

PHIL 457E: Liberty and Distributive Justice

Fall 2010

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Office Hours: 9:00 – 10:00 AM, Tuesday & Thursday

I will be in my office and available during office hours, but you can make appointments to see me at other times. My preference is that we make appointments by email, and have substantive discussions face-to-face.

Course Description

A government's regulation of our affairs through law seems to require justification. We don't tend to think that a government can legitimately do whatever it wants to us for any reason. Part of this conviction seems to be based in a commitment to personal liberty – that is, many think that there are moral limitations on government interference based on a principle that each individual ought to be able to act freely within a certain (fairly large) sphere of activity (e.g., one ought to be able to conduct one's private life, express oneself, and dispose of one's property without interference). One of our tasks in this course will be to get a clear understanding of what a commitment to liberty amounts to, what would ground it, and, consequently, what it implies concerning a state's legitimate exercise of legal authority.

In investigating the moral ideal of liberty, we will come into contact with an apparently competing principle that most think ought to guide the lawful activity of the state: distributive justice. Very generally, distributive justice concerns how various goods (natural resources, property, opportunities, social powers, etc.) that society can distribute in one way or another, ought to be distributed. Justice and liberty could be at odds with each other since it may turn out that in order to give a group what they are entitled to as a matter of justice, a government may have to restrict the freedom of some other group or everyone (e.g., providing 'equality of opportunity' may require aggressive taxation of the relatively wealthy, or providing 'equal influence on state affairs' may require restricting certain forms of expression). This is a possibility, anyhow. A central challenge of this course will be to seriously consider what distributive justice requires, its relationship to liberty, and what we should do if the two ideals actually do compete.

In general, our attention in this course will be directed at answering two related questions. First, to what extent can a state legitimately regulate our affairs through law? Second, what is it for a state to be just and how far may it pursue, through legal mechanisms, distributive justice?

Objectives

The student will:

- Be familiar with some of the recent philosophical work on the topics of liberty and distributive justice
- Develop and be able to articulate cogent and defensible views on legitimate governance
- Improve ability to write analytical papers
- Develop an ability to read and critically consider difficult texts
- Improve ability to reason through and intelligently talk about complex problems generally

Readings

Students are expected to show up to class prepared to discuss, and answer questions concerning, the assigned reading. This is a seminar, so there will be a focus on student to student and instructor to student dialogue. The class discussion will center on students addressing the issues raised by the texts. Successful participation in class, then, requires familiarity with the readings for the course.

The required texts (available at the university book store) are:

William H. Shaw, *Taking Account of Utilitarianism* (Blackwell, 1999)

H.L.A. Hart, *Law, Liberty, and Morality* (Stanford U. Press, 1963)

John Rawls, *A Theory of Justice* (Revised Edition, Harvard U. Press, 1999)

G.A. Cohen, *Why Not Socialism?* (Princeton U. Press, 2009)

Susan Moller Okin, *Justice, Gender, and the Family* (Basic Books, 1989)

Martha Nussbaum, *Creating Capabilities* (Harvard, 2011)

In addition to these texts, many of the readings will be available on Blackboard (marked [BB]).

Requirements

Grade Breakdown:

Final Exam	25%
Précis	5%
Long Paper (20 - 25 pages)	45%
Participation	25%

Final Exam: Students are responsible for all assigned material up to the day of the exam (i.e., the final exam is cumulative).

Paper and Paper Précis: Students will be required to write a 20 to 25 page paper. Students have the option of either developing their own topic or selecting one of the topics distributed by me. The writing of the paper will occur in stages, and students should expect to invest considerable effort over the course of several weeks into writing the paper.

Stage One (Topic Selection): One week after possible topics have been distributed, hand in a piece of paper indicating which of the topics you are going to write on. If you are writing on your own topic, you should discuss it with me.

Stage Two (Précis): Two weeks after topics are distributed, you should provide a one-page, double-spaced summary of your position. The summary should indicate precisely what your thesis is and provide an outline of how (i.e. what arguments, evidence, and lines of reasoning) you intend to employ to support your thesis. *It is not essential that your paper follow the outline precisely as your thinking may change in the course of writing the paper. Nonetheless, your précis should indicate that you've put some serious thought into how you are going to establish your position.* This is a graded assignment. Failing to turn in the précis, or turning one in that is inadequate, will have an adverse affect on your final grade. The précis will be returned to you with comments one week before the draft is due.

Stage Three (Polished Draft): Four weeks after the assignment is distributed, you will hand in a polished and complete draft of your paper. The better the draft, the more likely it is I will be able to provide you with comments that will assist you in producing a good final version. I will return this draft with comments.

Stage Four (Revision): After the draft is returned with comments, you will have about a week and a half to revise your paper.

In general, papers will be assessed on the basis of: (1) accuracy and completeness in portraying the material in question, and (2) the development of a well-reasoned assessment of that material.

Students are required to maintain a digital backup of all submitted work until the end of the semester. I reserve the right to request a digital copy of any work submitted by the student.

Participation: Students will be assessed on their contributions in class. The grade will be based on the frequency with which students provide valuable verbal contributions to the class. Such contributions include informed responses to instructor questions, participation in classroom discussions (including those lead by other students as part of their presentations), and raising relevant and cogent questions.

Course Policies

Attendance: Attendance in class is mandatory. Students should arrive promptly at the beginning of class with the assigned reading for the day in hand. Students are permitted (2) unexcused absence without penalty. Each additional unexcused absence will result in the student's final grade being reduced by one-third a letter grade (e.g. a B becomes a B-).

Late Papers: Papers turned in late will be penalized one-third a letter grade per day of lateness.

Academic Honesty: Plagiarism and other forms of academic misconduct will be dealt with harshly in accordance with Harpur College policies. The **Student Academic Honesty Code** can be found at: <http://bulletin.binghamton.edu/integrity.htm>.

Schedule of Readings

The following plan is subject to revision - I will inform the class of any changes as we go. Listed on the left are the dates of the lectures, on the right are the readings that will be discussed on those dates. Notice that for many classes, multiple readings from multiple sources are assigned. Items marked [BB] are available on Blackboard.

Date:	Reading:
Jan. 31	Introduction
Feb. 2	William H. Shaw, <i>Taking Account of Utilitarianism</i> , 7-67, 82-84, 93-101
Feb. 7	Shaw, 117-124, 145-150, 159-170, 184-207
Feb. 9	H.L.A. Hart, <i>Law, Liberty and Morality</i> , 1-52
Feb. 14	Catherine MacKinnon, "Desire and Power" from <i>Feminism Unmodified</i> , 48 - 62 [BB] Catherine MacKinnon, "Pornography: On Morality and Politics" from <i>Toward a Feminist Theory of State</i> , 195-214 [BB] Ronald Dworkin, "Pornography and Hate" from <i>Freedom's Law</i> , 214-226 [BB]
Feb. 16	Isaiah Berlin, "Two Concepts of Liberty," 118-172 [BB]
Feb. 21	Charles Taylor, "What's Wrong with Negative Liberty," from <i>Philosophy and the Human Sciences</i> , 211-229 [BB]
Feb. 23	Shaw, 124-128, 208-244 John Rawls, <i>A Theory of Justice</i> , 19-24
Feb. 28	Rawls, <i>A Theory of Justice</i> , 3-19, 52-73
Mar. 1	Rawls, <i>A Theory of Justice</i> , 73-93, 102-118
Mar. 6	Rawls, <i>A Theory of Justice</i> , 118-180
Mar. 8	Robert Nozick, "Distributive Justice," from <i>Anarchy, State, and Utopia</i> , 149-182 [BB]
Mar. 13	Nozick, "Distributive Justice," 183-231 [BB]
Mar. 15	G.A. Cohen, "Robert Nozick and Wilt Chamberlain" from <i>Self-Ownership, Freedom and Equality</i> , 19-37 [BB] Paper Topics Distributed
Mar. 20	Cohen, "Self-Ownership, World-ownership, and Equality" from <i>Self-Ownership, Freedom and Equality</i> , 67-91 [LR]
Mar. 22	G.A. Cohen, <i>Why not Socialism?</i> Select Paper Topic
Mar. 27	Ronald Dworkin, "Equality of Resources" from <i>Sovereign Virtue</i> , 65-109 [BB] Précis Due
Mar. 29	Elizabeth Anderson, "What is the Point of Equality?" <i>Ethics</i> 109 (2) 1999, 287-337 [BB]
Apr. 10	Michael Sandel, "The Procedural Republic and the Unencumbered Self" (1984) [BB] Michael Sandel, "Arguing Affirmative Action" in <i>Justice</i> , 167-183 [BB]
Apr. 12	Charles Taylor, "Cross-Purposes: The Liberal-Communitarian Debate" from <i>Philosophical Arguments</i> , 181-203 [BB]

Apr. 17	Michael Walzer, "Complex Equality" from <i>Spheres of Justice</i> , 3-30 [BB] Paper Draft Due
Apr. 19	Will Kymlicka, "The Value of Cultural Membership" from <i>Liberalism, Community, and Culture</i> , 162-181 [BB] Susan Moller Okin, "Is Multiculturalism Bad for Women?" from <i>Is Multiculturalism Bad for Women</i> , 9-24 [BB]
Apr. 24	Will Kymlicka, "Justice and Minority Rights" from <i>Multicultural Citizenship</i> , 107-130 [BB]
Apr. 26	Susan Moller Okin, <i>Justice, Gender, and the Family</i> , 3-40, 110-117 Draft Returned
May 1	Okin, <i>Justice, Gender, and the Family</i> , 74-109, 124-133, 170-186
May 3	Martha C. Nussbaum, <i>Creating Capabilities: The Human Development Approach</i> , 1-68
May 8	Nussbaum, 69-122
May 10	Nussbaum, 123-187 Final Version of Term Paper Due in my Office at 5:00 PM