

Columbia University

Human Rights and Social Justice

Spring 1997 - Philosophy 4710y

Thomas W. Pogge
Office Hours: Fridays 1:00-2:00 pm, 713 Philosophy
Tel.:(212) 854-8534
E-mail: tp6@columbia.edu

Overview

This course was initially developed and taught as a seminar (with one two-hour meeting per week), but - through forces beyond my control - has now been converted into a "lecture course," meeting twice weekly. Nevertheless, I envision the course as continuing to have a significant discussion component and as affording an opportunity for student presentations. Contributions to the class, though not required, will be taken into account. The main requirement for the course will be a substantial essay, due at the beginning of class on **April 30**. You are encouraged to discuss your writing project with me throughout the term.

Though open to undergraduates and philosophy graduate students, this course is primarily intended for graduate students outside of philosophy (e.g. from SIPA, Law, Social Work, history, political science) who have a professional interest in the topic and want an opportunity to reflect on it in a somewhat more theoretical and systematic way from a normative point of view. The course title covers a vast field, but it would be foolish to want to treat it all, "once over lightly." To work productively, we'll have to focus. In order to make the course as responsive as possible to your interests, I want us to do this focusing together during the first few weeks. I have therefore worked out only a partial syllabus for the beginning, with some core readings about the notion of human rights (and its role in contemporary academic and political discourse) and about the contemporary debate about social justice. Some further materials will be made available in xerox. Please get these books soon, as we will be using at least the first three of them right away. We'll spend the first few sessions on the question what human rights are. What exactly does it mean to assert something as a human right?

The topic of social justice is, broadly speaking, how human social life ought to be organized, or how actual and possible ways of structuring human societies should be assessed and criticized. The notion of human rights (as I will propose to understand it) plays a more limited role within this topic, seeking to single out some especially important constraints and desiderata governing social organization. Since I will be asking you for your preferences concerning the remainder of the course, you should do some thinking about where your main interests lie in the topic as described. A rough and ready way to start doing this is in terms of the following five distinctions:

1. historical vs. contemporary: There is a rich history of normative reflection on our topic - social justice is discussed, for instance, in Plato's Republic, while the modern notion of human rights developed out of a long tradition centering around the notions of natural law and natural rights. We might examine some prominent parts of this history (perhaps including Locke, Kant, Mill and/or some critics of (human) rights such as Bentham and Marx) or instead focus exclusively on the more contemporary debates.

2. legal vs. moral: There is a very sophisticated debate among lawyers about human rights. This debate has the disadvantage of having to pay a good deal of attention to domestic law, and/or to actual government conduct and rhetoric as clues to which human rights play what role in international law. It has the advantage of being well informed by lots of actual cases, which can inject life, meaning, and accountability into normative positions. We might examine some of the legal literature or instead focus mainly on moral writings (by philosophers or others).
3. domestic vs. international: We could focus more on how individual states (e.g. the US) should be structured or more on international relations and foreign policy. One important topic in the international realm is that of cultural relativism, associated with the charge that human rights are a Western notion and that it would be a new form of imperialism to seek to impose this notion upon other cultures. Various South-East Asian politicians have defended such a position quite eloquently in recent years.
4. civil/political vs. social/economic: A focus on the former might lead us to discuss e.g. democracy, freedom of expression, abortion, euthanasia, or special rights for ethnic minorities (domestic) or topics in *jus in bello* (international), while a focus on the latter could lead to discussions of affirmative action and the welfare state (domestic) or of world hunger and the global economic order (international).
5. theoretical vs. "applied": This is not so much a distinction as a spectrum - and also less an alternative than a matter of emphasis in that we will certainly do some of each, starting with rather more theoretical issues and getting to some more concrete topics later on.

Required books for this first segment, ordered for you at the Columbia Bookstore are the following:

- o Henry Shue. *Basic Rights*. Princeton U.P. (new edition with new afterword)
- o Morton Winston, ed. *The Philosophy of Human Rights*. Wadsworth
- o James Nickel. *Making Sense of Human Rights*. California U.P.
- o John Stuart Mill. *On Liberty*. Hackett
- o John Rawls. *A Theory of Justice*. Harvard U.P.

Further Readings

A useful collection - Twenty-Five Human Rights Documents - can be bought cheaply (\$5) at the Columbia Center for Human Rights (1108 SIA).

Below I list some writings that we may opt to use later on or that may be useful for your writing projects. I include some of my own work, as this may overlap with lectures. Obviously, you should feel free to criticize this. There is much, much more literature than I can possibly list, so feel free to ask me for specific suggestions as you become clearer about your writing project.

History and Theory

- o Some excerpts from Aristotle, Stoics, Aquinas
- o Locke, John. *Second Treatise on Government*. Hackett.
- o Kant, Immanuel. *Grounding*. Hackett.
- o Kant, Immanuel. *The Metaphysics of Morals*. Cambridge U.P.
- o Tuck, Richard. *Natural Rights Theories*. Cambridge U.P., 1979.
- o Hohfeld. *Fundamental Legal Conceptions*. Yale U.P., 1919.
- o H.L.A. Hart. "Are There Any Natural Rights" in *Philosophical Review* 64 (1955) or in a rather nice collection edited by Jeremy Waldron, *Theories of Rights*. Oxford U.P., 1984.
- o Berlin, Isaiah. *Four Essays on Liberty*. Oxford, 1969.
- o Ackerman, Bruce. *Social Justice and the Liberal State*. New Haven, 1980.
- o Sen, Amartya, and Williams, Bernard, eds. *Utilitarianism and Beyond*. Cambridge U.P., 1982.
- o Sen, Amartya K. "Equality of What" in *Choice, Welfare and Measurement*. MIT Press, 1982, 353-69.
- o Sen, Amartya K. *The Standard of Living*. Cambridge U.P., 1987.
- o Kymlicka, Will. *Contemporary Political Philosophy*. Oxford, 1990.
- o Barry, Brian. *Justice as Impartiality*. Oxford, 1995.
- o Pogge, Thomas. "How Should Human Rights be Conceived?" in *Jahrbuch für Recht und Ethik* 3, 1995, 103-20.
- o Pogge, Thomas. "The International Significance of Human Rights" forthcoming in *Journal of Ethics*. 1999.

- Pogge, Thomas. "Three Problems with Contractarian-Consequentialist Ways of Assessing Social Institutions" in Ellen Paul et al., eds. *The Just Society*. Cambridge U.P., 1995.

Criticisms of the Notion of Rights

- Waldron, Jeremy, ed. *Nonsense Upon Stilts* (contains Bentham's "Anarchic Fallacies," Burke's "Reflections on the Revolution in France," and excerpts from Marx's "On the Jewish Question," all with commentary)
- Marx, Karl. "The German Ideology," "Critique of the Gotha Program," and "On the Jewish Question" are most relevant
- Benhabib, Sheila. "The Generalized and the Concrete Other" in S. Benhabib and D. Cornell, eds. *Feminism as Critique*. U. Minnesota Press, 1987.

Domestic Civil and Political Rights

- Ely, John H. *Democracy and Distrust*. Harvard U.P.
- Beitz, Charles. *Political Equality*. Princeton U.P., 1989.
- Henkin, Louis. *The Rights of Man Today*. pp.31-55.
- Sandel, Michael. *Liberalism and the Limits of Justice*. Cambridge U.P., 1982, pp.135-147.
- Dworkin, Ronald. *Taking Rights Seriously*. Harvard U.P., 1977.
- Fullinwider & Mills. *The Moral Foundations of Civil Rights*. Rowman & Littlefield.
- Koppelman, Andrew. *Antidiscrimination Law and Social Equality*. Yale U.P., 1996.
- Kymlicka, Will. *Multicultural Citizenship*. Oxford U.P., 1995
- Pogge, Thomas. "Group Rights and Ethnicity" in Will Kymlicka and Ian Shapiro, eds. *Ethnicity and Group Rights*. NOMOS volume 39, New York U.P., 1997.

Domestic Economic Justice

- Michaelman, Frank. "Constitutional Welfare Rights and A Theory of Justice" in Norman Daniels, ed. *Reading Rawls*.
- Nozick, Robert. *Anarchy, State, and Utopia*, pp.149-182.
- US Supreme Court: *Plessy v. Ferguson*, and *San Antonio v. Rodriguez*.

The Problem of Cultural Diversity

- Nickel, Chapter 4; American Anthropological Association, Henkin, and Harman in Winston, ed.
- Berger, Peter. "Are There Any Human Rights?" in B. Rubin and E. Spiro, eds. *Human Rights and U.S. Foreign Policy*. Westview Press, Boulder 1979, pp.83-92.
- Scanlon, Thomas, M. "Human Rights as a Neutral Concern" in Brown & MacLean. *Human Rights and U.S. Foreign Policy*. Heath, 1979.
- An-Na'im. *Human Rights in Cross-Cultural Perspectives*. pp.30-39 and 427-435.
- Walzer, Michael. "Membership" in *Spheres of Justice*. Basic Books, pp.31-63.
- Taylor, Charles. "Conditions of an Unforced Consensus on Human Rights."
- Chan, Joseph. "A Confucian Perspective of Human Rights."
- Tatsuo, Inoue. "Liberal Democracy and Asian Values" (all three forthcoming in *The East Asian Challenge for Human Rights*, ed. by Joanne Bauer and Daniel A. Bell, Cambridge: Cambridge University Press, 1999.
- Bell, Daniel, A. "The East Asian Challenge to Human Rights" in *Human Rights Quarterly* 18, 1996.

International Justice

- Barry, Brian. "Do Countries Have Moral Obligations?" in S.M. McMurrin, ed. *The Tanner Lectures on Human Value II*. University of Utah Press, 1981.
- Barry, Brian. "Humanity and Justice in Global Perspective" in Pennock and Chapman, eds. *Ethics, Economics, and the Law*. New York University Press, 1982.
- Beitz, Charles. *Political Theory and International Relations*. Princeton U.P., 1979.
- Beitz, Charles, et al., eds. *International Ethics*. Princeton U.P., 1985.
- Beitz, Charles. "Cosmopolitan Ideals and National Sentiment" in *Journal of Philosophy* 80:10, October 1983, pp.591-600.

- Brown, Peter, and MacLean, Douglas, eds. *Human Rights and U.S. Foreign Policy*. Lexington, 1979.
- Brown, Peter, and Shue, Henry, eds. *Boundaries* Rowman & Littlefield, 1981.
- Doyle, Michael. "Liberalism and World Politics" in *American Poli. Sci. Rev.* 80, 1986, pp.1155-62.
- Hoffmann, Stanley. *Duties Beyond Borders*. Syracuse U.P., 1981.
- Kavka, Gregory. "Some Paradoxes of Deterrence."
- Lauterpacht, H. *International Law and Human Rights*. Praeger, 1950.
- MacLean, Douglas, ed.. *The Security Gamble*. Rowman & Allanheld, 1984.
- Nardin, Terry. *Law, Morality, and the Relations of States*. Princeton U.P., 1983.
- Pogge, Thomas. *Realizing Rawls*. Cornell U.P., 1989, Part III.
- Pogge, Thomas. "Cosmopolitanism and Sovereignty" in *Ethics* 103/1 ,October 1992, pp.48-75.
- Pogge, Thomas. "An Egalitarian Law of Peoples" in *Philosophy and Public Affairs* 23, 1994, 195-224.
- Pogge, Thomas. "The Bounds of Nationalism" in *Canadian Journal of Philosophy*, 1997 Supplm. Volume.
- Walzer, Michael. *Just and Unjust Wars*. Basic Books, New York 1977.
- Walzer, Michael. "The Moral Standing of States" in *Philosophy and Public Affairs* 9, 1980, 209-29.

The Problem of World Hunger

- Singer. "Famine, Affluence, and Morality" (1972) reprinted in Beitz, Cohen, Scanlon, Simmons, eds. *International Ethics*. Princeton U.P., 1985.
 - O'Neill, Onora. "Lifeboat Earth," 1975 reprinted *ibid*.
 - Lucas, G. R., and Ogletree, T. eds. *Lifeboat Ethics*. Harper Row, 1976
 - Hardin, G. "Living on a Lifeboat," in W. Aiken & H. LaFollette, eds. *World Hunger and Moral Obligation*. Prentice-Hall, 1977.
 - Nagel, Thomas. "Poverty and Food," in Peter Brown & Douglas MacLean, eds. *Food Policy*. Free Press, 1977.
 - Griffin, Keith. *International Inequality and National Poverty*. Holmes & Meier, 1978.
 - Lappe, F. M., and Collins, J. *Food First*. Ballantine Books, 1979.
 - Sen, Amartya, K. *Poverty and Famines*. Oxford, 1981.
 - Fishkin, James. *The Limits of Obligation*. Yale U.P., 1982.
 - Hayter, T. *The Creation of World Poverty*. Pluto Press, 1983.
 - George, Susan. *Ill Fares the Land*. Institute for Policy Studies, 1984.
 - O'Neill, Onora. *Faces of Hunger*. Allen Unwin, 1986.
 - Pogge, Thomas. "O'Neill on Rights and Duties" in *Grazer Philosophische Studien* 43 (1992), 233-247.
 - Dasgupta, Partha. *An Inquiry into Well-Being and Destitution*. Oxford 1993.
 - Davidian, Zaven. *Economic Disparities Among Nations*. Oxford U.P., 1994.
 - Pogge, Thomas. "A Global Resources Dividend" in David Crocker, ed. *The Ethics of Consumption and Stewardship*. Rowman and Littlefield, 1998.
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