

## LEGAL THEORY: LAW AND PHILOSOPHY

CREDIT	3	INSTRUCTOR	John S.W. Park
OFFICE		OFFICE HOURS	
TIME	09:00 ~ 10:40	CLASSROOM LOCATION	TBA
E-MAIL	jswpark@ucsb.edu		

### [COURSE INFORMATION]

COURSE DESCRIPTION & GOALS	This course examines basic philosophical and theoretical problems about law in constitutional democracies—its origins, its nature, its grounds for legitimacy, and its scope and force. The course introduces theories of law from the natural rights tradition, social contract theory, legal positivism, and legal realism. We conclude by examining theories of law influenced by interpretive theories (hermeneutics), by various schools of critical theory, including critical race theory and feminist theory, and by scholars working in law and society.
PREREQUISITE	None, although some familiarity with basic civics and political philosophy would be helpful.
COURSE REQUIREMENTS	Students will be expected to complete the assigned readings and to attend the weekly lectures. All of the readings for this course will be posted on-line.
GRADING POLICY	Final grades will depend upon class participation (20%), and then two essay exams (40% each), one at the end of the third week and then the other at the end of the sixth week. For class participation, students will have the option of writing three one-page papers that correspond to the week's readings.
TEXTS & NOTES	We will read several influential theorists and philosophers from the Western legal tradition, although we will also pay some attention to contemporary Korean legal theorists and philosophers. We will read and discuss important works by Thomas Aquinas, John Locke, Thomas Hobbes, John Stuart Mill, Karl Marx, Oliver Wendell Holmes, Hannah Arendt, H.L.A. Hart, John Rawls, Brian Tamahana, Jeremy Waldron, Ronald Dworkin, Derrick Bell, Cheryl Harris, and Mark Tushnet.
INSTRUCTOR'S PROFILE	John S.W. Park is Professor of Asian American Studies at the University of California at Santa Barbara. He has served as the Chair of his Department, as a Senior Associate Dean in the College of Letters and Science, and as the Chair of several committees in the Academic Senate. He completed his graduate work in law, philosophy, and public policy at Harvard and at Berkeley, and he writes and teaches topics in ethnic studies, Anglo American political theory, and American legal history, especially American immigration history. He has published four books on immigration law and immigration history, and all of them have addressed themes in American public law, political theory, and political philosophy.

[WEEKLY SCHEDULE]

WEEK (PERIOD)	WEEKLY TOPIC & CONTENTS	COURSE MATERIAL & ASSIGNMENTS	NOTES
1	Basic Themes in the Philosophy of Law (God, religion, morality)	Essays by Karl Marx and by Hannah Arendt: essays in legal history and Christian philosophy.	
2	Law as Agreement, Law and Legal Systems (Constitutions as Social Contracts)	Essays by John Locke and John Rawls, as well as other scholarly articles about social contract theory and constitutional democracies.	
3	Law and Positivism (Law, Rules)	Essays by H.L.A. Hart, and commentaries by Joseph Raz, Frederick Schauer, and Amartya Sen.	
4	Legal Realism and the Sociology of Law (Law as a Bad Man. Law in the books versus law in the real world.)	Essays by Oliver Wendell Holmes, and commentaries by scholars in law and the social sciences.	
5	Critical Accounts of Law and Legal Systems: Critical Race Theory and Feminist Theory (The implicit norms within the law: law and structural forms of inequality.)	Essays by Angela Harris, Mark Tushnet, Cheryl Harris, and Hyunah Yang.	
6	Democratic and Interpretative Theories of Law (Law and core democratic values: law, justice, and fairness.)	Essays by Ronald Dworkin, Jeremy Waldron, and Chulwoo Lee.	