

SINGAPORE SYMPOSIUM IN LEGAL THEORY

“Legal Positivism as a Realist Theory of Law”

BY Prof. Brian Leiter
University of Chicago

25 MARCH 2019, MONDAY

5.00PM – 7.00PM (TEA RECEPTION STARTS AT 4.45PM)

NUS LAW (BUKIT TIMAH CAMPUS)

EU TONG SEN BUILDING, LEVEL 1, LEE SHERIDAN CONFERENCE ROOM

ABSTRACT

By realist theories of law, I mean theories which: (1) describe without sentimental or moralizing illusions what law is and how it actually operates in human societies (descriptive adequacy takes priority over moralizing sermons); (2) recognize that law is never adequate to explain how courts adjudicate all cases that come before them; and (3) account for law and adjudication within the constraints of a naturalistic theory of the world, i.e., one that eschews appeal to any entities or properties that do not find a place in successful empirical scientific accounts of natural and social phenomena. Both the American and Scandinavian (self-identified) "legal realists" were proponents of realist theories of law in this sense, albeit in very different ways, a point to which I return. Hart was a critic of both American and Scandinavian legal realisms, though in both cases he missed his mark. The irony is that Hart's legal positivism is also a realist theory of law, and once we sort out the misunderstandings and confusions, it will be clear that legal positivists and realists form a unified theoretical front against the moralizing and ideological obfuscators about law, from Lon Fuller to Ronald Dworkin. It will also turn out that one of Raz's additions to Hart's theory, namely, the idea that law necessarily claims authority in Raz's "Service Conception" sense, betrays the realist ambitions of Hart's theory.

ABOUT THE SPEAKER



Brian Leiter is Karl N. Llewellyn Professor of Jurisprudence and Director of the Center for Law, Philosophy & Human Values at the University of Chicago, where he has taught since 2008. He has also been a Visiting Professor of Law at Yale University, École des Hautes Études en Sciences Sociales, and the University of Paris X-Nanterre, and a Visiting Professor of Philosophy at Oxford University and University College London. His teaching and research interests are in moral, political, and legal philosophy, in both the Anglophone and Continental European traditions, and the law of evidence. His books include *Objectivity in Law and Morals* (Cambridge, 2001) (editor), *Nietzsche on Morality* (Routledge, 2002; 2nd ed., 2015), *Naturalizing Jurisprudence* (Oxford, 2007), *Why Tolerate Religion?* (Princeton, 2013), and *Moral Psychology with Nietzsche* (Oxford, 2019). His work has been translated into Spanish, French, Italian, Chinese, Russian, Portuguese, Hebrew, Polish, Slovak, and Greek. Leiter has delivered lectures at universities around the world, including the Paolo Bozzi Prize Address at the University of Turin, the Fresco Lectures in Jurisprudence at the University of Genoa (twice), and the Julius Stone Address in Jurisprudence at the University of Sydney. He was editor of the journal *Legal Theory* from 2000 to 2008, and is the founding editor of the *Routledge Philosophers* book series and of *Oxford Studies in Philosophy of Law* (with Leslie Green).

Participation is by Invitation Only

Registration commences at 4.45pm and light refreshments will be served.

For more information, please contact Mr Chris Chan at chrischan@nus.edu.sg