

# Political Philosophy I at Stockholms Universitet

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## 1 Reading assignment 1: Plato - Crito

Socrates' friend, Crito, soon before his planned execution, to attempt one last time to convince Socrates to accept help from his friends in escaping the prison.

Crito cites three reasons why Socrates should accept. Firstly, he is a beloved friend who cannot be replaced. Moreover, if Socrates is executed, Crito will be disgraced in society's eyes because people will think that Crito either couldn't or didn't want to save him. Finally, Socrates' children will be left as orphans.

There begins Socrates' explanation why he refuses to escape his penalty.

Firstly, he preaches to Crito that he should not be concerned with the public opinion. Good men will know things as they are, and the others' opinion is irrelevant. He uses multiple analogies, for example that of a gymnast and their trainer. The athlete should pay attention to their coach's criticism but not to anyone else's.

Then he presents arguments against escaping:

By escaping, he would undermine the authority law and the state. He would be setting an example for other Athenians to ignore the law and the collective decisions of direct democracy.

He claims that Athenians have a moral obligation to be obedient to the state out of gratitude for what they have already received: an upbringing, education.

Socrates also brings up the fact that every free Athenian, once they come of age, is free to take their belongings and leave where they wish. Therefore, by staying in Athens, they have implicitly accepted the social contract embodied by the law.

For Socrates, there are two acceptable stances in relation to the law: either obey the commands, or convince your co-citizens that the commands are wrong. Disobedience is out of question and in his eyes it is wrong in three ways: it wrongs ones' parents, it wrongs ones' teachers and it breaks the social contract.

Finally, Socrates states that by escaping, he would confirm the verdict of the judges, who deemed him as someone who corrupts the youth, someone who destroys the laws. By accepting his sentence, he will prove them wrong and show his virtue and justice.

## 2 Lecture 1: Plato - political obligation

Book for the course: *Political Philosophy* by Jean Hampton.

Handouts posted on Athena after each lecture.

On the forum, try to discuss with other posters instead of just posting your own essay. Short and concise answers more appreciated.

Regular quizzes will be posted on Athena.

Key concepts and ideas listed on last page on each handout.

Exam:

- 10 multiple choice questions
- Five short explanations and definitions
- Two 500-word essay questions
- The exam will be based only on material discussed in class

Socrates was sentenced to death for corrupting the youth. He was part of the losing party during political turmoil, so it was kind of political vendetta against Socrates.

Did Socrates have an *obligation* to accept his sentence and to refuse the chance to escape?

### 2.1 Power and authority

**Power:** X has power over Y if X can compel Y to perform some action *p*.

- X's power over Y gives Y *a reason* to obey, but it does not create an *obligation*

**Authority:** X has authority if X occupies a social role (e.g. in virtue of their expertise) from which they can provide reasons for Y to act in certain ways.

- X's authority gives Y *a reason* to obey, but it does not create an *obligation*.

**Political authority:** X has political authority over Y iff the fact that X requires Y to perform some action *p* gives Y a reason to perform *p*, regardless of what *p* is, and where this reason purports to override all (or perhaps nearly all) reasons Y may have not to perform *p*.

**Preemptive (or exclusionary) reasons:** Commands issued by political authority provide reasons that *preempt or override* other reasons. Political authority requires surrender of judgment.

- It is the *source of the command* that creates the reason, not its content or relation to other reasons
- X's political authority over Y gives Y an overriding reason = *obligation to obey*.
- Political authority can provide preemptive reasons because it has *entitlement to rule*.

### 2.2 The source of political authority

Natural subordination theories

The nature of some creatures is such that they instinctively submit and take direction from other beings whose natures fit them for dominance, rule, and power.

- The *natural roles* argument for natural subordination
  - Aristotle’s natural subordination theory
    - \* The natural domination of master over slave who has lower cognitive abilities
    - \* The natural domination of men over women
- The consequentialist argument for natural subordination
  - Enlightened colonialism (e.g. Mill)

## 2.3 Divine authority theories

A ruler has legitimate political authority iff his authority comes in some way from the authority possessed by God(s) whose rule over human beings is unquestionable.

- **Ruler is (a) God**, a divine authority himself
  - Egyptian pharaohs (Tutankhamum means *living image of Amun* the Sun god)
  - Dalai Lamas (re-incarnations of Avalokitesvara, *the lord who looks down*)
- **Ruler is descended from God(s)** and has divine status due to this relationship
  - Some Roman emperors (Augustus was *Divi filius*, *Son of the Divine One*)
  - Japanese emperors (descendants of the goddess Amaterasu, the goddess of the Sun)

### Divine right view

Rulers are human but have been given the authority to rule by God (indirect authorization).

- Adam was given authority to rule the Earth by God and kings are his first-in-line descendants
- Robert Filmer (1588-1653), *Patriarcha, or the Natural Power of Kings* (1680)

### Metaphysics and politics

Natural subordination and divine authority theories are *metaphysical*: politics is part of the natural world.

### Politics as a moral problem

- If political authority is part of the natural order of the world, politics is not a moral problem (it is a question of metaphysics).
  - There were medieval books guidelines for rulers which instructed how to be a good political leader, not from perspective of being good to your subject but to satisfy God.
- If political authority is not part of the natural order, it must be explained how and why rulers can have it, and why subjects have an obligation to obey it – politics becomes a moral problem.

**The single most consequential idea of Western civilization:** *Politics is conventional*

## 2.4 Conventional views of political obligation

### Natural duty accounts

There is a general non-voluntary obligation to maintain and promote just institutions.

*Do you think that a state can exist and survive in which the decisions of law have no power, where they are ignored by citizens?*

- How to explain your special obligations to your own state if political obligations are general?
- How are you bound to *your* state?

### Associative accounts

There are special, non-voluntary (role-) obligations towards one’s political institutions created by social roles or identities (e.g. obligation from gratitude).

*since you were brought into the world and nurtured and educated by us, can you deny in the first place that you are our child and slave, as your fathers were before you= And if this is true, you are not on equal terms with us... Just as you may do no violence to your father or mother, much less may you do violence to your country.*

- Why does a social role or identity create political obligations in itself?
- How could the duties associated with a social role or identity that is morally indefensible be morally binding?

### Transactional accounts

There are special, non-voluntary obligations towards political institutions, based on the requirement of reciprocity: political obligations are a matter of fairness.

*Not only have we ... given you and every other citizen a share in every good that we have to offer, but we have even granted you and every Athenian the right that if you do not like us when you have come of age, you may go where you please and take your goods with you. None of our laws will forbid it or interfere with you. Anyone who does not like us, the laws and the state, and who wants to go to a colony or to any other city, may go where he likes, and take his goods with him.*

- Fairness is owed to fellow citizens; how do duties to fellow participants in a cooperative scheme establish obligations to the state?

### Social contract theories

Political obligations arise from voluntary acts (consent) either explicitly or implicitly.

*Anyone who has seen the way in which we keep justice and administer the state, and who remains here, has entered into a contract that he will do as we command him. And if he disobeys us, he wrongs us... because he made an agreement with us that he will obey our commands.*

- Does ”choosing to remain” constitute explicit or implicit consent?

- If consent is hypothetical, how can it create real-life obligations?

## 2.5 Are all political authorities entitled to rule?

### Political legitimacy

Political legitimacy is *justified* entitlement to rule.

Two different views:

- **Political authority presupposes legitimacy.** Only legitimate political authority creates political obligations. That is, only *legitimate governments have political authority*. Illegitimate governments have only power.
- **Political authority and legitimacy are distinct.** Even illegitimate governments have political authority. That is, they are entitled to rule, even if their entitlements is not all-things-considered morally justified.

## 2.6 Are there legitimate states?

### Philosophical anarchism

There are no preemptive reasons and hence no political authority. The authority of the state is not unique (it may have authority, but not political authority).

- Not to be confused with political anarchism, a view about social and political organization.

## 3 Key concepts 1

- power
- authority
- political authority
- preemptive (or exclusionary) reasons
- natural subordination theory
- divine authority theory
- natural duty accounts of political obligation
- associative accounts of political obligation
- transactional accounts of political obligation
- social contract theories of political authority
- political legitimacy
- philosophical anarchism

## 4 Reading assignment 2: Hobbes - Leviathan

### 4.1 Of the Natural Condition of Mankind as Concerning Their Felicity and Misery

1. People differ in physical strength and mental capabilities but when all taken together, no man can claim superiority over another.

2. All men think they have bigger mental capabilities than the average. This is a good sign of equal distribution that everyone is happy with their share.

3. From the equality of ability arises equality of wants. Men become enemies when they want something which cannot be shared between them.

4. Thus one must increase his power to secure his position and possessions. Some take pleasure in acquiring more power than necessary.

5. One looks for companions that have equal power. Inequalities between peers create grief and damage.

6. Three causes of conflict: competition, diffidence, glory.

7. They make made invade (respectively) for: gain, safety, reputation.

8. War is the default state of men. War is not only manifested in fighting but also in disposition thereto. Peace is assurance of non-conflict.

9. The state of war creates too much uncertainty for the industry or cultivation of earth to be practiced or developed.

10. Our daily experience confirms the state of war: we travel with companions, we lock our doors, we lock our chests, we pay great deal of attention to security.

11. "Savages" in America live to this day in their "brutish" ways because there is no state or laws to regulate them.

12. Kings are in constant state of (cold) war with one another. But because they exercise control over their citizens, the citizens are not in war with one another.

13. Justice and injustice, good and evil, right and wrong, are societal notions and have no meaning in the state of war between men.

14. Men are inclined to peace by: fear of death, desire of necessary things for living, hope by their industry to obtain them.

### 4.2 Of the First and Second Natural Laws, and of Contracts

1. The **Right of nature** (*jus naturale*) is the liberty of each man to his own life and to defend it.

2. By **Liberty** we mean lack of external impediments preventing man from exercising his will (freedom *from*).

3. The **Law of nature** (*lex naturalis*) is man's obligation to sustain and defend his life.

4. Every man has obligation to seek peace as long as he has hope of obtaining it and right to defend him otherwise. These follow respectively from law of nature and right of nature.

5. In order to create peace we form the second law: every man shall exercise his liberty in relation to others only as much as he will allow it to be exercised against him.

6.

7. Difference between **renouncing** and **transferring** right.

8. Rights can be only transferred voluntarily in expectation for some good in return. For example one cannot lay down their right of resisting assault because this can only harm them.

9. A **contract** is a mutual transferring of rights.

11. A contract can be called **pact** or **covenant** if it is to be delivered in the future by one side.

18. When both parties perform their part of the contract in the future, it is void unless there is no power governing both of them to hold their promises.

19. Civil estate guarantees the execution of the contract.

20. That which cannot hinder man from performing his part of the contract cannot be admitted as the cause of hindrance.

27. Covenants entered through fear (such as ransom for a prisoner of war or kidnapping) have to be respected until rendered void by the civil law.

28. A former covenant makes void a later.

29. A covenant not to defend myself from force by force is always void. A man may covenant *unless I do so, kill me* but he cannot covenant *unless I do so, I will not resist when you come to kill me*.

31. Two elements of human nature help make sure man keeps his word: fear of consequence for breaking one's word and glory or pride in appearing not to break one's word.

## 4.3 Of Other Laws of Nature

1.

2. **Injustice** is defined as *not performing the covenant*. Everything that is not unjust is just.

3. There must be some coercive power to force men to be just.

40. The way, or means, of peace are justice, gratitude, modesty, equity, mercy.

41. *But yet if we consider the same theorems as delivered in the word of God that by right commands all things, then are they properly called laws.*

## 4.4 Of the Causes, Generation, and Definition of a Commonwealth

1. The final cause of men in the introduction of restraint upon themselves is to stop the misery of war.

2.

3. The multitude united in one person (or assembly of persons) is called a **commonwealth**, in Latin *civitas*.

14. He that carries that person is called **sovereign**, is said to have **sovereign power** and everyone besides is his **subject**.

## 4.5 Of the Rights of Sovereigns by Institution

Commonwealth is established once everyone makes covenant with everyone else to respect the man or assembly given that role. Commonwealth is granted the *right to present* (represent).

## 4.6 Of the Liberty of Subjects

1. Liberty is defined as absence of external opposition.

3. A man in commonwealth obeys the law for the *fear* of consequences but he has the *liberty* to fuck around and find out.

4. *Liberty* and *necessity* are consistent because every action man does willingly proceeds from some cause. The root of all causes are initial actions of God.

12. If the sovereign commands a man to kill, wound, or in other way harm himself, he has the right to disobey.

13. One is not obliged to confess a crime he has committed (without assurance of pardon).

17. To resist the sword of the Commonwealth in defence of another man, guilty or innocent, no man has liberty.

21. The obligation of subjects to the sovereign lasts only as long as the sovereign is able to protect them.

## 5 Lecture 2: Hobbes – Social Contract Theory

Thomas Hobbes (1588–1679):

- 1603-1608 educated at Oxford, speaks Greek, Latin, French, Italian
- 1608 tutor to the Cavendish family and the Prince of Wales, Charles II
- "Grand Tours" of Europe, meets Galileo, Descartes, Francis Bacon
- c1640 **Elements of Law** (circulated)
- 1640-1655 flees and lives in Paris
- 1651 **Leviathan**
- Leviathan offends the French church; returns to England
- 1662 Charles I dismisses Parliament; without it, he cannot raise revenue
- 1634-1641 Charles I introduces "ship money", a little-used form of tax for national emergencies
- Charles I appeals to the divine right of kings (rulers are accountable only to God) and that
  - Rulers must have the means to defend the state
  - Only the ruler is entitled to judge if the state is threatened
- **Elements of Law** lends support to this position
- 1640 Parliament is summoned and outlaws taxation without Parliament's approval, Hobbes has to flee to Paris
- 1642-1646, 1648-1651 English Civil Wars
- **Leviathan** offends Royalists for its suggestion that subjects can abandon a ruler who cannot protect them, Hobbes has to flee to England
- 1660 Restoration: Charles II protects and supports Hobbes

- 1666 Parliament prepares bill against atheism
- Hobbes burns his papers

### Leviathan (1651)

- Leviathan: sea monster in the Old Testament
- *There is no power on earth to be compared to him* (Job 41)
- Book cover
  - Sword, castle, crown, cannon, weapons, battle – **The power of the State**
  - Crosier, church, mitre, logic, court, excommunication – **The power of the Church**

Aristotelian tradition	Hobbesian turn
Objective moral good	Good is the object of desire
Actions explained with reference to good	Actions explained with reference to self-interest
People are naturally unequal	No significant inequalities between people
People are inherently social beings	Methodological individualism
Natural rights are granted by God	Natural rights are precepts of reason (rationality)

### The social contract argument

- People are characterized by traits  $T$
- People live in conditions  $C$
- People with traits  $T$  in conditions  $C$  behave in ways  $B$
- People behaving in  $B$  ways are in state  $S$
- People could avoid the disadvantages of  $S$  if they all complied with norms  $N$
- Compliance with norms  $N$  can only be achieved by arrangement  $A$

### The doctrine of equality

Differences between people are insufficient to lead to spontaneous power imbalances.

Darwin's self-domestication hypothesis is that in every ape group or species males are much stronger than females and some males are stronger than others. Humans are an exception, because all males are similarly strong. Self-domestication hypothesis says that we stopped the "alpha-males" from reproducing. That's how domestication is done in wolves, by killing (or not allowing to reproduce) the aggressive and strong ones.

If self-domestication hypothesis is true, than the doctrine of equality is not natural, we made ourselves that way.

*So that in the nature of man, we find three principal causes of quarrel. First: competition; secondly: diffidence; thirdly, glory.*

- People are motivated by self-preservation and self-interest
- When there is scarcity, there is competition, especially given equality

- Diffidence is a feeling of insecurity about the future, since no one is able to defend themselves with certainty
- The desire for glory is to increase one's security by developing a reputation for strength
- In the state of nature, life is *solitary, poor, nasty, brutish, and short*.

### The prisoner's dilemma

- Defection is always better for each player than cooperation.
- If defection is to attack, it's "war of all against all".

	Cooperate	Defect
Cooperate	2,2	0,3
Defect	3,0	1,1

Defection is the **dominant strategy**<sup>1</sup>.

There is only one equilibrium: (attack, attack). But each player would be better off if they could cooperate and reach (cooperate, cooperate).

### 5.1 The laws of nature

#### First law of nature

*Every man ought to endeavour peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek and use all helps and advantages of war.*

#### Second law of nature

*A man be willing, when others are so too, as far forth as for peace and defense of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men as he would allow other men against himself.*

#### ...in the state of nature

- The state of nature is a pre-political state, in which justice and injustice does not arise
- But there is natural law: the basic natural right of **self-preservation** (self-defense)
- Everyone has the right to everything to secure their natural right
- No covenants can be made, since no one can be assured of the other party's compliance

#### ...and human rationality

- Reason can discover the laws of nature: Hobbes calls them **theorems** (contrast geometry!)
- A law of nature is a precept or rule of **rationality**
- A law of nature formulates a means to securing the natural right of self-preservation
- Laws of nature are **conditional**

<sup>1</sup>A dominant strategy in game theory is a strategy that always provides a better outcome for a player, regardless of what the other players do. This means that if a player has a dominant strategy, they will always choose it because it maximizes their payoff in every possible scenario.

### Third law of nature

"Men perform their covenants made" (XV.1), for covenants, without the sword, are but words, and of no strength to secure a man at all (XVII.2), and there must be some coercive power to compel men equally to the performance of their covenants (XV.3).

- A law of nature can serve as a constraint only if others follow it.
- Compliance is assured only when there is a greater force that can ensure it.
- Covenants create obligations even (or especially) when they are made out of fear.
- The laws don't limit people's rights: they remove a constraint (the threat posed by others).
- Justice arises from the third law of nature, because injustice is just non-compliance.

### 5.2 The creation of political authority (the Sovereign)

- Each person mutually agrees that they transfer their rights to the sovereign.
- In modern terms, people **alienate** their rights.
- People as a collective authorize someone(s) with political authority.
- The authorization itself is **non-contractual**: the Sovereign is not a party to the social contract (the people contract with one another).
- Therefore, the political authority of the Sovereign does not come from the contract.
- Therefore, it is not possible to void or revoke the contract.

The rights of the Sovereign:

- The right to determine the means of peace and defense
- The right to judge views which may be useful or harmful for peace
- The right to make peace and war with other nations
- ...

## 6 Key concepts 2

- state of nature
- doctrine of equality
- competition, diffidence, desire for glory
- laws of nature
- Prisoner's dilemma
- Hobbes' conception of justice
- the Sovereign (sovereignty)
- alienation social contract

- bootstrapping problem
- fear and liberty
- the problem of rebellion

## 7 Reading assignment 3: Locke - The Second Treatise of Civil Government

### 7.1 Introductory

*Political power, then I take to be a right of making laws with penalties of death, and consequently all less penalties, for the regulating and preservin of property, and for employing the force of the community, in the execution of such laws (...) all this only for the public good.*

### 7.2 Of the State of Nature

A state of nature is a state of perfect freedom and equality, but not a state of licence: man has no liberty to destroy himself or any creature except for a nobler cause.

Everyone is bound to preserve himself and to preserve the rest of mankind.

In the state of nature one man can overcome another by power only as a means of punishment for the offender's transgressions.

*In transgressing the law of nature, the offender declares himself to live by another rule than that of reason and common equity, which is that measure God has set to the actions of men, for their mutual security; and so he becomes dangerous to mankind, the tie, which is to secure them from injury and violence, being slighted and broken by him.*

Only the person who suffered from the hands of another can remit (forgive), the magistrate cannot do it in their name.

The damnified person has the power of appropriating to himself the goods or service of the offender, by *right of self-preservation*.

### 7.3 Of the State of War

### 7.4 Of Slavery

### 7.5 Of Property

### 7.6 Of Political or Civil Society

### 7.7 Of the Beginnings of Political Societies

*The same law of nature, that does by this means give us property, does also bound that property too. God has given us all things richly, is the voice of reason confirmed by inspiration. But how far has he given it to us? To enjoy. As much as any one can make use of to any advantage of life before it spoils, so much he may be his labour fix a property in.*

Labor gives right of property. For example, enclosing a piece of land to cultivate it is enough to claim property (if the size of land is not excessive).

## 8 Reading assignment 3: Hampton

**Agency social contract theory:** rulers as the people's "employees" remain under our control.

Lock wrote the *Treatise* for political purpose:

- Refute Filmer's divine rights theory
- Provide philosophical license for the rebellious activities he and his friends had undertaken against the British rulers Charles II and James II, which culminated in 1688 in overthrow of the latter in what the rebels called the Glorious Revolution
- Therefore he is clearly supportive of allowing the "firing" of unsatisfactory rulers by dissatisfied subjects.

Locke thinks human beings are naturally more other-regarding and more cooperative than Hobbes takes them to be.

God's "Fundamental Law of Nature" directs people to preserve the life, health and possessions of others as long as their own preservation will not be compromised by doing so.

The State of Nature has a Law of Nature to govern it, which obliges every one: And Reason, which is that Law, teaches all Mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his Life, Health, Liberty or Possessions.

Like Hobbes, Locke insists that people are *politically* equal.

Locke argues that in the state of nature, the law to respect others' persons and possessions would be obeyed by all rational persons.

Warfare is precipitated by irrational members of society who either harm others for their own gain ("*In transgressing the Law of Nature, the Offender declares himself to live by another Rule, than that of reason and common Equity*") or fail (because of personal bias) to interpret the fundamental law of nature correctly, especially when they use it to justify the punishment of offenders.

In an iterated PD Lockean people would behave no differently from Hobbesian people.

The State should solve three problems (*inconveniences*):

- Establish a Law by common consent
- Set a known and indifferent Judge with Authority to determine all differences according to the Law
- Create the Power to back and support the Sentence when right, and give it due Execution

Unlike Hobbes, Locke's ruler should have clear limits on his authority and power.

Like Hobbes, Locke makes individual consent the source of all political authority.

God's laws enable people to have property rights in the state of nature, so that property is something that is conceptually prior to political society. The ruler is not the source of property rights in a society.

Our conception of political societies is deeply tied to the idea that, as Locke puts it, government has "direct jurisdiction" over land.

That idea seems to conflict with a consent-based justification of political authority as Locke has formulated it.

## 9 Lecture 2 – continuation

### 9.1 Problems with Hobbes

#### Bootstrapping

No contracts can be made or maintained in the state of nature – but a contract to create a power that force compliance and makes other contracts possible is possible.

#### Fear and liberty

For Hobbes, fear and liberty are not in contradiction: there is no violation of liberty if citizens act only out of fear of the Sovereign. But then the Sovereign's rule seems based on power, rather than genuine form of political authority.

#### Rebellion

- Even once the contract is made, the right to self-defense is not given up – no one can make a contract promising not to defend themselves.
- Citizens have an obligation to obey the Sovereign only as long as it is able to protect them.
- What happens if the subjects cease to believe that the Sovereign can protect them (or feel threatened by it)?
- Since only they can determine when their preservation is threatened, they have the right to determine whether they should obey (or mount a rebellion)
- Therefore, they do not really *alienate* all their rights.

## 10 Lecture 3: Locke – Representative Government

John Locke (1632-1704)

- 1647-1658 educated in London, Oxford
- 1667 personal physician of 1st Earl of Shaftesbury
- 1672 Lord Shaftesbury becomes Lord Chancellor
- 1675-1679 travels in Europe (Two Treatises of Government probably written around this time)
- 1683 has to flee to the Netherlands
- 1683-1688 prepares Two Treatises of Government and Letter Concerning Toleration for publication
- 1688 Glorious Revolution
- 1689 returns to England and published his major works

### 10.1 Two Treatises of Government (1689)

**Ultimate aim:** to justify the idea that subjects can rebel against their rulers.

**Further questions:**

- What distinguishes authority in the family and in the state?
- What is the relation of ruler and subjects?
- How are property rights possible?

**Main opponent: Sir Robert Filmer (1588-1653), *Patriarcha, or the Natural Power of Kings*.** Since no-one can dispose over their life (e.g. suicide is a sin, one's life is in the hands of God), but rulers have the right to dispose over the lives of people (subjects are literally the property of their rulers), political authority cannot come from the people. Hence authorization must come from God (through Adam, Noah, and their descendants).

## 10.2 The state of nature

If a Swiss person goes to America and meets an Indian, they are in the state of nature in relation to each other because there is no common civil society governing them.

Robert Nozick – *Anarchy, State, and Utopia*

### 10.2.1 The law of nature

#### Preservation of all mankind

- Everyone is created by God and everyone is equal.
- Everyone is bound by self-preservation and should mutually recognize that everyone's preservation is equally important.

People are politically equal; if they are rational, they respect the equality of others. As long as the law of nature is respected, there is no need for political authority. In the state of nature, the *execution* of the law of nature is everyone's duty.

*Every man hath a right to punish the offender, and be executioner of the Law of Nature.*

### 10.2.2 The problem of irrationality

*In transgressing the law of nature, the offender declares himself to live by another rule than that of **reason** and common equity.*

- When irrationality is present, the law of nature is not respected anymore.
- The punishment of violators creates the problem of *impartiality*: who can adjudicate between conflicts (that is, interpret the law of nature) in an impartial way?
- The (cooperative) state of nature becomes a state of war.

Example: WWI, no one wanted to go to war, but mutual offenses just escalated.

### 10.2.3 Modeling the state of nature

#### The assurance problem

	Cooperate	Defect
Cooperate	3,3	0,2
Defect	2,0	1,1

Difference from PD – here cooperation is not irrational.

- There is no dominant strategy.
- Two equilibria are (3,3) and (1,1) (state of war).
- Problem: *mistakes* – imperfect rationality may lead to the state of war.

## 10.3 State of war

Everyone has the right to defend themselves against those who threaten them. A *threat* – an intention of harming another – puts the parties in state of war; thus, anyone who tries to gain absolute power over others puts himself in a state of war with regard to them.

- Slavery is also the state of war (the "state of war continued") between master and slave (this is why slavery is incompatible with civil government).

## 10.4 The social contract

The social contract is the codification of the law of nature in civil laws and institutional structures.

The end of the political authority is to solve assurance problems by creating *laws*, resolving conflicts *impartially*, and enforcing the laws and impose punishments.

## 10.5 Political authority

**Natural liberty:** *To be under no other restraint but the law of nature.*

**Civil liberty.** Liberty in society consists in

- rule of law that applies equally to all
- laws that are created by representative government
- liberty in those things which are not governed by law
- freedom from the "arbitrary will of another man"

**Political authority is limited:** the "liberty of man" under government is subject to the rule of law.

### 10.5.1 The creation of political authority

**1. The social contract:** people agree in the state of nature to give up their executive powers to carry out the laws of nature.

**2. Civil society:** people become a *Community* when they pool their powers (the right of government comes from civil society).

**3. Commonwealth:** government is created by the majority of the Community by placing their powers in it *in trust* (i.e. the government is an *agent* of the people).

Beginnings of modern liberalism: government is there to serve the people.

The government has its political authority in the form of *trust* (in both senses<sup>2</sup>) from the people.

<sup>2</sup>Sense 1: trusting somebody. We need to trust that the government actually does its work in the interest of the public good. Sense 2: like putting money in the trust fund, then someone manages them on our behalf.



Only the people can judge whether the government serves their interests (whether they maintain their trust).

A legitimate government respects the law of nature (does not want to enslave people).

## 10.6 Hobbes vs Locke

### 10.6.1 Hobbes

**Alienation social contract:** people give up their natural rights; there are no limits on the political authority of the Sovereign.

People cannot alienate their right to self-defense, which conflicts with the Sovereign's absolute political authority.

### 10.6.2 Locke

**Agency social contract:** people retain their natural rights; they put limits of the political authority of the government.

The government's political authority derives from peoples' consent.

## 10.7 Consent and legitimacy

The legitimacy of political authority rests on consent in two ways:

- **Contractual consent:** agreeing to the social contract to give up the executive rights to the law of nature.
  - Contractual consent may require *actual consent*
  - PROBLEM: how to think about this (Who gave consent?)
- **Political consent:** consenting to the right of government to exercise the executive power of the law of nature
  - Political consent takes the form of *tacit consent* (contractual consent implies political consent, because it comes from civil society and not individual citizens)

## 10.8 Property

### The origin of property

- Starting point: **joint ownership** – God gave the Earth to all of mankind in common.
  - Problem: explaining how private property can arise without the consent of everyone.
- Locke's starting point: **self-ownership** – everyone has property rights in their person (their body, mind, and labor).
  - Note the radical implications: if everyone "owns" their own person, then the right to life and liberty is a *property right*.
  - Thus, the source of property rights is not the sovereign.
  - Therefore, property rights are prior to political society.

### Mixing labor theory

The original claim to property is based on adding labor to resources. The justification of property comes from the **additional value** created by labor.

- It is a **law of nature** that people are responsible to improve upon the world.
- The same law of nature forbids wasting or spoiling useful resources.
- Since the source of property rights is not the sovereign, rulers do not have rights to the property of their subjects (i.e. taxation must be consented to).

## 10.9 The proviso

**The Lockean proviso:** the appropriation of property is justified iff "enough and just as good" is left. That is, a person gets property right only over resources which she actually uses.

**Money:** a social convention which makes it possible that inequalities arising from private property does not violate the laws of nature. It involves a *tacit agreement* to put value on (and create rights to) "larger possessions".

## 11 Key concepts 3

- Filmer's theory
- the law of nature
- state of war
- the problem of irrationality and the assurance problem
- natural vs civil liberty
- civil society vs commonwealth
- alienation social contract vs agency social contract
- actual vs tacit consent
- rule of law
- self-ownership
- mixing labor theory
- the Lockean proviso

## 12 Reading assignment: John Stuart Mill – On Liberty

### 12.1 Introduction

- concerned with Civil, or Social, Liberty: the nature and limits of power that can be legitimately exercised over an individual by the society
- ancient governments (except Greek democracy) always had an antagonism between the ruler and the ruled
- *To prevent the weaker members of the community from being preyed upon by innumerable vultures, it was needful that there should be an animal of prey stronger than the rest, commissioned to keep them down.*
- but in reality the rulers usually preyed on the people
- the attempt to limit the rulers' power was first called liberty

- the attempts at liberty were done in two ways:
  - by obtaining a recognition of certain political immunities, called political liberties or rights
  - by establishment of constitutional checks
- over time, people learned to prefer to delegate power to the government, not alienate it
- in the next step, people wanted the rulers to be identified with the people; that their will should be the interest of the nation
- protection against the tyranny of the magistrate is not enough. Harmful laws can be also passed by the public opinion.
- *There is a limit to the legitimate interference of collective opinion with individual independence; and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism.*

The essay's main principle: *that the sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.*

## 13 Reading assignment: Hampton on utilitarianism

Jeremy Bentham (1748-1832)

**Classical utilitarianism:** The objective is to maximize the sum of happiness of all members in the community.

**Average utilitarianism:** The objective to maximize the average happiness among community members.

Criticisms:

- Takes for granted that everyone can evaluate their own happiness.
- Assumes that this evaluation can be made also by those at power in a state.
- Assumes that happiness is quantifiable.
- Assumes that a happiness of one person can be added to that of another and it works in a linear fashion.

Mill was a follower of utilitarianism but he also criticised Bentham:

- Experiences of pleasure differ not only in quantity but also in quality.
- Disliked the idea that there is "no higher end than pleasure".

**Interpersonal comparison of utility problem**

**Diminishing marginal utility**

Preference satisfaction is not always a good measure for what human welfare means for example what if one's preference is to rape a woman or steal a purse.

## 14 Lecture 4: Popular Sovereignty – Rousseau

**Jean-Jacques Rousseau** (1712-1778)

- born in Geneva ("a free state")
- 1750 wins the prize of Academy of Dijon with the **Discourse on the Science and Arts (First Discourse)**
- 1755 **Discourse on the Origins of Inequality (Second Discourse)**
- 1762 Emile and The Social Contract – both condemned in Geneva and he has to flee
- 1765 he tries to settle in England
- 1767 returns to France under false name
- 1768 (illegally) marries his companion
- 1770 allowed to return to Paris but not to publish

### 14.1 The state of nature

**Rousseau's question:** How did humans become social beings? How did political communities (conventions) arise?

- The only natural form of association between humans is **family**
- In the state of nature, people are **self-sufficient**: there is no community between them
- Self-sufficient people are free

**Natural rights**

Norms of reason that specify the general preconditions for human existence and survival. Humans can recognize natural rights (they conform to human nature).

**Political rights**

Particular social rules, laws and relations, arising from power relations.

### 14.2 Sources of natural rights

**Self-preservation:** the propensity to pursue one's self-interest

**Pity** (empathy): the ability to refrain from harming others

- pre-social, self-sufficient humans can spontaneously recognize and follow natural rights
- social, psychologically independent humans need laws to govern their relations
- when the state of nature is left behind, human psychology changes
- the function of government and the rule of law is to restore justice that prevailed among self-sufficient humans

- political society is an arrangement put in place of the state of nature

Hence the opening sentence of The Social Contract: "taking men as they are," and "the laws as they can be."

### 14.3 Modelling the state of nature

#### Stag hunt game

	Cooperate	Defect
Cooperate	5,5	0,4
Defect	4,0	2,2

- a version of assurance game
- each player attaches  $p$  to the other cooperating ( **trust**)
- they can expect  $p$  by cooperating,  $4p + 2(1 - p)$  by defecting:  
 $5p > 4p + 2(p - 1) \implies p > 2 - 2p \implies 3p > 2 \implies p > \frac{2}{3}$
- that's a lot of trust!
- promises convey no information on intentions

### 14.4 Psychological change: the state of nature

In the state of nature, humans are characterized by:

- self-love (self-concern)
- pity (empathy or compassion)
- perfectibility (psychological adaptability)

The consequences of this psychological transformation:

- competition
- comparing oneself with others
- hatred, bitterness
- desire for power

As humans emerge from the state of nature (through more frequent human contact) their self-love develops into **amour propre**: a form of love of self that is the function of one's esteem by others, determined by pride, envy, jealousy, greed...

### 14.5 Psychological change: civil society

#### Psychological change

- in the state of nature people are equal because they are independent from each other (no power relations arise from natural inequalities)
- in civil society people are free only if their equality is constantly reinforced by institutions
- pity is no longer important as motivational force, it is replaced by **reciprocity** and **amour propre**

#### Moral change

- since people arise from the state of nature in unequal condition they have to be **made equal by convention** to be able to take part in the common life

- natural inequalities are replaced by **moral equality** and **equality before the law**

### 14.6 The general will

#### The social contract

*"A form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before."*

The **total alienation** of rights and powers to become part of the Sovereign:

*"Each of us puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an indivisible part of the whole."*

*"Each individual, as a man, may have a particular will contrary or dissimilar to the general will which he has as a citizen"*

*Whoever refuses to obey the general will shall be compelled to do so by the whole body. **This means nothing less than that he will be forced to be free.***

- The general will is always right: it "wills" the general good – the common will of citizens concerned not with pursuing their own interests but the well-being of society.
- The general will and the **will of all** may be incongruent since people may be irrational and fail to recognize the general will.
- A legitimate political authority will defend people and goods "with the full common force" while each person "uniting with all" "obeys only himself and remains as free as before".
- There is no need for checks and balances on popular sovereignty but it must be able to enforce the obedience of those who do not obey it.
- Since everyone takes part in the institutional framework of the general will, **obeying the law is to obey ourselves.**

### 14.7 Making sense of the general will

#### Building a dam

	River goes left	River goes right
Left-side farmers	6	6
Right-side farmers	6	6
Aggregate	6	6

#### Letting the river flood

	River goes left	River goes right
Left-side farmers	0	10
Right-side farmers	10	0
Aggregate	10	10

- The will of all is to let the river flood
- The general will is to build a dam, even though no one wills it

14.8 Is the idea of general will coherent?

The Condorcet paradox

Voter 1	Voter 2	Voter 3
A	B	C
B	C	A
C	A	B

Using majority rule in pairwise comparisons:  $A \succ B \succ C \succ A$

**Agenda setting:** the order in which alternatives are introduced can determine the outcome

14.9 The relation between sovereignty and government

Forms of government

Popular sovereignty (the general will) is concerned with general matters (making laws). But what about implementing laws and everyday administratoin?

- **Direct democracy:** danger of interference from popular sovereignty
- **Absolute monarchy:** danger of interference from the government
- **Aristocracy**
  - **Natural:** not suitable for modern political communities (perhaps for primitive people)
  - **Hereditary:** the worst form of government
  - **Elective aristocracy:** the best form of government, combining consent and wisdom (we would call this today *elitism* or *epistocracy*)

14.10 Rousseau’s totalitarianism

Hobbes’ problem

People cannot alienate their right of self-defence, therefore they have the right to defend themselves against the Sovereign (and not obey the ”general will”).

Rousseau’s solution

When entering civil society, a **second psychological transformation** takes place, and people’s will never conflicts with the general will.

- If it does, the transformation has not been complete and people suffer from ”fake consciousness”.
- People’s ”real” interests and freedom is in the following the general will, even if they need to be coerced.
- This more than foreshadows totalitarian dictatorships (fascism, communism, ...)

15 Key concepts 4

- popular sovereignty
- self-sufficiency (state of nature)
- natural versus political rights
- pity
- perfectibility of humans
- amour propre
- general will
- will of all
- obeying the general will is ”forced to be free”
- direct democracy
- totalitarianism

16 Lecture 5: Classical liberalism – Mill

There is a lot of misunderstanding on what liberalism actually is.

16.1 The main argument

1. The best institutions are those under which people are happiest.
2. A precondition of happiness is self-development.
3. Self-development requires free individual experimentation in living.
4. The states that best permit and promote free individual experimentation are liberal states.
5. Therefore, people will be happiest under liberal states.
6. Therefore, liberal states provide best institutions.

This is an empirical argument (pointing to actual liberal states).

16.2 Introduction

Rousseau has influence on the French revolution, particularly on Jacobins who took power.

The Reign of Terror (September 1793 – July 1974)

Robespierre, 5 February 1794: *If virtue be the spring of a popular government in times of peace, the spring of that government during a revolution is **virtue combined with terror** [...] The government in a revolution is the **despotism of liberty** against tyranny.*

*Society owes protection only to peaceful citizens; the only citizens in the Republic are the republicans. For it, the royalists, the conspirators are only strangers or, rather, enemies. This terrible war waged by liberty against tyranny – is it not indivisible? Are the enemies within not the allies of the enemies without?*

The French revolution starts by the promise of popular sovereignty and loss of belief in divine source of monarchical power, but it turns into reign of terror.

### 16.3 The problem of popular sovereignty

- Before the French Revolution: main problem is justifying political authority.
- After the revolution: justifying the **extent** of political authority.
- **Liberal answer:** inviolable individual rights, constitutionalism.
- **Conservative answer:** traditional hierarchy as bulwark against unlimited popular sovereignty.
- **The individualism objection:** liberalism leads to individualism, atomism and the destruction of traditional social structures<sup>3</sup>.

Constitutions are by design difficult to change and that is their point.

Conservative authors are typically concerned with particular countries or times, but there are no major general conservative theories.

What passes today for conservative politics is very far from the traditional conservative answers.

### 16.4 The liberal answer

#### Declaration of the Rights of Man and of the Citizen (1789)

*Political Liberty consists in the power of doing whatever does not injure another. Thus the exercise of the natural rights of every man has no other limits than those which are necessary to secure to every other member of society enjoyment of the same rights.*

#### Mill's Liberty principle (or Harm principle) (1859)

*The sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.*

### 16.5 John Stuart Mill (1806-1873)

- Son of James Mill, educated at home with the aim of creating a genius
- Starts Greek at 3, Latin at 7, reads Aristotle in the original by 10
- 1826 nervous breakdown and recovery
- 1851 marries Harriet Taylor
- 1859 **On Liberty**
- 1861 **Considerations on Representative Government**

- 1863 **Utilitarianism**
- 1865-1868 Member of Parliament
- 1866 calls for granting women the right to vote

### 16.6 The Liberty principle

*The sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.*

#### Implications of the Liberty Principle

- **Anti-paternalism** Interference with a person's liberty or freedom of action for the sake of promoting her own good is impermissible, even if the person is acting against her own good.
- **Harm to others** Interference with joint activities of consenting adults is impermissible as long as they do not cause any harm to third parties, even if they cause harm to one another.
- The principle entails that the **burden of proof** is always on those who want to restrict liberty.

#### Example: motorcycle helmet and seatbelt laws

The Liberty principle may seem to exclude some forms of **paternalism** that seem justified.

- Mill might respond that not wearing a helmet is a sign of irrationality. We should distinguish between:
  - **Soft paternalism:** interference with a person's liberty for the sake of that person's good when the person is irrational, uninformed or incompetent in some way
  - **Hard paternalism:** interference with a person's liberty for the sake of that person's good when the person is fully informed and competent
- Another response is that third parties are harmed when the medical expenses of reckless drivers must be paid by them, since even reckless drivers are going to be treated for humanitarian reasons.

#### Example: public nuisances

Public behavior may sometimes be prohibited not only on the basis of its harmfulness, but also its **intrusiveness** ("a violation of good manners")

- e.g the use of mobile phones during lecture does not literally harm anyone, but it's intrusive and annoying: it intrudes on a public space
- how to distinguish between **permissible** and **impermissible** intrusions?
- e.g. can an annoying mass protest in a public space be prohibited?
- the distinction is made in terms of the **context** of the activity

<sup>3</sup>This is the conservatives' objection against liberalism

## 16.7 Utilitarianism

*I forego any advantage which could be derived to my argument from the idea of abstract right as a thing independent of utility. I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being.*

### Consequentialism

Actions (policies, etc.) are evaluated solely by the value (goodness) of their consequences.

### Utilitarianism

The right action (policy, etc.) is that which maximizes the well-being of the affected individuals.

- Bentham: "the greatest happiness of the greatest number"
- Mill: well-being consists in happiness and happiness consists in pleasure
- a mathematical representation of well-being
- sum-ranking: the value of every outcome is determined exclusively by aggregate utilities

	$x_1$	$x_2$	$x_3$	$x_4$	...	$x_m$
1	$u_1(x_1)$	$u_1(x_2)$	$u_1(x_3)$	$u_1(x_4)$	...	$u_1(x_m)$
2	$u_2(x_1)$	$u_2(x_2)$	$u_2(x_3)$	$u_2(x_4)$	...	$u_2(x_m)$
$\vdots$	$\vdots$	$\vdots$	$\vdots$	$\vdots$	...	$\vdots$
n	$u_n(x_1)$	$u_n(x_2)$	$u_n(x_3)$	$u_n(x_4)$	...	$u_n(x_m)$

$$U(x_j) = u_1(x_1) + u_2(x_2) + u_3(x_3) + \dots + u_n(x_n) = \sum_{i=1}^n u_i(x_j)$$

## 16.8 Mill on well-being

There is pleasure and pain, happiness consists of getting pleasure and avoiding pain.

### Higher and lower pleasures

*It is quite compatible with the principle of utility to recognize the fact, that some kinds of pleasure are more desirable and more valuable than others. It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone.*

### The competent judges test

*If I am asked what I mean by difference of quality in pleasures, or what makes one pleasure more valuable than another, merely as a pleasure, except its being greater in amount, there is but one possible answer. If one of the two is, by those who are competently acquainted with both, placed so far above the other that they prefer it [...] we are justified in ascribing to the preferred enjoyment a superiority in quality so far outweighing quantity as to render it, in comparison, of small account.*

### Socrates and the fool

*It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, are of a different opinion, it is because they only know their own side of the question.*

### Pursuing happiness indirectly

*Those only are happy (I thought) who have their minds fixed on some object other than their own happiness; on the happiness of others, on the improvement of mankind, even on some art or pursuit, followed not as a means, but as itself an ideal end. Aiming thus at something else, they find happiness by the way.*

## 16.9 Liberalism and well-being

- At the center of Mill's conception of well-being is the capacity for **self-development** according to one's own direction and plan of life.
- The conception of the human good is rooted in the idea of **progress** (both individual and social):
  - Social institutions should enable self-development and thereby human flourishing.
  - Social institutions should allow as many forms of self-development as possible.
  - A prerequisite of social progress are **experiments in living**: the free development of individuality.
  - Humans are **progressive beings**.
  - The ultimate ideals are **autonomy** and **self-determination**.
  - Rights are based on such central, permanent human interests.

## 16.10 The answer to the individualism objection

*Human beings owe to each other help to distinguish the better from the worse, and encouragement to choose the former and avoid the latter. They should be forever stimulating each other to increased exercise of their higher faculties.*

- There is an obligation to help the self-development of others through exhortation and persuasion, but not compulsion and coercion.
- Therefore, you have no moral obligation to develop your own virtues, but you do have a moral obligation to help others develop them!
- It is **never permissible** to interfere with the liberty of others in the development of their virtues and pursuit of their good, no matter how mistaken they might be about them.
- It is only self-development and autonomy that make it possible to discover and enjoy the higher pleasures.

## 17 Key concepts 5

- the individualism objection
- Liberty principle (harm principle)
- paternalism
- utilitarianism

- utility
- classical (total) and average (modern) utilitarianism
- Mill's theory of well-being and happiness
- higher and lower pleasures
- competent judges test
- Socrates and the fool example
- indirect pursuit of happiness
- self-development (humans as progressive beings)
- experiments in living
- the argument for liberalism<sup>7</sup>

## 18 Lecture 6: Human Rights

### 18.1 Natural law

#### Political philosophy

- Premodern political philosophy: politics is natural (part of the natural/religious world).
- Modern political philosophy: politics is conventional.
- But there are "natural rights" whose source is not politics but human nature (or God).
- That is, there are basic norms that are universal and "come before" politics.
- They can be discovered by reason (rationality).

*Every man ought to endeavour peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek and use all helps and advantages of war.* (Hobbes)

*Reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another...* (Locke)

### 18.2 Declaration of the Rights of Man and of the Citizen (1789)

**Article I** Men are born and remain free and equal and rights. Social distinctions may be founded only upon the general good.

**Article II** The goal of any political association is the conservation of the natural and imprescriptible rights of man. These rights are liberty, property, safety and resistance against oppression.

...

Thomas Paine, *The rights of man* (1791-1792): *Natural rights are those which appertain to man in right of his existence... Civil rights are those which appertain to man in right of being a member of society. Every civil right has for its foundation, some natural right pre-existing in the individual, but to the enjoyment of which his individual power is not, in all cases, sufficiently competent.*

- Rights of the citizen → political rights → civil rights
- Rights of man → natural rights (moral rights) → human rights

### 18.3 The Universal Declaration of Human Rights (1948)

- All human beings are born free and equal in dignity and rights.
- Everyone has the right to life, liberty and security of person.
- No one shall be held in slavery or servitude...
- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Everyone has the right to recognition everywhere as a person before the law.

### 18.4 Theories of human rights

**Natural law tradition:** Human rights are the natural rights (moral rights based on the laws of nature) of the Western Enlightenment political philosophy tradition.

**Quietism:** *We agree about the rights but on condition that no one asks us why.* (Jacques Maritain)

**Interest-based accounts:** Human rights are formulations or expressions of fundamental human interests.

*[I reject] the idea of abstract right as a thing independent of utility. I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being.* (Mill)

**Practical accounts:** Human rights as the currency of "public reasons", that is principles and norms that all decent political communities accept. (To account for them, you must start from looking at the practice of human rights.)

**Agency-based accounts:** Human rights are protections of human agency (being an autonomous actor or decision maker).

**Institutional accounts:** Human rights are requirements of justice (you have to first work out a theory of justice to account for them).

**Agnosticism:** There may be no single justification of human rights. They can be justified on different theoretical bases. (E.g. natural law theory, utilitarianism, agency-based accounts, justice, ...). What matters is the general acceptance and political implications.

### 18.5 The metaethical commitments of human rights

What are the in-built assumptions of human rights?

**Moral realism:** There are moral facts that make moral judgments true or false (objectivity). (When one says people have moral rights, one expresses a fact.)

**Cognitivism:** Moral judgments express beliefs. Moral disagreements are genuine disagreements. (Disagreements about human rights are genuine disagreements that can be resolved).

**Anti-relativism:** Moral reasons apply to everyone. (Human rights are universally valid, that is, possessed by everyone.)

## 18.6 Tidying up

A frequent (and not entirely invalid) criticism of the development of human rights is that they are too expansive:

- Everyone has the right to life, liberty and security of person.
- Everyone has the right to freedom of opinion and expression.
- Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.
- Core human rights: articles 1-5
- Civil and political rights: ca. articles 6-21
- Social rights: articles 22-29

## 18.7 Are human rights universal?

American Anthropological Association, Statement on Human Rights (1947) *How can the proposed Declaration be applicable to all human beings, and not be a statements of rights conceived only in terms of the values prevalent in the countries of Western Europe and America? ... Standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the belief or moral codes of one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole.*

## 18.8 Are there multiple human rights "models"?

### 18.9 What are the features of human rights?

Are human rights conditional? Unconditional

Can human rights be alienated? Inalienable

Do they apply to everyone? Universal

Are human rights granted by the state? Prepolitical

Who can violate human rights? Institutional

### 18.10 What are the features of human rights?

The asymmetrical nature of human rights

- Having a right entails that there is a corresponding obligation: an obligation holder that has to respect or fulfill the right.
- Human rights are not granted by political authority.
- But the obligation holder is political authority: violations of human rights are acts committed in an official capacity.

### 18.11 Human rights and history

Did Athens violate human rights by allowing slavery?

- Human rights are not granted by the state or political authority; they are independent of social or political recognition.
- Human rights do not vary with social, cultural historical, or economic circumstances: they apply to all humans in all political societies.

Socrates says: *We should listen to some opinions but not others. We should value the good opinions, but not the bad ones. We should listen only to the expert on justice and injustice, to the one man, and to truth itself.*

- We are autonomous moral subjects who should care about justifications.
- If we are to accept political authority, we are owed a justification.

## 18.12 Human rights and political authority

1. Political authority demands that you take its command as exclusionary reasons.
2. This demand is justified by the claim that the holder of political authority is entitled to rule. (Its source of authority is not mere power.)
3. The claim that the holder of political authority is entitled to rule is the claim that its rule is morally justified.
4. If its entitlement to rule is morally justified, then its justification can be **addressed to you** (over whom the political authority rules).
5. If that justification can be addressed to you, then you must be an autonomous moral subject (Slaves are not given justifications).
6. You can only be an autonomous moral subject if you have basic rights.

### Political authority

Political power that claims legitimacy (the moral entitlement to issue authoritative commands, that is, to provide exclusionary reasons) presents itself as being **morally justified** towards its subjects:

- Political power necessarily appeals to some form of consent or endorsement or acceptance of its subjects.
- But this assumes that subjects are in a position to provide that consent or endorsement or acceptance.
- But this is incompatible with the idea that the life of the subjects is not secure, that they are in slavery or subjected to torture or inhuman treatment or lack a right of recognition before the law.

## 19 Key concepts 6

- natural law, natural rights, civil rights
- moral rights and human rights
- features of human rights:
  - unconditional
  - inalienable
  - universal
  - prepolitical
  - institutional



- human rights and obligations
- human rights and political authority

## 20 John Rawls: A Theory of Justice

### 20.1 Justice as fairness

- sketch of main ideas of theory of justice
- classical utilitarian and intuitionist conceptions of justice and consider differences between them and justice as fairness
- primary subject of justice: the basic structure of society
- aims to develop a theory of justice that is alternative to dominant doctrines

### 20.2 The role of justice

- intuitive conviction of primacy of justice:
  - the main goal of laws and institutions
  - welfare of society can't override a person's inviolability founded on justice
  - justice doesn't allow sacrificing few for the good of many
  - injustice is tolerable only when it serves to avoid greater injustice
  - truth and justice are uncompromising
- the role of the principles of justice
  - suppose that a society is a more or less self-sufficient association of persons who live under some social contract
  - suppose further that the social contract is designed for the good of those taking part in it
  - then, the society is characterized by both conflict and identity of interests
  - there is identity of interests since cooperation benefits all
  - there is conflict because people care who gets how many benefits
  - principles of social justice determine the norms who benefits how much from the social cooperation
- society is well-ordered when it is regulated by public conception of justice and it benefits its members by design
  - in such society
    - \* everyone accepts same principles of justice
    - \* social institutions satisfy these principles
  - in such society, if one member demands unjustly much from another then the principles of justice create a common ground to regulate such demands
  - in such society, the general desire for justice limits the pursuit of other ends
  - existing societies are rarely well-ordered

- what is just and unjust is usually in dispute
- still, people recognize the need for a set of principles of basic rights and duties
- people with different conceptions of justice can agree that institutions are just when they act on principles and not arbitrarily
- distinction between **the concept of justice** (to base institutions on a set of principles) and **the conceptions of justice** (specific sets of principles)
- some degree of agreement in conceptions of justice is needed for a human community
- other problems are coordination, efficiency, stability:
  - the plans of individuals must be fitted together
  - execution of social ends should be done efficiently and consistently with justice
  - the cooperation must be stable, that is based on stable principles
- lack of justice leads to distrust and resentment, these in turn ruins society and human activity
- *one conception of justice is preferable to another when its broader consequences are more desirable*

### 20.3 The subject of justice

- *primary subject of justice is the basic structure of society*
- fundamental rights and duties
- division of advantages from social cooperation
- social institutions examples: legal protection of freedom of thought, competitive markets, private property as means of production, monogamous family
- deep inequalities, or starting places of different members of society
- principles of social justice must primarily address these inequalities
- limits on the scope of inquiry:
  1. not concerned with justice between states nor nations
  2. not concerned with general case, i.e. principles satisfying all possible scenarios
  3. concerned only with society as a closed system independent from other societies
  4. concerned only with well-ordered society, everyone is presumed to act justly and uphold just institutions
  5. what would a perfectly just society be like?
  6. consider only strict compliance, not partial
- the concept of the basic structure
  - which institutions should be included?
- a conception of social justice

- assess the distributive aspects of the basic structure of society
- social ideal
- principles of justice are the most important part
- social idea connects them with a conception of society, with aims and goals of social cooperation
- various conceptions of justice are results of different notions of society
- *any reasonably complete ethical theory must include principles for distributive principles for the basic structure of society*
- *the **concept of justice** I take to be defined by the role of its principles in assigning rights and duties and indefining the appropriate division of social advantages*
- *a **conception of justice** is an interpretation of this role*
- is this approach consistent with tradition?
  - Aristotle about justice: refraining from *pleonexia*<sup>4</sup>

## 20.4 The main idea of the theory of justice

- justice as fairness
  - goal: create a social contract theory more general and at higher abstraction level than Locke, Rousseau and Kant
  - social contract should be based on principles that every free and rational person would accept
  - these principles shall regulate all further agreements
  - participants in social cooperation choose together the principles upon which they build the concept/conception (?) of justice
  - just like each person must decide what's good and evil, a group of persons must decide together what's just and unjust
  - the original position of equality corresponds to the state of nature in the traditional theory of the social contract
  - the essence of justice as fairness: in the state of nature no one has any leverage for rigging the system in his favour so the agreed-on social contract must be fair
  - it does not mean that justice and fairness are the same
  - a social situation is just if we would have consented to it in a scenario of going from the state of nature through subsequent steps of development of social contract
  - treats parties in the initial situation as rational and mutually disinterested
- principle of utility – would it be accepted by people in the position of equality?
- if we understand the principle of utility (like Rawls does) as the algebraic sum of everyone's good, than no, because people

want to protect their interests and won't sacrifice them for general sum of advantages

- so the principle of utility since incompatible with social cooperation among equals for mutual advantage
- notion of reciprocity is implicitly in the notion of a well-ordered society
- persons in the initial situation of equality would rather choose 2 different principles:
  1. equality in assignment of rights and duties
  2. social and economic inequalities, for example inequalities of wealth and authority, are only just if they compensate everyone
- justice as fairness consists of two parts:
  1. an interpretation of the initial situation and problem of choice
  2. a set of principles which according to the theory would be agreed to
- justice as fairness is an example of a contract theory

## 20.5 The original position and justification

- one conception of justice is more reasonable and more justifiable than another if rational persons in the initial situation would choose its principles over those for the role of justice
- connection between theory of justice and theory of rational choice – which principles would be chosen by rational beings in initial situation?
- this depends on the interpretation of initial situation
- contract approach: collect weak but widely accepted premises into more specific conclusions
- **reflective equilibrium**
  - we search for description of initial situation, starting from both ends
  - start with shared and weak conditions
  - derive set of principles from these conditions
  - if not, look for more premises
  - if we find friction between conclusions and our considered convictions of justice, we can either modify the account of the initial situation or revise our existing judgements
  - we repeat back and forth
  - finally we reach the reflective equilibrium
  - it is equilibrium because our principles and judgements coincide
  - it is reflective because the judgements reflect the principles

<sup>4</sup>greed

## 20.6 Classical utilitarianism

- goal: work out a theory of justice alternative to utilitarian thought
- contrast between the contract view and utilitarianism
- the structure of an ethical theory depends on how it defines and connects the two notions:
  1. the right
  2. the good
- teleological theories: the good is defined, then the right is defined as that which maximizes the good
- teleological theories intuitively seem to be rational
- teleological theory allows us to judge what things are good without considering if they are right – for example this leads to maximizing pleasure
- teleological theories depend on how we define the good:
  - realization of human excellence: perfectionism (Aristotle, Nietzsche)
  - pleasure: hedonism
  - happiness: eudaimonism
  - etc.
- Rawls defines it as satisfaction of rational desire
- for utilitarian view of justice does not matter how the sum of satisfactions is distributed among individuals

## 20.7 Two principles of justice

- two principles of justice should be agreed to in the original position
- first formulation:
  1. *each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others*
  2. *social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage and (b) attached to positions and offices open to all*
- the following liberties are to be equal by the first principle: political liberty (to vote and hold office), freedom of speech and assembly, liberty of conscience and freedom of thought, freedom of person, right to hold personal property, freedom from arbitrary arrest and seizure
- injustice is simply inequalities that are not to the benefit of all
- exchanging between basic liberties and economic and social gains is not permissible in this theory (because the basic liberties rule is the first one)

## 21 Lecture 7: Justice – Rawls

### 21.1 Classifcal liberalism

**Mill's liberty (harm) principle:** *The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.*

**Rawl's principle of liberty:** *Each person has an equal right to the most extensive scheme of basic liberties that is compatible with a similar scheme of liberties for others.*

### 21.2 Utilitarianism

### 21.3 Welfare economics

#### 21.3.1 Pareto optimality

In the absence of interpersonal comparisons of utility, welfare economics have only **limited normative principles** to evaluate social states.

$$\forall_{i,x,y} x \succeq_i y \wedge \exists_{j \neq i} x \succeq_j \rightarrow x \succ y$$

#### 21.3.2 Pareto improvement

A policy change that makes some individuals better off without making anybody worse off.

#### 21.3.3 Pareto efficiency

A social state in which no further Pareto improvements are possible.

#### 21.3.4 Pareto principle

The normative principle that Pareto improvements are desirable to implement.

### 21.4 Welfare economics

Pareto optimality does not provide a complete ordering of social states.

### 21.5 The original position

#### 21.5.1 Submit to the veil of ignorance

- you do not know your morally irrelevant characteristics
- you are not concerned with others' interests
- you do not know your own conception of the good
- you do not know your position in society
- thus, you become a "moral person"

**Moral person:** rational, neither risk-averse nor risk-seeking person with a sense of justice, able to act in accordance to her own conception of the good, not influenced by envy, has a life plan, able to assess her goals from a moral point of view.

- the preferences of the moral person are **morally authoritative**
- the veil of ignorance is Rawl's interpretation of **moral impartiality**

## 21.6 The veil of ignorance

### Information that is excluded:

- the economic, social and cultural development of society
- the type of economic and social system
- the generation the parties belong to
- the social, political and economic position of the parties
- their abilities, talents, intelligence, etc.
- their conception of the good
- their psychological propensities, including their risk attitude

### Information that is included:

- general social and psychological laws
- that each person has a conception of the good
- that each has a sense of justice
- that their society is characterized by the circumstances of justice
- primary goods

## 21.7 Primary goods

Even though you don't know what you want in society, you know there are goods which are rational to want whatever you want. Thus, you aim at **maximizing your bundle of (social) primary goods** for yourself (or for those you represent).

**Social primary goods:** rights, liberties and opportunities, power, income, wealth, (the social bases of) self-respect.

**Natural primary goods:** health, speed, intelligence, imagination etc.

- The distribution of social primary goods can be influenced by policy.
- Natural primary goods are influenced by the basic structure of society, but are not under its direct control.
- Primary goods are the means of any other goals which the parties have in society.

## 21.8 The circumstances of justice

**You know that the circumstances of justice apply to your society.**

- People are physically close, they are roughly equal, and their psychological and intellectual abilities are finite.
- Goods are only moderately available, but not extremely scarce, thus there is competition (**conflict of interests**):
  - if there was abundance, there would be no conflict of interests
  - if there was extreme scarcity, there would be no exchange
- People are only moderately other-regarding, thus they need to coordinate their actions (**common interests**):

- if they were too altruistic, there would be no need for justice
- if they were too egoistic, no constraints could be maintained among them

## 21.9 Constraints on the concept of right

**Exclude those conceptions of justice which are in conflict with the constraints on the concept of right**

**Generality:** The principles cannot contain proper names, concrete descriptions, etc., only general properties and relations.

**Universality:** The principles must apply to all moral persons.

**Publicity:** The principles must be intelligible and accessible to all, and they must be commonly known such that everyone can assess and accept them.

**Ordering:** The principles must be able to evaluate competing claims.

**Finality:** The principles provide the basis for decisions which are final; there is no "higher point of view".

### 21.10 The maximin rule

Note that you can be in any position in society, thus you have to select a conception of justice knowing that you might turn out to be the least advantaged member of society. To ensure that you have an adequate amount of primary goods even if you are the least advantaged member of society, choose the conception of justice using the **maximin rule**.

If  $g_i$  is the index of primary goods of person  $i$  in a society with persons  $N = \{1, \dots, n\}$ , then a social state  $x$  is at least as good (or just) as  $y$  iff:

$$\min(g_1(x), g_2(x), \dots, g_n(x)) \geq \min(g_1(y), g_2(y), \dots, g_n(y))$$

### 21.11 Utilitarianism

#### 21.11.1 Classical (total) utilitarianism

If  $u_i$  is the utility of person  $i$  in a society with persons  $N = \{1, \dots, n\}$ , then a social state  $x$  is at least as good (or just) as  $y$  iff:

$$\sum_{i=1}^n u_i(x) \geq \sum_{i=1}^n u_i(y)$$

#### 21.11.2 Modern (average) utilitarianism

If  $u_i$  is the utility of person  $i$  in a society with persons  $N = \{1, \dots, n\}$ , then a social state  $x$  is at least as good (or just) as  $y$  iff:

$$\frac{1}{n} \sum_{i=1}^n u_i(x) \geq \frac{1}{n} \sum_{i=1}^n u_i(y)$$

### 21.12 Justice as fairness

In the choice between **utilitarianism** and **justice as fairness**, choose the latter, since the maximin rule leads to a conception of justice which does not permit the sacrifice of any individual for the community's benefit and distributes resources so as to benefit everyone, and in particular the least advantaged – thereby you

maximize your minimum prospects. (Utilitarianism violates the **separatedness of persons**.)

#### Reasons against the principle of utility:

1. There is no basis for probability assignments for the outcomes.
2. There is no special reason for trying to obtain more than the minimum.
3. The alternative principles have very bad possible outcomes.

### 21.13 The principles of justice

**(I) First Principle** Each person has an equal right to the most extensive schemes of basic liberties that is compatible with a similar scheme of liberties for others.

**(II) Second principle** Social and economic inequalities are to be arranged so that they are **(a)** reasonably expected to be to everyone's advantage; **(b)** attached to positions and offices open to all.

- **(I)** is also known as the **Principle of Liberty**
- **(II/b)** is known as the **Principle of Fair Equality of Opportunity**
- **(II/a)** is known as the **Difference principle**

#### Priority rules

Ordering:

1. Principle of Liberty
2. Principle of Fair Equality of Opportunity
3. Difference Principle

#### The division of labor between the principles

- The Principle of Liberty provides the grounds of political equality
- The principle of Fair Equality of Opportunity corrects the differences of social contingencies
  - Fair Equality of Opportunity is more demanding than the Formal Equality of Opportunity
- The Difference Principle corrects disadvantages caused by differences in natural abilities

## 22 Key concepts 7

- Pareto optimality, Pareto improvement, Pareto efficiency
- original position
- veil of ignorance
- moral person
- impartiality
- primary goods (natural and social)
- circumstances of justice
- constraints on the concept of right

- maximin rule
- total and average utilitarianism
- Principle of Liberty
- Principle of Fair Equality of Opportunity
- fair versus formal equality of opportunity
- Difference Principle
- lexicographic ordering