

JURISPRUDENCE

Peter Mirfield

Week 3

Hartian Positivism

A. Reading

Hart, *The Concept of Law* (2nd ed. 1994), Chs. 2-6

MacCormick, *H.L.A. Hart*, Chs. 3, 5, 6, 8 and 9

Raz, *The Authority of Law*, Ch. 8

Raz, *Practical Reason and Norms* (2nd ed. 1990), pp. 50-58, 124-126 and 146-148

Hart, *Essays on Bentham*, pp. 153-161

Finnis, *Natural Law and Natural Rights*, pp. 6-15

Dworkin, *Taking Rights Seriously*, pp. 48-58

Gardner (2001) 46 *American Journal of Jurisprudence* 199

Waldron, "Who needs a Rule of Recognition?", online at

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1358477

B. Essay

Consider the parts played, in Hart's theory of law, by, (i) the internal aspect of social rules, (ii) the theory of obligation, (iii) the union of primary and secondary rules, and (iv) the Rule(s) of Recognition, as well as criticisms offered of each. Does the theory survive the challenges contained in those criticisms?

05/17