PHIL 101 **Spring 2021**

Lecture 18: Political Philosophy: Selected Issues

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18.1 Justifying the State

18.1.1 The State of Nature

A "state of nature" refers to a situation where no state exists and no one possesses political power. What would life be like in a "natural" state, a world without government?

Hobbes

> In [the state of nature] there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing of things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continual fear, and danger of violent death; And the life of man, solitary, poor, nasty, brutish, and short.
>
> (Thomas Hobbes, Leviathan, 186)

The essence of Hobbes's view is that, in the absence of government, human nature will inevitably bring us into severe conflict. For Hobbes, then, political philosophy begins with the study of human nature.

Human beings, Hobbes argues, seek what he calls "felicity" (a quality or state of being happy), continual success in achieving the objects of desire. It is the search to secure felicity that will bring us to war in the state of nature.

Hobbes's definition of power: one's "present means to obtain some future apparent Good" . So to be assured of achieving felicity one must become powerful. Sources of power include riches, reputations, and friends, and human beings have "a restless desire of power after power, that cease only in death"

This might lead to competition, but Hobbes claimed that it would lead to war.

- Equality: we are equal in that all humans possess roughly the same level of strength and skill, and so any human being has the capacity to kill any other.
- Scarcity: in the state of nature there is a scarcity of goods, so that two people who desire the same kind of thing will often desire to possess the same thing.
- Uncertainty: no one in the state of nature can make himself invulnerable against the possibility of attack. Whatever I possess, others may desire, and so I must constantly be on my guard. Yet even if I possess nothing I cannot be free from fear. Others may take me to be a threat to them and so I could easily end up the victim of a preemptive strike.

- Reputation: as reputation of power is power, some people will attack others, even those who pose no threat, purely to gain a reputation of strength as a means of future protection.

Does Hobbes believe that we can make sense of the ideas of morality in a state of nature?

No. Injustice consists of the breach of some law, but for a law to exist there must be a lawgiver, a common power, able to enforce that law. In the state of nature there is no common power, so no law, so no breach of law, and so no injustice. Each person has "the Liberty ... to use his own power ... for the preservation of his own Nature; that is to say of his own Life; and consequently, of doing any thing, which in his Judgment, and Reason, he shall conceive to be the aptest means thereunto."

Anarchism

> No more laws! No more judges! Liberty, equality and practical human sympathy are the only effective barriers we can oppose to the anti-social instincts of certain among us.
>
> (Peter Kropotkin, Law and Authority (1886), repr. in The Anarchist Reader, 117)

The Russian anarchist, Peter Kropotkin, argued that all animal species, including human beings, profited through natural "mutual aid". This he put forward as an alternative to Darwin's theory of evolution through competition. The fittest, suggests Kropotkin, are those species best able to achieve cooperation.

The absence of governments does not mean that there can be no forms of social control over individual behavior. Social pressure, public opinion, fear of a poor reputation, even gossip, can all exert their effects on individual behavior. Those who behave anti-socially will be ostracized.

However, the existence of anti-social people who refuse to join in the voluntary society places the anarchist in a dilemma. If the anarchist society refuses to attempt to restrain the behavior of such people, then it is in danger of falling into severe conflict. But if it enforces social rules against such people, then, in effect, it has become indistinguishable from a state.

18.1.2 The Social Contract

> I moreover affirm, That all Men are naturally in [the state of nature], and remain so, till by their own Consents they make themselves Members of some Politick Society; And I doubt not in the Sequel of this Discourse, to make it very clear.
>
> (Locke, Second Treatise, s. 15, p. 278)

The defender of the state should hope to find something more positive to say, in order to show how the state can be justified in terms of some acknowledged moral reasoning. That is, we need an argument to show that we have a moral duty to obey the state. Such an argument will also enable us to understand when the state might lose its legitimacy.

There are many different types of state. Liberal democracies, dictatorships, benign or tyrannical, based on military rule, or a monarchical family line. Some states promote the free market, while others attempt collective forms of production and distribution.

It is often claimed that the state possesses two essential features: it maintains a monopoly of legitimate coercion or violence and it offers to protect everyone within its territory. This working definition describes an ideal type of state.

The task of justifying the state is often said to be the task of showing that there are universal political obligations. To say that someone has political obligations is to say, at least, that they have the duty, in normal circumstances, to obey the law of the land, including paying taxes where these are due. Other duties may also be implied: to fight, if called for, in defence of the state; perhaps to behave patriotically; even to seek out and expose the enemies of the state.

Therefore, "Justifying the state" is normally thought to mean showing that there are universal obligations to obey the law. A 'universal' obligation, in this context, does not mean the duty to obey all laws at all times. The goal of justification of the state is to show that, in principle, everyone within its territories is morally bound to follow its laws and edicts.

Locke assumed that human beings are naturally free, equal, and independent. This means that they are not naturally under the authority of any other person. Hence legitimate power relations must be, in some sense, artificial, a human creation or construction.

Accordingly, Locke concluded that the only way of coming under another person's authority was to give that person your consent (except in the case of justified punishment). This holds, for Locke, whether the person claiming authority is another private individual or the sovereign. Thus the sovereign, who claims authority over you, has no right to that authority unless you have voluntarily put yourself in this position through your own consent.

Voluntarism: political power over me can be created only as a consequence of my voluntary acts. Another person can have political power over me only if I have granted them that power.

How can we explain the existence of the state in voluntaristic terms? It needs to be shown that somehow or other, every last individual has given the state its authority over them. On this view, in order to justify the state it is not enough simply to point out how much better off we would be under the authority of the state than in the state of nature. We would also have to show that each person has voluntarily consented to the state.

- Can we think that the social contract is an "original contract", that is, it was a real historical event? How can it explain the political obligations of currently existing citizens?
- Could it be that every one of us has knowingly, and voluntarily, given our consent to the state? The only people in modern societies who explicitly give their consent are those who gain citizenship of a society through naturalization.
- Is it possible that consent is communicated via the ballot-box? Some of those who vote against the government might claim to be expressing their dissent to the system as a whole. Also, what can be said about those who abstain?
- A more promising proposal: by quietly enjoying the protection of the state one is giving it one's tacit consent.
- Perhaps behind the argument is the thought that those who do not like the package of benefits

and burdens offered by the state can get up and go. But leaving the country is surely too onerous a condition to allow us to conclude that those who stay consent.

- Perhaps the social contract is purely hypothetical: it merely tells us what we would do, or would have done in the state of nature. perhaps the best way of getting clear about your relation to something is to imagine its absence: you would be grateful for it if you were starving.
- So we can understand the hypothetical contract argument as running like this: even if you were not under the authority of the state, and somehow found yourself in the state of nature, then, if you were rational, you would do everything in your power to recreate the state. In particular, you would rationally and freely join in a contract to bring about the state.
- Although almost no one ever formally expresses their consent to the state, there is nevertheless a sense in which all or most of us can be said to consent. Perhaps if we were asked, and required to think about the matter seriously and hard, we would each express our consent. So it would seem fair to say that anyone of whom this is true has a disposition to consent to the state. The idea is that after going through the thought-experiment, I come to realize that I have consented all the time.
- There may well be people who go through the hypothetical contract reasoning, and then, after deep reflection, come to believe that they would be better off in the state of nature. So even this weakest form of consent theory cannot deliver a universal ground of political obligation.

Perhaps the answer is to accept that it is impossible to show that everyone has political obligations. The implications of this view may be far-reaching. On this view, one should support the state and the police only in those cases where one independently agrees with the reasons for which they act. The fact that a law is a law, or the police are the police, provides no reason at all for obedience. Hence the "philosophical anarchist" recommends that we adopt a highly critical stance towards the activities of the police and the state. Sometimes they act with moral authority, but where they do not we are right to disobey, obstruct, or ignore them.

In some respects this seems a highly enlightened picture. The responsible citizen should not blindly follow the law, but always use his or her private judgment about whether the law is justified. However, if we accept this anarchist view just discussed, we have returned to the chaotic situation where people may follow their individual private judgment in all matters, even those of public concern. From such a perspective, the philosophical anarchist position begins to look like a very dangerous example of moral self-indulgence. This leads us back to the state of nature.

18.2 Who Should Rule?

Whether or not we feel that the state is justified, the fact is that we have one. What sort of state and government should we have? Who should rule?

A common assumption is that only a democracy is ever fully justifiable, not a tyranny, an aristocracy, or an absolute monarchy But what is a democracy? How can we justify it, or can we not?

The common basis for the debate about democracy: democracy is government "of the people, by the people, and for the people":

- For the people: the government exists for the sake of its citizens, not for the benefit of the rulers.
- By the people: democracy is a system in which the people rule, or collective self-rule.
- Of the people: a democratic state has power only over the people who make up the electorate.

Democratic theory contains serious tensions, and it will be helpful to explore some of the most fundamental problems in formulating democratic theory before looking at arguments for and against democracy itself.

- There is a tension between the idea of democracy as a system of "majority rule", and the idea of democratic "consideration for individuals".
- In a direct democracy the electorate votes for or against laws or policies, rather than for candidates. A representative democracy, on the other hand, is the more familiar system in which the citizens vote to determine who will represent them at governmental level.

So what is democracy, and why might it be valuable?

18.2.1 Plato Against Democracy

> Suppose the following to be the state of affairs on board a ship or ships. The captain is larger and stronger than any of the crew, but a bit deaf and short-sighted, and similarly limited in seamanship. The crew are all quarreling with each other about how to navigate the ship, each thinking he ought to be at the helm; they have never learned the art of navigation and cannot say that anyone ever taught it them, or that they spent any time studying it; indeed they say it can't be taught and are ready to murder anyone who says it can. They spend all their time milling round the captain and doing all they can to get him to give them the helm. If one faction is more successful than another, their rivals may kill them and throw them overboard, lay out the honest captain with drugs or drink or in some other way, take control of the ship, help themselves to what's on board, and turn the voyage into the sort of drunken pleasure-cruise that you would expect. Finally, they reserve their admiration for the man who knows how to lend a hand in controlling the captain by force or fraud; they praise his seamanship and navigation and knowledge of the sea and condemn everyone else as useless. They have no idea that the true navigator must study the seasons of the year, the sky, the stars, the winds and all the other subjects appropriate to his profession if he is to be really fit to control a ship; and they think it's quite impossible to acquire the professional skill needed for such control (whether or not they want it exercised) and that there's no such thing as an art of navigation. With all this going on aboard aren't the sailors on any such ship bound to regard the true navigator as a word-spinner and a star-gazer, of no use to them at all?
>
> (Plato, Republic, 282)

Plato's argument is simple: making political decisions in the interests of the state requires judgment and skill. Therefore, it should be left to the experts. If the people are allowed to decide they will be swayed by those who speak loudest and with most conviction. Those who are truly skilled in the art of navigation will be ignored.

- Where are expert rulers to be found? Plato believed that the just society is impossible unless the kings become philosophers, or the philosophers become kings.
- The education of the "guardians": cultivate skills of literacy, together with musical, mathematical, military, and physical education in the earlier years. Philosophy is not studied at all until the age of 30. Five years of philosophy are then followed by fifteen years' military service, and those who have come through this with honor are then allowed to turn permanently to philosophy: a repose interrupted only by taking one's turn in the "weary business of politics".
- Plato's own system is a form of dictatorship. The problem is not that we should never defer to experts, but that giving unchecked powers to experts is to invite catastrophe. What is to stop the guardian, or the philosopher-king, from turning the situation to his or her own advantage?
- Plato's response is to argue that the guardians must be placed in a position where the opportunities for corruption are minimized. For example, the philosopher-kings are not allowed to own private property. However, Plato's society contains no guarantees that the guardians will always be able to resist temptation.
- So who guards the guardians? If the answer to this is that a proper philosophical education makes a person resistant to temptation, we might reply that full and proper public scrutiny, in the face of an empowered electorate, is a far more reliable remedy.

Another problem in Plato's system: is expert knowledge for ruling really attainable? After all, one might argue that no one can know anything for certain. But there is no denying that some people are better judges than others. Trying to defeat the craft analogy by assert that there are no crafts is too implausible to believe.

- Plato indicates that the point of voting is to register an opinion about what is best for the state as a whole. But Plato seems to assume that this is all voting is, and his argument comes down to the claim that it is better to leave such decisions to the experts. What if there is more to voting than expressing an opinion about the public good?
- Although Plato is opposed to democracy, he shares the assumption that the rulers should have the interests of the people at heart. What he denies is that the way to achieve this is through a system of rule by the people. But even if the dictator wants to advance the interests of the people, how are those interests to be known? In a democracy people show their interests by voting, therefore voting is also a way of revealing or expressing the very information that the decision needs to take into account: what the people want.
- However, if people are voting from mixed motivations — some out of preference, some out of concern for the common good — then it tells us nothing more than that a majority of people voted for one option over another. We cannot say with confidence that a majority of people believe the winning option to be in their interests, neither can we say that a majority of people believe that the decision is for the common good. Mixed-motivation voting, in short, is a mess. And what is worse, in present-day conditions it seems to be the normal case.

If we do not want to accept mixed-motivation voting then it seems we must choose between two models: one in which voters vote in accordance with their preferences (but isn't opinion polling a

better option?), and the other in which voters vote in accordance with their estimates or opinions of the common good.

The French philosopher and political theorist, Marie Jean Antoine Nicolas de Caritat, Marquis of Condorcet (1743-94), provided a very interesting mathematical argument which appears to show the advantages of allowing people to vote on the common good.

Condorcet pointed out that, if we assume that people, on average, have a better than even chance of getting the right answer, then allowing majority decision turns out to be an excellent way of getting to the right result. If a large number of people vote, then the chances of getting the right result tend towards certainty. However, Condorcet's conclusion holds only under two conditions:

1. The average individual must have a better than even chance of being right
2. Each individual must be motivated to vote according to his or her ideas of the common good, rather than out of particular interests.

18.2.2 Rousseau and the General Will

> If children are brought up in common in the bosom of equality; if they are imbued with the laws of the state and the precepts of the general will; if they are taught to respect these above all things; if they are surrounded by examples and objects which constantly remind them of the tender mother who nourishes them, of the love she bears them, of the inestimable benefits they receive from her, and of the return they owe her, we cannot doubt that they will learn to cherish one another mutually as brothers, to will nothing contrary to the will of society, to substitute the actions of men and citizens for the futile and vain babbling of sophists, and to become in time defenders and fathers of the country of which they will have been so long the children.
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> (Rousseau, Discourse on Political Economy, 149)

Plato argued that ruling requires a special training or education. Rousseau proposed that it is much better if everyone acquires the appropriate skills, and then takes an active democratic role as part of the **Sovereign**. Rousseau used the term sovereign for the body of citizens acting collectively, with authority over themselves.

Rousseau's citizens are to be trained to "will nothing contrary to the will of society":

- The will of all: the product of every individual's particular will;
- The general will: the general will demands the policy which is equally in everyone's interests.

The general will must only make laws which, in principle at least, affect all the citizens, rather than executive orders targeted at particular individuals or groups. But how are the laws to be applied? After all, they will often require action that singles out groups or even individuals, such as legal punishment.

Rousseau's answer is that application of the laws is not the business of the Sovereign, but of the executive or government. The government does not make laws, but only applies or administers them. For example, the government has the right to declare war. So the people as Sovereign cannot legislate on the matter. All they can do is lay down the general conditions under which war

may be declared. It is then for the government to decide whether the conditions are met, and to take the appropriate action.

How are the laws made? Rousseau argues that laws are made, not in parliament, but at popular assemblies.

Does Rousseau's system satisfy Condorcet's two conditions?

- First, if the people are voting on the basis of their view of the general interest, they are likely to be right. Part of the reason is that education was as important for Rousseau as it was for Plato.
- It is also vital that Rousseau wants to arrange political society in such a way that perceiving the general will should not be difficult, provided, at least, that one's vision is not clouded by particular interests. The common interest is the same for all individuals, and all are equally affected by all the laws passed.
- How can it be that everyone is equally affected by the law? Class differences surely lead to distinct, even opposed, interests. The fact that laws single no one out is hardly enough to show that all will be treated in the same way by the law.
- Rousseau's answer is the following: if class differences make the formation of a general will impossible, then classes must be eliminated. All should stand on an equal footing. At the very least, no one should be so rich as to be able to purchase other people's votes, nor so poor as to be tempted to sell their own.
- Even if one can easily come to know the general will, why would citizens vote for the general will, rather than for their own particular interest? Rousseau's main response is that individuals must be made to identify very strongly with the group as a whole.
- Aside from education for civic virtue, Rousseau proposed another two devices to achieve this goal. The first is an "official censor" whose role is to encourage people to act in accordance with popular morality. In essence, the job of the censor is to ridicule, and so discourage, certain forms of anti-social behaviour. The second is a "civil religion". Every citizen should subscribe to some religion or other; a diversity of religions should be tolerated; each person should subscribe to the civil religion.

One objection to Rousseau's system is the possibility of the general will. Economic class is not the only obstacle to the formation of a general will; we also belong to different religions, have different moral and philosophical ideas, and come from differing cultural, ethnic, and racial backgrounds. The fact that we value different things - economic progress or the protection of the natural environment, for example - can lead to conflict. Thus on many issues it is very unlikely that there could be any policy that is equally in the interests of all. Or, if there were, that it would be easy to discover.

A more essential objection concerns the intrinsic value of democracy. Rousseau's treatment of those who hold a minority view is hard to admire. Dissenters are to be "forced to be free", which in this case means obedience to a law one makes for oneself. Those who first affirm the principles of the civil religion and then disobey them are to be put to death. Against the background of the tight unity of the state, dissent is a crime, and crime is treason.

For Rousseau, freedom is not simply a matter of being able to follow your desires, unconstrained by others (a "negative" notion) but instead something which requires certain types of action. Typically, theorists of positive freedom define freedom in terms of "living the life that the rational person would choose to live". In Rousseau's case a rational life is available only in civil society. The mere impulse of appetite is slavery, while obedience to a law we prescribe to ourselves is liberty. The way in which we prescribe laws to ourselves is through voting as a member of the Sovereign. It is only by acting in accordance with the laws created by the Sovereign - acting on the general will - that we can be said, according to Rousseau, to be truly free.

In order for Rousseau to be able to argue that democracy is instrumentally justified - that it is a highly reliable way of achieving morally correct outcomes - he has to draw the bonds of social unity very tight. So tight, in fact, that the system becomes unacceptably repressive, which violates one of the major intrinsic value of democracy: freedom.

18.2.3 The Values of Democracy

Many people would argue that we should favor democracy even if it turned out that democratic systems were less good than others at achieving the common good. We have so far looked only at the question of whether there is an instrumental justification for democracy: is it a way of achieving something else we value? But perhaps we should consider another question. Is there something intrinsically good about democracy? That is, could it be that democracy is good even if it is not able always to achieve desirable consequences?

Maybe we should replace the craft analogy by a hobby analogy: hobbies allow people to enrich and test their physical and mental powers, and develop their sense of self-worth. And this type of value is independent of the value of the goods which may be produced. The point is that there may be values involved in political decision-making which are different from the value of achieving given objectives.

Democracy is most commonly thought to be expressive of two values we hold dear: **freedom** and **equality**.

- Freedom is a matter of giving people a say in political decision-making; particularly those decisions that affect them.
- Equality lies in this freedom being given to all.

How expressive of the idea of equality is Rousseau's polity? First, Rousseau assumes that genuine democracy presupposes a classless society. Without rough equality of wealth, factions would form, which might create an obstacle to the existence of a general will. Second, the idea of the general will itself is even more strongly egalitarian. The correct policy is one which benefits all citizens equally.

However, to perform one's duty as an active citizen is time-consuming, if one is both to keep oneself well informed, and attend the public forum or assembly. Anyone engaged in public life needs domestic support staff. That is why both the ancient Greeks and Rousseau presume some form of inequality (slavery and sexual inequality).

How expressive of the idea of freedom is Rousseau's polity? Pretty bad. The central restriction is simply the other side of the coin to the creation of the social bond. Freedom of thought is severely

restricted, particularly in the area of religion. First, atheism is barred. Second, intolerant religions are not to be tolerated. Third, all must affirm the civil religion.

Participatory democracy

If we drop the assumption that there is a general will altogether, then there now seems an urgent need to hear all voices, all arguments, and all positions. Voters can still be represented as aiming at "The best" for the community. But perhaps what "The best" is in any case can be a highly contested matter. Extensive political debate is not a sign of decay, but vital to the functioning of democratic politics.

Participatory democracy is a model of democracy that is much influence by Rousseau, but with much more respect for the individual, for debate, and for minority views. It extends Rousseau's model in three ways:

- First, it claims that we must find more room for individual involvement in political discussion and decision-making than Rousseau allows, and more room and respect for dissenting voices.
- Second, it supposes that Rousseau's distinction between the Sovereign and the executive needs to be rethought. There is no reason why we should restrict individual decision-making to legislation. Perhaps all citizens should be involved in deciding the most important "particular acts" of administration.
- Finally, advocates of the idea of participatory democracy have argued that political decision-making should, in effect, go "all the way down". We should follow democratic principles of decision-making not only in the public forum, but in the workplace, the family, and the other institutions of civil society.

Theorists of participatory politics claim that only active, democratic involvement in all matters of concern can achieve real freedom and equality for all. Only when we are involved in making the decisions which structure our lives in all spheres are we really free. In addition, only in a participatory democracy are the voluntaristic assumptions of social contract theory satisfied.

One problem of participatory democracy is inefficiency. While groups of people are much better than a single individual at deliberation, individuals are much better than groups at action. Thus if a group wishes to have its decisions implemented, it must always delegate this to an individual.

The major problem is that participatory democracy might require too much for individual citizens. while we care about actively involving ourselves in decisions that concern us, we also care about many other things too. It is very unclear whether we should give up the other things we value, such as listening to music, talking to our friends and families, even playing smart phones, for the sake of a say in every decision that affects us.

Representative democracy

In a representative democracy, the people elect representatives who then both make laws and put them into practice.

But then we circle back to the problem raised by Plato: how to protect ourselves from unsavoury leaders who may obtain power?

One proposal is the "separation of powers", found in John Locke and Charles-Louis de Secondat, Baron de Montesquieu (1689-1755), who had proposed that the legislative, executive, and judicial functions of government should be placed in independent hands. In theory this meant that the activities of any branch of government would be checked by the other two, and this would safeguard the people against the corruption of its rulers.

When it comes to political decision makings, need we say that everyone is owed equal respect, or is to be respected as equals? John Stuart Mill's plural voting scheme proposes that while all should, in principle, have a say, sometimes this should be denied for certain people, while others should have more than one vote. No major thinker seems to have agreed with Mill on this issue. Few have even felt it necessary to give arguments to support their opposition. Because Mill's proposal violates the idea that democracy is a way of expressing equal respect for all.

Who should rule? We will accept that individuals have a right to rule only if they have been appointed by the people, and are recallable by the people. That is, only democracy allows us an answer we can accept to the question "why should these people rule?", or "what makes their rule legitimate?" By democratic means we can, of course, also exercise some measure of control over the rulers' behavior.

Reference

[1] Jonathan Wolff, *An Introduction to Political Philosophy*, Oxford University Press, 2006.