Topics in Social and Political Philosophy

Philosophy 185s
Spring 2007

Schedule

WHAT ARE RIGHTS?

Tuesday, 16 January
WHAT ARE HUMAN RIGHTS?
Well, they’re rights all human beings have. But, more specifically, what rights are counted as human rights? They are surprisingly diverse and sometimes controversial.

Thursday, 18 January
HISTORY AND ANALYSIS
Today’s session covers two important intellectual breaks. One is the move to thinking of rights as things that are possessed and used. The other is the development of a series of analytical distinctions that help to make our thinking more precise.

Tuesday, 23 January
A RIGHT TO DO WRONG?
Waldron makes two claims: that it is possible to have a right to do wrong and that there must be a right to do wrong if there are any rights at all. It’s an interesting article that is very useful for flexing our distinctions.

Thursday, 25 January
NATURAL RIGHTS
The most obvious source for human rights comes from the natural law tradition. Maritain defends such a view. MacDonald criticizes it.

Tuesday, 30 January
HART’S CHOICE THEORY
Hart has a way of arguing for natural rights that avoids MacDonald’s criticisms. His argument depends on his view of the nature of rights, so we will begin with that. Hart tries to show what is distinctive about rights. What do rights add that could not be fully described by listing people’s duties? His answer is that rights give those who have them control over the liberty of those
who bear the duties. He argues for his choice theory of rights by contrasting it with the benefit theory (also known as the interest theory), according to which having a right involves being the person who will benefit from the performance of a duty.


**Thursday, 1 February**  
**HART ON NATURAL RIGHTS**  
Hart uses his theory of rights to argue that there is at least one natural right: the equal right to be free. A natural right is a right that exists independently of any human interactions or institutions. Hart claims that some of the rights that we recognize make sense only if there is an equal natural right to be free. Today we will talk about the examples he gives to make his point.

Reading: Hart, pp. 183-91.

**Tuesday, 6 February**  
**HART ON NATURAL RIGHTS**  
Today, we will finish Hart’s argument by looking at the claim that if there are any rights there is a natural right to equal freedom.

Reading: Hart, pp. 183-91.

**Thursday, 8 February**  
**A DEFENSE OF THE BENEFIT THEORY**  
Raz’s article is very technical. But it presents a version of the benefit or interest theory of rights that avoids most of the standard objections. We’ll spell out the relevant details and go over the objections that benefit theories render rights redundant with duties and that they get the wrong answer in the third party beneficiary cases.


**Tuesday, 13 February**  
**MORE RAZ**  
If Raz’s theory of rights is correct, why do we need rights? Why not just talk about interests instead?

Reading: Raz.

**Thursday, 15 February**  
**RIGHTS, CLAIMS, AND SELF-RESPECT**  
This is Feinberg’s attempt to answer the question about what is distinctive about rights. According to Feinberg, rights give us the ability to make claims. What does that mean? Feinberg also thinks that this distinctive feature of rights explains their value as well. We will look at that next time.

Reading: Feinberg, pp. 304-12.

**Tuesday, 20 February**  
**HOW IMPORTANT IS CLAIMING?**  
According to Feinberg, the ability to make claims is necessary for self-respect. Claiming is something that only a particular person can do; criticizing, by contrast, is something that anyone can do. Why isn’t criticizing good enough for self-respect? Also, are all rights claims, in Feinberg’s sense of the term?
**Thursday, 22 February**

GEO. WASHINGTON’S BIRTHDAY
No class today.

**Reading:** None.

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**Tuesday, 27 February**

HOW IMPORTANT ARE RIGHTS?
Buchanan argues that no one has satisfactorily shown that rights are necessary.


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**Rights and Duties**

**Thursday, 1 March**

TORTURE
Do all restraints go out the window during hostilities? After all, if people are allowed to kill one another why aren’t they allowed to do something less destructive to their opponents, like torturing them?


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**Tuesday, 6 March**

ABSOLUTE RIGHTS
Gewirth takes on the hardest case: the only way to save the city is torture someone. It appears to be a case of rights to life against rights to life: the rights of the torture victim and the rights of the people in the city. Gewirth uses a principle of responsibility to argue that this is not so.

**Reading:** Alan Gewirth, “Are There Any Absolute Rights?”, *The Philosophical Quarterly* 31 (1981).

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**Thursday, 8 March**

ABSOLUTISM AND UTILITARIANISM
Nagel has a different way of defending absolutism, though it is a funny absolutism since it concedes that respecting rights can be wrong.

**Reading:** Thomas Nagel, “War and Massacre”, *Philosophy and Public Affairs* 1 (1972).

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**Tuesday, 20 March**

RIGHTS AS SIDE CONSTRAINTS
Nozick argues that rights have the form of what he calls side constraints. That means that rights constrain our choices. They do not take the form of goals. We don’t try to minimize rights violation.


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**13-15 March**

SPRING BREAK
No class
Thursday, 22 March
FORM AND CONTENT
Scheffler maintains that so-called welfare rights can take the form of side constraints. If so, Nozick's inference from form to content is false.

Tuesday, 27 March
MORE ON SCHEFFLER
What am I not supposed to do?
reading: Scheffler.

Thursday, 29 March
WHICH RIGHTS ARE REAL?
Cranston argues that only some of the rights in the UDHR are genuine human rights. Shue criticizes his reasoning.

Tuesday, 3 April
BASIC RIGHTS
Shue defines a category of rights that he calls basic rights. His argument for these rights is like Hart's argument for natural rights: if there are any rights, there are basic rights. He also has a novel understanding of duties corresponding to rights.
reading: Shue, Basic Rights, 35–64.

Thursday, 5 April
RIGHTS AND DUTIES
Waldron discusses conflicts among rights or, to put the same thing the other way around, conflicts among duties corresponding to rights.

Tuesday, 10 April
CRITICISMS OF SHUE
Both O'Neill and Wellman think that there is no satisfactory way of spelling out the relationship between the rights and the duties that Shue proposes.

Thursday, 12 April
CRITICISMS, CONTINUED
Continued discussion of O'Neill and Wellman's criticisms.
A FOUNDATIONALIST ACCOUNT

Alan Gewirth argues that all creatures that engage in intentional action are logically committed to respecting others’ rights. According to him, human action and logic are the foundations for human rights. Human rights rest on something separate from, and more solid than, other rights. Contrast Hart’s way of arguing for natural rights: it moved from one set of rights to another. Today, we will concentrate on understanding his argument.


CRITICISMS OF GEWIRTH

Today, we will consider objections to Gewirth’s argument.

**READING:** Gewirth, “The Epistemology of Human Rights”.

A NON-FOUNDATIONALIST ACCOUNT

Charles Beitz proposes a significantly less ambitious rationale for human rights.


BEITZ, CONTINUED

Continued discussion of Beitz’s article.

**READING:** Beitz.

RORTY’S ANTI-FOUNDATIONALISM

Richard Rorty was Alan Gewirth’s student. He rejects foundationalism with vigor.


### Materials

Henry Shue’s book *Basic Rights* may be purchased at the Huntley Bookstore. Everything else will be available in a xeroxed reader from King’s Copies, 865 W. Foothill, 625-2002, kingsclaremont@yahoo.com.

All readings will be on reserve in the Honnold-Mudd Library.

Comments on lectures and announcements will be posted on the web at the Sakai site for this course.

I will make extensive use of the Sakai site for this course. For instance, comments on lectures, grading policies, and announcements will be posted there.
Instructor

My name is Michael Green. My office is 207 Pearsons. I will hold office hours every Tuesday and Thursday between 3:30 and 5. If my office hours are inconvenient, we can easily make alternative arrangements.

My office phone number is 607-0906. Life seems to go better if I answer email only once a day. I will reply, but if you need an answer quickly, you're probably best off calling.

Assignments

Grades will be based on two or three papers. You can write three 1800 word papers, that is, around five or six pages. Or you can write one 1800 word paper and one 3600 word paper. The longer paper will be written in two stages: a draft and a final version.

All assignments must be completed in order to pass the course. Late papers will be accepted without question. They will be penalized at the rate of one-quarter of a point per day. Grades are based on the College's twelve point scale. Exceptions will be made in extremely unusual circumstances; suffering from writer's block is, alas, too common to qualify. The penalty is extremely mild. Just turn it in the next day.