This course explores three broad questions about the values of liberty and equality and their place in a just society:


- What sorts of **equality** should a just society ensure? Equality of opportunity? Of economic outcome? Political equality?

- Can a society ensure both liberty and equality? Or are these warring political values?

We will approach these questions by examining answers to them provided by three contemporary theories of justice: *utilitarianism*, *libertarianism*, and *egalitarian liberalism*. To clarify these theories, and assess their strengths and weaknesses, we will discuss their implications for some issues about liberty and equality that are topics of current controversy and that exemplify the three broad questions about liberty and equality noted above:
BOOKS AVAILABLE FOR PURCHASE

Milton Friedman, *Capitalism and Freedom*
Robert Nozick, *Anarchy, State, and Utopia*
John Rawls, *A Theory of Justice*

REQUIREMENTS. This course is a HASS-D and a Communication Intensive (CI) subject. So you must write at least 20 pages, divided among three papers, which are to be 6-8 pages (roughly 2000 words) each. The first two papers are due on October 2 and October 28. You must also rewrite these first two papers in light of the comments you receive on them. You will get the papers back one week after they have been handed in, and must submit your rewrite one week later (October 16, November 13). The rewrite needs to be responsive to the comments on the first version, and the evaluation of the rewrite will be based in part on how well you respond. (So if you get a B+ on the first draft, and do not revise in light of comments, you may end up with a B- or C on the rewrite.) On the third paper, the rewrite is optional. If you plan to do rewrite, you must make an arrangement with your TA on timing. In either case, the final version is due on December 11. Policies on late papers and on additional rewrites beyond those mandated by the requirements (rewrites undertaken with the intention to improve a grade) will be set by your teaching assistant.

You will find paper topics on pages 10-11 of this syllabus, and some Rules of Thumb for writing papers on pages 12-13. The topics and Rules are also available in separate files on the web. Be sure to review the Rules before writing the first paper.

There is no final examination.

Because this is a CI course, you will automatically pass Phase 1 of the Writing Requirement if you receive a grade of B or better.

GRADING. The papers count for 80% of the final grade. Your grade on each of the first two papers will be a weighted combination of the grades on the original and the rewrite, with the rewrite counting twice as much as the original. The other 20% of the grade will be based on your contribution to discussion in the recitation sections (the oral communication part of the course). To meet this requirement, you are expected to attend the recitations regularly, and participate regularly and constructively in discussion. You cannot substitute additional written work in place of this requirement. Your TA will give you a mid-semester, preliminary grade on your contribution to discussion.
The teaching assistants will grade your papers. Should you have any question about the fairness of a grade, bring the matter to my attention right away. It is especially important in this course that students not be penalized—or even think they are being penalized—for the content of their views.

**INCOMPLETES.** You can get an Incomplete only if you have completed two papers, including the rewrites. These conditions are necessary, not sufficient, for an incomplete. I will decide requests for Incompletes on their merits. I want to underscore that you must request an incomplete, and that requests are to come to me, not to the TAs. Students who do not hand in all the work and do not request an Incomplete will receive an F.

**PLAGIARISM.** Plagiarism comes in two forms, both unacceptable. First, you plagiarize when you use the words of a source without quotation marks. If you take words from a source, you must use quotation marks, not just a footnote. Moreover, you should not present a close paraphrase from a source: either use the exact words with quotation marks, or put the point in your own words. Second, you plagiarize if you take ideas from a source without footnoting the source. Sanctions for plagiarism depend on its severity, and may range from lower grades on an assignment to a failing grade for the course.
READING ASSIGNMENTS

After each assignment, I list some Study Questions. Please think about the questions as (and after) you read.

0. INTRODUCTION: PROBLEMS OF JUSTICE IN A DEMOCRACY (1 lecture)

I. UTILITARIANISM (5 lectures)

1. Liberty and Equality in Hedonistic Utilitarianism (1.5 lectures)

   Jeremy Bentham, Introduction to the Principles of Morals and Legislation, chaps. 1, 4, 13, 17 (sec. 1).

   Study Questions: (1) What is Bentham’s “principle of utility”? (2) Is pleasure the only thing that is good in itself? What about knowledge? Or beauty? (3) How could a utilitarian make a case against slavery or against punishing the innocent, without implicitly assuming a natural right to liberty? (4) Is the enforcement of morality as such a bad thing? Does Bentham make a persuasive case against it? Is it really “unprofitable?”

2. Revisionist Utilitarianism: The Value of Self-Development (1 lecture)

   John Stuart Mill, Utilitarianism, chaps. 1, 2.

   Study Questions: (1) What is the distinction between higher and lower quality pleasures? (2) Is Mill right about the kinds of pleasures that "competent judges" decidedly prefer? Who are these judges, and why are their judgments the basis of deciding about the quality of lives? (3) Does Mill’s higher/lower distinction reflect an objectionable elitism, with an undue emphasis on intellectual pleasures? (4) Is it better to be Socrates dissatisfied than the fool satisfied?

3. Utilitarianism and Personal Liberties (1.5 lectures)


   Study Questions: (1) What is Mill’s “one very simple principle?” (2) How would Mill respond to contemporary arguments about restrictions on
racent hate speech, pornography, and homosexuality, or about assisted suicide? (3) How does Mill argue for his “simple principle” on utilitarian grounds? What collective benefits flow from tolerating religious, philosophical, and moral dissent? What about the costs? (4) Do you agree with Mill that conduct ought only to be regulated if it is harmful to others? Can you think of cases in which conduct ought to be regulated in the name of the person's own welfare (drugs, seat belts), or because it is repulsive (bestiality), or because it is offensive to others (public sex), or because it is judged to be wrong (suicide, physician-assisted suicide)?

4. Utilitarianism and a Right to Moral Liberty (1 lecture)


Study Questions: (1) What is the right to privacy? Is that right at stake in _Bowers_? (2) Does the fact that sodomy violates common morality (assuming that it does) provide a legitimate reason for criminalizing it? (3) What is the distinction between the claim that sodomy violates the common morality in a society, and the claim that it is condemned by the moral views of the majority in society? Does that distinction make a difference? (4) Could the Court majority have found a utilitarian case for permitting the enforcement of morality?

II. LIBERTARIANISM (7 lectures)

1. Possessive Libertarianism (2.5 lectures)

Robert Nozick, _Anarchy, State, and Utopia_, pp. xi-xiv, 10-17, 22-53, 149-64, 167-182, 232-238

Study Questions: (1) What basic rights does Nozick attribute to individuals, and why do we have those rights? (2) Do considerations about the separateness of persons (or the meaning of life) provide a compelling rationale for the rights Nozick thinks we have? (3) What does it mean to say that people own themselves (see Nozick, pp. 171-72)? Do you own yourself? (4) What does Nozick mean when he says that “liberty upsets patterns?” (5) Is taxation on wages the moral equivalent of forced labor (p. 169)?

2. Liberty and Labor Markets (1 lecture)

_Lochner v. New York_ (1905), selections
_Coppage v. Kansas_ (1915), selections
_West Coast Hotel v. Parrish_ (1937), selections
Study Questions: (1) How close is the *Lochner* majority to Nozick's libertarian philosophy? (2) Why does the *Lochner* Court think it is illegitimate for the state to make labor laws that redress inequalities of bargaining power between employers and employees? Are there such inequalities? (3) Is it paternalistic to try to correct for unfair inequalities of bargaining power? Do such regulations make workers "wards of the state?" (4) Are minimum wage laws or health and safety regulations objectionably paternalistic?

3. Choice-Based Libertarianism (2.5 lectures)

Milton Friedman, *Capitalism and Freedom*, Introduction, chaps. 1, 2, 10, 12, Conclusion

Study Questions: (1) What does Friedman mean by “liberty?” (2) What is a “right to liberty,” and why is there such a right? Are all kinds of liberty of equal importance? (3) Why is the right to liberty consistent with government actions for the general welfare? How, for example, does Friedman make the case that an anti-poverty program might promote the general welfare (how does it promote the welfare of people who are not poor)? (4) Why is it illegitimate for the government to act promote what Friedman calls “equality of treatment?”

4. Education and Opportunity (1 lecture)

*San Antonio v. Rodriguez* (1973), selections

Study Questions: (1) Do you agree with Marshall that there is a right to an equal start in life? What does an “equal start in life” mean? (2) Does a system of school financing based on local property taxes violate that right? (3) Does a system of equal educational opportunity, financed out of taxes, violate the rights of parents to decide how much they want to spend on education? (4) Does a program of state-financed, universal education promote the general welfare?

III. Egalitarian Liberalism (8 lectures)

1. Reconciling Liberty and Equality (3 lectures)

John Rawls, *A Theory of Justice*, sections 1-5, 11-14, 17, 20-26, 29, 32-33, 36-37, 67
Study Questions: (1) How compelling is the ideal of a fair society in which life chances are not settled by differences in social background, natural endowment, or individual aspiration? (2) Are native endowments (natural talents) morally on a par with the contingencies of social background? (3) Why should we care about what people would choose in a hypothetical original position, behind a veil of ignorance? (4) Is the difference principle fair to people who would otherwise be better off (under a less egalitarian principle)? (5) What is fair equality of opportunity, and why is it a more compelling idea than formal equality of opportunity?

2. Fair Political Equality and Campaign Finance (1 lecture)

* Buckley v. Valeo (1976), selections *

Study Questions: (1) Do you agree with the Court majority that expenditure limits are more burdensome restrictions on liberty than contribution limits? (2) Do you think that campaign finance reforms that limited expenditures on political campaigns would help to equalize access to the political arena and enhance the voice of less wealthy citizens—i.e., increase the worth of their political liberty? (3) If reforms would equalize access, do we then have sufficient reason to support the restrictions on liberty that they imply?

3. Equal Concern and Responsibility (2 lectures)


Study Questions: (1) How compelling are the principles of equal importance and special responsibility? (2) How does Dworkin’s insurance model reflect those principles? (3) Are the inequalities sanctioned by the insurance scheme consistent with the idea that it matters equally how well each person’s life goes? (4) What is the case against what Dworkin calls “the severe policy,” and is it a convincing argument against current American welfare policy? (5) What is the “rescue approach,” and would it better fit the requirement of equal concern?

4. Equality and Affirmative Action (1 lecture)

* Adarand v. Pena (1995), selections *

Study Questions: (1) What is the difference between a benign and an objectionable use of racial classifications? Is this a reasonable
distinction? (2) What reasons does the Adarand majority give for hostility to all racial classifications—for the presumption that they are not benign? (3) What does Justice Thomas mean by “racial paternalism?” (4) Are some uses of racial classifications consistent with Dworkin’s principle of equal concern? (5) Do affirmative action programs undertaken to promote racial diversity in universities rest on objectionable stereotypes, or reinforce racial divisions?

5. How Egalitarian Should We Be? (1 lecture)


Study Questions: (1) Is it selfish, or otherwise objectionable, to be unwilling to make a socially valuable contribution without receiving special rewards for it? (2) What would a society be like if its ethos (and not only its laws) required contributions without special reward? (3) Suppose there are racists who will make productive contributions that benefit racial minorities only if they (the racists) receive very large incentives. Does justice permit the payment off such incentives? (4) Are there good reasons to confine the application of the difference principle to the basic structure of society, and not to worry about the choices individuals make within that structure?

IV. THREE TOPICS

1. Justice to Groups? (1 lecture)

Susan Okin, *Is Multiculturalism Bad For Women?*, pp. 3-24, 31-34.

Study Questions: (1) How important is it for people to have continuing access to the culture in which they have been raised, as opposed to assimilating into the dominant culture of the society (why can’t the dominant culture provide their context of choice)? (2) How could it be fair to provide a group with rights that other groups lack—say, to exempt its members from laws that others are required to obey? (3) Is Okin right that most cultures are patriarchal, and have “as one of their principal aims the control of women by men?” (Are her examples convincing?) (4) Is Okin right to think that women who belong to a “more patriarchal minority culture” might be better off it that culture became “extinct” or “integrated” into the majority culture?

2. Justice at Life’s Beginning (1 lecture)

Study Questions: (1) The Court majority says that the right of privacy encompasses “a woman’s decision whether or not to terminate her pregnancy.” What reasons do they give for this conclusion? (2) Does the state have a compelling interest in protecting human life from conception? (3) Can men and woman be social equals in a world with restrictive regulations about terminating pregnancies? (4) The majority opinion refers to a “wide divergence of thinking” on the question of when life begins. What is the relevance of this observation?

3. Justice Beyond Borders (1 lecture)


Study Questions: (1) Does the absence of organized institutions of tax and transfer at the international level make any difference to the proper norms of justice at the international level? (2) Do we owe more to fellow citizens than to “outsiders,” and if we do, then do we also owe more to members of our ethnicity or religious group than to “outsiders?” (3) How could distributive justice be achieved at the international level, without massive amounts of intervention that ruin local institutions and undermine self-government for most peoples?

V. FINAL REFLECTIONS (1 lecture)
PAPER TOPICS

Here are the topics for the three papers. If you want to write on another topic, write out the topic in a few sentences, and check it with me or your TA. The papers should be 6-8 pages (roughly 2000 words).

Topics for Paper 1

This paper is due after class #5.

1. Critically assess Mill’s utilitarian defense of freedom of speech. Be sure to address at least the following three issues: (i) what reasons does Mill give (in chap. 2 of On Liberty) for protecting freedom of speech? (ii) how do those reasons connect to the principle of utility; (iii) do you find his arguments compelling?

2. Suppose that the Supreme Court justices were to use the principle of utility, not the Constitution in evaluating laws that regulate sexual conduct. Would the principle of utility permit states to adopt such laws? Or would it condemn the laws?

3. Critically assess Mill’s distinction between higher and lower quality pleasures. Be sure to address at least the following points in your discussion: (i) what is the distinction? (ii) is it a reasonable distinction? (iii) how would Bentham respond to the distinction? (iv) should this distinction play a central role in assessing social and political arrangements?

Topics for Paper 2

This paper is due after class #9.

1. According to Nozick, "liberty upsets patterns" (pp. 160ff.). What does the quoted phrase mean? Be sure to explain what Nozick means by “liberty” and by “patterns.” Is he right that liberty upsets patterns? If not, why not? If so, does such "upsetting" provide a sound reason for rejecting patterns?

2. Provide a libertarian assessment of the arguments in San Antonio about public funding for education. Be sure to discuss: (i) Marshall’s reasons for rejecting that decision (the idea of an equal start in life); (ii) the majority idea that there may be a right to a minimum threshold of education for all; and (iii) and how a libertarian would respond to (i) and (ii). Is there a libertarian case for a minimum threshold of education for all?
3. Explain what Friedman means (in chapter 10 of *Capitalism and Freedom*) by the “capitalist ethic,” and discuss his reasons for endorsing it instead of “equality of treatment.” Do you find his reasoning persuasive?

**Topics for Paper 3**

The rewrite on this paper is optional. If you plan to rewrite, you must make an arrangement with your TA on timing. This paper is due after class #21.

1. Discuss affirmative action (*Adarand*), campaign finance (*Buckley*), abortion rights (*Roe*), or Okin’s critical account of group rights in light of Dworkin’s two principles of *equal importance* and *special responsibility*. Be sure to address at least the following issues: (i) Are Dworkin’s principles plausible? (ii) Is there a way to address the issue of affirmative action (or campaign finance, or abortion, or group rights for cultural minorities) that accommodates both principles?

2. Evaluate Rawls’ arguments for his conception of Democratic Equality. You may focus either on the informal argument (and the contrasts with Natural Liberty and Liberal Equality) or the original position argument. Be sure to address at least the following issues: (i) What does Rawls mean when he says that natural abilities and social background are morally irrelevant? (ii) How is that irrelevance reflected in the difference principle; (iii) Is the difference principle a reasonable standard of fair distribution? (You may want to discuss the GA Cohen argument about incentive inequalities in addressing this question.)
SOME RULES OF THUMB FOR WRITING PAPERS

Here are a few suggestions about writing papers. Please read through them before you write the first paper.

1. **State the main thesis** of your paper at (or near) the beginning: say, in the first paragraph. It is not bad to say something like: "I will argue that ...." If you do not have a thesis, get one.

2. **Stay focused.** Your papers should critically assess some important aspect of one of the theories we have been discussing: the thesis of your paper, stated near the beginning (see point 1 above) will say what that aspect is. Before you get to the evaluation you will need to describe the relevant aspect(s) of the theory you are assessing. But do not try to provide a comprehensive overview of the theory. Instead, guide your presentation by the particular problems that animate your paper. For example, if you are writing in criticism of John Rawls’s "difference principle," you should not try to sketch his theory of the original position and the argument for the principle within the original position. Confine yourself to the aspects of Rawls’s view that are of immediate relevance to his account of fair distribution. Anything else will be a distraction.

3. **Do not lead with (or conclude with, or otherwise include) sweeping generalities:** "Rawls's theory of justice is the most important recent contribution to the perennial human search for the ideal society." "Since Plato, philosophers have sought out the meaning of justice." "For thousands of years, human beings have searched for truth. "Philosophy is based on reason, not rhetoric." (What about: “Man is born free, but is everywhere in chains.” If you are Rousseau, then you can break any rule that I have stated here.) Such remarks add nothing of substance; indeed, they subtract by distracting from the issues at hand. Moreover, they suggest that the writer is unsure what to say, and is looking for a way to some space. You do not want to create that suspicion. So just get right to the point.

4. **Write clearly.** That's easier said than done, and hard to make operational. But you can make a first step by writing short sentences, avoiding page-long paragraphs, and being careful to signal transitions. Operationally: If a sentence goes on for more than (say) 5 lines, find a way to divide it up; if a paragraph goes on for more than 20 lines, find a way to divide it up; if your paper falls into sections, make sure to include a sentence or two of connective tissue between the sections. Moreover, put things as simply as you can. Writing philosophy does not require elaborate formulations, esoteric words, purple prose, neologisms, or polysyllabophilia. In a poetry course, things would be different, but in this course, your writing should focus readers’ attention on the ideas you wish to express, not to the words you have chosen to express those ideas.
5. **Do not make the writing boring and clumsy, even if it is clear.** Introduce some stylistic variety. For example, do not start every sentence with the subject. Moreover, stay away from passive constructions: instead of "The wheel was invented by Joe," why not: "Joe invented the wheel." Do not have too many sentences that begin “It is...” or “There is....” Though such constructions are sometimes appropriate, overusing them slows things down. Avoid long strings of propositional clauses. And try not to repeat the same words.

6. **Support assertions.** When you attribute views to the person whose ideas you are addressing, indicate the evidence for the attribution by noting relevant passages. But you need not include quotations. As a general rule, you should only quote a passage if the passage plays an important role in the paper (say, it is a passage that you will want to be able to refer back to at various points in the argument), or if you think that there is some controversy about whether the philosopher actually held the view that you are attributing to him or her. Do not submit a paper that strings together lots of quotations.

7. **Take the views you are discussing seriously.** The political philosophers we are reading are not fools. If, as you describe the relevant parts of their views, you find yourself attributing foolish views to them, assume you have misinterpreted. (Perhaps you have not. But treat “misinterpretation” as the default setting.) One strategy for taking a view seriously is to “argue against yourself”: ask yourself how the philosopher you are criticizing would respond to your criticism. Try to get “inside” the conception you are discussing; develop a sense of its internal integrity, and see if you are able to understand how someone (who is neither a moron nor a sociopath) might have come to hold the views in question. The books and articles we are reading are the product of sustained reflection, over a long period. The authors often distributed drafts of their manuscripts to other people, and then tried to incorporate responses to the objections they received. The result is not that their views are right, or genuinely coherent, or nice. But you can be sure that they have greater depth and coherence than you may suspect on first reading.

8. When you finish writing, **read your paper out loud.** Writing that does not sound right will not read right.

Applying these rules of thumb will require that you spend some time editing your papers after writing a first draft. But the additional time will be worth it. Your papers for this course will be better than they would otherwise be, and you will eventually start to edit as you write.

**NB:** If you are concerned about your writing, make an appointment with the writing tutors who have been assigned to the course. Small investments of time can produce important results.