

Brock University
Department of Political Science

3P04: Politics, Law, and Justice
Fall 2011

Tuesdays and Thursdays 8 – 8:50 a.m.
GL 164

Professor: Stefan Dolgert

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Office Hours: Tuesdays 9-10 a.m.; Wednesday 3-4 p.m.; by appointment

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Seminars:

1. Wed. 1100 Cor Vandermeer
2. Wed. 1600 Cor Vandermeer
3. Thur. 1200 Stefan Dolgert

Overview

What is the relationship between politics, law, and justice? Are laws that are unjust not really laws? Should politicians have justice as their goal, or should they simply be representing the interests of their constituents? How can we pursue justice when there are so many different views of what justice really is, some of which would require us to break the law?

One usual way of thinking about this relationship, derived from our Anglo-American legal heritage, could be encapsulated as such: what we want is justice, what try to use to get it are laws, and what we have to do to compromise to get those laws is politics...which usually means playing dirty. The common sense approach thus places justice at the apex of the hierarchy, as the most noble thing we truly desire, and puts law in second place, as the way that societies have found is best at pursuing justice, by creating a set of general rules by which its citizens are to live. Politics, however, does not come out looking very good according to this view, as any cursory glance at ordinary language will tell you: no one thinks that “playing politics” is a good thing, and politicians are routinely considered the most dishonest people around.

We will test this consensus about the hierarchy of politics, law, and justice by looking closely at three key political theorists, each of whom privileges one of the three terms as foundational, and we will use four case-studies to try to tease out what these theories actually tell us about how we should think and act politically. According to John Rawls, it is justice which should be the primary concern of political philosophy; according to

Hannah Arendt it is actually politics, the “space of appearance” where people come together to choose how they will live in common, that is most important; for John Rawls both Rawls and Arendt are mistaken, and we should instead look to the Natural Law tradition that derives from the philosophy of Thomas Aquinas.

We will critically assess each of these philosophies, in part by close analysis of their writings, and in part by using their ideas to evaluate four uniquely Canadian events or debates: 1) the 1990 Oka Crisis, in which a Mohawk community disputed the expansion of a golf course over sacred ground; 2) the 2012 Quebec Student Movement, which arose over a proposed tuition hike; 3) the Alberta Tar Sands, which contain enormous reserves of oil but which also threaten widespread environmental destruction; 4) a case to be chosen by the class.

Rawls, Arendt, and Finnis can, in one sense, be seen as avatars for the Liberals, NDP, and Conservatives, respectively, and we shall explore how each of these thinkers relates to the contemporary political parties of Canada. However, we will also look beyond these surface resemblances, in order to bring out the vitality and diversity within each theoretical paradigm. While Finnis is certainly closest to modern conservatism, for example, there are important ways in which his philosophy could also be very sympathetic to environmentalists or First Nations claims (which is the opposite of what one might expect from a conservative thinker). The closer we look the more we see, and the less obvious are common sense clichés about who is on whose side – sometimes our political allies can be found in the most unexpected places.

This class will be conducted as a mixture of lecture and discussion-intensive seminar. The primary impetus and energy in this classroom will come from you, the students, and I will do what I can to harness and channel this energy into interesting pathways. This class will also utilize a number of different methods in presenting the materials, including simulations, semi-formal debates, role-play, and short excerpts from contemporary films. Please come prepared to discuss the materials each day, and this means arguing about them in a thoughtful manner with your instructor and fellow classmates. These discussions should be respectful of others’ views, but in no way does that suggest that we paper over our differences with others. We will learn from each other precisely to the extent that we can figure out exactly how much we disagree with one another.

Goals

- 1) Students will be able to understand the basic concepts used by the philosophers John Rawls, Hannah Arendt, and John Finnis.
- 2) Students will be able to apply the ideas of these philosophers to evaluate and critique the debates surrounding the Oka Crisis, Tar Sands, and Quebec Student Movement.
- 3) Students will be able apply lessons from these three cases to broader questions of democratic agency, economic development, environmental politics, indigenous rights, and educational policy.
- 4) Students will be able to trace linkages between contemporary Canadian political parties and these three political philosophers.

- 5) Students will also be able to articulate and justify multiple, seemingly contradictory political positions from within each of the three paradigms.

Choose Your Issue

The class will be divided into three groups, each based on a particular Canadian political crisis or debate:

1. Oka Crisis (Indigenous Rights, Postcolonialism, Property Rights, Community Sovereignty, Free Markets)
2. Tar Sands (Environmental Justice, Canadian Strategic Interests, Global Capitalism, Global Warming)
3. Quebec Student Movement (Direct Democracy, Student Rights, Rights to Free Speech and Protest, Neoliberal Privatization, Governmental Debt)
4. To be decided

Please begin to keep yourself aware of developments regarding your issue by reading two news sources daily, whether the Globe and Mail, Toronto Star, Montreal Gazette, Edmonton Journal, or Vancouver Sun. As the semester continues I will be asking students, on occasion, to break into groups during class time in order to discuss the implications of Rawls, Arendt, or Finnis for your chosen case.

Classroom Democracy

The classroom space is often seen as a mini-dictatorship (of the professor over the students). To mitigate this we will have a number of occasions for democratic decision-making, including 1) choosing the fourth issue for our case study; 2) choosing activities for Seminar discussion; 3) choosing the format for the Final Exam; 4) possible choice of reading materials for final week of semester.

Deadline to Withdraw is Friday, November 2

Last date for withdrawal without academic penalty and last day to change from credit to audit status for duration 2 courses without academic penalty.

Academic Integrity

In this course we aim to conduct ourselves as a community of scholars, recognizing that academic study is both an intellectual and ethical enterprise. You are encouraged to build on the ideas and texts of others; that is a vital part of academic life. You are also obligated to document every occasion when you use another's ideas, language, or syntax. You are encouraged to study together, discuss readings outside of class, share your drafts during peer review and outside of class, and go to the Writing Center with your drafts. In this course, those activities are well within the bounds of academic honesty. However, when you *use* another's ideas or language—whether through direct quotation, summary, or paraphrase—you must formally acknowledge that debt by signaling it with a standard form of academic citation.

Students with Disabilities

As part of Brock University's commitment to a respectful work and learning environment, the University will make every reasonable effort to accommodate all members of the university community with disabilities. If you require academic accommodations related to a documented disability to participate in this course, you are encouraged to contact Services for Students with Disabilities in the Student Development Centre (4th Floor, Schmon Tower, ex. 3240). You are also encouraged to discuss any accommodations with the instructor well in advance of due dates and scheduled assessments.

Turnitin.com

Written assignments may be submitted through turnitin.com, at the instructor's discretion. Links and password will be supplied at the time of the assignment by the instructor.

Required Course Textbooks (in the order they will be needed)

Rawls, John. *Justice as Fairness: A Restatement* (Belknap Press Harvard)

Arendt, Hannah. *The Human Condition* (2nd ed. University of Chicago Press)

Finnis, John. *Natural Law & Natural Rights* (2nd ed. Oxford University Press)

Grading

Seminar Participation: 20%

Reading Quizzes: 10% (Eleven quizzes, given in lecture. Quizzes will not be announced beforehand, and a missed quiz cannot be made up, though I will drop your lowest score.

First Paper: 15% (4 pages, due October 23 in class). Topics will be distributed by the instructor in advance.

Paper: 25% (7 pages, due November 15 in class). Topics will be distributed by the instructor in advance.

Final Exam: 30%

Class Schedule

September 6: Introductions

Week Two – CASES

September 11: The Quebec Student Movement and Bill 78

<http://www.stopthehike.ca/>

(Please note that there are several pull-down menus to read materials: News, Manifesto, About the Hike, Under Pressure, Towards a General Strike, Legal Information, Material)

<http://www2.macleans.ca/2012/05/30/quebecs-new-ruling-class/>

September 13: The Oka Crisis

Watch the film *Kanehsatake, 270 Years of Resistance* online:

http://www.nfb.ca/film/kanehsatake_270_years_of_resistance/

<http://www.theglobeandmail.com/commentary/oka-20-years-later-the-issues-remain/article1386915/>

Week Three – CASES, continued

September 18: Alberta Tar Sands and the Millennium Pipeline

http://www.democracynow.org/2010/6/25/tar_sands

<http://www.ethicaloil.org/myths-and-lies/>

<http://www.tarsandswatch.org/>

September 20: To be decided

Week Four RAWLS

September 25: *Justice as Fairness*, 1-38

September 27: *Justice as Fairness*, 39-71

Week Five RAWLS

October 2 *Justice as Fairness*, 72-103

October 4 *Justice as Fairness*, 104-134

Week Six RAWLS

October 9 *Justice as Fairness*, 135-179

October 11 *Justice as Fairness*, 180-202

Week Seven ARENDT

October 16: *The Human Condition*, 1-37

October 18: *The Human Condition*, 38-78

Week Eight ARENDT

October 23: *The Human Condition*, 79-135

October 25: *The Human Condition*, 136-167

Week Nine ARENDT

October 30: *The Human Condition*, 175-207

November 1: *The Human Condition*, 207-247

Week Ten FINNIS

November 6: *Natural Law & Natural Rights*, 23-49

November 8: *Natural Law & Natural Rights*, 59-75; 81-97

Week Eleven FINNIS

November 13: *Natural Law & Natural Rights*, 100-127, 134-156

November 15: *Natural Law & Natural Rights*, 371-410

Week Twelve IMPLICATIONS

November 20: Natural Law and Contemporary Politics

Selections from Robert George's *In Defense of Natural Law* (to be distributed by instructor)

November 22: Radical Democracy

Sheldon Wolin, “Fugitive Democracy” (to be distributed by instructor)

Week Thirteen CONCLUSION

November 27: A New Liberal World Order?

Thomas Pogge, “An Egalitarian Law of Peoples” (to be distributed by instructor)

Thursday, November 29

Last day of lectures, Fall Term, duration 2 courses. Make up day for Thanksgiving Day duration 1 and duration 2 classes. The schedule will be that of a Monday.

DEPARTMENT OF POLITICAL SCIENCE STATEMENT ON ACADEMIC MISCONDUCT

Because academic integrity is vital to the well-being of the university community, Brock University takes academic misconduct very seriously. Academic misconduct includes plagiarism, which involves presenting the words and ideas of another person as if they were your own, and other forms of cheating, such as using crib notes during a test or fabricating data for a lab assignment. The penalties for academic misconduct can be very severe. A grade of zero may be given for the assignment or even for the course, and a second offense may result in suspension from the University. Students are urged to read the section of the Brock University Undergraduate Calendar that pertains to academic misconduct. Students are also reminded that the Student Development Centre (Schmon Tower, Room 400) offers free workshops on writing and study skills and on avoiding plagiarism.

POLICY ON LATE ESSAYS

The policy of the Department is that essays received by the instructor or deposited in the Political Science department Essay box after 4:00 p.m. or at a time designated by the instructor, of the date on which they were due will be penalized **two per cent** for each day late from Monday through Friday and **five per cent** for the period from Friday 4:00 p.m. to Monday 8:30 a.m., and that no paper will be accepted two weeks after the due date.

An essay is considered received when the **original** hard copy (printed-not disk) of the paper is in the hands of the instructor or in the box outside the Political Science Department’s office. (ALL ESSAYS MUST INCLUDE A TITLE PAGE WITH THE FOLLOWING INFORMATION CLEARLY MARKED: STUDENT NUMBER, TA and INSTRUCTOR’S NAME, COURSE NAME and NUMBER).

Having an essay date-stamped by security, or the library, or anyone else does **not** constitute receipt of the essay by the Political Science Department. Instructors may require that essays be submitted electronically through turnitin.com. In this case, students must consult with the Instructor on what constitutes a late essay.

Instructors may establish more restrictive deadlines or more severe penalties in particular courses – check the course outline. Extensions of due dates are granted only in circumstances that are beyond the student’s control, such as health problems that are supported by a medical certificate or other, clearly equivalent, situations.

Time management problems are not grounds for extensions. You are strongly urged to avoid these penalties by beginning to work on essays early in the term; by setting your own target dates for completion that are several days before the due date; and by carefully budgeting

your time.

POLICY ON RETURNING MARKED ESSAYS

Marked essays will normally be returned during class meetings or at the final examination. Students who are not in class to receive their essays or do not receive them at the final examination can obtain them in two ways:

- ∅ directly from the instructor during his/her office hours (unless the instructor specifies in the course outline or by notice on his/her office door that this option is not available), and/or
- ∅ directly from the instructor on specific days and at specific times announced in class or posted on his/her office door.

Note: Essays that are not picked up within six months after the end of term will be shredded.

STATEMENT OF ACADEMIC INTEGRITY

Please read and sign the following statement, and submit this sheet with your paper. Your paper will not be graded until you have submitted this form.

I, the undersigned, confirm that I understand that all the following constitutes academic misconduct according to Brock University's policy on academic misconduct, which in turn is consistent with general academic practice:

Quoting someone's words without using quotation marks.

Quoting someone's words without acknowledging the source.

Citing someone else's ideas in my own words but without citing the source.

Using someone else's organization of ideas.

Allowing someone else the opportunity to borrow material from my paper (e.g., by letting them have access to my paper when they are writing their own paper).

Writing the paper for another student, or doing some of the work for them (such as, but not limited to, reading the articles for them and providing them with notes on the articles).

Allowing someone else (or paying someone else) to write part or all of my paper, or do some of the work for me. The exceptions to this are that it is acceptable to allow someone to type the paper for me or make editorial comment on it. However, if someone types the paper for me, or if I incorporate an editorial suggestion, and there are errors in the typing or the suggestion was misguided, I take full responsibility for those errors.

Submitting this work to another course without both instructors' permission.

I confirm that I have not done any of the above forms of academic misconduct.

Name (please print): _____

Signature: _____

Date: _____