

Contemporary Political Philosophy
Notes for the 1999 lectures

1

General introduction; Introduction to utilitarianism

Required reading: none. For today or at any other moment during the course, you are advised to read T.J. Richards, *The Language of Reason* (Rushcutters Bay, Pergamon 1978), p. 33-43 on Logical Fallacies.

Objectives of the course

Officially:

To know your way round in recent Anglo-Saxon political philosophy, in trivial pursuit, in terms and terminology, in raising the kinds of questions, doubts, concerns and irritating counterexamples that A-S philosophers like.

Exam targets: knowledge of, and design your own theory of justice

Unofficial:

- to create doubt; reflect on your prejudices;
- to learn to think creatively
- to reflect on your own life
- compromise between practical philosophy and intrinsic beauty of mathematics & logic.

Contents of the course

1. A-S pol phil in relation to French and German phil, in relation to non-pol phil.
2. Themes: justice, equality, liberty, liberal democracy. Unity/nation is assumed as given. Link to moral (individual-oriented) philosophy.
3. Aim: basis for reasonable and reasoned critique/evaluation of current practices.
4. (Hence) shortcomings: no direct practical value? For example in relation to third world, environment? Pray reserve judgement until end of course.

What you get is general introduction (Kymlicka) plus the two main books: Rawls and Nozick

Kymlicka The schools he discusses: outline

Beginning w/ utilitarianism

Central role: Rawls

Names and themes you will initially miss: Barry, environment, third world, etc.

K's thesis: recent A-S pol phil is about equality. Alternatives for which one could just as easily argue: intuitionism, liberty, justice, impartiality, 'Archimedean point' theory

Rawls: Old and new Testament

Old: Theory of Justice. Outline: libdem welfare state - anti-utilitarian; anti-intuitionist - contract theory - special characteristics: OP, reflexive equilibrium, 2P - the structure of the book, why we only read part of it, and what you'll miss.

New: Political Liberalism.

Nozick - biography, more recent work

- Libertarianism in contrast to liberalism
- structure of the theory: rights and liberty; invisible hand, society
- role of risk
- importance in his critique of mainstream liberalism aka Rawls
- importance in examples/dilemmas.

Repeat: followed by other critiques of (mostly) Rawls: communitarian, Marxist and feminist.

Introduction to utilitarianism

Most of this will be repeated in the next lecture; now only a rough outline.

- types of ethics: deontology v. Consequentialism; teleology

- bases: natural order, positivism, consent (the right)
- Henceforth came utilitarianism, long ago.
- dominant theory until 1960s (Rawls); that's why it's in.

Utility, pleasure and pain, calculus
preferences, information

Background: autonomy of individual in preferences; neutrality w/ regard to his/her theory of the good; equality since all count equally. End of metaphysics, superstition & 'common good' ideas.
Utilism and utilitarianism

Shades and schools: collective and individual.

Average and total utility: difference lies in 'making happy people' and 'making people happy'
Act and rule utilitarianism (1st in Kymlicka's terms: U-agent); self-defeating, information.

cardinal utility, ordinal utility: intra- and interpersonal comparisons.

NB: importance for economics and arguments for (free) market!

Examples of how it works:

- war
- hospital
- distribution of national budget
- social security
- education.
- Traffic policy

Note how util permeates society:

- NOT in use of the word 'utility': barbarised version of real utility
- -BUT in framing of questions: trade-offs, quantifiability, effects rather than intrinsic value, avoiding discussion on real merits, etc.
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Three things left undiscussed:

History of util; that's for a diff. course;

Why there are so many versions of util;

Critique of util.

Both last questions are for later

Utilitarianism

Required reading: Will Kymhcka, Contemporary Political Philosophy (Oxford, Oxford University Press 1990),

Introduction and chapter on Utilitarianism

Utilitarianism: in more detail

Types of ethics: deontology v. consequentialism; teleology

Util is conseq, therefore. excludes the rest.

Some things are simply beyond discussion, impossible, unimaginable - in fact: private.

Bases: natural order, ositivism, consent (the right)

Util is positivistic; again, exclusion.

- what's wrong with natural rights etc? Hume, Moore, Popper
- why consent does not matter: suboptimal outcomes.
- so why then is utility so important? Discuss positive reasons for being a utilitarian.

Background: autonomy of individual in preferences; neutrality w/ regard to his/her theory of the good; equality since all count equally.

The concept: Utility, pleasure and pain, calculus & preferences, information

Hence: four types of utility' (see book):

- welfare hedonism: the experience of happiness; hedonism
- non-hedonistic mental-state: things may feel bad yet be valued as good;
- preference satisfaction. Real life, no machine life, yet may not always be good for us (make us happy): avoiding dentist, using heroine, etc. (Note: weak critique; circular)
- informed preferences: rational preferences - but what exactly is rational? How do we know that? And: May demand a lack of information, e.g. case of adultery. Finally (K does not mention this): rationality may demand a collective theory of the good.

Hence: Shades and schools in Utilitarianism

collective and individual. Only the first of interest here. Note: basic idea of rational egoist, compatible with altruism.

Average and total utility: 'making happy people' and 'people happy'.

Subtle addition: utility over life or at a moment/time slice; temporal impartiality.

Act and rule utilitarianism (1 st: U-agent); info vs self-defeating (extinguishing) character

cardinal utility, ordinal utility: intra- and interpersonal comparisons.

Show how it works: range goods, range possible worlds.

NB: importance for economics and arguments for (free) market!

Explain: argument like this needed to prove that an economic system 'satisfies preferences'.

Repetition from lastr lecture: how U works: - war - hospital - distribution of national budget - social security - education. – traffic policy.

Note how difficult it is, especially when you're a subtle utilitarian and want to check out consequences for all people.

Some of U's good works:

- animal rights
- grand inquisitor

Critique of utilitarianism:

Following already discussed:

- impractical?
- Impossibility of inter/intrapersonal comparisons?
- Lack of clarity about meaning of utility?

New: internal:

- problem of utility monster
- problem of responsibility and risk
- sacredness of preferences v real-world development.

New: other:

- trade-offs: one person's misery for another's happiness. Russian example.
- pushpin is as good as poetry; JS Mill, problem of guaranteeing 'valuable' or intrinsically important things.
- Sen on intrinsic value: things you cannot represent (liberty; example of two choices of government; liberal paradox)
- Rawls: taking difference between people seriously
- Rawls: critique on principle behind util: equality sacrificed; humans become utility machines.
- Rawls: insensitivity to different distributions of utility

Liberal egalitarianism

Two types of problem with utilitarianism function as reasons for developing The Other View, i.e., liberal equality or egalitarianism:

- its not taking the difference between persons seriously, and
- its inability to deal with values other than utility/happiness.

1 Not taking the diff between persons seriously:

At first sight, only an adaptation/extension of utilitarianism:

- technically: distribution insensitive: one rich guy plus a million poor is as good as a million and one almost poor people.
- argument behind that: humans as utility producers (trade-offs), no attention for their personal dreams, ambitions, plans etc. In util. terms: no guarantee that resulting distribution will warrant social co-operation and the production of a maximum amount of happiness, therefore utilitarianism is or can be self-defeating.

What is needed then is a theory of distributive justice, to supplement or possibly replace utilitarianism.

Explain: Aristotle's typology of justice, role of (re)distributive justice in society (St Augustine on robbers)

What is distributive justice?

Usual description: Assignment of scarce goods to individuals on basis of a justified principle.

Amendments:

- Assignment of individual rights to goods, acts etc.
- on the basis of a justified principle, but:
- principle presumes equality unless good reasons for deviation are present.
- deviations in general defined as desert-based or need-based. (Ex: honours, aid.)
- equality of what to be defined: of indiv. utility, happiness, opportunities, freedoms, rights, goods, etc.
- Only in principle scarce goods.

Every state of affairs in a society can be seen as a result of a distribution scheme. Example: distribution card 1973. Distribution on the basis of equality, supplemented with need; no role for desert. Other example: distribution of gasoline today on the basis of financial power; kinda desert. Note: some people (eg libertarians) distinguish between enforced (re)distribution and natural distribution. They usually refuse to call the latter distribution.

In sum: util. must at least be supplemented with if not supplanted by a theory of distributive justice.

2 Second type of objection to utilitarianism: unable to deal w/ values other than utility/happiness:

- unable to include some things in calculation, e.g. liberty (Sen's point)
- unable to guarantee intrinsically valuable things, e.g. slavery, life, democracy etc.: can all be sacrificed if utility so demands, since pushpin is as good as poetry.

One could call this the Intuitionist objection, or the deontological objection (question of taste). It begs the question: why should some things be worth more than utility? Usual answer: intuition says so. But the question can be turned around as well: why should utility be so important? Do we actually care more about utility than about say freedom, and if so, why should we or shouldn't we?

Intuition: Sidgwick. (cf Wissenburg, Imperfection & Impartiality, London, UCL Press 1999).

Note that since util. needs a distr. scheme, a distr. scheme needs principle of justice, principle needs defence of equality, and equality needs substantial meaning, even a writer who merely wants to improve utilitarianism ends up with this dilemma. And as from here, s/he has no reason to presume any longer that utilitarianism is more valuable or better or whatever: s/he has to begin all over.

Objection to intuitionism, also made by Rawls: no order, no real guarantee of correctness.

Reply or solution: impartial justification procedure. And this is where Rawls came in (1958: amending utilitarianism) and liberal egalitarianism began.

3 Impartiality

A few basic suppositions, inherited from utilitarianism:

- no supreme theory of the good: liberal/practical plurality
- no a priori reason to distinguish between, discriminate against, act in favour of, any one particular person (not: all theories of the good are equally good - just persons): element of equality.

Plus more general ideas (old in philosophy, not nec'ly typically utilitarian):

- undeserved inequality to be ignored or even countered/compensated for.
- rejection of pure democracy. No serious philosopher truly 'believes' in democracy without reservations.

All this leads to the basic idea that political institutions like the state should be impartial, first and foremost, in a particular way: impartial with regard to people's plans of life. Alternatives could be: impartial with regard to people's individual preferences (cf. utilitarianism), with regard to people's deviant ideas on religious doctrine, etc.

It also leads to a problem. You don't seem to have a standard, something to hold on to, a decision procedure to choose between all the possible worlds in the universe. Without any reason to prefer any theory of the good, any person, the existing distribution of goods and talents, and without a random decision rule (democracy) - how do you proceed?

Answer: the impartial justification procedure, one that does not just apply rules impartially (e.g. 'all blondes to be shot on sight'), but also:

- makes rules under conditions that guarantee impartiality and
- makes impartial rules (i.e., rules that everyone should accept, given or despite moral plurality).

Looks like an impossible task but all it asks is a bit of creativity and in no time, you end up with dozens of Impartial Justification Procedures.

The utilitarians had their answer: the Impartial Observer. Its problem: biased by its own interest in utility.

Alternatively: sit under a tree until we all agree (contract theory); but philosophers wouldn't be philosophers if they didn't believe that this is only the representation of a purely logical argument.

4 Impartiality according to Rawls

Rawls's initial idea (1958): sit under a tree and distribute scarce goods so that everyone gets an equal share, that is: 'maximum amount of freedom and equality compatible with max. for others'. In later years, reflection and criticism forced him to create a more subtle theory; the result is extreme subtlety.

First adaptation: the veil of ignorance, guarantees impartiality yet attention for all theories of the good, all talents and handicaps, etc.

Second adaptation: reflexive equilibrium, guarantees acceptance in the real world.

Third and following adaptations: 'conditions of justice and choice', formulated in reflexive equilibrium. Examples: 'well-ordered society', relative scarcity, moral plurality, primary social goods, rational disinterest, Aristotelian principle, obligations to future generations, maximin, list of moral theories, etc.

Final adaptations in principle of justice:

- special and general conception of justice
- - exclusion of exchanges between liberty and equality;
- - lexical priority of liberty.
- - introduction of inequality.
- In short: The two principles.

Overwhelming influence, in philosophy, in welfare state politics, in international and environmental justice, etc.

5 Same, according to others including Dworkin

Each and every one of Rawls's decisions (precisions) has raised critique, resulting in alternative theories of justice - sometimes mere amendments or expansions, sometimes completely new theories.

- Ackerman: neutrality aboard a space ship. No memory loss required, just willingness to stick to conversational rules. Manna plus complications.
- Scanlon-Barry: no memory loss, no fiction; swap theories of the good, stand in all shoes, be 'reasonable' (argue only for what you can prove) etc.
- Dworkin: special attention to something Rawls forgot: primary social goods do not mean the same to us all (think of physical handicaps, utility monsters, etc.). Hence his idea of an island setting, auction with shells, swapping until 'envy test' satisfied. Following that: idea of deserved and undeserved (bad) luck: pooling of resources, insurance (cf. Welfare state).

4John Rawls - A general outline of the theory

Required reading: John Rawls, A Theory of Justice (Oxford, Oxford University Press 1971), Chapters 1-2

Rawls, 1-2

First rough inventory of the text:

- justice first virtue of social institutions
- society coop venture, mutual advantage, conflict and identity of interests; principles needed for distribution benefits and burdens, rights and duties. Well-ordered society has known and accepted principles, and rules satisfying them.
- subject of justice: basic structure. Explain.
- main idea: (justice as) fairness. Cf. Game, formal justice, see section 14. (1) dividing a cake, perfect procedural justice (2) criminal trial: imperfect procedural justice: no secure rules for determining guilt; (3) pure procedural justice: correct /fair procedure, no unquestionable criterion (only 'shared idea of fairness').
- critique of utilitarianism, distinction between the good and the right, priority of the right.
- critique of intuitionism: source unclear, order. OP solves both problems.
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Reflective equilibrium: Considered judgements & conditions of the OP. Quote p. 121

The conditions (first informal set):

- object of distribution: primary social goods (rights and liberties, opportunities and power, income and wealth, a sense of one's own worth)
- rational individuals, plans of life and theories of the good; irreducible diversity
- relevant social positions
- list of principles;
 - o two principles: general & special conception (p. 61, 63, 83, 302)
 - o Interpretation of both: 1 st principle -liberty
 - o Interpretation second principle (sect. 12-13)
 - Difference principle: distrib. equal unless;
 - table on p. 65: versus Pareto optimality (NWO)
 - chain connection: advantage over maintaining pure equality
 - trickle-down effect
 - Fair equality of opportunity: cf Napoleon
 - overall: sect. 17: tendency towards equality.
 - Critique: blackmail
- the veil of ignorance: cf. Dividing the cake

explain table on p. 109:

principles for individuals: fairness, p. 112 top; natural duties, ie independent of shape of society: duty of justice (to contribute to mutual advantage).

Some words on the rest of Rawls's theory: four phases, etc.

Rawls II - The original position: finding a black cat in a dark room (blindfolded)

Required reading: John Rawls, A Theory of Justice (Oxford, Oxford University Press 1971), Chapter 3

Re-playing the OP, condition by condition:

0. Gather under a tree. Original Position. Problem of division & dividing the cake: what do we know and what not?

1. List of alternatives (2I): let's skip this for a moment. BLACK CAT

2. Circumstances of justice

- objective:

- Geographical territory
- rough equality of physical and mental powers,.
- Vulnerability to attack
- all coalitions can be blocked
- moderate scarcity

- subjective

- similar needs and interests: mutual advantage in co-op imaginable
- different plans of life/conceptions of the good: different ends & conflicting claims on resources
- mutual disinterest
- incomplete knowledge, memory, reasoning

3. Formal constraints generality:

- no proper names,
- no contingencies
- universality in application
- publicity
- ordering
- finality

4. The Veil of Ignorance: defence:

- dividing the cake
- Kantian noumenal self –
- no bargaining (use of 'morally arbitrary contingencies')

EXCLUDED are (BLINDFOLD)

- place in society
- (mis)fortune in natural assests
- plan of life, psychology
- structure and wealth of their own society DARK ROOM
- generation ('care for next three')

INCLUDED

- general facts about human society; politics; economic theory, social organisation, human psychology
- constraints and conditions

5. Rationality:

- preferences over options, maximum efficiency and effectivity PLUS no envy (mutual disinterest), PLUS sence of justice.
- In this context : maximin

LIST on page 146

6. Once more: the list of alternatives. Which ones can we, and which ones can't we choose? (List on p. 124):

E: Egoism: no ordering.

- D: Intuitionism: same (not discussed here in too great detail)
- C: teleology: perfectionism presumes theory of the good
- C: Class. Util: primary goods, self-interest, and sense of justice missing
- C: Average Util: same, plus maximin (see my sketch)
- B: mixed conceptions all meet similar problems.

In the end: do we agree? (Prima facie)

Required reading: John Rawls, A Theory of Justice (Oxford, Oxford University Press 1971), Chapter 4

Rawls, oddbits from last two weeks

Summary:

The Right and the Good; priority in justice as fairness (pure procedural justice)

OP and CJ in RE;

comparison w/ dividing the cake.

Choice conditions

maximin

how to choose the two principles from the list (see last page of last lecture)

details of the two principles (p. 302: in particular savings principle)

four stage sequence: how to apply and use (next hour!).

various questions from students

discussion: satisfied with Rawls's idea of impartiality?

last part of the book (liberty); critique of Rawls

(a) Rawls on Liberty, chapter 4

note: this bit important, clue to exam.

four-stage sequence

constitution: veil partly lifted, general facts of their society, focus on first principle

legislation: focus on second principle, application,

adjudication: veil dropped

Application of the first principle in a constitution:

distinguish: pos and neg liberty, two versions. R introduces worth of liberty. Cardinality?

modern and classic liberty: personal vs participation; R values first more.

liberty to be limited only for liberty itself.

Example of liberty: consciousness.

Lib of c is CJ, intuitive, basic, but can also be defended w/ appeal to OP (or better understood)

Implied in OP: risk; future generations; therefore absolute liberty.

Sectarians: appeal to reason and OP/CJ, justifies limits to sect's liberty

Question of toleration immediately rises.

Limits to lib of cons' only for public order and security; implied by equality of all in OP

interpretation of the condition open; more limits to state interference needed, eg reasonable

expectation that public won't be harmed.

In general: bias against limiting, onus of proof on those who wish to limit liberty.

Note: lib of con thus not base on philos or metaphys doctrine or expediency, but CJ - this is an advantage, compare Aquinas' biased reasons for limited (limiting) toleration.

Toleration of the intolerant

- in OP no religion recognised as superior, therefore no right for any religion to claim this in real life, therefore non-co-operation with its missionary activities justified, and no reason for them to complain.
- it does not yet follow that we can stop tolerating them; even reason to believe intolerant sect cannot survive in tolerant society.
- Clear and present danger ideology.

Political justice and the constitution:

OP implies equal participation, one elector one vote, no regard for intensity, equal access to office; fair chance to participate, implying other liberties (speech, assembly), active policies needed to guarantee equal access to media for rich and poor.

Role of representatives: justice first, private voters' interests second

Limits to democracy: bills of rights etc. Compatible with OP

Intensity of preferences accounted for by attention for justice.

Pol liberty is means to end, viz., liberty as such, therefore inequality under diff principle rules allowed?

Rawls' answer is negative. Not just a means.

(Skip: rule of law)

Priority of liberty defined: in luxury, no reason left to trade in liberty for other gains. Amended first principle, p. 250

Kantian interpretation: noumenal selves, autonomy vs heteronomy plus categorical imperative; adherence to pp of justice due to desire to be autonomous.

(b) critique

note that R has been used extensively in many contexts but there has also been fundamental critique: eg:

- original position, conditions of
- international dimension: no justification for natural assests of a country, eg.
- well-ordered society,
- We all want more? Buddhism
- Intergenerational justice
- Cohen on difference principle
- same on slavery of the talented
- marking an exam
- libertarian critique

Libertarianism, an introduction

Required reading:

Will Kymlicka, *Contemporary Political Philosophy* (Oxford, Oxford University Press 1990), chapter on Libertarianism

libertarianism: background in Locke, self-ownership, free-market capitalism

Hence Nozick's entitlement theory, rejection of redistribution, night-watchman state

1. ambition-sensitivity, not; endowment-insensitivity. Role of *caritas*. Note: lib-egal tax evasion/paying etc is in theory just as difficult and necessary as *caritas* in libt.
2. Problems with enough and as good; with individual original acquisition

Hence also Nozick's famous Wilt Chamberlain example.

Versions of libt:

- N's rights, problem defined on p 124: self-ownership is not absolute.
- Mutual advantage, eg Gauthier and Buchanan; problem: unfair initial distribution of power, immorality or amorality
- Liberty is fundamental
 - o problem: teleological aka aimed liberty; inconsistent because not fundamental
 - o or neutral liberty, cf Rawls principle; again not fundamental but heteronomous, also no standard for value of liberties (Albania example): cardinal vs worth of freedom
 - o or purposive liberty, involving worth of freedom, results again in Rawls's principle.

Against this: Sen's example (liberal paradox), once more.

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Robert Nozick - A general outline of the theory

Required reading: Robert Nozick, *Anarchy, State and Utopia* (New York, Basic Books 1974), Chapters 1-3

1 Justification of the minimal state

Natural Rights: explain once more

- natural needs; equality; 'rights' to satisfy these; natural law. Think of max lib compatible w. Same for others.
- Locke: state is there to protect natural rights, not replace them

State of nature

- Locke: precedes contract
- - Nozick: no contract but invisible hand

Background: justification of the state

Fair comparison: friendly state of nature (vs Hobbes's short, nasty and brutish life), best possible anarchy, vs state with all its alleged advantages.

Sequence to DPA

Security; agency; dominant protective agency

No state: no monopoly on violence, non-members not protected

Step beyond: monopoly on violence, ultraminimal state

Last step: minimal state (night-watchman)

How to make these steps:

- constraints versus goals/end-states: 'people as ends in themselves', therefore inviolable, therefore constraints meaning humans are not used as means. Bit on animals and plans of life (next lecture), bit on the experience machine, bit on 'meaning of life' basis of constraints, admit is-ought gap and underdetermination.
- - risk: justifies constraining people. More on this next lecture

2 Justification of the state, Mark 2: the contract theory

Chapter 10: p. 299 read out. Utopia of utopias, hence the title of the book.

3 Beyond the minimal state

Can we get beyond? No we can't. First of all, it would violate the voluntary nature of the minimal state created so far. Apart from that, two more general reasons, negative and positive:

(3.1) Redistribution is nonsense

Chamberlain

the rejection of redistribution: requires end-result principles, neglects the history of existing distributions.

Requires patterning and liberty upsets that.

Cf Sens liberal paradox, 164 ff.

(3.2) justice is in entitlements

In other words, what we need is an historical principle of justice, taking account of what we have done to deserve our holdings.

NB: minimal state compensates non-paying members, it does not redistribute anything. In short: justice in Nozick is retributive not redistributive.

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Nozick II - Risks, prohibition and protection

10 Nozick III - Entitlement theory

Required reading: Robert Nozick, *Anarchy, State and Utopia* (New York, Basic Books 1974), Chapters 4-6 and Chapter 7, Section 1.

1 Entitlements

Summary of last week: is there a 'beyond' the minimal state?

- would violate voluntariness, idea of libertarian constraints
- would be self-defeating, cf Chamberlain and Sen
- and neglects history, which an alternative theory of justice does not: entitlements.

Basis of entitlements: honest work.

Three principles for justice in entitlements

Locke's proviso; Nozick's compensation amendment.

2 Risks

Compensation is the key-word. That allows you to go beyond a DPA and an ultraminimal to a minimal state.

DPA plus independents

risk and prohibition, immediate requirement of compensation

why prohibit anything?

- retribution does not deter: calculating citizen
- compensation without prohibition, aka splitting the benefits, does not deter e
- what counts and remains is fear, even fear that damage may be irreparable. Arm breaking, random factor. What also counts is the absence of consent.
- exception to the rule: if consent should reasonably be given but can't be asked, go ahead.
- - compensation to be granted to he-who-is-now-prohibited-from-doing-risky-things.

NB: Productive exchange: mutual benefit, vs 'relief from a threat'. Only those who are hindered in productive exchange by prohibition to be compensated

3 Green political theory

Nozick is/was about the first political theorist to discuss environmental issues; link to early Seventies.

Related (and in USA still popular) is environmental ethics.

Very interesting and popular field nowadays, time you should know something about it, e.g, to illustrate that the theories discussed here are not only about abstract questions and boring state institutions.

Green political theory deals with issues like the following:

- the value of nature: intrinsic or instrumental (ecocentrism or anthropocentrism)
- the status of animals (zoocentrism? Vs speciesism) (vegetarianism)
- what to do with our political responsibilities towards nature: resource management, stewardship, sustainable growth, sustainability, 'non-interference' etc. (Goals vs process)

Theories discussed so far have developed answers to these, alternatives to classic green ideologies (ecosocialism, ecoanarchism, eco-authoritarianism).

Take utilitarianism:

- value of nature is instrumental; there is no other value
- animals suffer (Peter Singer, *Animal Liberation*); calculus, plus interests in our handling of nature (Note: status of animals contingent) (Note: part of the theoretical basis of RSPCA)
- our responsibilities depend on how much we (incl. Animals) care about descendants; discount rate; destruction/deterioration allowed (think of nuclear waste); investment and destruction may be rational; substitutability question (plastic trees); issue of making happy people or making people happy.

Take Rawls:

- things can have intrinsic value but nature seems not to have it; instrumental, resource.

- animals are not rational agents, not subjects of justice
- versus discount rate: obligation to future generations impartial, see savings principle.

Amendments to Rawls:

- 'sustainability' as precondition of survival; 'zero principle'. Note: discussion on sustainability (meaning; NY thesis).
- animals qualify as recipients; we could be like them; rationality is undeserved therefore morally arbitrary;

Libertarianism:

- value of nature instrumental; see Nozick on pollution: include environmental costs in compensation, see them merely as subject for cost-benefit analysis; private property best way to protect nature.
- status of animals: criteria, plan of life, etc; also Kant's argument (indirect protection). Central role of this issue: why do humans count? Cf Nozick on aliens (or Greek gods).

The latest: civil rights for great apes in New Zealand? (Only some twenty animals there).

Required reading:

Will Kymlicka, *Contemporary Political Philosophy* (Oxford, Oxford University Press 1990), chapter on Communitarianism

1 What is Communitarianism?

- part empirical critique, part normative critique, of mainstream liberalism (Rawls etc.)
- part attempt at developing alternative view. Turned out to be more successful in this respect than Kymlicka expected.

2 What is it about, in general?

- an idealistic (vs materialistic) conception of Self and Culture, of the Self as product and producer of Culture.
- Conservative: clearly full of romantic elements, return to a (non-existent) past of 'closed' communities.
- A-political: it has little to say about the exact shape of the Good society, or about distributive justice, or production; in this respect, links to postmodernism are obvious.

3 What is it about, in detail?

3.1 Critique of the self

- Roots in Romanticism, Rousseau, also (a bit) in Wittgenstein (language game theory); deeper roots in conservatism through the ages, e.g. Roman critique of extension of citizenship and 'deviation from the paths of the elders' (loss of rural basis of Roman aristocracy, decline of interest/importance of rural life etc; Cato).
- 'Official' start as a (mistaken?) critique of Rawls:
 - o Original position: abstract(ed) individuals, the 'self' defined as prior to (existing independent of) its ends. (so-called unencumbered self). Would be an impossible picture of the true self.
 - o According to Sandel, the truth is that the self is 'embedded': it is identical with, defined by, its ends; it is part of and product of a culture, particularly a culture's understanding of good and evil, right and wrong; it is necessarily defined by and defines itself through, that culture.
 - o Therefore: problem of justification: the methods of liberals (OP, contract etc.) are insufficient.
- Extensions of comm' critique:
 - o Nozick and all mainstream political philosophy: idea of a plan of life becomes impossible, since there is no distinction between self and ends, no conscious planning, no role in plan of life for culture.
 - o Critique of rights: property rights as in Nozick, deontic rights overruling utilitarianism (e.g. Rawls' 2 principles; cf JS Mill). Fear of an 'anomic' society where rights are used as trumps by egoists to destroy the fabric of society by putting the individual above the Common Weal.
 - o Link here to Aristotle's view of the good society, and to Plato (Politeia, not Nomos)

3.2. Critique of self-determination

- Rawls: allows every theory of the good & lets individual decide on her own
- Communitarians:
 - o Ideas and values are shaped by environment; theory of the good is a product of that environment
 - o One's culture/commonwealth has (incorporates) its own theory of the good (compare eg Dutch, American, Moroccan, Iranian cultures)
 - o Culture's theory of the good has priority over individuals' deviations (question of survival of the fabric of society, the basis after all of individual existence)
 - o It defines the margins for individual theories of the good, for individuals' plans of life.
 - Therefore no threat of destruction of culture is to be tolerated;
 - No room for ideas like the pointlessness of being or 'license'.

And all this would be both empirically true and normatively undeniable

Note: communitarianism can be defended in two ways:

- liberal: taking all theories of the good seriously, including that of the ruling culture; since latter is a precondition for existence of former, it would have priority; and
- 'there are no 'rights' other than what a society's language game allows you to understand'

3.3 Critique of the Good Society

- Rawls: protect and maximize individual liberty
- Communitarians: Protect existing culture above all else and maximize its potential.
 - o Not because it is good
 - o But because it is THE good, the ONLY good we, as members and products of a shared culture, (can) understand
 - o Thus: because it is good for individuals, prevents anomy, alienation. (QUOTE Walzer, lecture in Nijmegen 1993)
- Explicit aim of communitarians: to create harmony in perceptions of the Good as seen from point of view of (human) nature, culture, and individual.
- Explicitly not said but implied:
 - o No critique between/across culture possible, no 'higher' point of view;
 - o All minority cultures in a homogeneous society are dangerous
 - o In a melting pot society (cf Walzer), there are probably two 'levels of culture':
 - Nation-wide: separate but equal cultures (examples famous...)
 - Intra-group: relatively closed culture

4 What has happened to communitarianism?

Philosophically, it is dead.

- opted for return to never-neverland
- to totalitarian society
- (at least) vague about plural(istic) societies, might result in Rawlsianism if it were more serious
- impossibility of moral and ethical reflection, thereby of criticising (eg genocide in) other societies
- suppression of conflict in and growth of society.

Yet it lives on in four ways:

- In Republicanism (tradition going back to Machiavelli) and its insistence on citizen virtue, citizen pride, citizenship culture
- In Kymlicka's work (and other sort-of-Rawlsian liberals): minority cultures in plural societies
 - o Culture defines context of choice; the self needs a culture, therefore culture needs protection, even legal.
 - o Ideal of autonomy/development: culture must be open for new ideas, newcomers, and those who wish to leave
 - o Supremacy of justice over culture (hitch: result may be survival of the fittest culture? Then what was gained?)
- In real-life politics: particularly local parties, local activism (cf environmental justice movement in USA); in (focus on) anomy, insecurity in the street, in calling for 'closer community ties'.
- As a dilemma in mainstream political philosophy (cf. intersubjective measurement of utility): the intersubjective bases of moral truth, vs Wittgenstein's conception of language games.

Analytical Marxism

Required reading:

Will Kymlicka, Contemporary Political Philosophy (Oxford, Oxford University Press 1990), chapter on Marxism

Analytical Marxism: an introduction

1 Relation to Marxism, neo-Marxism etc.

Anal' Marxism is not about applying or re-interpreting Marx's historical determinism in or to modern world under modern conditions, nor about changing the world. What it takes from Marx is strategically chosen:

- private inspiration and/or agenda (cf Sen and cf Cohen in bookshop)
- part of the vocabulary and
- a few key concepts: equality, exploitation, alienation.

What you'll miss is e.g. false consciousness and ideology; labour value theory and economic theory; subject/structure debate etc.

Especially the first is, however, of vital importance - as we'll see in a moment.

What it takes from analytical school is far more important: intuition, the method, presumptions of both forms of liberalism (lib eq and libert), and moral pluralism.

2 The ethical issue in Marx: the problem.

Most fundamental question(s) for A-M: what is wrong with alienation, what with exploitation, why go for equality?

(Ask around)

Problem with Marxism: moral determinism vs political involvement (read: history vs justice).

British intuition: we do have feelings of justice - even Marx seems to have had them. Therefore either our intuition is wrong, or Marx is, or both.

Therefore three schools developed:

- Fake A-Saxon Analytical Marxism
- Half-Fake Same
- The Real Thing

The three schools:

(1) Fake A-Saxon Analytical Marxism

Self-interest as objective basis of moral convictions, eg theories of justice;

No impartiality possible and if it were, it would not appeal,

Since you can't raise yourself above your class and complete society and

Since objective conditions (economy) preclude compromise aka justice.

Moreover, justice as 'remedial virtue' is a plot - invented by the rich and powerful to prevent development of a society of plenty. Anything to do with scarcity is a plot - cf ecologism.

Marginal school; dismisses justice talk as twaddle.

Why fake? Because it rejects the basic thing in analytical philosophy: the intuition.

(2) Half-Fake Same

Admits most of the above but concludes that terms like alienation and exploitation are meant in an objective sense, not as moral categories.

Meaning (eg) that you're being exploited if you could be better off in a society of socialist equality.

Implication can be (Kymlicka) that you end up with Rawls's difference principle. In the end even with his complete two principles.

(NOTE that K argues that libertarians, communitarians, Marxists and even feminists - all must accept their theory as a roundabout way of justifying Rawls's ideas. Discussion?)

Equality, Alienation, Exploitation etc are therefore purely empirical criteria for social stability.

Example:

(communism) from each acc to ability to each acc to needs

(socialism) unequal distr, for specialists until consciousness is adapted.

Cf Cohen on Rawls' DP: 'exploitation by the doctor.

Note that Half-fakes still demand end to scarcity; not really realistic (discussion: end to scarcity?)

3 The Real Thing

Assumes that intuition of injustice is real, genuine and sincere - and moral.

Therefore it can be applied to distributive questions under conditions of scarcity like in Rawls's theory, and unlike one would expect of Marxists, as well as to matters of production (unlike Rawls but like Nozick).

Doing so involves the old foursome: equality, alienation, exploitation and need.

Led to distinctions between eg relevant and irrelevant inequality/exploitation; one can think of this like a refl. equilib. Between old Marx and new world.

Ex:

exploitation in Marx is any advantage, in Real Thing and intuition any unfair advantage.

Where's the diff?

- force or duress involved? Could be for investments or greater good (taxes). Reject
- property to be earned not stolen? If that were true you'd need a libertarian theory of (self-)ownership and end up like one. Would also need a better distinction between consumer- and production goods, or a complete rejection of private property.
- unfair starting positions: capital v labour. Seems OK solution, seems to fit Marx as well (calls for access to the means of production) but is just one step away from Rawls' access to primary social goods, and two steps from his 2P.

Other example: alienation

Requires theory of the real self, free of capitalist exploitation. Now in Marx's view, real self is free agenda-setter; must admit that agendas can still conflict. Result: private sphere and protection etc; Rawls' first principle.

In sum:

Real Thing results in either liberal equality or libertarianism, meaning Marxism is internally contradictory. (And/or that Rawls is a pinko.) Some Marxists admit this, in a way: liberal theory is not liberal practice - in other words, it is liberalism that is internally contradictory.

13: Feminism

Required reading:

Will Kymlicka, *Contemporary Political Philosophy* (Oxford, Oxford University Press 1990), chapter on Feminism

Feminism

Why is it unpopular in this course?

- out of fashion, everything has been achieved
- for those who disagree: because of what K does to feminism
- because of me: I find feminism repulsive and I'm not politically correct.
 - o Explain; compare fem vs lib to anti-slavery vs lib, or reading distasteful truths in general
 - o On (my) political correctness
 - o Dictionary of politically correct language
 - o Stigma moves from word to word, eg 'bitch' to person.

More important: what does K do to feminism?

What is feminism about, according to K?

Another analytical school; partly critique of all preceding theories, partly theory in its own right. (K thus reduces F to mainstream plus EoC, the latter a footnote to Rawls: hidden agenda - it's all a misunderstanding. Ex: Benhabib on (an unread) Rawls.)

F is then about exclusion from ToJ, not from real world.

Example: Muller-Okin (*Justice and the Family*) on eg Rawls.

Feminism: Ethics of Care

Basic assumption: no relevant difference between men and women as such, therefore no grounds for discrimination.

Two classic ways of doing justice to women ('remedial virtue'):

- formal equality (1900); neg liberty
- structural equality; pos liberty; cf 'fair equality of opportunity', cf wheelchair entrances.

Neither really works (apparently). Three answers to question for further strategies (my words, not K's): Dominance approach; Difference approach; Ethics of Care. All move focus from politics to cultural and educational changes.

Dominance approach is about identifying real structures of power eg in education, discourse, consciousness. From here to political correctness.

In political theory: points to the distinction private/public (see Kymlicka: unclear) as source of continued inequality; argues for inclusion of private sphere in political debate.

K: (1) not all intrusion OK: colonisation; but if it is:

(2) nothing in liberalism prohibits this, therefore no reason to be a sectarian feminist.

Difference approach points to relevant differences between men and women; in character, biology, life etc. 'It's different for girls' in sex education, 'Why join the rat race, why aim to meet male standards?' in economics and politics. Hence, one could argue that women will never work as 'hard' as men and/or in the same jobs. Unpopular idea in some areas (smells of racism eg), but popular among eg ecofeminists. Danger of romanticising unliberating 'female life-styles'; cf today's women's magazines. On the up side: 'change of culture' in eg parliaments (if there is one).

Ethics of Care developed out of this: the different and intrinsically valuable way 'women' would think about ethical issues. (NB: 'feminine' not female.)

Three interpretations: capabilities, reasoning, concepts.

EoC as moral capabilities: affective v rational. Gilligan. K: ratio prior, needed to order affections.

EoC as moral reasoning: case-based, concrete vs principle-derivation thing. Example: child in pool. & gut feelings must be justified, pp needed, Sidgwick's test needed; pp debate logically prior. & reinforces the oppressive side of EoC: appeal to 'care' creates slavery.

EoC as theory of new moral concepts: responsibility and relationships vs impersonal rights and cold 'fairness'. K: excludes people at a distance, could turn out oppressive; appears not to allow critique of the preferences that led X into a state where s/he needs to be taken care of (Ambition-sensitivity)

Discussion: does K have a point here (no debate allowed) or not? And do we still care about losers even if we criticize their preferences?

The End