

Contemporary Political Philosophy notes 2020

Lecture 1 – INTRO

EICHMANN REVISITED

Book: Hannah Arendt, *Eichmann in Jerusalem: A report on the banality of evil* (1963)

- A report on the trial of Adolf Eichmann, in the Beth Hamishpat (House of Justice in Jerusalem) • 1906-1962, SS Senior Assault Unit Leader
- High ranked bureaucrat, responsible for Jewish deportation to extermination camps
- Captured by Israeli Mossad in Argentina (May 11, 1960)
- Executed in 1962
- Argumentation: obeyed the orders, Fuhrer's words, law abiding citizen.
- *"This was the way things were, this was the new law of the land, based on the Fuhrer's orders; whatever he did he did, as far as he could see, as a law-abiding citizen. He did his duty, as he told the police and the court over and over again; he not only obeyed orders, he also obeyed the law"*
- *Increasing role of clarity in formulating views:*
 - *Used to come in "pre-packaged blocks": left right, middle*
 - *Today: suspicious of the blocks, mix and match approach, lack any clear guiding principles.*

WHAT IS POLITICAL PHILOSOPHY?

- *Political philosophy: tools that citizens can use to work out what we think about values and principles. What people are morally permitted or required to make each other do*
- Philosophy: seeks the truth, ie attempts to determine values and principles through the use of rational argumentation • Political: pertains to state institutions (people as public citizens). *Any definition of political is controversial*

Swift

- Political philosophy asks:
 - how should the state act?
 - what moral principles guide the treatment of citizens?
 - what kind of social order should it create?
 - what should citizens do when the state isn't doing what it should be doing?
 - what should and should not be subject to political control?
- Branch of moral philosophy: justification of what states ought to do
- State: collective agent of the citizens who decide what its laws are (not separate or in charge of citizens).
State as a coercive mechanism: various means of getting people to do what it says
- *"Political philosophy, then, is a very specific subset of moral philosophy, and one where the stakes are particularly high. It's not just about what people ought to do, it's about what people are morally permitted, and sometimes morally required, to make each other do"*

Fabre

- Key questions in contemporary philosophy ask which principles ought to regulate major social and political institutions, to ensure that we are given what we are due. An answer to this question provides a theory of social justice: of justice by addressing what we owe to each other and social, as it attends to the organization of societies.

- Theory of justice sets out what is owed to whom - > sets out the content of justice and delineates its scope
- Justice as social (polity) vs global (humanity)
- *Postmodern philosophy: there is no 'truth' or 'reason', socially constructed rather than independent / objective for assessing society*

WHY POLITICAL PHILOSOPHY

Rawls (justice as fairness: a restatement)

- (1) To uncover deep moral understanding & compatibility, even at the root of warring peoples & ideologies. It is through digging deep into the core of our beliefs that we discover core similarities at the bottom.
- Roots of debates on equality comes from Locke (freedom of speech, rights, liberty from interference). Constant called it the liberty of the moderns
- Roots of debates on equality comes from Rousseau (liberty entails equal positions in society and equality in daily, public life). Constant called it the liberty of ancients
 - (2) To reconsider our own institutions, as well as our purpose in participating in these institutions
 - (3) By looking at our institutions rationally, we understand their own rational fabric
 - (4) To help create terms for a reasonable utopia (starts with the world as it is). Partially comes from accepting the world as it presents itself to us, & partially to help us structure a better world to our liking.

AIM OF CLASS I

'Social justice' (complicated term)

- John Rawls proclamation: 'justice is the first virtue of social institutions'
- Social justice: set of things, a single polity
 - What can the state legitimately coerce us to do?
 - How can (and should) the state constrain individual action?
 - How can the law be justified?
 - How should society be organized?
- This way of looking at the world: 'ideal theory', pursuit of 'ideal' principles that should guide the society **Ideal Theory**
- This approach to the study of politics is called "ideal theory". The pursuit of "ideal" principles that should guide society
 - But can we really approach society this way?
- **Two objections (by Swift): realism, and non-ideal theory**
- (1) **Realism**: claim that the pursuit of the 'ideal' of justice is lacking relevance to reality
 - Pursuing idealist visions misunderstand the nature of politics, which distils to vicious and (sometimes) irrational struggle for power
 - *Criticized for being utopian and irrelevant. Results of these theories are implausibly ambitious visions of an ideally just or good society: visions that can never be realized and might even be dangerous to aim for*
- (2) **Non ideal theory**: claim that ideal theories of justice cannot apply to actual societies, work on answering the wrong questions, ignore specific circumstances
 - What is needed are principles for what to do in our actual societies. Since ideal theory is unrealistic, this means that pursuing it may actually be dangerous (because it is unmoored from social reality).
 - *Gap between the principles that would be followed in the ideal society and those that apply in the real world.*
- **Defence for ideal theory**
 - (1) Generate principles to guide society towards moral ends - the 'lighthouse' functions

- (2) Goal isn't just to design an ideal society, but figure out why it would be ideal
- (3) Determines what values take precedence over others. *Articulate the values that are needed for us to judge whether a policy is better than another*
- (4) Determine what is at stake morally, in decisions we make politically. *We need to think about ideals to understand the issues at stake in the choices we make.*

Lecture 2 – SOCIAL JUSTICE

EXAMPLE: CINDY McCAIN IN THE AIRPORT

- Reported a white couple with a Hispanic looking girl in the Phoenix airport to the authorities, as they looked suspicious.
 - Story: taking upon herself to enforce the law.
 - Whether she was correct is an outcome - > a different story.
- What, if anything is wrong with what McCain did?
- Majority necessity has singled out a minority into being something suspicious. Issue of representation? Higher standing of certain ethnicities? Her intentions: made a spectacle for political game / publicity?

FUNDAMENTALS: CONCEPTS AND CONCEPTIONS

What is the difference between a concept and a conception?

- Concept: broad, abstract version while the conception.
 - Basic structure of a value or a principle (i.e., justice, liberty).
 - It is broad, unspecified and capacious, encapsulating many different meanings.
 - *Concepts should be kept as distinct as possible to achieve clarity.*
- Conception: particular version of a concept supported by an author, honing it down to a subset of meanings and characteristics - as in a 'civic republican conception of liberty' (can't say civic republican concept of liberty → liberty is the concept).
 - Much more specific, a bundle of different meanings, *particular specification of a concept, obtained by filling some of the detail.*
- *Usually consensus on a concept, but disagreements on the conceptions of the concept.*
- *Which conception we favor, influences our other value commitments.*

What is the "concept" of justice?

- Swift: = concept of justice: giving people what is due to them and not giving them what is not due to them. - Ties justice to duty - to what is morally required collectively through political and social institutions do for one another.
 - Not just what we would be morally good to do, but what we have a duty to do, what morality compels us to do → *There are different conceptions of justice, even when people agree what 'justice' means.*

What are "conceptions" of justice?

- Shared concept, but different conceptions. 3 influential conceptions of justice:
 - Rawls justice as fairness
 - Nozick's justice as entitlement
 - Justice as desert

FUNDAMENTALS: THE RIGHT AND THE GOOD

- Not remotely apparent in common language that these things are distinct. In philosophy: clear differences

The Good

- Utility - “ends”
- Substance: the good life
- Happiness: things we desire, things we want
- Rawl’s theory of the good: “A person’s good is determined by what is for him the most rational long-term plan of life given reasonably favorable circumstances. A man is happy when he is more or less successfully in the way of carrying out this plan. To put it briefly, the good is the satisfaction of rational desire”

The Right

- De-ontology - “means” based conception
- Procedure (about a process, not the ends)
- Rawl’s theory of the right: “A conception of right is a set of principles, general in form and universal in application, that is to be publicly recognized as a final court of appeal for ordering the conflicting claims of moral persons”.
- Good is a particularistic notion; we all pursue it in various ways. Right is = universal. In general, Right is about justice and procedure.

FUNDAMENTALS: JUSTICE AND MORALITY

Are morality and justice identical?

- No = Justice is a subset of morality. Some things are morally good, but not part of justice.
- Example: justice vs charity.
 - Charity: Should we send money to provide famine relief in Bangladesh? Most people think we *should* give aid for famine relief, or that it would be *good* to.
 - But this does not mean we must.
 - It is morally praiseworthy to do such an action, but there is no *duty* to do so.

Justice: a moral duty sufficient to justify state coercion towards that end

- Swift: state is justified in making sure that people carry out their duties to one another and using its coercive power to force people to do what they might not do voluntarily.
 - If the state is justified in coercion, the citizens are justified in using the coercive apparatus of the state to force one another to act in certain ways.
 - *State: collective agent of citizens, who decide what its laws should be.*
- *Justice is central to pol morality, because of the widely held claim that once we know what our duties are to one another, then we also know when we can justify using the machinery of the state to get people to do things they might not otherwise do.*
- Rawls: From theory of justice, the key natural duty is to support and to further just institutions. Duty has 2 parts: first, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves
- When you talk about justice, you ask what duties we have to one another?
- Easy cases: States can punish murderers. (Things we take to be ‘right’)
- Hard case I: Redistribution of wealth. (Things we think would be ‘good’ - is it about the right or the good? This is where the conceptions of justice differ)
- Hard case II: Justice v. Democracy. (What do we do when values conflict?)
 - *Social justice: idea from 1850. Developed as philosophers begun investigating society’s key social and economic institutions. Different from retributive justice - concerned with justification of punishment.*
 - *Theory of Justice (1971): John Rawls transformed and revived political philosophy*

- *Before: pol philosophy was either history of political thought or analysis of the meaning of political concepts*
- *Since Rawls: systematic and substantive argument about what the societies we live in should actually be like*
- *Rawls theory invokes and incorporates ideas of liberty, equality and community (all very closely interrelated)*

JUSTICE 1: HAYEK CONTRA “JUSTICE”

Social Justice as a Category Mistake

- *Hayek: Austrian, major influence on development of New Right in GB and US during 70s/80s*
- Famous work: “The Road to Serfdom”
- There is no such thing as social justice. Thinking this way is a category mistake. Why?
 - (1) Only people can be just/unjust
 - (2) Distribution of resources cannot be intended by individual actors
 - (3) Society, since it is not an agent, simply cannot be just/unjust
- Any attempt by state to act in the name of justice or liberty will have the opposite effect - > will take it away. Why? – The state has no right or capacity to make judgments about values (ie correct basis of distribution) – Attempts to do so will disrupt the market, which will on its own generate fair outcomes - “catallaxy”. This follows on Smith’s defense of markets, which left on their own, would benefit all, including the poorest.
- *Justice: attribute of action, person acts justly when she undertakes a just action. If actions are unintended by any individual agent, they are not susceptible to being judged just / unjust. A society is not an agent = can’t be just / unjust*
- *Any coercive redistribution of resources by state, beyond basic needs, involves an unjustifiable interference with individual liberty. State’s ambition to realize ‘social justice’ implies a centralized authority making people do things they might not want to do, interfering with their freedom to do what they like with their resources. State policies in the area of welfare and redistribution necessarily involve the state making judgments about the criteria that should govern distribution, i.e., goods allocated on the basis of need or merit?*
- *Without state interaction, individuals interacting will produce a ‘catallaxy’ / spontaneous order that crystallizes the info and wisdom (free market represents such a catallaxy). Attempts to plan the economy or redistribution policies are invasive of individual freedom + inefficient distortions to market processes*
- *No agent in the distributive case who can be held responsible. Lack of connection between individual agency and aggregate distributive outcome*

Critical responses

- 1) Is this really a category mistake?
 - Social acts can be judged according to standards of justice, even if there is no single actor responsible for actions - > we are seeking a standard of justice and evaluation by which state actions can be considered just – Even among people, we believe people can be held responsible for actions they did not intend (i.e., falling asleep and running over a person)
- 2) States do act
 - Individuals take action in government; as through executive decision making
 - If the population is sovereign, so do all people - ie voting

JUSTICE 2: RAWLS AND FAIRNESS

Rawls: justice as fairness

- 3 books: A Theory of Justice + Political Liberalism + The Law of Peoples
 - Key has changed the way political philosophy operates.
 - A liberal conception where the individual is always first.