Social Contract Theory
Professor Burke Hendrix
920 PLC; bhendrix@uoregon.edu; 607-351-1588
Office Hours: Wednesday 2:00-4:00, Thursday 1:00-2:00

Course Description

Social contract theory is, at its heart, concerned with the relationship between individual choice and coercive political judgment. Under what conditions is it permissible for one set of persons “authorized” in the name of “the state” or some other collective to exercise coercive force against other human beings? What are criteria necessary to justify exercises of this kind, and what is necessary for real social institutions to meet them? What kinds of rights against such coercion do individuals have, and why do they have such rights? Which sets of people are included within the group of the coercible, and which are excluded? Put differently, this is a course about law and legality: who does it bind, to what extent, and why?

We will read primarily historical texts in this class. We will often discuss the political contexts in which they were created, and the goals that their authors sought to pursue, but we will also examine the structure of their normative arguments in depth, along with the nature of their empirical presumptions.

This course, and political theory in general, is not hostile to empirical political science. At the same time, political theory allows for questions of value to be raised in ways that are not generally permitted to empirical political science. Most real political arguments are a mix of fact and value, and much of the discussion in this class will investigate this relationship. Many of the texts read for this course model distinctive packages of factual presumption and value judgment, and thereby provide a range of tools for further thinking. The course is intended to be useful to graduate students who anticipate teaching political theory courses in the future. Given the kinds of positions that University of Oregon graduate students are most likely to secure (e.g. liberal arts positions), capability to teach political theory is likely to be valuable when entering the job market. In addition to discussing the substantive of the texts assigned for this course, we will also discuss the ways in which they can be taught to undergraduates, including the kinds of current topics that can be examined through the lens of these ideas.

Required Course Books

Learning Objectives and Evaluation

Many of the learning objectives for this course are typical for a graduate seminar. Students are expected to deepen skills of critical reasoning, careful reading, clear scholarship, and normative judgment. Because the course is also intended to provide groundwork for students to teach future courses in political theory, it will also involve questions of pedagogy: what kinds of topics can students be taught using these texts? In this regard, students are expected to think seriously about how they are likely to fulfill their likely future role as educators, as well as their more familiar role as scholars.

Students will be expected to write a research paper at the course’s conclusion. This can, however, be a paper that draws on the student’s current empirical interests along with an example of historical or contemporary social contract theory. This paper should be approximately 20 pages long, well researched, detailed, and clear. The paper topic should be chosen in consultation with the professor.

Students will also be expected to write short memos (about 4 pages) to be pre-circulated to the class on two occasions. Another student will serve as discussant for this memo (about 10 minutes), and thereby to frame the discussion of this topic. Depending on the memo’s content, this may take place at the beginning of the class meeting; it may also take place partway through where appropriate (e.g. after the break). All participants are expected to read the memos carefully before class along with the assigned course readings, and to be prepared with helpful but critical feedback where necessary.

Course Reading Schedule

Read the following works for the day in which they are assigned. A small number of reading questions follow each reading assignment. Participants will be expected to write two 4-page memos over the course of the quarter based on one of these reading questions, as described above, or on another question of their choosing in consultation with the professor.

January 6: Plato – *Apology* and *Crito* in Morgan, *Classics of Moral and Political Theory*.

1. How do you evaluate the arguments that Socrates offers in *Apology* for his persistent philosophical activity in the face of legal and other challenges? That is, what kinds of principled arguments seem to lie behind Socrates’s claims, and to what degree are they (or some of them) defensible?

2. In *Crito*, Socrates offers a consent-based argument for the authority of the laws of Athens, along with other arguments. What kinds of claims does he make in this regard, and do they seem defensible? If they are not defensible, are there argumentative changes or social changes that might make them so?
3. Socrates also argues that the laws are akin to his parents in *Crito*. In what way might this be an argument for political authority? What would the most defensible version of such an argument look like?

4. Socrates ultimately chooses not to escape from his execution. Given the kinds of arguments that he has offered, would you say that he was morally bound to remain under these circumstances? Articulate your criteria as clearly as possible.


1. What seems to be the function of the early chapters of *Leviathan* (e.g. 1-7) that discuss topics like motion, sensation, and language? Focusing on one of these topics, show how it connects or fails to connect with one or more of his political arguments.

2. Hobbes is often interpreted as offering a rational choice style of explanation for conflict in the state of nature. Reconstruct how such an explanation might proceed, and evaluate the degree to which it captures all of what Hobbes has to say about the character of conflict, explaining what might be left out, and so on.

3. To what degree are contracts/covenants/promises binding in Hobbes’s argument, and why? Where do they fit in relation to the arguments made earlier in the text, and are the arguments coherent on their own terms?

4. In Chapter 16, Hobbes describes a variety of things that can be “personated”. What are the underlying features that unite these diverse examples, if anything? Which of the examples is closest to the way in which claims about law and legality are used in ordinary political debate?


1. What are the limits that exist on the authority of the sovereign to make law or to command particular actions, and why do they exist? To what degree do the standards that Hobbes articulate follow necessarily from other aspects of his theory? To what degree might (some of) his theoretical tools lead to differing conclusions?

2. How does Hobbes seem to think that real commonwealths come into being, given the often indirect discussions of this issue in the text? What is the relationship between actual commonwealths and his theoretical account of the state of nature and authorization?

3. In Chapters 26 and 27, Hobbes has much to say about the role of judges and about the criminal law. What kinds of reasoning are permitted to judges and other inferior magistrates in these portions of the text? To what degree does the space for reasoning
of this sort undermine or support the view of law as the sovereign’s command articulated earlier in the text?

4. In Chapter 30, Hobbes invokes the Ten Commandments in articulating political principles. In your judgment, what is he trying to achieve with this invocation, and does he succeed? To what degree is this portion of the text consistent or inconsistent with what he has argued elsewhere?


1. What is the logical structure of Locke’s argument for equality and natural rights? To what degree is this argument satisfactory, and for what reasons? Where it is unsatisfactory, what would a more satisfactory argument for the same conclusions look like?

2. Locke defends a strong form of private property rights. Reconstruct and evaluate the logic of his argument, both in the abstract and as a justification of actually existing property holdings in the modern world.

3. What is the space for discretion in lawmaking by political institutions in Locke’s account? What kinds of matters do they have moral permission to decide about, and how are these limits appropriately recognized?

4. Locke defends a right of revolution, through violence if necessary. Based on your reading of the text, how would an individual judge when it was appropriate to begin a violent revolution? What is the relationship between individual judgment and the judgment of “the majority” or some other collective agent?


1. Why must religious repression necessarily fail at its own goals, according to the *Letter Concerning Toleration*? Choose one of his arguments to reconstruct carefully and to critically evaluate.

2. Locke argues that some kinds of religious rituals (e.g. child sacrifice) can reasonably be prohibited on non-sectarian grounds. Reconstruct the logic of his argument as well as you can, showing how it fits within the theory as a whole, and evaluate it.

3. What kinds of traits does Locke seek to bring about among children in *Thoughts Concerning Education*? Which of these traits seem authentically desirable in all children, rather than specific to the particular society in which he was living? To what degree do his proposed methods of education seem plausible?
4. Can conclusions be drawn about the normative criteria of consent when Locke’s thoughts on education are read alongside the *Second Treatise*? Explain how the works might logically relate to one another or fail to do so, and offer a critical evaluation of the relationship between education and consent.


1. Rousseau begins by describing humans in pre-linguistic conditions. What are the strengths and weaknesses of this kind of approach for social contract theory? Explain as clearly as you can, and evaluate the overall appropriateness of this starting point.

2. Toward the beginning of Part 2, Rousseau describes “conveniences” as “the first yoke which, without thinking of it, they imposed on themselves.” What does he seem to mean by this? Describe other areas in the text in which he describes actions that put analogous limitations on the freedom of those involved, and critically evaluating Rousseau’s descriptions.

3. To what degree does the consent of actually-existing people lead to justified political authority in the *Discourse*? That is, what epistemic conditions seem to hold for the individuals that Rousseau describes, and do these affect the binding force of their consent? Do you agree with Rousseau’s judgment, as you understand it?

4. What seem to be the conditions for meaningful freedom, from this text? What is the relationship of these conditions to happiness? Do Rousseau’s judgments seem to be correctly made? Why or why not?


1. Rousseau argues that the goal of a social contract should be to create “moral liberty” (Book 1, Chapter 8). What does he seem to mean by this notion? Explain the degree to which this idea might be coherent, and the degree to which it might be achievable.

2. Rousseau offers several formulations of the “general will” throughout the text. Choose two of them. Articulate the logic of each as well as you can, and evaluate the degree to which they seem to mean the same or different things.

3. The figure of the Legislator (or Lawgiver) plays an apparently anchoring role in Rousseau’s theory. Explain as clearly as you can the problem the Legislator is intended to solve, and evaluate how well this is achieved.

4. Rousseau describes a number of social features that are necessary if a society is to be self-ruling (e.g. small size, similar habits, a civil religion). Explain and evaluate the
relevance of at least two of these, comparing the logic behind them and their overall plausibility.


1. Burke is not generally read as a contract theorist, so understanding his relevance to social contract debates will take some interpretation. One place to begin is with his distinction between revolution and reform. Explain the nature of Burke’s preference for reform, and articulate the degree to which it might be consistent or inconsistent with social contract thinking.

2. *Reflections* argues that the French national assembly was problematic from its convocation, given the character of its representatives. Explain and critically evaluate the problems that Burke describes. Are there authentic problems for social contract theory when representatives lack the kinds of character that Burke describes, or is he mistaken in portraying a problem?

3. Burke argues that “the restraints on men, as well as their liberties, are to be reckoned among their rights” (pg. 53). Explain what he seems to mean by this, and outline the ways in which this notion informs other aspects of his text. To what degree do you find Burke’s argument in this regard plausible, and why?

4. Burke famously argues that society is indeed a contract (pgs. 84-85), though not in the ways it is sometimes said to be. Explain the structure of Burke’s argument, and evaluate its importance for social contract theory as a whole. To what degree might the views of one other social contract theorist have to be revised to take into account the best elements of Burke’s argument?


1. To what degree does Rawls’s conception of social contract theory overlap with that over earlier theorists? To what extent does it diverge? Illustrate with a critical comparison to at least one of the earlier theorists, evaluating which conception seems more compelling on the whole.

2. In *Second Treatise of Government*, John Locke was especially concerned with the natural rights that individuals have. Critically evaluate the relationship between the kinds of rights described by Locke and the protections that Rawls believes individuals should have. To what degree are their ideas the same or divergent?

3. Rawls argues that individuals behind the veil of ignorance would choose the difference principle or something closely akin to it. To what degree do you agree that the difference principle would in fact be chosen in these conditions? To what degree do you believe that this abstract choice matters for our evaluation of the real world?
4. What space exists for political disobedience in Rawls’s theory? That is, how could particular persons judge whether they are obligated to obey given laws, and how could they judge what they are allowed to do in contesting a flawed system? Evaluate and explain as well as you can, using examples.


1. Pateman and Mills have somewhat diverging views on the usefulness of social contract theory for the pursuit of justice. Articulate their areas of agreement and disagreement, and explain the reasons for endorsing one view over the other.

2. To what degree could the theoretical tools offered by Rawls point to better ways forward in the case of the “contracts” described in the chapters by Pateman? Where do the tools of Rawls seem to fall short, and to what degree could these areas be repaired with intellectual revision?

3. Mills argues for specific ways of reformulating social contract theory to most effectively pursue justice in the future. What are the most and least plausible aspects of his views? Articulate his positions as clearly as you can, and critically evaluate.

4. To what degree are unfairly disadvantaged populations of the kind described by Pateman and Mills subject to the legal commands of the countries that now claim rights to rule them? Based on your understanding of how social contract theory is best interpreted, what kinds of political choices are available to one particular set of disadvantaged social actors in the present and why?