

## Philosophy 167

## Lecture 1 Notes

**Three questions about the state.** States claim a monopoly on the use of violence and coercion by threat of violence or physical force on the territory they control. This is not an empirical claim; it's true by definition. Moreover, there is a vague further condition, also true by definition. *A state is an entity that claims and to some considerable extent succeeds in establishing a monopoly on the use of violence and coercion by threat of violence or physical force on an indicated territory.*

If there is no entity operating on a territory that is playing that role, then we'd say that territory is stateless.

A fourth condition might or might not be counted as necessarily holding of an entity if it is to qualify as a state. But the condition picks out a feature that most actual states possess. The state (almost always) claims moral legitimacy. The rulers do not typically say to their subjects openly, "We've got the guns and have power over you, so Na-Na-Na, you have to do what we command." States, or leaders of states, claim that they are fulfilling the "state" role and they are morally justified in playing that role.

A traditional question for political philosophy has been, under what conditions is state coercion morally legitimate (morally justified). It's a question we pursue in this course. It divides into various questions.

1. One set of issues concerns the legitimacy of the purposes for which state power is being deployed and the acceptability of the means being employed to fulfill these purposes.
2. Another set of issues concerns how a particular set of institutions manned by a particular set of people legitimately get to be the institutions and people that function in the way characteristic of the state.

The two questions can be stated in one sentence: Why are they doing those things in the name of the state? And with different emphasis we focus on another question: Why are they doing those things in the name of the state?

3. A third question lies in the background. Given all of the people inhabiting the earth and all of the patches of territory on the earth, how does a particular group of people inhabiting a particular contiguous territory become the people and territory who are legitimately united in a single state? (So we add to the questions of the previous paragraph: Why are they doing those things in the name of the state to those people and on that particular territory?) Under this question there arise issues concerning the legitimacy of state borders, the grounds and limits of the state's claim to control the entry and exit of people across those borders, and questions of secession and national self-determination. (For example, the Kurds in Iraq today would hold that you ask the wrong question if you ask, how can Kurds, Sunnis, Shiites, and other peoples in Iraq come to live together in harmony and form one unified just nation-state? Many Kurds

think they have a right to go their own way and form their own independent nation-state (perhaps along with Kurds now living in Turkey and Iran). We touch on some of these issues in week 10.

Our first set of course readings, and especially the book by A. John Simmons and Christopher Wellman, is especially concerned with question 2 above. They raise the issue in this form: Is there a moral duty to obey the state? In other words, is there a general presumption that each of us is under a moral duty to comply with our legal obligations (at least if the state issuing laws and commands that generate these legal obligations is morally decent)? To ask this question is to approach the moral-legitimacy-of-the-state issue from a particular perspective. The background assumption is that if a state is morally legitimate, then it has the moral right to issue commands backed by coercive force, and if that is true, then those subject to the commands are (given certain conditions) morally obligated to comply with these commands, at least up to a point. The moral duty to obey state commands might be thought to apply even to unjust and unfair laws and public policies, at least within limits. Up to a point, I morally ought to do what the state commands just because the state commands it, even if what is commanded would not have been morally required if the state had not commanded it and even if the command itself is morally wrong. Roughly, both Wellman and Simmons, who take opposed views on this question, suppose that if you answer it in the negative, you are committed to anarchism or at least ‘philosophical anarchism.’”

I just note here that you might resist this way of framing the issue of the moral legitimacy of the state. You might think the state might have a rightful authority to issue coercive commands, even if there is no general obligation on the part of those commanded to obey. Or you might think there is still another way to conceive the moral legitimacy of the state issue. You might think we have a duty of fidelity to law, that is not equivalent to a presumption of a duty to obey the law. We explore this in the first weeks along with Wellman and Simmons.

In later readings, Robert Nozick is concerned with both questions 1 and 2. Later authors starting with John Rawls are more focused on question 1.

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**A state-centered approach.** As the discussion to this point already indicates, this course is state-centered. We pretty much assume a world of independent, sovereign states. Of such states we then ask, under what questions are they, or would they be, morally legitimate. Right-wing course authors tend to favor a restricted role for the state (a minimal state, as Nozick calls it). Left-wing course authors tend to favor a more expansive role for the state (including redistribution of property and other regulative measures deigned to render people’s condition more equal in some sense).

I mention in passing that you might object to this state-centered approach on descriptive or normative grounds. The objection would be that the world at the beginning of the 21<sup>st</sup> century is changing so the picture of a world of sovereign independent states no longer fits the reality. You might point to various phenomena such as globalizaton of trade,

increased regional integration (as we see with the European Union), and perhaps the dominance of a few superpowers or even just one (the U.S., for now). With vastly increased world trade, economic decisions in one country have greater impact on people in other countries than might generally have been true in the past, so perhaps there is a case for wider political regulation, on the basis that what affects all should be decided by all. The movements toward regional integration among the European nations forming the EU have not so far involved permanent irrevocable alienation of sovereignty powers, but we could imagine that occurring. National sovereignty combines a bundle of rights and powers, and some parts of the bundle might be separated out and reassigned. For example, we could imagine a future EU which has the sole power to raise an armed force and declare war or peace, the constituent members of the EU having ceded this aspect of sovereignty to the regional political union. Of such a world, we could ask, what parts of state sovereignty—the agreed state role—should be reassigned to some more inclusive political entity, and what parts should be retained at the locus of the state?

One might hold the picture of a world of independent sovereign states has always been, and is even more so now, something of a fiction, since the world always contains great powers who for better or worse have the lion's share of global influence. So perhaps we should give up the fiction and inquire, what would count as nations functioning as great powers or even as sole superpower in a morally acceptable way?

Having noted that the state-centered picture might be vulnerable to objections, I alert you to the fact that the course continues to employ it. John Rawls makes a clear statement of the approach in explaining what he is doing in his book *A Theory of Justice*. Rawls assumes we are considering the issue, what should be principles of justice to regulate a single nation-state that functions independently of others. The members of this society are assumed to be born into it and to spend their entire life within it. We thus make the simplifying assumptions that there is no immigration or emigration. We also pay no attention to international relations issues that a full theory of social justice might address. Rawls tells us he sets up the problem to be discussed in this way purely for reasons of convenience. There are many issues of social justice, of great complexity. We can't resolve them all at once. To make progress, we have to start with some piece of the total puzzle, consider it in isolation and in abstraction from other interacting issues, and try to make progress on the simplified problem thus set up. (In later works, when Rawls does discuss international relations, he does affirm that a world of independent sovereign states is positively a good thing—the only alternative would be a world state that would surely be tyrannical and would not protect the rights of self-determination of the world's free peoples.)

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**Normative questions and moral method.** The questions we take up in this course are normative questions, questions in moral philosophy. Our question is, what would count as morally acceptable, just political arrangements.

To investigate the question, we look at various questions of social policy. In this or that domain, what policies make sense? We then look for principles that would justify the

policies (and actions) that seem most plausible to you after reflection. Justification is derivation. Given a specification of facts, candidate principles will imply a policy or set of policies—what morally ought to be done in those specified circumstances. An acceptable set of principles is one that yields in this way policies in actual, likely, and just possible circumstances that are acceptable to us after ideally extended reflection and argument. Someone who accepted the proposed general principles would be committed to accepting the policies that follow from those principles in any set of circumstances she might face.

Put another way, the task is to seek a reflective equilibrium between one's general principles and particular judgments. We tack back and forth, testing proposed general principles by the intuitive acceptability of the particular moral judgments (about policy to be adopted) the principles would yield in specified circumstances, and testing our particular moral judgments by trying to find general principles that would explain and justify them, and which we find intuitively acceptable. We seek a state of reflective equilibrium in which we are satisfied with the principles we tentatively accept and the moral judgments that follow from them. But any such reflective equilibrium might be upset by further moral argument or discussion. Someone might point out to me that the principles I claim to accept would justify slavery or massive denials of free speech in certain possible circumstances, and am I prepared to accept those implications of these principles? If not, I am in reflective disequilibrium again, and must go back to the drawing board. One then can form the notion of an ideal reflective equilibrium, reached after ideally extended deliberation involving no cognitive or reasoning errors that considers all relevant arguments that bear on the acceptability of our moral claims. What we would believe in ideal reflective equilibrium, one might hold, is what is morally true.

The characterization in the previous paragraph describes the enterprise of moral theory as John Rawls envisages it in chapter one of his *A Theory of Justice* (see especially section 9, "Some Remarks on Moral theory"). For Rawls, we seek a genuine moral theory or theory of justice, a set of principles that implies all the moral claims we find acceptable. You might doubt this conception of method in moral theory. One possible ground of doubt is that we ever get principles that can be ordered in a theory as Rawls supposes. The alternative is that our general moral norms form an unordered set. The norms say that for example that we should keep our promises and tell the truth, but these norms can come into conflict in particular circumstances, and there is no general resolution of such conflict—we just have to consider how to balance our norms as best we can case by case, relying on our particular intuitive judgment. This is the position Rawls calls "intuitionism." Another possible outcome of moral reflection is skepticism—this is the view that there are no correct or right answers to ethical questions. The skeptic might allow that we have strong moral convictions and that the language in which we express our convictions seems to be a fact stating language, so moral claims appear to be capable of being true or false. But this appearance is misleading—we find as we go deeper and deeper into the subject that there is no truth (or falsity) to be had in this domain of inquiry. Skepticism might be correct. Or intuitionism might be correct. Since we will not make much progress toward ideal reflective equilibrium (I predict) in this class, skepticism and intuitionism cannot be dismissed. They are live possibilities competing

for our allegiance. But in this course they are not our focus of attention. Our course texts, though disagreeing among themselves, pretty much agree that there are correct answers to be found to the questions of political morality we shall be considering.

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**Explanations and justifications of the state.** An attempt to show that a state is morally legitimate might be backward-looking or forward-looking. A backward-looking approach asks whether the actions that people took that led to the present situation in which a state commands its subjects' allegiance were actions that were morally right, actions the people who took them had a right to take. For example, if the present rulers took power by way of a wrongful coup, that would cast grave doubt on a backward-looking justification of state legitimacy. A forward-looking approach to justification would ask, however the present state got established, will continuing it in its present form, or will maintaining one's allegiance to it, do better at promoting fulfillment of people's moral rights than discontinuing or abolishing it, or withholding our allegiance from it

We distinguish justifications of the state from empirical explanation. Most of the questions we investigate in this course are linked to empirical questions that social science might seek answers to. Of states, for example, we might ask how they arose—how we got to a world of states. Or we might ask how a particular state system arose. Getting the answers to such questions would give us empirical explanations, answers to questions about what are the causes of phenomena of interest to us. But an explanation might have no tendency to justify, and one might have a justification of the basic institutions and practices of a state without having any idea of how these came to exist.

For an example of non-justifying explanation, consider Mancur Olson's speculative explanation of the rise of states. Olson postulates peaceful farmers living in an enclosed territory—a valley surrounded by mountains, for example. Some people come to choose to make their living not by farming but by preying on farmers by banditry. At first, one then gets bands of bandits operating on a territory, preying on the peaceful inhabitants. In this situation there is conflict of interests between farmers and bandits, but also conflict of interest between the various bandit gangs. What one bandit gang takes from farmers, another gang could have taken instead, if the first gang were not operating. So bandit gangs are rivals. There might be stable rivalry—an equilibrium of many bandit bands jostling against each other and forcibly stealing some farmers' crops. But alternatively there might be armed rivalry among bandit gangs leading to the emergence of a single dominant bandit gang (DBG) on the territory. The DBG crushes competition. It dominates. What happens then depends on the time preferences of the leaders of the DBG. If they greatly prefer present to future satisfaction, they kill the farmers and take whatever they can get their hands on and consume it. But this would as it were kill the goose that laid the golden egg. If the DBG leaders have a sufficiently long time horizon, care enough about future satisfaction as against present satisfaction, they will find it in their interest to strike a deal with the farmers they prey on to their mutual advantage. Random banditry raids of uncertain size will induce farmers to stop farming or labor secretly, hiding tiny amounts of produce. So a DBG rationally pursuing its long-term

interest will make a proposal along this line to the farmers: We will take twenty per cent of your crop once a year, and the rest is yours to keep. If the farmers can be induced to believe this threat/offer, the farmers may find it in their interest to work hard to grow their crops, to maximize the yield they can keep for themselves.

But now, Olson says, the DBG has effectively transformed itself into a state. (Brooking no competition, it claims and effectively establishes a monopoly on the use of force and violent coercion.) The DBG is a state that carries out the one function of pure taxation—taxation with no goods provided in return. Or rather, the DBG may claim, perhaps correctly, that they are benefiting the farmers in a way, since the farmers are better off, with a stable DBG and regular limited raids, than the erratic uncertain frequent raids under the bad old days with many bandit gangs operating on the territory. To look authentically state-like, all that needs to occur is that the DBG leaders put on purple robes, adopt pomp and ceremony, and make up elaborate myths about their grandeur and heroic role in saving the country from anarchic banditry.

Olson suggests as a hypothesis for investigation, that perhaps this stylized story roughly fits the essential facts, that explain how actual states first arise. This suggestion might be good or bad social science. But it is clear that if this turned out to be a successful explanation of how a state arises, that explanation would not per se count as anything approaching a moral justification of that state.

In contrast, suppose the story goes in a different way. Initially there are bandits operating on a territory, and the farmers organize collective schemes of self-help to protect themselves from the bandits. Gradually the self-help scheme develops into a more formal and organized enterprise, and from this enterprise something recognizable as a state gradually emerges. Here explanation could also plausibly serve as justification. The explanation of the state might show that it is morally legitimate and that its inhabitants owe their allegiance to it. As stated, this would be a backward-looking justification. You could also imagine a forward-looking justification that focuses on the morally legitimate functions that the state effectively carries out. Here the function in play is protection against morally wrongful predation. We might imagine someone saying of an Olson-type DBG that preserves peaceful order on the territory it controls and in effect taxes the inhabitants to pay for this service, that no matter how this state arose, even if there is a blood-stained history, what matters now is just this: is the state carrying out a morally legitimate function and is it distributing the costs of that function in a fair way among those who are its beneficiaries? If the answers are yes and yes, then perhaps we have a morally legitimate state.

The possibility we have arrived at is roughly the one that appears morally threatening to Nozick, and which he marshals arguments to rebut. We are in the neighborhood of what he calls the “Principle of Fair Play.” More on this, next class.