

## **JUSTICE AND HUMAN GOOD**

### **PHILOSOPHY 224**

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**SPRING, 2002** Wednesdays 2:30-5:20 in the Phil Dept Seminar Room, HSS 7077

Contemporary theories of justice frequently suppose that a legitimate state does not coerce people to comply with values or principles that they could reasonably reject. This ideal of legitimacy is thought to imply neutrality on the good: The State should not coerce people to comply with controversial conceptions of the good (which people could reasonably reject). As Ronald Dworkin puts the point, the government's policies should "be neutral on the question of the good life, or of what gives value to life." Liberal neutrality is sometimes described as a generalization of policies of religious tolerance: Just as the state should be neutral with respect to religious questions, so too the state should be neutral with respect to questions about the good life."

Critics have challenged liberal neutrality. One strand of criticism raises doubts as to whether neutrality is a feasible or even possible policy for a government to follow. This criticism prompts clarification of what we might mean by "neutrality" and the attempt to specify a neutrality constraint that is at least feasible and perhaps attractive.

Another strand of criticism argues that the adherents of neutrality presume an asymmetry between the right and the good, such that whereas reasonable people cannot be expected to agree about what is good, they can agree about what is fair or right or just. The claim then goes that this asymmetry is unfounded, and the skepticism that would hold that reasonable agreement on the good is out of reach, applied to issues of justice, would hold that reasonable agreement on the right is equally beyond reach. We either get skepticism across the board or we rethink the considerations that prompted skepticism and allow agreement on the good and on the right to some extent to be available as a basis for state policy.

The question then arises, what conception of human good makes most sense, or makes most sense for purposes of a theory of justice. Does what we owe each other by way of just and fair treatment depend on what is good for people, and if so, how? Conceptions of the good divide into subjectivist (what is good for an individual is fixed by that very person's attitudes and opinions and desires) and objectivist (what is good for an individual is fixed objectively and independently of that very person's attitudes and opinions and desires).

A different question about the good is to what extent an individual's freedom to lead her life as she chooses is properly constrained by requirements of justice. According to some views of what justice requires, its demands swallow up individual freedom. What do we really owe to each other?

Texts: George Sher, *Beyond Neutrality: Perfectionism and Politics*; Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality*; G. A. Cohen, *If You're an*

*Egalitarian, How Come You're So Rich?*. Copies of required essays and suggested further readings will be placed in the Department Library,

Workload: Informed participation in weekly seminar discussions; one or more oral seminar presentations; and a term paper that explores a significant course reading and theme. (Auditors are welcome.)

For each week's seminar, participants are expected to have read the required readings (listed in 12 point type), not the further recommended readings (listed in smaller type). The recommended readings suggest possibilities for further exploration for those especially interested in a particular topic or who might be thinking of doing a term paper in this area.

Weekly Topics.

1. Example: Neutrality and Prohibition of Dangerous Recreational Drugs.

Douglas N. Husak, "Liberal Neutrality, Autonomy, and Drug Prohibition," *Philosophy and Public Affairs* (Winter, 2000); Samuel Freedom, "Liberalism, Inalienability, and Rights of Drug Use"; and John Kaplan, *The Hardest Drug* (excerpt).

2. The Moral Limits of the Criminal Law. Paternalism and Legal Moralism.

Joel Feinberg, *Harm to Self*, chapter 17 ("Legal Paternalism") and chapter 20 ("Voluntariness and Assumptions of Risk"); Feinberg, *Harmless Wrongdoing*, chapter 29 ("Moral Conservatism: Preserving a Way of Life").

Further recommended reading: Joel Feinberg, "Legal Paternalism."

3. Classical statements of neutrality.

R. Dworkin, "Liberalism,"; C. Larmore, *Patterns of Moral Complexity*, chapter 3, "Liberalism and the Neutrality of the State"; T. Nagel, "Moral Conflict and Political Legitimacy," *Philosophy and Public Affairs* (1987).

Further recommended reading: John Rawls, "Social Unity and Primary Goods"; Rawls, "The Priority of Right and Ideas of the Good." Also: G. Sher, *Beyond Neutrality: Perfectionism and Politics*, chapters 1-2; Brian Barry, *Justice as Impartiality*, chapter 7; R. Arneson, "The Priority of the Right over the Good Rides Again" (review of Barry), *Ethics* (October, 1997); Charles Larmore, "The Moral Basis of Political Liberalism," *Journal of Philosophy* (December, 1999); Larmore, *The Morals of Modernity*, chapters. 6-7; Peter de Marneffe, "Liberalism, Liberty, and Neutrality," *Philosophy and Public Affairs* (1990).

4. Liberal neutrality attacked.

G. Sher, *Beyond Neutrality: Perfectionism and Politics*, chapters 3-4.

Further recommended reading: Sher, *Beyond Neutrality*, chapter 5; Joseph Raz, *The Morality of Freedom*; T. Hurka, Review of *Beyond Neutrality*, *Ethics* (October, 1998); Joseph Chan, "Legitimacy, Unanimity, and Perfectionism," *Philosophy and Public Affairs* (Winter, 2000); Steven Wall, *Liberalism, Perfectionism, and Restraint*, chapters 3-5; William Nelson, "Liberal Theories and Their Critics."

Perfectionists on the Good: Thomas Hurka, *Perfectionism*; Sher, *Beyond Neutrality*, chapter 9.

5. Fusion: A liberal theory of right married to a liberal account of ethics, value & good. Dworkin on equality of welfare and equality of resources.

R. Dworkin, *Sovereign Virtue*, chapters 1-2; Philippe Van Parijs, *Real Freedom for All*, chapter 3 (“Undominated Diversity”).

Further recommended reading: Larry Alexander and Maimon Schwarzschild, “Liberalism, Neutrality, and Equality of Welfare versus Equality of Resources,” *Philosophy and Public Affairs* (Winter, 1987).

6. Fusion, continued. Dworkin on the ethical foundations of liberal equality.

Dworkin, *Sovereign Virtue*, chapter 6; Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, pp. 199-207; Thomas Hurka, “Indirect Perfectionism: Kymlicka on Liberal Neutrality,” *Journal of Political Philosophy* (1994).

Further recommended reading: Dworkin, “Can a Liberal State Support Art?”, in his *A Matter of Principle*, pp. 221-233; Harry Brighouse, “Neutrality, Publicity, and State Funding of the Arts,” *Philosophy and Public Affairs* (Winter, 1995); Wall, *Liberalism, Perfectionism, and Restraint*, chapters 6-8.

7. The capabilities approach to social justice.

A. Sen, *Inequality Reexamined*, chapter 3; Martha Nussbaum, “Human Functioning and Social Justice: In Defense of Aristotelian Essentialism,” *Political Theory* (1992); Nussbaum, “Women and Cultural Universals,” in her *Sex and Justice*; Nussbaum, *Women and Human Development: The Capabilities Approach*, chapter 3 (“The Role of Religion”).

Further recommended reading: Martha Nussbaum, “Aristotelian Social Democracy”; *Ethics Symposium on Martha Nussbaum* (October, 2000); Philip Pettit, “Capability and Freedom: A Defence of Sen” *Economics and Philosophy*; R. Dworkin, *Sovereign Virtue*, chapter 7, “Equality and Capability.”

8. Justice versus individual good? Left-egalitarian critics of liberalism.

G. Cohen, chapters 8-9 of *If You're So Egalitarian, How Come You're So Rich*; Andrew Williams, “Incentives, Inequality, and Publicity,” *Philosophy and Public Affairs* (1998); David Estlund, “Liberalism, Equality, and Fraternity in Cohen’s Critique of Rawls,” *Journal of Political Philosophy* (1998).

9. Social Justice, Institutions, and Individual Conduct.

Liam Murphy, “Institutions and the Demands of Justice,” *Philosophy and Public Affairs* (Fall, 1998); Thomas Pogge, “On The Site of Distributive Justice: Reflections on Cohen and Murphy,” *Philosophy and Public Affairs* (2000); T. Nagel, *Equality and Partiality*, chapters 1-10.

10. Does justice demand too much personal sacrifice? Can a moral person lead the good life?

S. Wolf, “Moral Saints.” *Journal of Philosophy* (1982); G. A. Cohen, *If You're an Egalitarian, How Come You're so Rich*, chapter 10 (“Political Philosophy and Personal Behavior”); J. Hampton, “Selflessness and the Loss of Self,” *Social Philosophy & Policy*.

Further recommended reading: Liam Murphy, “The Demands of Beneficence,” *Philosophy and Public Affairs* (Fall, 1993).