

Professor Adam Sitze
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LJST 10: Introduction to Legal Theory

This course provides an introduction to the primary texts, basic concepts, and central problems of modern legal theory. Through close study of the field's founding and pivotal works, we will weigh and consider various ways to think about questions that every study, practice, and institution of law eventually encounters. These questions concern law's very nature or essence; its relations to knowledge, morality, religion, and the passions; the status of its language and interpretation; its relation to force and the threat of force; and its place and function in the preservation and transformation of political, social, and economic order.

Required Texts (available at Amherst Books)

Ronald Dworkin, *Law's Empire*

H. L. A. Hart, *Concept of Law*

Thomas Hobbes, *On the Citizen*

Immanuel Kant, *Groundwork for the Metaphysics of Morals*

Immanuel Kant, *Perpetual Peace and Other Writings*

John Locke, *Two Treatises on Government*

Catherine MacKinnon, *Towards a Feminist Theory of the State*

J. S. Mill, *The Basic Writings of John Stuart Mill*

Course Reader (available from Megan Estes in Clark 208)

Recommended Text

Gerald Graff and Cathy Birkenstein, *They Say/I Say*

Course Requirements

(a) 4 Take-Home Tests (80% of grade)

(b) Close Reading and Active Participation in Class (20% of grade)

(c) Compliance with Amherst College Honor Code

Week One

1. Tuesday, January 25: Introduction: What is Theory?
2. Thursday, January 27: Thomas Hobbes, *On the Citizen*, Section I ("Liberty")

Week Two

3. Tuesday, February 1: Hobbes, *On the Citizen*, Section II ("Dominion")
4. Thursday, February 3: Hobbes, *On the Citizen*, Section III ("Religion")

Week Three

5. Tuesday, February 8: John Locke, *Two Treatises of Government, Second Treatise*, Chapters I-VII
6. Thursday, February 10: Locke, *Second Treatise*, VIII-IX

Week Four

7. Tuesday, February 15: Locke, *Second Treatise*, Chapters X-XVII
8. Thursday, February 17: Locke, *Second Treatise*, Chapter XVIII-XIX and "A Letter Concerning Toleration"

Friday, February 18: **Take-Home Test #1 Due**

Week Five

9. Tuesday, February 22: Immanuel Kant, *Groundwork for the Metaphysics of Morals*, "Preface" and Sections I-II
10. Thursday, February 24: Kant, *Groundwork*, Section III

Week Six

11. Tuesday, March 1: Kant, "Toward Perpetual Peace," "Idea for a Universal History with a Cosmopolitan Purpose" and "What is Enlightenment?"
12. Thursday, March 3: Kant, "On the Common Saying: This May Be True in Theory, but It Does Not Hold in Practice," and "Metaphysics of Morals, Doctrine of Right §43-62"

Week Seven

13. Tuesday, March 8: J. S. Mill, "On Liberty" and "Utilitarianism"
14. Thursday, March 10: Mill, "The Subjection of Women"

Friday, March 11: **Take-Home Test#2 Due**

Week Eight

15. Tuesday, March 22: J.L. Austin, "The Uses of the Study of Jurisprudence"; Jeremy Bentham, "Anarchical Fallacies" (both in *Course Reader*)
16. Thursday, March 24: Hans Kelsen, "What is the Pure Theory of Law?" (in *Course Reader*)

Week Nine

17. Tuesday, March 29: H.L.A. Hart, *The Concept of Law*, Chapters I-V
18. Thursday, March 31: Hart, *Concept of Law*, Chapters VI-VII

Week Ten

19. Tuesday, April 5: Hart, *Concept of Law*, Chapters VIII-X
20. Thursday, April 7: Hart, "Positivism and the Separation of Law and Morals" and Lon Fuller, "Positivism and Fidelity to Law: A Reply to H. L. A. Hart" (both in *Course Reader*)

Week Eleven

21. Tuesday, April 12: Ronald Dworkin, *Law's Empire*, Chapters 1-5
22. Thursday, April 14: Dworkin, *Law's Empire*, Chapters 6-7

Week Twelve

23. Tuesday, April 19: Dworkin, *Law's Empire*, Chapters 8-11
24. Thursday, April 21: Hart, *Concept of Law*, Postscript

Friday, April 22: **Take-Home Test #3 Due**

Week Thirteen

25. Tuesday, April 26: Michel Foucault, "Right of Death and Power Over Life" and "Subject and Power" (in *Course Reader*);
26. Thursday, April 28: Foucault, "Governmentality" and "Omnes et Singulatim" (in *Course Reader*)

Week Fourteen

27. Tuesday, May 3: Catherine MacKinnon, *Towards a Feminist Theory of the State*, Sections I-II
28. Thursday, May 5: MacKinnon, *Feminist Theory of the State*, Section III

Monday, May 16: **Take-Home Test #4 Due**