

# Legal Modernism: Law, Meaning, and Violence - Exploring the Connections

## Comparing Modernism to Postmodernism Legal Theory- The Law and Society

### Modernism

- Everyone is equal under the law
- Judges should be impartial, administering law to the rich and the poor according to what the law says, not according to the judges feelings

### Postmodernism

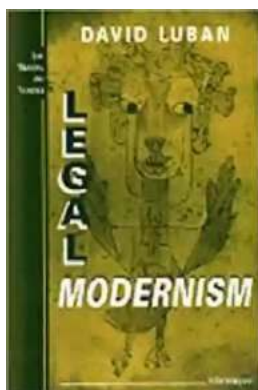
- Laws are written by the powerful majority society to protect their interests
- To describe as "criminal" any action that threatens their property or persons, especially when perpetrated by the poor
- The poor and minorities will always be arrested more, convicted more and imprisoned more, while crimes of the rich will go unpunished much of the time
- Judges should realize this and seek to even the score by ruling for the poor and against the rich

Legal modernism is a concept that delves deep into the connections between law, meaning, and violence in our society. It explores how legal systems have evolved throughout history and how they shape our understanding of justice, order, and social norms.

### **The Evolution of Legal Systems:**

Throughout human history, legal systems have evolved to regulate and govern human interactions. From primitive tribal laws to sophisticated statutory codes,

our understanding of justice and human rights has continually evolved. Legal modernism seeks to understand this evolution and the impact it has on society.



## Legal Modernism (Law, Meaning, And Violence)

by David Luban(Kindle Edition)

★★★★★ 5 out of 5

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Screen Reader : Supported  
Enhanced typesetting : Enabled  
Word Wise : Enabled  
Print length : 412 pages



Historically, legal systems were often rooted in religious beliefs or tribal customs. In many ancient societies, laws were seen as divine revelations, handed down by gods or other higher powers. These laws were enforced by religious authorities who acted as judges, mediators, and enforcers of justice.

However, with the development of complex societies and the rise of nation-states, religious laws gradually gave way to secular legal systems. This transition marked a shift towards a more rational and institutionalized understanding of law, separating it from religious doctrines.

### **The Rise of Legal Modernism:**

Legal modernism emerged during the Enlightenment period in the 18th century, driven by the belief in reason, individual rights, and the need for a more rational legal system. It sought to establish a legal framework that would protect individual liberties, facilitate commerce, and maintain social order.

This new legal order was founded upon principles such as the rule of law, legal positivism, and the separation of powers. It aimed to create a system that was predictable, consistent, and fair. Legal modernism emphasized the importance of codified laws, democratic processes, and the autonomy of legal institutions.

One of the key figures in legal modernism was Jeremy Bentham, who advocated for the application of utilitarianism in legal decision-making. Bentham argued that laws should be designed to maximize happiness and minimize suffering, reflecting the needs and interests of the majority.

### **The Role of Meaning in Legal Modernism:**

Meaning plays a crucial role in legal modernism. Legal systems rely on shared meanings to function effectively. The law itself is a system of meanings that society ascribes to certain acts and behaviors. When we say an act is "illegal," we are attaching a specific meaning to it, indicating that it goes against the established legal norms.

The meaning of laws is not fixed, but rather evolves over time. As society changes, our understanding of justice and societal norms evolves, leading to new interpretations and modifications of the law. Legal modernism recognizes the importance of understanding the societal context in which laws operate and the significance of meaning-making processes.

### **The Connection between Law, Meaning, and Violence:**

Law serves as a mechanism to regulate society and prevent violence. It establishes boundaries, enforces rights, and resolves conflicts. In this context, violence can be seen as the deviance from legal norms, as a violation of the established legal order.

However, law itself can also be a source of violence. Legal systems have been used to enforce power imbalances, discriminate against certain groups, and perpetuate injustices. Throughout history, countless acts of human rights abuses and violence have been justified by legal frameworks.

Legal modernism recognizes the complex connections between law, meaning, and violence. By understanding how legal systems shape meaning and how meaning can be manipulated to justify violence, we can work towards creating a more just and equitable society.

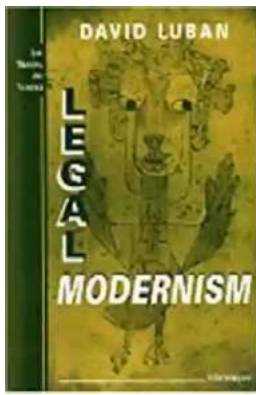
### **The Challenges of Legal Modernism:**

Legal modernism faces several challenges in the modern world. One of the key challenges is the increasing complexity of societies and legal systems. With globalization and technological advancements, the law needs to adapt to new realities and address emerging issues.

Another challenge is the inherent bias within legal systems. Laws are not neutral; they reflect the underlying power dynamics and interests of those in positions of authority. Legal modernism seeks to address these biases and promote a more inclusive and egalitarian legal system.

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Legal modernism is a fascinating area of study that explores the connections between law, meaning, and violence. It helps us understand how legal systems have evolved and continue to shape our societies. By recognizing the role of meaning-making processes and the potential for violence within legal frameworks, we can strive for a more just and equitable future.



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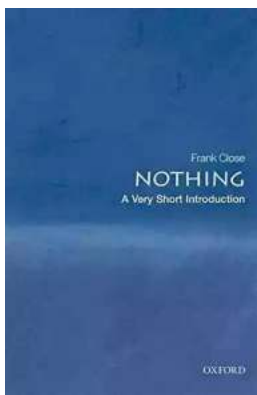


Modernism in legal theory is no different from modernism in the arts: both respond to a cultural crisis, a sense that institutions and traditions have lost their validity. Some doubt the importance of the rule of law, others question the objectivity of legal reasoning. We have lost confidence in the justice of our legal institutions, and even in our very capacity to identify justice.

Legal philosopher David Luban argues that we cannot escape the modernist predicament. Accusing contemporary legal theorists of evading rather than confronting the challenge of modernity, he offers important and original objections to pragmatism, traditionalism, and nihilism. He argues that only by weaving together the broken narrative and forgotten voices of history's victims can we come to appreciate the nature of justice in modern society. Calling a trial the embodiment of the law's self-criticism, Luban demonstrates the centrality of narrative by analyzing the trial of Martin Luther King, the Nuremberg trials, and trial scenes in Homer, Hesiod, and Aeschylus. With these examples, Luban explores several of the tensions that motivate much more contemporary legal theory: order versus justice, obedience versus resistance, statism versus communitarianism.

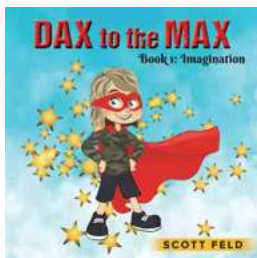
". . . an illuminating account of how contemporary legal theory can be understood as an expression of 'the modernist predicament' by exploring the analogy between modernism in the arts and modernism in law, politics, and philosophy. . . . a valuable critical discussion of modern legal theory." --Choice

David Luban is Morton and Sophia Macht Professor of Law at the University of Maryland and Research Scholar at the Institute for Philosophy and Public Policy. His other books include *Lawyers and Justice: An Ethical Study*.



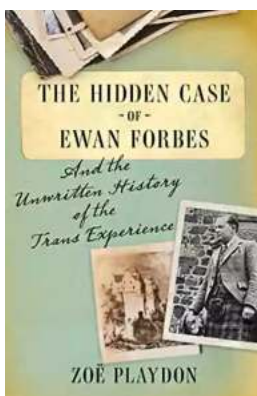
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