Political Libertarianism and its Critics

Distributive Justice, Rational Choice, and Public Goods

PHIL 3195
Fall Semester, 2009
Meetings: TF 1-2:15 pm

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Office Hours: Tuesdays and Fridays 3 - 5:00 pm and a few Wednesdays by appointment. Thursdays I teach a graduate seminar at RH, and I'm at RH most Wednesdays for department meetings. Mondays I can be reached by email at home.

Course Goals. This course is an interdisciplinary elective that critically explores a key tradition of 'neoconservative' political thought that has roots in classical economic theory and that has been very influential in American politics. Political libertarianism is a theory of social justice that gives primacy to an ideal of individual liberty deriving from Thomas Hobbes and John Locke, and to belief in free-market systems that traces to Adam Smith. It advocates minimal government limits on inequalities resulting from voluntary exchanges and contracts, and maximum freedom for markets forces, and tries to base this on a moral conception of individual rights.

While elements of this ideal were expressed by influential US reformers from Patrick Henry to Thoreau, its modern American form was established from the 1940s on in reaction against FDR's New Deal, European socialism, and of course Communism. Through Ayn Rand's novels and the writings of economists like F.A. Hayek and Milton Friedman, arguments were developed against the rising welfare state, increasing health and safety regulations, entitlement programs and graduated taxation schemes. By the early 1980s, libertarian critiques of “big government” in general, including federal spending on projects and income taxation had become so influential that they strongly affected party platforms, and have been a major force in American politics ever since. Following the anti-taxation part of the view without the rest, however, has helped to cause the enormous federal debt that left our nation with no ‘rainy day’ fund for the current economic crisis. Now public attention has returned to moral and strategic questions raised by the debt, including the issue of 'justice to future generations.'

This course will focus on the philosophical strengths and weaknesses of the libertarian approach: our goal is to assess the best theoretical defenses of libertarianism by Rand, Robert Nozick, Jan Narveson, and others, along with the best counterarguments in contemporary political philosophy. In particular, we will ask these questions:

- whether these theories provide an adequate conception of individual liberties;
- whether they recognize the full range of public goods that require coordination through law;
- whether they take account of all relevant dimensions of social justice, including starting points
in the 'game of life' and the interests of future generations;
• whether there are any good arguments for limiting the levels of socioeconomic inequalities that can arise from the 'invisible hand' of free markets.

**Major Topics in Sequence.** Here are the major course topics in the order of our readings.
- We begin with the distinction between moral and economic sources of libertarian thought, Ayn Rand's combination, and some questions about socioeconomic inequalities in America.
- Then we address the key distinction between negative liberties and positive freedoms in the theory of individual rights. We see that Rawls's thought has some libertarian elements.
- We'll consider the disagreement between Rand and Rawls over differences in life-prospects resulting from chance of birth as a central moral issue.
- We'll focus on Nozick's critique of Rawls and his theory of liberties and minimal government as the best-known contractarian argument for libertarianism, while considering Narveson's alternative formulation at least in outline (as time permits).
- Then we'll consider a series of critical responses to libertarianism, ranging from weaker to stronger versions of "public goods" that cannot be provided by markets. This idea is deployed in Hobbesian (Gauthier), intuitionist (Sandler), and utilitarian (Haslett, Singer) respondents.
- We will also consider critiques based on the idea of social capital as an inheritance and consider whether this idea can decide the question between Rawls and Rand.
- Finally, after addressing a couple policy questions (regulations, healthcare), we'll consider more explicitly political arguments for alternatives to libertarianism from (a) democratic theory and (b) the pragmatics of institutionalizing rights in mass industrial societies.

Along the way, at various points we will consider and revisit larger issues that intersect these specific debates about liberties and the need for government – such as national vs global governance, environmental resources, and justice to future generations. We'll also consider different moral theories that inform accounts of liberties, though we will not spend lots of time debating which moral theory in general is best. Our focus will be on the central questions of political justice that form our main themes.

**Required Texts:**
5. Course packet for all other readings. $20 paid by money order to Fordham University.

**Other recommended books on library reserve** (and see articles on eres)

**Course Assignments:**
An oral report 15% Includes 2-3 page written presentation on a reading.
Two short answer assignments 25% 3-page short response to a question on readings.
Take-home test 20% Covers readings through early November
One final paper 25% 12 pages + on topic (your choice) agreed with me.
Class participation 15% Includes attendance and advance reading to prep for active participation in class discussion.

Honesty and Citation: Cheating is the one unforgivable sin. Handing in work you did in another class without clearing it with me is cheating. Handing in work derived from anyone else or any secondary source without citing it constitutes plagiarism, and is grounds for failing the course. You are welcome to bring in ideas and quotes from secondary sources, but you must cite them either by footnotes or parenthetical references referring to a bibliography at the end of the paper.
— This includes paraphrases: even if you reword what the author said, cite the page number.
— It also includes websites: give the full URL of the page you cite. Note that webpages should never be the only source you cite in college essays.
— You can use parenthetical notes in the text of your essay (referring to a Works Cited section at the end), or you can use footnotes with a full reference to your source in the first footnote to it (and abbreviated references in all subsequent footnotes to it).

Course Schedule

Sept. 4: Introduction to the Class: the History of Liberalism.
(1) Four major course themes introduced.
(2) Classical contract theories: Hobbes and Locke (see selections in course packet)
(3) Natural law and natural right theories; Herbert Spencer and the notion of maximal liberties.
(4) Classical free-market theories and the "rights/utility synthesis via the market."

Sept. 8 - 11: Ayn Rand's basic positions on social justice.
(1) Historical roots continued: American liberalism and "minimal government."
(2) Historical introduction to Ayn Rand and her novels. See optional selections on eres from Chris Sciabarra, Ayn Rand: The Russian Radical, ch.4 (eres).
(3) Rand, part of John Galt's speech from Atlas Shrugged (see selection in course packet)
(4) Rand, The Virtue of Selfishness, chs.1 on ethics & chs 12-14 on rights and government.
Discussion points:
— liberties as permissions vs claim-rights
— formal and material rights

Sept. 15 - 18: Economic libertarianism: Hayek and Friedman
(2) Milton Friedman, selections from Capitalism & Freedom, chs. 1-2 (course packet).
(3) William Gates, Wealth and Our Commonwealth ch.1 on the estate tax (eres and handout).
Discussion Points (see front section of course packet for government data on taxes):
— Arthur Laffer's curve and Reagan's tax cuts;
— The Clinton tax increase and balanced federal budget;
— The Bush 2001 tax cuts; the public debt; increasing socioeconomic inequality.
Sept. 22 - 25: Berlin, MacCallum, and Rawls on negative liberties
(1) Isaiah Berlin, "Two Concepts of Liberty" in Miller, The Liberty Reader.
(3) John Rawls, selections from A Theory of Justice (course packet & eres): the notion of "justice as fairness" expressed in the "original position" idealized/imaginary social contract.

Sept. 29 - Oct. 2: Rawls vs Rand and Nozick on inequalities and the natural lottery.
Short response paper #1 due on Sept. 29.
(1) Rawls continued: equal opportunity, rights to education, and the "Difference Principle"
(3) Robert Nozick, Anarchy, State, and Utopia, chs. 1-3.

Oct. 6 - 9: Robert Nozick's Libertarian Response to Rawls
(1) Robert Nozick, Anarchy, State, and Utopia, chs. 5, 7, and ch. 9.
(2) Optional/time-permitting: Alasdair MacIntyre, After Virtue, ch.17: "Justice as a Virtue" (course packet) critiquing both Rawls and Nozick.

Oct. 13: No class following Columbus Day

Oct. 16: Jan Narveson on Libertarianism and Contractarianism
(1) The Libertarian Idea, chs. 2-3, 8, 13-14 (course packet)
Discussion Points:
- the notion of "noninterference"
- involuntarily benefitting from past wrongs and delayed reparations

Oct. 20 - 23: Gauthier's Hobbesian Critique and the concept of Public Goods
Short response paper #2 due on Oct. 20.
(1) David Gauthier, Morals by Agreement, ch. 3 (part), ch.4 (all), ch.5 (part) (course packet)
(2) Tuck, Free Riding, short selection (course packet)
Discussion Points:
- "Prisoner's Dilemma" and collective action problems;
- the Problem of 'Starting Positions' in the game of life;
- the deep disagreement between Rawls and Rand.

(1) Mark Sagoff, "At the Shrine of Our Lady of Fatima: Why Political Questions are not all Economic" (course packet)
(2) Todd Sandler, Global Challenges chs. 2 - 3 (course packet), focus esp. on ch.3.
Discussion Points:
- justice to future generations;
- the current American national debt (see charts and figures in course packet).

Nov. 3: An Indirect Utilitarian Critique of Libertarianism
(1) David Haslett, Capitalism with Morality, ch.2 (course packet).
Nov. 6: No class (instructor in Montreal at conference). Optional make-up session may be offered. The makeup class will probably discuss Thomas Nagel's argument for egalitarianism in his essay “Equality” (eres), but stay posted.

Nov. 10 - 13: Social/Cultural Capital
Take-home test due Friday Nov.13 in class.
(1) Haslett continued (if necessary).
(2) David Halpern, Social Capital, Introduction (course packet)
(3) John Field, Social Capital, selection on “Social Capital and Inequality” (course packet)
(4) Herbert Simon's claims about social capital (see 2-page reading in course packet).
  Discussion Points:
  - the range of social / cultural capital;
  - benefitting from past sacrifices for common goods;
  - the idea of a common economic and cultural 'endowment.'

Nov.17 - 20: Political Critiques and Democratic Theory
(1) Arianna Huffington, Right is Wrong, chs. 12-13 on recession and health care.
(2) Holmes and Sunstein, The Cost of Rights, Introduction - ch.7 (pp. 13-117).

Nov.24: Democratic Theory and Communitarian Critiques
(1) Holmes and Sunstein, The Cost of Rights, continued.
(2) Charles Taylor, "What’s Wrong with Negative Liberty," in Miller, The Liberty Reader.
(3) Recommended: David Shapiro, "Recent Work on Liberalism and Communitarianism,” in Philosophical Books (eres)

Dec.1 - 4: Deliberative Conceptions of Legitimate Popular Sovereignty
(1) Jürgen Habermas, Between Facts and Norms, ch. 3.1 and 3.3 on popular sovereignty and the deduction of basic rights (course packet)
(2) John Rawls, Political Liberalism, selections from "The Basic Structure as Subject" (on eres) and "The Basic Liberties and their Priority" on the fair value of political liberties (in packet)
  Discussion points:
  - the tradition of civic republicanism and "positive freedom" again
  - deliberative answers to "tyranny of the majority."

Dec.8. Conclusion: Three Different Senses of 'Justice'
(1) Historical Transfer, Merit, and Cultural Capital
(2) The Endowment Model of cultural capital, infrastructure, and the environmental base.

Dec. 11: Final class in lieu of final exam [as required by college rules].
(1) Overflows (any readings not yet discussed).
(2) Concluding thoughts.
  Final term papers due.
Political Libertarianism

Contents of Course Packet

1. Syllabus
2. Handouts on Ethical Theory (Rawls, Utilitarianism)
3. Government Data on Taxation and Articles on the Federal Debt
4. Ayn Rand, part of John Galt's speech from Atlas Shrugged
7. Milton Friedman, selections from Capitalism & Freedom, chs. 1-2, and ch.10.
8. William Gates, Wealth and Our Commonwealth, ch.1 on the estate tax
10. Alasdair MacIntyre, After Virtue, ch.17: "Justice as a Virtue"
12. David Gauthier, Morals by Agreement, ch. 3 (part), ch.4 (all), ch.5 (part)
13. Tuck, Free Riding, short selection
14. Mark Sagoff, "At the Shrine of Our Lady of Fatima: Why Political Questions are not all Economic" (from Earth Ethics, ed. Sterba)
15. Todd Sandler, Global Challenges chs. 2 - 3
16. David Haslett, Capitalism with Morality, ch.2.
18. John Field, Social Capital, selection on “Social Capital and Inequality”
20. Arianna Huffington, Right is Wrong, chs. 12-13 on recession and health care.
21. Jürgen Habermas, Between Facts and Norms, tr. William Rehg, ch. 3.1 and 3.3.
22. John Rawls, Political Liberalism, selections from "The Basic Liberties and their Priority."
23. Supplementary Materials: news articles and background essays relevant to the course.