

Legal Studies 107: Theories of Justice (Fall 2021)

Lecture time:	Tuesday & Thursday, 2:00-3:29pm
Lecture location:	North Gate 105
Faculty instructor:	Professor Sarah Song (ssong@law.berkeley.edu)
Office hours:	Fridays 11:00am via Zoom (https://berkeley.zoom.us/my/prof.song20) or by appointment
GSI:	Kai Yui Samuel Chan (samuel_chan@berkeley.edu) (Sections: M 10, W 2) Nikila Lakshmanan (nikila.lakshmanan@berkeley.edu) (Sections: Tu 1, Tu 4) Isabella Mariani (isabella.mariani@berkeley.edu) (Sections: W 9, Th 8)

Course Description

In this course we will explore the idea of justice. Ideas matter because they shape our actions, laws, and institutions and frame the terms of public debate. What is justice? Is it about maximizing happiness, protecting individual liberty, or promoting equality? What kind of equality? Are liberty and equality conflicting values or can they be reconciled? In a just society, how would basic liberties, educational opportunities, and income and wealth be distributed? How should we conceive of equality across racial and gender lines? We will pursue these questions by examining four theories in Western political thought: utilitarianism, libertarianism, egalitarian liberalism, and Marxism. We will also consider critiques of these theories and their implications for a range of real-world issues, including the regulation of sex, labor market regulations, public funding for education, affirmative action, immigration, and global labor justice.

Books, Course Reader, and Notebook

The following books are available for purchase at Cal Bookstore. If you decide to purchase the books from another vendor, please be sure to get the specific editions with the ISBN numbers listed below:

1. John Stuart Mill, *Utilitarianism*, ed. George Sher (Hackett, 2002), ISBN-13: 978-0872206052
2. John Stuart Mill, *On Liberty* (Dover), ISBN-13: 978-0486421308
3. Immanuel Kant, *Grounding for the Metaphysics of Morals* (Hackett, 1993), ISBN-13: 978-0872201668
4. Robert Nozick, *Anarchy, State, and Utopia* (Basic Books, [1974], 2013), ISBN-13: 978-0465051007
5. John Rawls, *A Theory of Justice* (Belknap Press, [1971] original edition, 2005), ISBN-13: 978-0674017726 (The cover photo of the original edition has a pond with ripples; please get the original edition, not the revised edition.)
6. Milton Friedman, *Capitalism and Freedom* (University of Chicago Press, 2009 or 2020 edition)

Electronic copies of the books are available through the UC Berkeley Library; see the top of our bCourses homepage for more info and links. All other readings will be in the Course Reader. Please purchase the Course Reader at Copy Central (2411 Telegraph Ave) and a notebook for taking notes

during class. Course Readers will be available for purchase starting August 25. If purchasing the books or Reader is a hardship for you and you would like hard copies, please speak with Prof. Song.

Course Requirements

Attendance and Participation: Attendance at lectures and sections is required. Lectures will cover important material and include time for discussion. Sections will provide more opportunities for you to participate. If you must miss lecture or section, please notify your GSI in advance of your absence and give your reason for being absent. Unexcused absences will count against your grade. If you are feeling ill, you should not come to class. During this time of the COVID pandemic, it is important to prioritize your health and the health of others. Your absence due to illness will be excused and will not count against your grade.

Reading: The syllabus lists the reading to be completed for each lecture. You will get more out of lectures if you do the reading in advance. Before you start reading, look over the Study Questions and try to answer them as you do the reading. Some of the texts are challenging; they will require slow and careful reading. Plan to set aside 4-5 hours per week for reading.

Papers and Exams: You will be required to write two papers and take a written final exam.

Paper #1	Upload to bCourse by 5pm on Friday, September 24
Paper #2	Upload to bCourse by 5pm on Friday, November 5
Final Exam	Tuesday, December 14, 8am-11am

Grading: Your course grade will be based on the following:

Paper #1 (5 double-spaced pages, 12-pt Times New Roman font)	25%
Paper #2 (5 double-spaced pages, 12-pt Times New Roman font)	30%
Final exam (Part 1: short answers; Part 2: one essay)	30%
Attendance and participation	15%

Policy on late papers

If you need additional time to write your paper, ask your GSI at least two days in advance of the due date. If your paper is late and you have not received an extension, the final grade of your paper will be reduced by a letter grade for every day your paper is late.

Academic integrity

You are a member of an academic community at one of the world's leading research universities. An important value of an academic community is the balance between the free flow of ideas and respect for the intellectual property of others. Reviewing lecture and reading materials and studying for exams with your fellow students can be enjoyable and enriching. We recommend this. However, your paper assignments and final exam should be written independently.

Plagiarism: Be original in composing your papers. To copy text or ideas from another source without appropriate citation is plagiarism. Any material taken word-for-word from another source should be placed in quotation marks and properly cited. You can paraphrase (summarize without direct quotations), but you must provide proper citations. Plagiarism robs you of the opportunity to improve your writing skills. If you are caught plagiarizing, you will receive an F for the assignment and be referred to the University Office of Student Conduct. For additional information on plagiarism and how to avoid it, see: <https://www.lib.berkeley.edu/research-support/cite-sources#Plagiarism>.

Turnitin: As a tool to promote academic integrity, your papers submitted on bCourses will be checked for originality using Turnitin, which compares student work to a database of books, journal articles, websites, and student papers from previous years of this class.

Cheating: Anyone caught cheating on the final exam will receive an F and be referred to the University Office of Student Conduct. Please keep your eyes on your own work and do not converse with others during the final exam.

Classroom climate

We are all responsible for creating a learning environment that is welcoming, inclusive, and respectful. If you feel these expectations are not being met, please come speak with Prof. Song.

Accommodations

If you need academic accommodations, please contact the Disabled Students Program (DSP). DSP will forward approved accommodations to me, and your GSIs and I will make the necessary accommodations. The purpose of academic accommodations is to ensure that all students have a fair chance at academic success. Disability or hardships such as basic needs insecurity, uncertain documentation and immigration status, medical and mental health concerns, pregnancy and parenting, significant familial distress, and experiencing sexual violence or harassment can affect a student's ability to satisfy course requirements. For more information, see <https://evcp.berkeley.edu/programs-resources/academic-accommodations-hub#accommodations>.

Support for students in need

If you are in need of economic, food, or housing support, you can find help at <https://basicneeds.berkeley.edu>. You may be eligible for money to buy groceries via calfresh.berkeley.edu or the [Food Assistance Program](#). If you are in immediate need of food, visit the UC Berkeley Food Pantry at pantry.berkeley.edu.

Class policies

1. COVID-related rules

According to campus policy, everyone must be fully vaccinated (or have received an exemption) in order to be in campus classrooms. Everyone must wear a mask at all times inside buildings, unless alone in a private office. Eating is not permitted during class. If you need to take a drink during class, you may do so and promptly put your mask back on.

2. Be punctual

Lectures and sections will begin promptly. You should plan to be in your seats and ready for lecture by 2:10pm. Class ends at 3:29. Do not leave early unless absolutely necessary.

3. No electronic devices in class

You should give your full attention to every class. To minimize distractions and maximize engagement, the use of electronic devices during lecture and section is prohibited. This includes laptops, tablets, and phones. Writing by hand may be difficult for some but many are also bothered by keyboard tapping and there is the inevitable temptation to surf the web. I ask that you take notes the old-fashioned way, with pen and paper. Think of class time as an opportunity to be offline and think uninterrupted. Please purchase a notebook for this class. To assist you in your notetaking, I will provide lecture outlines before lecture and upload my PowerPoint slides to bCourse after lecture. Every lecture will be audio-recorded and the recordings will be uploaded to bCourse.

4. Communicating with instructors

I will be available during my regularly scheduled online office hours, after class, and by appointment. Your GSIs will provide you with contact parameters for reaching them.

5. Discussion and debate

Lectures will include time for you to ask questions and offer comments. Sections will provide more time for you to ask questions and engage in discussion with your classmates. You are expected to do the reading before class and come prepared to participate thoughtfully.

SCHEDULE OF LECTURES AND READING ASSIGNMENTS

* Sections will begin meeting on Monday, August 30

Aug 26. Introduction: What is justice & why should we study it?

Reading: Ursula Le Guin, “The Ones Who Walk Away from Omelas”

Study Questions: (1) What comes to mind when you hear the word “justice”? (2) Is justice about producing good consequences for the greatest number of people, or is there a constraint against doing or permitting harm that it is always wrong to violate even if it benefits the vast majority of people? (3) Le Guin’s story explores whether it is ever right to sacrifice one person (or a few people) for the good of many people. What do you think of those who remain in Omelas? What about those who leave? If you lived in Omelas, what would you do?

I. UTILITARIANISM

Aug 31. Bentham’s utilitarianism and cannibalism on the high seas

Reading: (1) Jeremy Bentham, *Introduction to the Principles of Morals & Legislation*, ch. 1, 4, 13, 17 (section 1); (2) *R. v. Dudley & Stephens* (1884)

Study Questions: (1) What is Bentham’s “principle of utility” or “greatest happiness principle”? (2) Bentham says that pleasure is the only thing that is good in itself. Is he right? What about knowledge? Or beauty? Or achieving the goals you set for yourself? (3) How could Bentham make a utilitarian argument against slavery or against punishing innocent people? Consider three cases: (i) the slave population is small; (ii) the slaves are members of a socially outcast group; (iii) the slaves are paid little, do backbreaking work, and are very productive. (4) According to Bentham, should a community enforce its public morals through legal sanctions? Why or why not? Can you think of a law that regulates conduct *because* the conduct is considered immoral? What do you think of those laws? (5) The case *R. v. Dudley & Stephens* raises the question of whether it is ever justifiable to sacrifice one person so that a greater number of people may survive. Do you think the legal ruling was just? What might Bentham say about the case?

Sep 2. Mill’s revisionist utilitarianism: The value of self-development

Reading: John Stuart Mill, *Utilitarianism*, ch. 1, 2, 5

Study Questions: (1) What does it mean to say that the *quality* (not just the *quantity*) of a pleasure is “higher”? How does Mill distinguish between higher and lower quality pleasures? (2) Is Mill right about the kinds of pleasures that those “competent” to judge would prefer? Who is “competent” to judge the quality of pleasures, and why should their judgments serve as the basis for deciding the

quality of pleasures and the goodness of lives? (3) Does Mill's distinction between higher and lower quality pleasures reflect an objectionable elitism or an undue emphasis on intellectual pleasures?

(4) Mill declares "it is better to be a human being dissatisfied than a pig satisfied, better to be Socrates dissatisfied than a fool satisfied." What does this mean? Do you agree? (4) In chapter 5, Mill discusses some common views about what justice is. What view of justice does Mill endorse?

Sep 7. The legal enforcement of morality: The case of anti-sodomy laws

Reading: *Lawrence v. Texas* (2003), excerpt of the Opinion of the Court and Justice Scalia's dissent

Study Questions: (1) Does the fact that sodomy violates the community's morals (assuming that it does) provide a legitimate reason for criminalizing it? (2) What is the difference between the claim that sodomy violates the community's morality and the claim that sodomy is condemned by the moral views of the majority? (3) Utilitarians, including Bentham and Mill, oppose the legal enforcement of morality, but do they have a convincing utilitarian argument against it? (4) Is there a better argument against the legal enforcement of morality than the utilitarian argument?

Sep 9. Mill's defense of liberty: Reconciling individual liberty and utilitarianism

Reading: John Stuart Mill, *On Liberty*, ch. 1 & 2

Study Questions: (1) Mill says that *On Liberty* defends "one very simple principle," the harm principle. What is the harm principle? (2) Consider Mill's utilitarian argument for the harm principle. How is the general welfare improved by tolerating religious, philosophical, and moral dissent? What are the costs of such toleration? Why does he think the benefits of tolerating dissent outweigh the costs? (3) Mill is one of the leading defenders of freedom of speech. Why is freedom of speech valuable in his view? When, if ever, should freedom of speech be restricted?

Sep 14. Limits on individual freedom

Reading: Mill, *On Liberty*, ch. 3 & 5

Study Questions: (1) In chapter 3, Mill discusses the freedom to *act* upon one's beliefs and opinions. When discussing *self-regarding* acts, he argues one should be permitted great freedom to carry one's beliefs into practice. Why? Hint: look at Mill's discussion of individuality. (2) Do you think that conduct should only be regulated if it is *harmful* to others? What about regulating conduct out of a concern for the person's own welfare (e.g., drugs, seat belts), because it is repulsive (e.g., bestiality) or offensive to others (e.g., public nudity), or because some judge it to be morally wrong (e.g., physician-assisted suicide)? (3) In chapter 5, Mill discusses the sale and use of drugs, gambling, prostitution, the decision to procreate, and the education of children. Does he think any of these activities should be subject to government regulation? Why or why not? (4) What might Mill say about legal restrictions on hate speech or restrictions on pornography?

Sep 16. Freedom of speech: Should hate speech be restricted by law?

Reading: (1) *Virginia v. Black*, 538 U.S. 343 (2003); (2) Erwin Chemerinsky & Howard Gillman, "Hate Speech," in *Free Speech on Campus* (2017)

Study Questions: (1) In *Virginia v. Black*, the U.S. Supreme Court held that government can prohibit cross burning where there is intent to threaten or intimidate, but government may not ban all cross burning. Why shouldn't government be able to ban all cross burning? (2) In his dissent, how does

Justice Thomas draw on the history of cross burning to make his argument for upholding the Virginia law banning cross burning? (3) Chemerinsky and Gillman argue that colleges and universities should not prohibit hate speech. What reasons do they give for tolerating hate speech on campus?

(4) By contrast, some argue that hate speech inflicts harm on those targeted by hate speech and therefore should be restricted. Does hate speech cause harm? What kind of harm? Do you agree that hate speech should be restricted if it has this kind of impact?

II. FROM CONSEQUENTIALIST TO DEONTOLOGICAL MORAL THEORY

Sep 21. Deontological moral theory as an alternative to consequentialism (including utilitarianism)

Reading: (1) Immanuel Kant, *Grounding for the Metaphysics of Morals*, preface & sections 1-3; (2) “On a Supposed Right to Lie because of Philanthropic Concerns”

Study Questions: (1) According to Kant, why is it a mistake to base morality on any actual interest, desire, or end, including the aim of maximizing happiness as utilitarianism does? What is the proper basis of morality in his view? (2) Kant argues morality must take the form of the categorical imperative. What is the categorical imperative? (3) Kant rejects the idea that freedom is the ability to pursue our actual desires without the interference of others. He understands freedom as *autonomy*. What is Kant’s view of freedom as autonomy, and how is it different from Mill’s view of freedom/liberty? (4) Is it ever morally permissible to lie in Kant’s view? How does the Kantian view of lying differ from the utilitarian view of lying?

Sep 23. Defending an individual’s right to private property

Reading: John Locke, *Second Treatise on Government*, ch. 5

Study Questions: (1) According to Locke, how does a person come to have a right of ownership in something? (2) Do you agree with Locke that most of the value of something that humans have acquired, such as a cultivated piece of land, derives from human labor? (3) What moral constraints does Locke place on the acquisition of private property? Can one acquire as much as one wants?

[*Sep 24 \(Friday\). Paper #1 due – upload to bCourse by 5:00pm](#)

III. LIBERTARIANISM

Sep 28. Possessive libertarianism I: Defending a minimal state

Reading: Robert Nozick, *Anarchy, State, & Utopia*, Preface (pp. ix-xiv); all of ch. 2; pp. 26-35 and 48-53 of ch. 3; pp. 113-119 of ch. 5

Study Questions: (1) What is a “minimal state”? Does Nozick provide a plausible story of how the state could emerge in a morally permissible way without violating anyone’s rights? (2) Nozick views individual rights as “side constraints” (p. 30). What is this idea of rights as side constraints? (3) Nozick criticizes utilitarianism for failing to respect that each person is a “separate person.” What does he mean by this? (4) How does Nozick respond to the problem of the individual anarchist or

“independent” who refuses to accept the protective services of the state? Do you find his response convincing?

Sep 30. Possessive libertarianism II: Nozick’s historical entitlement theory of justice

Reading: Nozick, *Anarchy, State, & Utopia*, pp. 149-64 and pp. 167-82 of ch. 7

Study Questions: (1) What three principles make up Nozick’s theory of justice? (2) What is the difference between “historical” and “end-state” principles of justice? Which type of theory is Nozick’s? (3) Riffing on Marx, Nozick sums up his theory with the following maxim: “From each as they choose, to each as they are chosen.” In prizing individual liberty above all else, does Nozick’s theory fail to account for anything important? (4) Nozick says, “Taxation of earnings from labor is on a par with forced labor” (p. 169). Do you agree? Why or why not?

Oct 5. Liberty and labor market regulation

Reading: (1) *Lochner v. New York* (1905), Opinion of the Court & Justice Holmes’s dissent; (2) *West Coast Hotel v. Parrish* (1937), Opinion of the Court

Study Questions: (1) Why does the *Lochner* Court think it is illegitimate for the state to regulate labor markets in order to redress inequalities of bargaining power between employers and employees? Do you think inequalities of bargaining power exist? What effects might such inequalities have for wages and working conditions? (2) Is it paternalistic to try to correct for inequalities of bargaining power? Do such regulations make workers “wards of the state”? Is it also paternalistic to protect a person from physical assault? (3) Are minimum wage laws or workplace health and safety regulations objectionably paternalistic? What, if anything, is wrong with paternalism? (4) What might Nozick say about the rulings in *Lochner* and *West Coast Hotel*?

Oct 7. Choice-based libertarianism

Reading: Milton Friedman, *Capitalism and Freedom*, Intro, ch. 1, ch. 2, ch. 10 (only pp.161-168 of ch 10 is required), ch. 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) The Preamble to the U.S. Constitution says one purpose of government is to “promote the general welfare.” What does that mean? Does Friedman agree? Do laws promoting the general welfare violate the individual right to liberty? (4) Friedman endorses certain kinds of anti-poverty programs and public spending on education as a legitimate use of tax dollars. How does he make the case that anti-poverty programs promote the general welfare (including the welfare of people who are not poor)? (5) By contrast, Friedman argues against government promoting “equality of treatment.” Why is that illegitimate?

Oct 12. Equal opportunity and education

Reading: (1) *San Antonio Independent School District v. Rodriguez* (1973), Opinion of the Court & Justice Marshall’s dissent; (2) Friedman, *Capitalism and Freedom*, ch. 6

Study Questions: (1) Justice Marshall says individuals have a right to an “equal start in life.” What does that mean? Do you agree? (2) How does education help to ensure that everyone has an equal start in life? (3) Does a system of school financing based on local property taxes (as opposed to a state-wide financing system as Texas had) violate a right to an equal start in life? (4) Does Texas’s system of public funding for education violate the rights of parents? (5) Friedman argues that state-funded universal K-12 education promotes the general welfare. Do you find his argument convincing? Why or why not?

IV. EGALITARIAN LIBERALISM

Oct 14. Introducing Rawls’s theory of justice

Reading: John Rawls, *A Theory of Justice*, Sections 1-5

Study Questions: (1) Rawls presents an ideal of a fair society in which life chances are not determined by differences in social background or native endowments. Is this ideal attractive to you? Why or why not? (2) Are native endowments (i.e., one’s natural talents) morally equivalent to the contingencies of social background (e.g., one’s social class)? What does it mean to say that both are “arbitrary from a moral point of view”? (3) Following Locke, Rousseau, and Kant, Rawls’s approach to justice is to imagine a social contract in which individuals come together to choose the basic principles that will govern their society. Is the idea of a hypothetical social contract a good way to think about justice? (4) What is the “original position” and what role does it play in Rawls’s theory? (5) What does Rawls mean when he says, “Utilitarianism does not take seriously the distinction between persons” (p. 27)?

Oct 19. Reconciling liberty and equality: Interpreting Rawl’s two principles of justice

Reading: Rawls, *A Theory of Justice*, Sections 11-14

Study Questions: (1) Which specific liberties does Rawls include in his list of “basic liberties”? (2) In sections 12-13, Rawls provides an informal argument for his second principle of justice. He lays out three interpretations of the second principle, which states, “Social and economic inequalities are to be arranged so that they are (a) reasonably expected to be to *everyone’s advantage*, and (b) attached to positions and offices *open to all*” (p. 60). He argues that “democratic equality” (i.e., the difference principle) is the best interpretation when compared with the systems of “natural liberty” and “liberal equality.” What are the differences between these three systems? Which, in your view, is the most desirable? (3) Is the difference principle fair to people who would be better off under an alternative principle like utilitarianism? (4) What is *fair* equality of opportunity, and why does Rawls think it is a more compelling idea than *formal* equality of opportunity? (5) In section 14, Rawls distinguishes among “perfect,” “imperfect,” and “pure” procedural justice. What’s the difference? Which type of procedural justice is Rawls’s theory?

Oct 21. Rawls’s social contract argument for his theory of justice, or why the parties in the original position would choose Rawls over Mill or Nozick

Reading: Rawls, *A Theory of Justice*, Sections 22, 24-26, 29

Study Questions: (1) In section 22, Rawls discusses the “circumstances of justice.” What are they? What role do they play in his theory? (2) In section 24, Rawls discusses the “veil of ignorance.” What kind of information is blocked by the veil? (3) What principles would people choose behind the veil of ignorance in a hypothetical “original position”? Be sure to study Rawls’s argument for his principles of justice over utilitarianism and libertarianism in sections 26 and 29. (4) Why should we care about what would be chosen in the original position? What, if anything, justifies the original position as the appropriate method for selecting principles of justice?

Oct 26. Gender and justice

Reading: (1) Susan Moller Okin, *Justice, Gender, and the Family*, ch. 5;
(2) Carol Gilligan, “Moral Orientation and Moral Development” (1987) (excerpt)

Study Questions: (1) Okin criticizes Rawls’s theory of justice for being insufficiently attentive to sex and gender. How exactly is Rawls’s theory guilty of “blindness to sexism”? (2) Feminists have long criticized the distinction between public and private. What is this distinction and why is it a problem? (3) Rather than rejecting Rawls’s theory, Okin seeks to revise it toward developing a liberal theory of gender justice. What revisions does she call for? Do her revisions answer the objections she raises against Rawls? (4) Gilligan finds gender differences in the moral development and moral orientation of women and men. What are these differences? What does she suggest is the source of these differences? Do Gilligan’s findings pose any problems for Okin’s liberal theory of gender justice?

Oct 28. Race and justice

Reading: (1) Charles Mills, “Racial Equality,” in *The Equal Society*, ed. G. Hull (2015), pp. 43-71

Study Questions: (1) How does Mills conceive of race? (2) He distinguishes between ideational racism and socio-institutional racism. What’s the difference? (3) Mills suggests four different dimensions of racial equality. What are they and how do they fit together? (4) Mills argues that Rawls and his followers have largely ignored race and racism in theorizing justice. What reasons does he give for this neglect? (5) Mills proposes some revisions to Rawls’s theory in order to address racial injustice. What specific revisionist principles does Mills propose?

Nov 2. Affirmative action

Reading: (1) *Grutter v. Bollinger*, 539 U.S. 306 (2003), Opinion of the Court & Justice Thomas’s dissent; (2) Elizabeth Anderson, “Understanding Affirmative Action,” in *The Imperative of Integration* (2010), pp. 135-154, (3) Nicholas Lemann, “Can Affirmative Action Survive?” *The New Yorker*, July 26, 2021, <https://www.newyorker.com/magazine/2021/08/02/can-affirmative-action-survive>, (4) Jeannie Suk, “The Uncomfortable Truth about Affirmative Action and Asian Americans,” *The New Yorker*, August 10, 2017, <https://www.newyorker.com/news/news-desk/the-uncomfortable-truth-about-affirmative-action-and-asian-americans>

Study Questions: (1) What is the value of diversity in the college classroom? Why does the *Grutter* majority think it is so important? (2) In his dissent, Justice Thomas says affirmative action programs rest on objectionable stereotypes and reinforce racial divisions. Do you agree? Why or why not? (3) Anderson discusses four models of race-based affirmative action. What are they? What are their strengths and weaknesses of each? (4) Lemann's article discusses how diversity came to be the primary rationale for affirmative action. Where did this diversity rationale originate? (5) Suk argues the problem with affirmative action is not race-conscious holistic review of applicants that colleges engage in but instead their use of racial balancing in ways that disadvantage Asian American applicants relative to white applicants. She defends "race-conscious affirmative action, to address the historic discrimination and underrepresentation of blacks and Latinos, in combination with far less severity in the favoring of whites relative to Asians." What do you think of Suk's position?

Nov 4. A pluralistic approach to justice: Walzer's complex equality

Reading: Michael Walzer, *Spheres of Justice*, ch. 1 & 3

Study Questions: (1) Walzer proposes a "pluralistic" theory of justice that says "different social goods ought to be distributed for different reasons, in accordance with different procedures, and by different agents" (p. 6). What do you think of this pluralistic approach? (2) Walzer says the distribution of any social good is "just or unjust *relative* to the social meanings of the goods at stake" (p. 9). Are there any problems with this kind of relativism? (3) Walzer outlines three different principles for distributing social goods: free exchange, desert, and need. He also discusses the principle of equality. Think of examples of goods that might be distributed according to each of these four principles. (5) In ch 3, Walzer discusses communal provision of basic goods, such as food and shelter. What kind of communal provision of basic goods does Walzer think is appropriate for a society like the U.S.? What about health care—how does he think it should be distributed?

[*Nov 5 \(Friday\). Paper #2 due – upload to bCourse by 5:00pm](#)

Nov 9. Membership and immigration

Reading: (1) Walzer, *Spheres of Justice*, ch 2; (2) Joseph Carens, "Aliens and Citizens: The Case for Open Borders"

Study Questions: (1) Walzer says we should think about citizenship (or membership in a political community) as a "primary good that we distribute to one another" (p. 31). What do we gain by thinking of membership in this way? (2) Walzer defends a political community's right to control immigration by appealing to the idea of cultural distinctiveness. What's his argument? (3) Walzer argues that a state's right to control immigration is not unlimited. What are the moral constraints on how a democratic state can treat noncitizens within its territory? What about noncitizens *outside* the territory? Can democratic states admit or exclude whomever they want? (4) Carens argues that the basic principles of utilitarianism, libertarianism, and egalitarian liberalism all support a policy of open borders. Do you agree? Why or why not? (5) Are there any morally compelling reasons that support immigration restrictions?

Nov 11. No class – Veterans Day

V. MARXISM: A MORE RADICAL EGALITARIANISM

Nov 16. Marx on alienation under capitalism

Reading: (1) Marx, *Economic & Philosophic Manuscripts of 1844*, pp. 70-81, 87-89 of *The Marx-Engels Reader* (MER); (2) “The Power of Money in Bourgeois Society,” pp. 101-105 of MER

Study Questions: (1) Marx outlines four types of alienation under capitalism. What are they? (2) What is the relationship between alienated/estranged labor and private property? (3) How would alienation be eliminated under communism in Marx’s view? (4) In “The Power of Money in Bourgeois Society,” Marx says money in a capitalist society “appears as this overturning power both against the individual and against the bonds of society” (105). What does he mean by this? What examples does he give of the power of money?

Nov 18. Principles of communism

Reading: (1) Marx and Engels, *Manifesto of the Communist Party*, pp. 469, 473-491 of MER; (2) Marx, “Critique of the Gotha Program,” pp. 528-532 of MER

Study Questions: (1) In the *Manifesto*, Marx and Engels present the main principles of communism and their theory of history. What is the main driver of history? (2) Consider this passage: “The development of Modern Industry...cuts from under its feet the very foundation on which the bourgeoisie produces and appropriates products. What the bourgeoisie, therefore, produces, above all, is its own grave-diggers. Its fall and the victory of the proletariat are equally inevitable” (483). How does capitalism produce its own grave-diggers? (3) Marx and Engels state, “the theory of communism may be summed up in the single sentence: Abolition of private property” (488). What’s wrong with private property? (4) What do they mean by, “The working men have no country” (488)? (5) How do Marx and Engels critique the family under capitalism? How would things be different under communism? (6) In “Critique of the Gotha Program,” Marx presents his famous maxim: “From each according to his ability, to each according to his needs!” What does this mean? Compare it to Nozick’s maxim.

Nov 23. Marxism meets feminism: MacKinnon’s dominance feminism

Reading: (1) Catherine MacKinnon, “The Problem of Marxism and Feminism,” *Toward a Feminist Theory of the State*, pp. 3-12; (2) MacKinnon, “Difference and Dominance: On Sex Discrimination,” *Feminism Unmodified*, pp. 32-45

Study Questions: (1) What similarities and what conflicts does MacKinnon see between Marxism and feminism? (2) MacKinnon describes the liberal approach to sex equality as providing only two paths for women, “be the same as men” or “be different from men,” which she labels as “equality as sameness/difference.” What’s wrong with this liberal approach? Is Okin’s liberal feminism an example of equality as sameness/difference? (3) MacKinnon advances an alternative theory, the dominance approach. How is it different from liberal feminism? Compare MacKinnon and Okin’s approaches to issues like pornography, sexual harassment, and accommodations for pregnancy.

Nov 25. No lecture – Thanksgiving break

Nov 30. In-class screening of *China Blue* (documentary film)

Dec 2. Responsibilities across borders

Reading: Iris Marion Young, “Responsibility and Global Labor Justice” (2004)

Study Questions: (1) Young argues that people in “relatively free and affluent countries” such as the U.S. “have responsibilities to try to improve working conditions and wages of workers in far-off parts of the world” (365). She bases her argument on the ideal of political responsibility. What is this ideal and what does it require us to do? (2) How is the political responsibility model different from the liability model? (3) How might Young respond to someone who says, “I haven’t harmed people in poor countries nor did I cause their poverty, so I don’t have any responsibility to assist them. I can help them as a matter of charity if I want to, but I’m not required to do so as a matter of duty.”

* December 14 (Tuesday), 8am-11am – Final Exam