LAW9001: Approaches to Legal Scholarship

Professor Manish Oza

(*** = optional extra reading)

1. Intro (Sept 10)

Lon Fuller, "The Case of the Speluncean Explorers"

2. "An unjust law is not a law." (Sept 17)

Martin Luther King Jr., "Letter from Birmingham Jail"
Gustav Radbruch, "Statutory Lawlessness and Supra-Statutory Law"
HLA Hart, "Positivism and the Separation of Law and Morals"
*** John Gardner, "Positivism: 5 ½ Myths"

3. Freedom and Moralism (Sept 24)

Patrick Devlin, "The Enforcement of Morals"
Ronald Dworkin, "Lord Devlin and the Enforcement of Morals"
*** Amia Srinivasan, "Sex, Carceralism and Capitalism"

4. The Rule of Law (Oct 1)

Lon Fuller, *The Morality of Law*, ch 2
Anna Lukina, "Making Sense of Evil Law"
Robin West, "The Limits of Process"

5. The Structure of a Legal Order (Oct 8)

HLA Hart, *The Concept of Law*, chapters V, VI
Lon Fuller, "Human Interaction and the Law"

6. Formalism (Oct 15)

Ernest Weinrib, "The Jurisprudence of Legal Formalism"
Andrew Botterell, JW Neyers & Zoë Sinel, "Everything Old is New Again: Corrective Justice and Rights in *Ahluwalia v Ahluwalia*"
*** Christopher Essert, "Thinking Like a Private Lawyer"

7 Instrumentalism (Oct 22)

Michael Trebilcock, "An Introduction to Law and Economics"
Henry Smith, "The Economics of Property Law"

8. Realism (Oct 29)

Oliver Wendell Holmes, "The Path of the Law"
Wesley N Hohfeld, "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning"

9. Law Above the State (Nov 12)

Liam Murphy, "Law Beyond the State: Some Philosophical Questions"
David Kennedy, "The International Human Rights Movement: Part of the Problem?"
*** Hans Kelsen, "The Concept of the Legal Order"

10. Legal Pluralism (Nov 19)

Robert Cover, "Nomos and Narrative"
Val Napoleon, "Thinking About Indigenous Legal Orders"
Aaron Mills, "The Lifeworlds of Law: On Revitalizing Indigenous Legal Orders Today"

11. Patriarchy, Gender and Sexuality (Nov 26)

Robin Dembroff, *Real Men on Top*, ch 1
Catharine Mackinnon, "The Liberal State"
Janet Halley, "Take a Break from Feminism?"

12. Critical (Race) Theory (Dec 2)

Kimberlé Crenshaw, "Race, Reform and Retrenchment"
Patricia Williams, *The Alchemy of Race and Rights*, "The Pain of Word Bondage"
Duncan Kennedy, "Radicalism and Elite Institutions" [1985 lecture]