

Positivism and the Separation of Law and Morals: Fifty Years On

May 10 2008

Gillian Rose room, University of Warwick

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In his famous essay of 1958 on 'Positivism and the Separation of Law and Morals' Hart observed that 'legal positivism' had become a by-word for a multitude of 'sins'. Foremost among them was the sin of insisting on the separation of law as it is from law as it ought to be. What, Hart wondered, are the theoretical errors committed in drawing this legal/moral distinction? Should we now reject it, he asked, or should we keep it? Fifty years on this thesis remains a test by which disparate theorists of law orientate their work. Are they, however, wise to do so? Should we keep insisting upon what Hart identified as 'this apparently simple but vital distinction'?

We may deem it timely to pause, and to consider how far we have got with Hart's questions about the rectitude and the usefulness of the separation thesis. This workshop brings together several interlocutors for a debate over Hart's separation thesis. Given the claim that recent positivist work 'emasculates' that thesis, jettisoning its critical import and relevance, a debate on this matter is both timely and urgent.

Speakers:

Frederick Schauer, Frank Stanton Professor of the First Amendment, Harvard University
The Ontology of the Separation Debate

Matthew Kramer, Professor of Legal and Political Philosophy, University of Cambridge
The Intrinsic Connection Between Law and Liberty

Brian Burge-Hendrix, Junior Research Fellow, Churchill College Cambridge

Antony Hatzistavrou, Lecturer in Philosophy, University of Hull
Motivational Implications of the Separation Thesis

Workshop Convenors: Claire Grant and Danny Priel

If you wish to attend please register with Ann Ryan (ann.ryan@warwick.ac.uk)