

The Atlas Society

# Graduate Seminar 2008

Theme: Political Philosophy and Legal Theory

To be held at

George Washington University, Washington, D.C.

August 3-8, 2008

Instructors: David Kelley and William Thomas

Final Application Deadline: July 7

Papers due: July 21

Plan to arrive by 4:30 pm, Sunday, August 3.

## Syllabus

Last update: July 15, 2008

## Logistics

**Classroom:** Phillips Hall, room 413, in the Academic Center, 801 22nd St. NW.

**Housing:** Lafayette Hall, 2100 Eye St. NW, at the corner of 21st. It has air-conditioned rooms that can be used as singles or shared. These rooms will not have direct internet access enabled, but they will have active telephones that can be used for local calls, including dial-up internet access. We cannot yet guarantee quite enough rooms to arrange singles for everyone, but we may be able get additional rooms in the run-up to the Seminar. Because of this, room assignments will not be set until the week before the Seminar.

**Housing check-in:** We will try to have all your check-in materials available from 3:00pm on at Lafayette Hall. But, failing that, know that room check-in is available at Thurston Hall, 1900 F St. NW from 3 PM to 8 PM. After hours, call CLLC. (But please try to arrive by 4:30 PM for the seminar start.)

**Dining:** Each participant will be provided with \$33/day to use at nearby restaurants, unless equivalent food is being catered or, as in the opening and closing dinner, provided.

**Course materials:** The Bibliography indicates how the assigned readings were to be provided. You should have received copies of all the readings that are flagged as “photocopy mailed” or “PDF emailed.”

**Travel:** Lafayette Hall is two blocks east from the GWU-Foggy Bottom Washington Metro stop (on the Orange and Blue Lines). The Academic Center is in between the Foggy Bottom Metro stop and Lafayette Hall.

**Parking:** Parking is available for \$16/day in the GWU “University Garage” 2211 H Street NW, between 22<sup>nd</sup> and 23<sup>rd</sup> streets.

**The TAS office:** 1001 Connecticut Avenue, at the intersection of K, 17<sup>th</sup>, and Connecticut Ave. It is across the park from the Farragut West stop on Blue/Orange lines and is right on top of the red line Farragut North stop. TAS office hours are M–F 8:30–5:00, and all the other times we are there.

**Contact:**

GWU Summer and Campus Housing: (202) 994-6883 (202-994-CLLC).  
<http://gwired.gwu.edu/gwhousing/summerhousing/>

The Atlas Society: (202) 296-7263 [www.atlassociety.org](http://www.atlassociety.org)

David Kelley: (845) 325-3897 [dkelley@atlassociety.org](mailto:dkelley@atlassociety.org)

William Thomas: (518) 669-1867. [wthomas@atlassociety.org](mailto:wthomas@atlassociety.org)

## Description

Instruction in 2008 will focus on the topic of *political philosophy and legal theory*. The Objectivist approach will be compared with other views, including libertarian and mainstream views. Topics covered will include, *inter alia*, individual rights, the ethical basis of liberty, the justification of government, the institutional structure of government and law, legal standards and forms, and foreign policy.

The goal of the Seminar is to understand the Objectivist approach to these topics and to the prominent non-Objectivist approaches to them. The class sessions will center on selected readings and student papers. Seminar participants are expected to bring a substantial background familiarity with Ayn Rand’s philosophical writing and arguments to the seminar assignments. The class discussions will:

- Compare the Objectivist approach with other common theories on these issues.
- Discuss applications, questions, debates, and further extensions of the Objectivist approach.

Along with the substantive issues, we will discuss issues of method, including common problems in understanding and applying Objectivist ideas, and methodological differences between Objectivism and contemporary libertarian and other academic theory in these areas.

## Assignments

Write a 5-6 page paper double-spaced (about 1,800 words) on a topic related to the Seminar syllabus. The papers will be due ahead of the Seminar on July 21, 2008.

The paper topics can be drawn from one of two lists, A and B. List A consists in straight expositions of key Objectivist positions, while list B asks for an assessment of the readings based in an Objectivist approach. Participants may instead provide a topic of their own choosing that meets the criteria of List A or B, subject to approval by the instructors.

Papers will be discussed in class, in connection with our coverage of the topics on the syllabus.

Students are assigned a topic for their paper. The topics are drawn from the following two lists:

### Assignment List A: Objectivist principles topics

Choose one of the following theses of Objectivism and explain what the thesis asserts and how it is validated:

- 1) The just way of dealing with others is via the trader principle
- 2) Basic rights can be violated only by the initiation of physical force.
- 3) Rights are objective moral principles
- 4) Rights to liberty, the pursuit of happiness, and property are aspects of the right to life.
- 5) The right to property is essential to implementing any other basic rights.
- 6) The protection of individual rights requires a government.
- 7) The power to use force can be justly regulated only by objective law.

### Assignment List B: Topics related to the reading assignments

Address one of the following topics concerning the Seminar readings. Focus on the fundamental issues and arguments. Where relevant, take note of implicit philosophical assumptions.

- 1) Compare Brook & Epstein, Donway, and Thomas on foreign policy.
- 2) John Hasnas argues that anarchic legal institutions are ubiquitous and obvious. What evidence is there against anarchy, then?
- 3) Assess Paul Drake's argument for government funding of scientific research. Has Drake missed a clear principle that would limit the size of government?
- 4) What is Taylor's definition of individualism and what is his essential case against it?
- 5) Assess Sandefur's argument against intellectual property in light of the Objectivist view that creators have a moral claim on their product.
- 6) Is the "Coase Theorem" relevant to the practical problem of extending private property institutions to contexts where property has been held in common or not defined?

- 7) How does Locke derive property from a state of nature? Does Objectivism need a just acquisition argument to justify property rights?
- 8) Assess Barnett's argument that the U.S. constitution is morally binding.
- 9) Assess Horwitz's integration of Rand and Hayek in ethics. Is Rand's trader ethic incompatible with reciprocity or with participation in "ends-connected" organizations such as the firm and the family?

**Revised papers:** The participants will be expected to revise their papers after the Seminar ends, based on the comments they receive at the Seminar. Revised papers are due by August 22, 2007.

Participants will receive written evaluations based on their performance in the seminar and their written work. Although the Center is not accredited by any outside body, these evaluations will serve participants and the Atlas Society as a record of their areas of excellence and shortcomings.

## Readings

As a graduate-level course, the Seminar will presuppose that you are familiar with Objectivism, and that you have access to the major works that are relevant to this year's topic, including

Ayn Rand, *Capitalism, The Unknown Ideal* [CUI].

Ayn Rand, *The Virtue of Selfishness* [VOS], and especially "The Objectivist Ethics" [TOE], "Man's Rights," and "The Nature of Government" therein.

Leonard Peikoff, *Objectivism: The Philosophy of Ayn Rand* [OPAR]

William Thomas and David Kelley, *The Logical Structure of Objectivism Beta Draft* [LSO Beta]

We also presume you have or can get your own copies of classic works, including Mill's *On Liberty*, and Locke's *Second Treatise of Civil Government*.

The key readings for the Seminar, however, are specified in the detailed Seminar schedule below and the appended bibliography.

The non-Objectivist readings have been selected both to survey alternative approaches and to provide provocative or useful theses for discussion and/or possible integration with Objectivism.

## Seminar Schedule

### Standard Daily Schedule:

9:00 – 10:30 am: AM Session 1  
 10:30 – 10:50 am: Morning break (20 minutes)  
 10:50 am – 12:15 pm: AM Session 2  
 12:15 – 2:00 pm: Lunch break  
 2:00 – 3:15 pm: PM Session 1  
 3:15 – 3:30 pm: Afternoon break (15 minutes)  
 3:30 – 4:30 pm: PM Session 2

Date and Time	Topics	Readings
		Student paper assignments in blue
Sunday evening 7:30 – 9:00 pm	Room check-in: 3:00-5:00 pm Orientation: 5:00 to 5:30 pm Opening dinner: 5:30-7:20 pm Overview: Objectivism vs. classical liberalism and the political spectrum; positive vs. normative view of politics	
Monday AM 1 9:00 – 10:30 am	Rights: Objectivism versus other rights theories; natural rights; in what context are rights absolute?	<i>LSO Beta</i> Chap. 7
Monday AM 2 10:50 am – 12:15 pm	Application of Objectivist rights theory to intellectual property	<a href="#">Shawn Klein on Tim Sandefur (B5)</a> Timothy Sandefur “A Critique of Rand’s Theory of Intellectual Property Rights”
Monday PM 1 2:00 – 3:15 pm	Rights in the U.S. Constitution; Presentation by Amanda Phillips on schools of constitutional interpretation.	Randy Barnett <i>Restoring the Lost Constitution</i> , Introduction and esp. Chaps. 2 and 4
Monday PM 2 3:30 – 4:30 pm	Barnett on constitutional interpretation.	<a href="#">Amanda Phillips on Randy Barnett (B8)</a>

Date and Time	Topics	Readings
Tuesday AM 1 9:00 – 10:30 am	Ethical basis of liberty: Trader Principle; justice as virtue and as political principle; reason and production; economic advantages, prudent predator problem	<i>LSO Beta</i> Chap. 6 Locke, <i>2<sup>nd</sup> Treatise of Government</i> , Chaps 1-5
Tuesday AM 2 10:50 am – 12:15 pm	Is Objectivism “atomistic”?	Taylor, “Atomism”
Tuesday PM 1 2:00 – 3:15 pm	Individualism: as a comprehensive moral-political framework, opposed to collectivism; ontological individualism vs. collectivism; moral individualism vs. collectivism; primacy of individuals as valuers, agents, and beneficiaries	Mill, <i>On Liberty</i> , Chap 1 (“Introductory”) and 3 (“Of Individuality”) Hayek, “Individualism, True and False”
Tuesday PM 2 3:30 – 4:30 pm	Hayek vs. Rand as individualists	<a href="#">Alexander Cohen on Steven Horowitz (B9)</a> Steven Horowitz, “Two Worlds at Once”
Wednesday AM 1 9:00 – 10:30 am	Need for government: anarchism, Objectivist arguments for government, the problem of government finance	<a href="#">Lindsay Hardman on the need for govt. (A6)</a> William Thomas “Objectivism Against Anarchy”
Wed. AM 2 10:50 am – 12:15 pm	Anarchism in more detail.	<a href="#">Chris Baylor on John Hasnas (B2)</a> John Hasnas, “The Obviousness of Anarchy”
Wednesday PM 1 2:00 – 3:15 pm	Limits of government; objectivist arguments for big government; positive rights for libertarians?	<a href="#">Anja Hartleb-Parson on Paul Drake (B3)</a> R. Paul Drake “The Limits of Government-Funded Research: What Should They Be?”  James Sterba, “From Liberty to Welfare”
Wed. PM 2 3:30 – 4:30 pm	Paper discussion: Robinson on the right to counsel	Christopher Robinson “The Right to Counsel”

Date and Time	Topics	Readings
Thursday AM 1 9:00 – 10:30 am	Objective law: classical conception of rule of law; Objectivist viewpoint;	<a href="#">Jason Walker on Objective Law (A7)</a> Friedrich Hayek, <i>Constitution of Liberty</i> , ch 10 (148-61), 14 (205-19) Randy Barnett, <i>Structure of Liberty</i> , Chap. 5
Thursday AM 2 10:50 am – 12:15 pm	Codification versus common law	Randy Barnett, <i>Structure of Liberty</i> , Chap. 6
Thursday PM 1 2:00 – 3:15 pm	Property Rights and Public Goods: transportation corridors; pollution; commons generally; externalities.	David Schmitz, <i>The Limits of Government</i> , Chaps 1-2 (1-32) David Kelley, “Life, Liberty, and Property”
Thursday PM 2 3:30 – 4:30 pm	Externalities and Coase’s theorem	<a href="#">Ray Raad on Ronald Coase (B6)</a> Ronald Coase, “The Problem of Social Cost” Parts I-V, esp. 1-11
Friday AM 1 9:00 – 10:30 am	Foreign Policy: isolation versus intervention; theory versus practice of intervention;	<a href="#">Joe Duarte on Objectivist Foreign Policy (B1)</a> Roger Donway, “Rethinking Foreign Policy (Part II)”
Friday AM 2 10:50 am – 12:15 pm	Just war theory; status of citizens of unjust regimes	William Thomas, “Weighing War” esp. 11-13 Yaron Brook and Alex Epstein, “‘Just War Theory’ vs. American Self-Defense” esp. 27-53 Ted Galen Carpenter, <i>Smart Power</i> , esp. Introduction
Friday PM 1 2:00 – 3:15 pm	Open session, review, follow-up	
Friday PM 2 3:30 – 4:30 pm	Open session, review, follow-up	
Friday Evening	<i>Closing Dinner</i>	

## Bibliography

Availability	Reading
Photocopy mailed	Barnett, Randy. <i>Restoring the Lost Constitution</i> . Princeton: Princeton University Press, 2004. Introduction, Chaps 2, 4.
Photocopy mailed	Barnett, Randy. <i>The Structure of Liberty</i> . Oxford: Oxford University Press, 1998. Chaps 5-6.
Online	Brook, Yaron and Alex Epstein. "'Just War Theory' vs. American Self-Defense." <i>Objective Standard</i> Vol. 1, No. 1 (Spring 2006). 27-53. [ <a href="http://theobjectivestandard.com/issues/2006-spring/just-war-theory.asp">http://theobjectivestandard.com/issues/2006-spring/just-war-theory.asp</a> ]
Online  NEW READING	Carpenter, Ted Galen. <i>Smart Power: Toward a Prudent Foreign Policy for America</i> . Introduction and Chapter One (Washington D.C, Cato Institute, 2008), pp 1–22. [ <a href="http://www.catostore.org/pdfs/pdf001_SmartPower%20Intro%20and%20Chapter%20One.pdf">http://www.catostore.org/pdfs/pdf001_SmartPower%20Intro%20and%20Chapter%20One.pdf</a> ]
Online	Coase, Ronald. "The Problem of Social Cost." In Coase, <i>The Firm, the Market, and the Law</i> . Chicago: University of Chicago Press, 1988. 95-156. Parts i-v, esp. pp 1-11. [ <a href="http://www.sfu.ca/~allen/CoaseJLE1960.pdf">http://www.sfu.ca/~allen/CoaseJLE1960.pdf</a> ]
Online	Donway, Roger. "Rethinking Foreign Policy (Part II)." <i>IOS Journal</i> , Vol. 3 No. 5 (January 1994). 4-7. [ <a href="http://www.atlassociety.org/showcontent.aspx?ct=320&amp;h=53">http://www.atlassociety.org/showcontent.aspx?ct=320&amp;h=53</a> ]
Online	Drake, R. Paul. "The Limits of Government-Funded Research: What Should They Be?" In Machan, Tibor (ed.) <i>Liberty and Research and Development</i> , 27-59. [ <a href="http://media.hoover.org/documents/0817929428_27.pdf">http://media.hoover.org/documents/0817929428_27.pdf</a> ]
Online	Hasnas, John. "The Obviousness of Anarchy." In Long, Roderick and Tibor Machan (eds.). <i>Anarchism/Minarchism</i> (Ashgate 2008). 111-131. [ <a href="http://mises.org/journals/scholar/hasnas.pdf">http://mises.org/journals/scholar/hasnas.pdf</a> ]
Photocopy mailed	Hayek, F.A. "Individualism, True and False." In Hayek, <i>Individualism and Economic Order</i> . Chicago: University of Chicago Press, 1948. 1-32.
Photocopy mailed	Hayek, Friedrich A. <i>Constitution of Liberty</i> . 1960; Chicago: Henry Regnery Company, 1972. Chaps 10, 14.
PDF emailed	Horowitz, Steven. "Two Worlds at Once: Rand, Hayek, and the Ethics of the Micro- and Macro-cosmos." <i>Journal of Ayn Rand Studies</i> , Vol. 6, No. 2 (Spring 2005). 375-403.

Availability	Reading
Photocopy mailed	Kelley, David. "Life, Liberty, and Property." <i>Social Philosophy and Policy</i> , Vol. 1 No. 2. 108-118.
Participant resp.	Locke, John. <i>Second Treatise of Civil Government</i> . Multiple editions. Chaps 1-5.
Participant resp.	Mill, John Stuart. <i>On Liberty</i> . Multiple editions. Chaps 1,3
Deleted from assignments	Ravenal, Earl. "The Case for Strategic Disengagement." In Boaz, David (ed.), <i>The Libertarian Reader</i> New York: Free Press, 1997. 331-335.
PDF emailed	Robinson, Christopher. "The Right to Counsel." Unpublished draft (to be provided).
PDF emailed	Sandefur, Timothy. "A Critique of Rand's Theory of Intellectual Property Rights." <i>Journal of Ayn Rand Studies</i> , Vol. 9, No. 1 (Fall 2007). 139-161
Photocopy mailed	Schmidtz, David. <i>The Limits of Government</i> . Boulder, CO: Westview Press, 1991. Chaps 1-2.
Photocopy mailed	Sterba, James. "From Liberty to Welfare." <i>Social Theory and Practice</i> , Vol. 11 No. 3 (Fall, 1985). 285-305. Reprinted as Chapter 2 of Sterba (ed.), <i>Justice: Alternative Political Perspectives</i> , 4 <sup>th</sup> ed. New York: Thomson Wadsworth, 2002.
Photocopy mailed	Taylor, Charles. "Atomism." In Taylor, <i>Philosophy and the Human Sciences</i> . Vol II. Cambridge: Cambridge University Press, 1985. 187-210.
Online	Thomas, William, and David Kelley. <i>The Logical Structure of Objectivism, Beta draft</i> . [ <a href="http://www.atlassociety.org/cth-45-1354-LSO.aspx">http://www.atlassociety.org/cth-45-1354-LSO.aspx</a> ]
Online	Thomas, William. "Objectivism Against Anarchy." In Long, Roderick and Tibor Machan (eds.). <i>Anarchism/Minarchism</i> (Ashgate 2008). 39-57. [ <a href="http://www.atlassociety.org/research/AgainstAnarchy.pdf">http://www.atlassociety.org/research/AgainstAnarchy.pdf</a> ]
Online	Thomas, William. "Weighing War." <i>Navigator</i> , Vol. 6 No. 4 (April 2003). [ <a href="http://www.atlassociety.org/cth--586-WW.aspx">http://www.atlassociety.org/cth--586-WW.aspx</a> ]