

Course Syllabus

Theories of Justice (syllabus v. 1/16/23)

Legal Studies 107

Spring 2023. 4 units

Prof. Christopher Kutz

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(<https://berkeley.zoom.us/j/94686839890?pwd=UFVKbWg5ZnhUYXI0NlptU3hTQ3BzUT09>)

Lecture meetings: T-Th, 6:40-8pm (!), Physics Building (Old L . . .te) 3



Graduate Student Instructors:

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Required Texts:

The following are the principal books we will study; other materials will be on bCourses. I have included links to electronic editions where possible, as well as some scanned copies on bCourses. You will probably need to use the UCB Library proxy service for some of these editions. Instructions are available [here \(https://www.lib.berkeley.edu/using-the-libraries/proxy-server\)](https://www.lib.berkeley.edu/using-the-libraries/proxy-server). I strongly encourage purchase of especially Rawls, *Theory of Justice*, which is a large book much easier to read on paper.

John Stuart Mill, *On Liberty and Other Essays* (Oxford 1991). E-book of *On Liberty* is [here](https://oll.libertyfund.org/titles/mill-on-liberty-and-the-subjection-of-women-1879-ed)  (<https://oll.libertyfund.org/titles/mill-on-liberty-and-the-subjection-of-women-1879-ed>). *Utilitarianism* is [here](https://oll.libertyfund.org/titles/mill-boll-48-j-s-mill-utilitarianism-1863)  (<https://oll.libertyfund.org/titles/mill-boll-48-j-s-mill-utilitarianism-1863>).

Immanuel Kant, *Groundwork of the Metaphysics of Morals* (Cambridge 1998). E-book is [here](https://www.earlymoderntexts.com/assets/pdfs/kant1785.pdf)  (<https://www.earlymoderntexts.com/assets/pdfs/kant1785.pdf>).

Robert Nozick, *Anarchy, State, and Utopia* (Basic Books 1977).

John Rawls, *A Theory of Justice* (rev. ed. 1999). Hereafter 'TJ.'


_____, *Political Liberalism* (Columbia 1996). Hereafter 'PL.'

Charles Mills, *The Racial Contract* (Cornell University Press, 1997). E-book is [here \(https://www-jstor-org.libproxy.berkeley.edu/stable/10.7591/j.ctt5hh1wj\)](https://www-jstor-org.libproxy.berkeley.edu/stable/10.7591/j.ctt5hh1wj).

Recommended:

Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge 2d. ed. 1998). E-book [here \(https://www-cambridge-org.libproxy.berkeley.edu/core/books/liberalism-and-the-limits-of-justice/6800BAC97E92FF5D64FF99DE858A900C\)](https://www-cambridge-org.libproxy.berkeley.edu/core/books/liberalism-and-the-limits-of-justice/6800BAC97E92FF5D64FF99DE858A900C).

Secondary reading

The [Stanford Encyclopedia of Philosophy](https://plato.stanford.edu/)  (<https://plato.stanford.edu/>) has a number of excellent articles, on, e.g., John Stuart Mill, John Rawls, Libertarianism, Communitarianism, Robert Nozick's

Political Philosophy. It may be useful to look at these articles both before and after doing the assigned reading – but they are not a substitute for that reading!

In addition, the following texts may be helpful:

Jean Hampton. *Political Philosophy* (Westview Press, 1997).

Will Kymlicka. *Contemporary Political Philosophy* (Oxford, 1990)

John Rawls, *Justice as Fairness* (Harvard, 2001).

Course Description

This is a course in political philosophy, focussing on the particular tradition of liberal political theory. Liberal political theories emphasize, to varying degrees, the protection of individual freedom as against social demands, the maintenance of social and economic equality, and the neutrality of the state in conditions of cultural and religious pluralism. By studying a range of modern authors, we will attempt to understand the importance of these goals and the possibility of their joint fulfillment. Special attention will be paid to the work of John Rawls, to the problem of moral and political disagreement, and the relation between “ideal” thinking about justice and thinking about justice in conditions of racial and gender hierarchies and historical forms of oppression.

Learning objectives:

This course has four principal goals. The first is for you to learn that fundamental claims about politics, and political justice, can be the object of sustained rational argument, and not merely opinion-voicing. The second is to learn how to read long and complex arguments, to understand their strengths, and to identify their argumentative vulnerabilities. Third, we aim to help you develop your skills in writing analytical and argumentative essays, as a general model for producing well-reasoned analytical prose. Fourth, we hope that you will come to understand, critically, your own political commitments.

Attendance and classroom policies:

You are required to attend lectures as well as discussion sections, and are expected to participate actively in both. If you have an accommodation permitting remote participation, or an illness, you can make use of the Coursecapture files in lieu of in person attendance. Otherwise you are permitted three unexcused absences from lecture, and one unexcused absence from section. Observance of religious

holidays will also, of course, be honored. You are responsible, however, for any material covered in lecture or section, whether or not your absence is excused.

Those with conflicting extra-curricular commitments (e.g., performance, athletics) will need to make specific arrangements, per the campus guidelines. In particular, you need to notify the teaching staff as early as possible, and ideally in the first few weeks of class, with a proposed solution to any conflict with deadlines. The solution may involve an earlier deadline or test time.

I use an active, conversational, lecture style, in which I aim to be very responsive to your questions as they arise in lecture, and in which I also hope to engage you, as individuals and as groups, in that discussion. This means that you are going to need to pay attention not only to what I say in lecture, but also to your classmates. This course works best when it is a collective conversation.

Like your attendance in lecture, we also expect your prior completion of the reading assignments before lecture and section. (Although some of the reading assignments do not involve many pages, the readings are often very condensed, and will require re-reading for comprehension.) Attendance and participation at weekly section meetings are required, and will be recorded. You may be asked to complete brief written assignments for specific section meetings. Section discussions will often cover assigned course materials not discussed in lecture.

Note that we will have required short pass/fail multiple choice quizzes on most class days. The quizzes will be simple checks on the reading for the class. There will usually be 3 questions, and you must get 2 right to pass the quiz. You must get 2/3 of the quizzes right to get credit for that portion of your classroom participation grade.

In general, you should try to do all the readings for the week in advance of the week's first lecture, unless otherwise indicated in the syllabus. (I may adjust the syllabus over the semester as I gain an appreciation of the proper pace for work.)

Technology policies:

I am as distraction prone as anyone, and so I sympathize with the difficulty of paying attention to a lecture when a laptop is open before you (or before a student in front of you). Therefore, except for students with an authorized accommodation, I will in general not permit laptops to be used during lecture, unless I call

for you to use them specifically, e.g. for an exercise. I also ask you to minimize your texting during class. I encourage you to print out readings, and to bring texts to class.

You will, however, need access to a smartphone in class, to complete the quizzes. Let your GSI know if this is a problem and we will work out an alternative accommodation.

DSP Accommodation:

If you have specific needs due to documented disabilities, we will make every effort to accommodate these needs, in collaboration with the Disabled Student's Office. For information on University policies regarding students with disabilities, and federal and state laws affecting people with disabilities, contact: <http://access.berkeley.edu> (<http://access.berkeley.edu>). If you do not think we have received a DSP letter for you already, please convey your information to your GSI early in the semester so that the teaching staff can make all appropriate arrangements.

Requirements and Grading

The requirements of the class include all assigned reading, two 4-5 page (double-spaced, 12 point) analytical papers, one short (750 words) editorial argument, a peer-reviewed midterm, and a final exam. The two analytical papers are due Feb. 17th and March 23rd, and the editorial is due April 28th. The midterm is **March 9th**. The peer-given grade is for your information only. But we will assign a grade to your peer-grading, to be incorporated into the classroom participation component.

Your final grade will be determined on the following basis:

Papers: 20% each

Class participation - 15%

Final exam - 25%.

The class participation component of the grade will be assessed as follows: each weekly written assignment in section will be given a grade of Weak, Satisfactory, Great, and Do More! (check, plus, minus, and 0), on the basis of effort and insight shown, and we will assign comparable grades to your oral participation over the course of the semester. Those individual grades will be combined into a single class participation grade, with an S average converted into a 3.33/B+, with departures upwards and

downwards. We will also factor your performance in peer-grading into the class participation component, on the same basis.

Please note carefully: you cannot pass the course without completing all written assignments, or if you have missed more than 30% of your section meetings. No papers will be accepted late without **prior** permission from the instructor.

University policies on plagiarism will be strictly enforced. Plagiarism consists in offering work as your own for a grade without acknowledging its source. Self-plagiarism, or offering your own work submitted for grading in another course, is also prohibited. **Work generated by ChatGPT or any other AI system constitutes plagiarism as well.**

This is the University policy:

All written work submitted for a course, except for acknowledged quotations, must be expressed in the student's own words. It must also be constructed upon a plan of the student's own devising. Work copied without acknowledgement from a book, from another student's paper, from the internet, or from any other source is plagiarized. Plagiarism can range from wholesale copying of passages from another's work to using the views, opinions, and insights of another without acknowledgement, to paraphrasing another person's original phrases without acknowledgement. The submission of such work will, under University rules, render the offending student subject to an F grade for the work in question or for the entire course, at the discretion of the instructor, and will also make the student liable for referral to the SJA.

Students who for any reason need special arrangements for exams are responsible for notifying me or the GSIs at the beginning of the semester. Students who notify us immediately prior to or after an exam cannot be accommodated.

Your participation in lecture is strongly encouraged. As you read the assignments, think about what questions the authors were attempting to answer. What answers do the authors suggest, and what arguments presented to support these answers? Ask yourself whether you agree with the answers: why or why not?

Course outline and readings:

(Note: the schedule of readings may vary slightly with our actual progress.)

1. Introductory week of Jan. 17 and 19:

Tues.: Discussion of syllabus, and the “Liberal Tradition.” Read “The Movement to End Homework” (bCourses).

Thurs.: Freedom of speech and constrained conversations. Read J.S. Mill, *On Liberty*, Ch. 1; “A Lecturer Showed a Picture of Muhamed,” *New York Times* (Jan. 8, 2023)

2. Week of Jan. 24 and 26: Well-being in the liberal tradition and utilitarian social theory as a foundation.

Tues.: Mill, *Utilitarianism*, Chs. 1-2, 5.

Thurs.: Mill; *On Liberty*, Ch. 2.

3. Week of Jan. 31 and Feb. 2: The importance of individual liberty and its compatibility with utility.

Tues.: Mill, *On Liberty*, Ch. 3.

Thurs.: Mill, *On Liberty*, Ch. 4.

4. Week of Feb. 7 and 9: Liberalism as a protection of autonomy (the Kantian tradition)

Tues: Reading: Immanuel Kant, *Groundwork*: C. Korsgaard “Introduction,” pp. xvii-xxv; Kant., pp. 36-50 [4:418-440] (on Bcourses)

Thurs.: Robert Nozick, *ASU*, pp. 10-12, 26-35, 42-45, 48-51, 149-64, 174-82.

5. Week of Feb. 14 and 16: Libertarian Justice and the Liberal alternative

Tues.: Continue with Nozick, *ASU*, pp. 286-94

Thurs.: John Rawls, *Theory of Justice* (TJ), Sections (**not pages**) 1-4.

Paper #1 due 5pm Friday, Feb. 17.

6. **Week of Feb. 21 and 23:** Justice, “Original Positions” and the decision-theory argument for a social contract

Tues.: Rawls: *TJ*, Sections (not pages) 5,7,9, 20-25.

Thurs.: *TJ*, Sections 11-17, 26-29, 31.

7. **Week of Feb. 28 and March 2nd:** Reparations and Racial Contracts

Tues.: Ta-Nehisi Coates, “The Case for Reparations”; Derrick Darby, “Reparations and Racial Equality.” (on Bcourses).

Thurs.: Charles Mills, *The Racial Contract*, 1-40, 66-78.

8. **Week of Mar. 7 and 9:** Catch-up/Review/Midterm

Tues.: Catchup/Review

Thurs.: **Midterm exam in class**

9. **Week of Mar. 14 and 16:** Challenges to the Original Position, the Priority of Liberty, and the Good Life

Tues.: Nozick, *ASU* pp. 183-231.

Thurs.: Rawls, *TJ*, sections 18-19, 33-35, 63-65, 82.

10. **Week of Mar. 21 and 23:** Social conflict, tolerance, and the the claims of law

Tues.: Mills, *Racial Contract* ch. 3, pp. 91-134; Rawls, *TJ* secs. 51, 53.

Thurs. Tommie Shelby, “Justice, Deviance, and the Dark Ghetto.” (bCourses).

Paper #2 due in class by 5pm Friday, March 23rd.