

PHIL 167: Contemporary Political Philosophy
Spring 2013
Prof. David O. Brink
Syllabus

Here is a list of topics and readings. Within a topic, it's important to do the readings in the order in which they are listed. Readings are either (A) required or (B) recommended. Readings can be found in the required texts and on Electronic Reserves [ER] or on the TED website [TED]. There may be slight modifications in the assigned readings during the term; you should check periodically to make sure that you have the current version of the Syllabus. I will regularly indicate where we are on the Syllabus (remind me if I don't). It is very important to read the assignments on time, and it is helpful if you bring the texts we are discussing to class.

GENERAL

We are studying the intersection of the concepts of liberalism and distributive justice, looking at three rival conceptions of these concepts: *utilitarianism*, *libertarianism*, and *egalitarian liberalism*. Time permitting, we will also look at some current responses to and developments in these traditions.

- (B) *The Oxford Handbook of Political Philosophy*, ed. David Estlund (Oxford: Oxford University Press, 2012), especially the essays by Richard Arneson, Elizabeth Anderson, and Phillip Pettit.

I. UTILITARIANISM

§1. Utilitarian Principles. Our discussion of the utilitarian tradition will begin with Jeremy Bentham (1748-1832), who was largely responsible for introducing utilitarianism or "the greatest happiness principle," but we will then focus on John Stuart Mill (1806-73), who popularized the view and was its most influential and sophisticated historical proponent. Utilitarianism appears to be a special case of a consequentialist conception of morality that justifies actions and institutions by appeal to the value of their consequences. The utilitarian focuses on human happiness as the relevant sort of consequence. But this statement of utilitarianism still leaves unanswered many questions about the nature of happiness, the way that duty is related to happiness, the justification of utilitarianism, and the relation between utility, justice, and rights.

Bentham analyzes utility into its intrinsic properties (intensity, duration, certainty, propinquity) and its extrinsic properties (fecundity, purity, and extent). Do all these dimensions of pleasure really have independent significance? Why does Bentham think we should accept utilitarianism?

Though Mill begins Chapter II of *Utilitarianism* (1861) with a statement of utilitarianism that is reminiscent of Bentham, he quickly goes on to depart from Benthamite utilitarianism by introducing the higher pleasures doctrine in which he claims that pleasures involving higher pursuits are intrinsically better than lower pleasures and would be categorically preferred by a competent judge who was acquainted with both. But how should we understand the higher pleasures doctrine, and is it fully consistent with

hedonism? In Chapter II Mill seems to endorse the claim that it is one's duty to perform that action, among the available alternatives, that would have the best consequences for human happiness. But in Chapter V he seems to offer a different conception of duty in which one's duty is a function, not of that action's consequences, but of the consequences of praising or blaming that action. Which conception of duty is more plausible? So far, we have focused on how Mill understands utilitarianism. Why does he think that we should believe it? He addresses the "proof" of the principle of utility in Chapter IV. That argument purports to show that it is ultimately reasonable to aim at happiness and only at happiness. This proof is widely thought to be subject to very serious objections. How is the proof supposed to go, and which objections are the most serious?

- (A) Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, chs. I and IV; and John Stuart Mill, *Utilitarianism*, esp. chs. II, IV, and V in *The Classical Utilitarians*, ed. J. Troyer [also available online from the Liberty Fund: Bentham's Collected Works
<http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Fperson=172>, volume I and Mill's Collected Works
<http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Fperson=21&Itemid=28>, volume X].
- (B) David Brink, *Mill's Progressive Principles* (Oxford Clarendon Press, 2013), chs. 1-5 [TED].

§2. Utilitarianism and Options. Direct utilitarianism implies the act utilitarian claim that it is our duty to perform the optimal action. Utilitarianism's conception of duty as performing the optimal action may seem overly demanding and may require considerable self-sacrifice from some agents. For instance, as Peter Singer argues, it seems to require the affluent to contribute to famine relief until the point that the marginal cost to the agent equals the marginal benefit to the needy. Some think that Singer makes a persuasive case for utilitarian revisions to ordinary moral beliefs and practices in affluent societies. But others think Singer shows that utilitarianism is too demanding to be plausible. On this view, we seem to have options or prerogatives to devote time and resources to ourselves and associates that is out of proportion to their impersonal value. Mill tries to reconcile options with utility in Chapter II of *Utilitarianism*. How plausible is this reconciliation? It is arguable that utilitarian demands on individual agents are high primarily because of partial compliance: the amount of aid that would be necessary from each agent would be more modest if all complied. In this context, consider Liam Murphy's Cooperative Principle, which sets the upper bound on mutual aid according to the fair share that would be appropriate under conditions of full compliance. Is Murphy right that aid in conditions of partial compliance is limited by fair shares in full compliance?

- (A) Peter Singer, "Famine, Affluence, and Morality" [ER] and Liam Murphy, "The Demands of Beneficence" [ER].

§3. Utilitarianism, Constraints, and Rights. A different worry about utilitarianism is that it is sometimes wrong to do the action with the best consequences. The utilitarian will

have to reject categorical moral rules and prohibitions, claiming that these constraints are not exceptionless generalizations. Among apparent constraints on promoting the good are individual rights. Consider the non-consequentialist claims about rights defended by John Rawls and Robert Nozick.

- (A) John Rawls, *A Theory of Justice*, §§5-6 and Robert Nozick, *Anarchy, State, and Utopia*, pp. 28-35.

Whether any version of utilitarianism is compatible with individual rights may depend on how we think of rights. Rawls thinks that the interpersonal balancing of benefits and harms that utilitarianism allows ignores the separateness of persons. The separateness of persons, he thinks, requires inviolable rights. Nozick suggests that we should think of rights as side-constraints, rather than goals, but he acknowledges that this conception of rights may be paradoxical. How should we think of rights, and what does this imply about utilitarianism?

One interesting test case for assessing the alleged tension between utility and rights is Mill's defense of basic liberties in *On Liberty* (1859). Mill says that he recognizes individual rights that are built on a utilitarian foundation. He recognizes various kinds of restrictions on liberty -- moralism, paternalism, harm prevention, and censorship -- and seems to claim that liberty can only be restricted in order to prevent harm to others. Can this categorical approach to liberty be reconciled with utilitarianism, and does Mill himself consistently defend it? Is Mill able to reconcile his defense of utility and liberty without compromising either his utilitarianism or his defense of a right to liberties?

- (A) Mill, *On Liberty* [also available online in Mill's Collected Works: http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Fperson=21&Itemid=28], volume XVIII].
- (B) Brink, *Mill's Progressive Principles*, chs. 6-9 [TED].

II. LIBERTARIANISM

§4. Classical Libertarianism. Rights-based views defend all and only those governmental functions and institutions that protect fundamental rights of citizens. Libertarianism is a rights-based view that takes the fundamental rights to be rights to liberties. If a right to liberty is taken as fundamental, this seems to place important limits on governmental activity; extensive governmental functions, such as the redistribution of resources and the provision of public goods, may violate individuals' rights to liberty. Our discussion of libertarianism will focus on the views of Robert Nozick (1938-2002) in *Anarchy, State, and Utopia* (1974), where he offers an imaginative and resourceful defense of a classical libertarian position. In the first part of *Anarchy, State, and Utopia* Nozick argues that a minimal state -- restricted to such functions as protecting persons and property and enforcing contracts -- can and should arise without violating anyone's rights. In the second part of the book, he argues that any extra minimal state would violate individuals' rights and so is impermissible. In the course of this argument, Nozick defends his own "entitlement" theory of justice and argues against egalitarianism. What exactly does Nozick mean by a right? How does he understand a right to liberty? Why a right to liberty? Why

only a right to liberty? Can the minimal state arise without violating anyone's rights? Does the extra minimal state necessarily violate rights? In what sense, if any, is Nozick's own view of the state minimal?

- (A) Nozick, *Anarchy State and Utopia*, pp. ix-231

§5. Left-Libertarianism. Right-libertarianism is the most common form of libertarianism. It links libertarian rights with laissez-faire capitalism and accepts significant social and economic inequalities as the by-product of enforcing libertarian rights. Nozick appears to be a right-libertarian. But some libertarians endorse different conclusions. Left-libertarianism thinks that enforcing libertarian rights is compatible with and may require significant forms of social and economic equality. Are our reservations about Nozick's brand of libertarianism reservations about libertarianism per se, or only right-libertarianism? How might a left-libertarian reconcile liberty and equality?

- (A/B) Michael Otsuka, "Self-Ownership and Equality: A Lockean Reconciliation" and Peter Vallentyne, "Left-Libertarianism" [ER].

III. LIBERAL EGALITARIANISM

Whereas libertarians treat a right to liberty as foundational, liberal egalitarians derive liberty rights from a prior commitment to equality. We will see what sort of rights an egalitarian liberal can recognize and what conception of distributive justice the liberal egalitarian should endorse.

§6. Justice as Fairness. We will focus our consideration of liberal egalitarianism on the tremendously influential work of John Rawls (1921-2002), and his conception of Justice as Fairness, articulated in his major work *A Theory of Justice* (1971). Rawls wants to devise a theory of justice that treats persons with equal concern and respect. He suggests that we can do this if we can defend principles of just institutional design as ones that people would agree to when situated fairly with respect to each other. Rawls designs an elaborate hypothetical contractual situation in which parties deliberate under a Veil of Ignorance and subject to important informational and motivational constraints, which he calls the Original Position (hence, Rawls's name for his project -- Justice as Fairness). Rawls argues that parties in the original position would choose two principles to govern the basic institutions of their society: a principle of equal basic liberties (the equal liberty principle) and a principle for distributing social and economic goods that requires us to maximize the social and economic position of the least advantaged members of society (the difference principle). Rawls develops and defends these two principles of justice as superior to utilitarianism. Why should we be concerned with this sort of hypothetical contract? Is Rawls' specification of the original position plausible -- is it reasonable for him to include all and only the features he does? Is Rawls right to think that people in the original position would choose his two principles of justice over alternative theories, such as utilitarianism, and including so-called "mixed" theories?

- (A) Rawls, *A Theory of Justice*, §§1-5, 11-17, 20-29, 31-33, 36, 39-43, 49, 65, 69, 79, 82; Nozick, *Anarchy, State, and Utopia*, pp. 150-64, 183-231

§7. Equality and Responsibility. Rawls is typically credited with almost single-handedly reinvigorating the discipline of political philosophy and, especially, the subject of distributive justice. Much of the best work in this area within the last 30-40 years represents some kind of response to ideas in *A Theory of Justice* -- either articulations of new ideas within a broadly Rawlsian paradigm or attempts to find viable alternatives to the Rawlsian framework. Time permitting, I would like us to examine two themes that have emerged in the wake of Rawls's liberal egalitarianism. One issue concerns equality. Though egalitarian in spirit, Rawls's difference principle eschews strict equality. This raises the question what egalitarians should care about. Should it be equality per se? If we focus instead, as Rawls suggests, on the worse-off, should we give them absolute priority as the difference principle does, or not? A second issue concerns individual responsibility. As the debate between Rawls and Nozick suggests, there is room to question the role for notions of individual responsibility and desert within any deeply egalitarian framework, such as Rawls's. We might look at ways in which philosophers sympathetic with Rawls's egalitarianism have tried to adapt a broadly egalitarian framework in ways that accommodate forms of individual responsibility worth preserving.

- (A) Derek Parfit, "Equality or Priority?" [ER]; Samuel Scheffler, "Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Politics" [ER]; Ronald Dworkin, "Equality," parts 1 and 2 [ER]; Richard Arneson, "Equality and Equal Opportunity for Welfare" and "Equal Opportunity for Welfare Defended and Recanted" [ER]; Roger Crisp, "Equality, Priority, and Compassion" [ER].
- (B) Elizabeth Anderson, "Equality" and Richard Arneson, "Justice" [ER].