

Pol 518 PHI529 Seminar in Political Philosophy: The State Fall 2021 18 August 2021
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The seminar will explore an issue on which all political philosophies and theories make an assumption but which few approaches actually address. What is the nature of the state or polity? And what is the function that it has by virtue of that nature? In the opening sessions we will tackle those questions on the model of H.L.A.Hart's classic approach to similar questions about the law. In *The Concept of Law*, he looks at what it might be for a society to have a law and traces pressures that would lead its members, in a cascade of uncoordinated adjustments, to give rise to a system that deserves in our language to be described as a legal regime. We shall adopt a similar genealogical approach to exploring the nature and function of the polity.

But even when we develop a concept of the polity under this methodology, we are left with a series of important questions. Is the state, so conceived, a corporate agent; or does its function argue that it ought to be incorporated in that way? If it is or ought to be a corporate agent, does that argue as Bodin, Hobbes and Rousseau famously thought, that it cannot or ought not to be decentralized under a 'mixed' or polycentric constitution that distributes powers amongst mutually checking bodies? And whatever the answer to those questions—the answer favored here is that it ought to be incorporated and decentralized—how does the polity relate to the notion of the people? Many historical debates in political theory, and some contemporary debates in constitutional and democratic theory, turn on that question. And those debates inevitably lead to other questions about the scope of the state's power. Should the polity be inherently restricted by the pre-political rights ascribed to individuals in libertarian and related traditions? And even if it need not be restricted on such a principled basis, is it bound to be restricted in practice—and if not, ought it to be restricted in practice—by an apparently self-regulating economic and financial system?

The sessions will follow broadly the pattern below; they are divided into six themes, with two sessions on each. There will be readings from contemporary authors for each theme, a relevant chapter for each from an ms of my own, 'The State', and readings from historical figures like Bodin, Hobbes, Locke, Rousseau, and Kant for many themes. Readings will be available online. Discussion in each session will be focused on the problem addressed; the readings will mostly provide background, not the focus of discussion.

1 The function of the polity

Tuesday 7 September 3.30pm-6.20pm 301 Marx Hall

Tuesday 14 September 3.30pm-6.20pm 301 Marx Hall

Core: Bernard Williams 'Genealogy', *Truth and Truthfulness* Ch 2.

David Lewis 'Coordination and Convention', *Convention*, Ch 1

H.L.A.Hart 'Law as Union of Primary and Secondary Rules' *The Concept of Law*, Ch 5.

Pettit *The State*, Ch 1 The Function of the State

Other: Morris 'The Modern State'

Klein 'Lewis on Convention'

Quentin Skinner 'A Genealogy of the Modern State' (historical 'genealogy')

Max Weber 'Politics as a Vocation'

2 The polity incorporated

Tuesday 21 September 3.30pm-6.20pm 301 Marx Hall

Tuesday 28 September 3.30pm-6.20pm 301 Marx Hall

Core Daniel Dennett 'Intentional Systems'

Deborah Tollefsen 'Organizations as True Believers'

Thomas Hobbes *Leviathan*, Ch 16

Pettit 'Corporate Agency and the Discursive Dilemma'

Waldron 'The Rule of Law'

Pettit *The State* Ch 2 The Polity Incorporated

Other C.List and P.Pettit *Group Agency*, Ch 1

David Runciman 'The State as a Corporation'

Lon Fuller 'The Morality that Makes Law Possible'

Rosenfeld 'The Rule of Law and Constitutional Democracy' 1321-52

3. The Polity Decentralized

Tuesday 5 October 3.30pm-6.20pm 301 Marx Hall

Tuesday 12 October 3.30pm-6.20pm 301 Marx Hall

Core: Machiavelli *Discourses on Livy* Bk1 Ch's 2-7, pp 6-18

Bodin, Hobbes, Rousseau, as cited in Pettit, *The State*

Julian Franklin Sovereignty and the Mixed Constitution

David Lieberman 'The Mixed Constitution and Common Law'

Waldron 'Separation of Powers and the Rule of Law'

Pettit *The State* Ch 3

Other Polybius *The Histories* Bk 6

Fukuda *Sovereignty and the Sword* Ch 1, 1-21

Vile *Constitutionalism and Separation of Powers* Ch 2, 21-52

Noel Malcolm 'Sense on Sovereignty'

4. The power of the people

Tuesday 26 October 3.30pm-6.20pm 301 Marx Hall

Tuesday 2 November 3.30pm-6.20pm 301 Marx Hall

Core Bodin, Hobbes, Rousseau, as cited in Pettit, *The State*

Sieyes *What is the Third Estate?*, Ch's 5-6

Frederick G. Whelan 'Prologue: Democratic Theory and the Boundary Problem'

Frank Michelman *Brennan on Democracy*, pp 33-62

Pettit *The State* Ch 4

Other Albert Weale 'What is a People?'

Sofia Näström 'The Legitimacy of the People'

Judith Butler "'We the People'": Thoughts on Freedom of Assembly'

Andreas Kalyvas 'Popular sovereignty, democracy and constituent power'

5. The rights of individuals

Tuesday 9 November 3.30pm-6.20pm 301 Marx Hall

Tuesday 16 November 3.30pm-6.20pm 301 Marx Hall

Core Ronald Dworkin *Rights as Trumps*

Joel Feinberg *The Value of Rights*

Robert Nozick *Anarchy, State and Utopia*, selections

Pettit *The State* Ch 5

Other Leif Wenar 'Rights'

6. The polity and the economy

Tuesday 23 November 3.30pm-6.20pm 301 Marx Hall

Tuesday 30 November 3.30pm-6.20pm 301 Marx Hall

Core Jeremy Waldron Property and Ownership

Liam Murphy and Thomas Nagel The Myth of Ownership, Selections

Pettit *The State* Ch 6

Other Pettit 'Two Fallacies about Corporations'