**Critical perspectives on modern law**

*Lecturers:*

1-5 April 18.00-20.00: **Dr. Zoltán Fleck**, Prof., Head of Department, Center for Theory of Law & Society, ELTE, A/room 311 zfleck@ajk.elte.hu

8-12 April 18.00-20.00: Dr. Jacopo Martire, LLM, Senior Lecturer in Law, University of Bristol

The block seminar concentrates on the ideas of Michel Foucault and Pierre Bourdieu. By the help of the texts a general picture might emerge on the characteristics of modern law. Students will read and discuss the texts. **Compulsory texts will be reachable on the Moodle soon.**

**General aim**

The students understand the most important elements of the modern critical perspectives, can evaluate independently the concepts and theoretical arguments of the relevant literature. They are open for new theoretical issues and viewpoints.

**Topics**

* Critical social theories, topics and concepts in the modern critical social sciences. Critical legal theories
* Theories of Pierre Bourdieu and Michel Foucault, state, power and law
* Governmentality
* The Foucauldian interpretation of law

**Evaluation**

Active participation, short essay (4-8 pages) on the topic by the end of the semester (May 17.)

**First Part**

**1-5 April 2019**

**Outline**

The critical social theories are the essential basis of the modern critic of law. Foucauldian categories presuppose some theoretical introduction: what is the status of law and critic at the second half of the 20th century?

**Schedule**

01/04 - An Outline for Critical Perspectives, critical social theories: topics and concepts

02/04 - Critical legal theories

03/04 - Basic concepts of Foucault

04/04 - Theories of Pierre Bourdieu and Michel Foucault, state, power and law

05/04 - Governmentality

**Essential Readings**

Alan Hunt: Explorations in Law and Society, Routledge, 1993

Boaventura de Sousa Santos: Toward a New Common Sense, Butterworths, 2002

Pierre Bourdieu: On the state, Lectures at the Collége de France, 1989-1992, Polity, 2014

Nikolas Rose: Powers of Freedom. Reframing political thought, Cambridge University Press, 1999

Gary Wickham: Foucault and Law, in: Banakar, Travers (eds.): An Introduction to Law and Social Theory, Hart, 2002

Mikael R. Madsen, Yves Dezalay: The Power of the Legal Field: Pierre Bourdieu and the Law, in: Banakar, Travers (eds.)

Nikolas Rose, Mariana Valverde: Governed by Law? Social and Legal Studies, 1997/7.

David Garland: Governmentality and the problem of crime: Foucault, criminology, sociology, Theoretical Criminology, 1997 Vol. 1 (2): 173-214.

Further Readings:

Ramig Keucheyan: The Left Hemisphere. Mapping Critical Theory Today, Verso, 2014

Steven Loyal: Bourdieu’s Theory of the State. A Critical Introduction, Palgrave, 2017

Martire Jacopo: A Foucauldian Interpretation of Modern Law

https://edinburghuniversitypress.com/book-a-foucauldian-interpretation-of-modern-law.html

**Second Part**

**8-12 April 2019**

**Outline**

Michel Foucault can rightly be seen as one of the most influential thinkers of our times, but his theories have hardly been received without also generating controversy. His vision of law in the modern era, in particular, has drawn severe criticism from many circles. Foucault has been criticised for portraying law as a mere spectacle for the manipulative ploys of a fathomless power, and, as a consequence, for being unable to recognise the development of legal rights as tools designed to contain the pervasive influence of power, and as instruments to promote individual and collective freedom, and self-determination. These attacks are far from unwarranted. Foucault’s argument appears almost counterfactual: how is it possible to claim that, in the modern ‘age of rights’, the individual, formally protected by a sphere of legal autonomy, is, in fact, subject to the omnipresent gaze of power? In second part of the module “Critical Perspectives on Modern Law” we are going to explore Foucault’s ideas on power, truth, and subjectivity, and assess their complex relationship with the legal field. Is it possible to build a Foucauldian theory of law and what advantages, if any, would that theory bring to our understanding of law when compared to alternative liberal and critical approaches?

**Schedule**

08/04 - An Outline for a Foucauldian Interpretation of Modern Law

09/04 - A Genealogy of Modern Law I: The Political Truth of the Individual

10/04 - A Genealogy of Modern Law II: The Political Truth of Society

11/04 - The Normalising Complex and the Challenges of Virtualisation

12/04 - On the Present and Future of Legal Theory

**Essential Readings**

· Martire J., A Foucauldian Interpretation of Modern Law, EUP, 2017 (each seminar will focus on a single chapter of the monograph, starting from chapter 1 and ending with the conclusions)

Essential Readings on Foucault:

· Michel Foucault entry, SEP or IEP (online source – These are very general introductions to Foucault’s main ideas; they are not specifically focused on law but as basic accounts go they are rather good one)

· Foucault M., ‘The subject and power’. In J. D. Faubion (ed.), Power. The Essential Works of Michel Foucault 1954–84 (2002 Penguin), pp. 328–48

· Foucault, M. , ‘Truth and power’. In C. Gordon (ed.), Power/ Knowledge. Selected Interviews and Other Writings 1972–1977 (1980, Pantheon), pp. 109–33

· Deleuze G., ‘Postscript on the Societies of Control’, October, 1992, 59, 3-7 (widely available online)

Further Readings

· Foucault M., Discipline and Punish (1977, Allen Lane)

· Foucault M., The History of Sexuality. Vol. I An Introduction. (1978, Pantheon)

· Barron, A. ‘Foucault and law’. In J. E. Penner, D. Schiff and R. Nobles (eds), Introduction to Jurisprudence and Legal Theory: Commentary and Materials (OUP 2002), pp. 1,035–1121

· Golder B. and Fitzpatrick P., Foucault’s Law (Routledge 2009), Chs. 1 and 2

· Golder B., A Foucauldian Politics of Rights (SUP, 2015), Introduction and ch. 4

· Martire J., ‘The Rule of Law: A Foucauldian Interpretation’, In-Spire Journal of Law, Politics and Societies, 2012, 6 (2), 19-33

· Martire J., “Habermas contra Foucault: Law, Power, and the forgotten subject”, Law and Critique, 2012, 23 (2), 123-139

· Gordon C., ‘Governmental rationality: an introduction’. In G. Burchell, C. Gordon and P. Miller (eds), The Foucault Effect: Studies in Governmentality: With Two Lectures by and an Interview with Michel Foucault (1991, Harvester Wheatsheaf), pp. 1–51

·

Gordon C., ‘Introduction’. In J. D. Faubion (ed.), Power. The Essential Works of Michel Foucault 1954–84 (2002, Penguin), pp. xi–xli

· Hunt A. and Wickham G., Foucault and the Law: Towards a Sociology of Law as Governance (1994, Pluto Press)

· Habermas J., ‘Some questions concerning the theory of power: Foucault again’. In M. Kelly (ed.), Critique and Power: Recasting the Foucault/Habermas Debate (1994, MIT Press), pp. 79–108