and Legal Positivism”, 13 University of Western Australia Law Review 77 (1977-1978).

Andrew Vincent, “Marx and Law”, 20 Journal of Law & Society 371 (1993).

Anthony D’Amato, “Lon Fuller and Substantive Natural Law”, 26 American Journal of Jurisprudence 202 (1981).

Anthony Dickey, “The Concept of Rules and the Concept of Law”, 25 American Journal of Jurisprudence 89 (1980).

Anthony J. Sebok, “Is the Rule of Recognition a Rule”, 72 Notre Dame Law Review 1539 (1996-1997).

Anton-Hermann Chroust and Frederick A. Collins Jr, “The Basic Ideas in the Philosophy of Law of St. Thomas Aquinas as Found in the Summa Theologica”, 26 Marquette Law Review 11 (1941-1942).

Anton-Hermann Chroust, "The Philosophy of Law of St. Thomas Aquinas: His Fundamental Ideas and Some of His Historical Precursors", 19 *American Journal of Jurisprudence* 1 (1974).

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

Barry Hoffmaster, "Professor Hart on Legal Obligation", 11 *Georgia Law Review* 1303 (1976-1977).

Benjamin C. Zipursky, "Practical Positivism Versus Practical Perfectionism: The Hart-Fuller Debate at Fifty", 83 *New York University Law Review* 1170 (2008).

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

Cristobal Orrego, "H.L.A. Hart's Arguments against Classical Natural Law Theory", 48 *American Journal of Jurisprudence* 297 (2003).

D.J. Bentley, "John Rawls: A Theory of Justice", 121 *University of Pennsylvania Law Review* 1070 (1972-1973).

Daniel E. Wueste, "Fuller's Processual Philosophy of Law", 71 *Cornell Law Review* 1205 (1985-1986).

Daniel Westberg, "The Relation Between Positive and Natural Law in Aquinas", 11 *Journal of Law and Religion* 1 (1994-1995).

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

David Bromwich, "The Context of Burke's "Reflections"", *Social Research*, vol. 58, no. 2 (Summer 1991), pp. 313-354.

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