Reasonable Disagreement and Political Argument

Optional Subject for the MPhil in Politics: Political Theory
Michaelmas Term 2019

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Seminars: Wednesdays, 9-11am; Lecture Room A, Magdalen College

Course description
The overarching theme of this course is the question of how normative political theories should accommodate moral, religious, and philosophical disagreement. Many political theorists believe that the fact of pervasive reasonable disagreement has important implications for how we structure and justify our political institutions. Indeed, some hold that the need to respond to reasonable disagreement is what makes political theory a distinctive domain of normative inquiry.

Political liberals hold that the exercise of political power must be justified to all citizens by reasons that they can accept. They think that it is impermissible for the state to act solely on the basis of values or ideals over which there is reasonable disagreement: the state must be neutral, in some sense, between the reasonable views about the good life held by citizens. Many also hold that this view has implications for citizens’ own political advocacy: perhaps they must refrain from supporting laws or policies on the basis of their disputed ideas about the good. Perfectionists reject these political liberal claims, and argue that the state can promote particular ideas about the good, even when these are subject to reasonable disagreement. This debate will be the focus of the first half of the course. We will examine the idea of political liberalism, what might justify such a view, and variants within this tradition, as well as considering objections to it. We will then consider the perfectionist alternative, and whether perfectionist policies can be acceptable despite reasonable disagreement.

The second half of the course explores the implications of reasonable disagreement, and the appropriate response to it, with respect to various practical policy questions. We will cover the justification and value of democracy, the acceptability of judicial review, the place of religion within public life, gender equality, marriage, civic education, and the upbringing of children. In each case we will consider what political liberals might have to say about these issues, and what kinds of policies might or might not be legitimate given the existence of reasonable disagreement.

Course delivery
The course will be taught in eight two-hour seminars. Students will be required to give at least one presentation over the course of the term, and to produce an essay of around 2,500 words.
Assessment
Students will sit a three-hour written examination in Trinity Term.

A note on readings
Our expectation is that you will come to class each week having completed all of the essential reading. We would strongly advise reading them in the order that they are listed. The further reading is provided to enable you to delve deeper into the topics that most interest you, especially when you come to revise for the exam.

With just a few exceptions, all of the essential readings are available online via SOLO (as are most of the further readings). If you struggle to locate any item then please do get in touch.
Weekly reading lists

1. **Reasonable Disagreement and Rawls's Political Liberalism**

This week we introduce the ideas of reasonable disagreement and political liberalism, primarily focusing on John Rawls’s articulation of the view.

As an introduction to the course, we start with Charles Larmore’s argument that political philosophy is a distinctive discipline due to the need to respond to reasonable disagreement. Andrew Lister’s short paper then gives a summary of Rawls’s idea of reasonable disagreement and how it shapes his theory, as a way into reading Rawls himself. Finally, Jonathan Quong identifies two different interpretations of political liberalism, arising from divergent understandings of the nature of reasonable disagreement.

We are assuming some prior knowledge of Rawls’s views here, based on your study of ‘impartiality and neutrality’ during the first year Michaelmas core course. Please refresh your memory of the sections of *Political Liberalism* that you read for that course, as well as reading the items we list as essential below.

The further readings offer additional explorations of Rawls’s political liberalism and some other theorists’ accounts of the implications of moral disagreement for political legitimacy.

**Essential reading:**


**Further reading on Rawls’s political liberalism:**


Further reading on reasonable disagreement, liberalism, and legitimacy:
2. Why Political Liberalism?

Why should we respond to reasonable disagreement by endorsing political liberalism? What ultimately grounds the political liberal view, and its claims regarding public justification and public reason? This week we consider three responses to this question, and some central objections to the political liberal project.

Charles Larmore argues that respect is the moral basis of political liberalism. Rawls himself said that his turn to political liberalism was motivated by concerns regarding the stability of a society regulated by his principles of justice; Larry Krassnof considers why such stability might matter. R.J. Leland endorses a third view, that public reason is justified by the way it realizes a distinctive kind of political community, characterized by civic friendship.

David Enoch presents a trenchant critique of the whole project of political liberalism, on the grounds that the idealization involved in specifying its notion of ‘reasonable’ disagreement is inconsistent with the view’s apparent rationale. Jonathan Quong considers a different problem: that there seems to be just as much reasonable disagreement about justice as about the good. He rejects several possible responses to this ‘asymmetry objection’, before defending his own distinctive reply.

The further readings contain more pieces that present and evaluate the respect, stability, and civic friendship justifications for political liberalism, and a group of readings that press the asymmetry and self-defeat objections against the view.

Essential reading:

Further reading on respect:
Christopher J. Eberle, Religious Conviction in Liberal Politics (CUP, 2002), chapters 4-5.
Han van Wietmarschen, “Political Liberalism and Respect,” working paper (available on request).
Further reading on stability:

Further reading on civic friendship:

Further reading on objections to political liberalism:
3. The convergence alternative

The asymmetry objection held that reasonable disagreement is broader than political liberalism can cope with, since it obtains with respect to the right as well as the good. Gerald Gaus has developed an alternative view that seeks to accommodate the full scope of disagreement. Whereas Rawls relies on consensus regarding the public reasons that are used to justify laws, Gaus holds that citizens can ‘converge’ on the same norms and laws for a variety of different, and unshared, reasons. Public justification can draw on all of citizens’ reasons.

As an introduction to Gaus’s approach, his Harvard Review of Philosophy article identifies his (and Rawls’s) project as involving ‘moral theory’ as opposed to ‘moral philosophy’. Gaus’s theory is developed in The Order of Public Reason. In Chapter 4 he argues that moral demands must be justified to each individual on the basis of their own evaluative standards, while Chapter 5 develops a model for how this requirement can be fulfilled.

Andrew Lister’s article ties together our topics from the last few weeks, by differentiating between two approaches to public reason, and defending the coherence of both in the face of objections such as those pressed by Enoch.

The further readings explore the convergence view further, with pieces that explain, critique, and defend the view.

Essential reading:

Further reading explaining the convergence view:

Further reading on objections to convergence:


**Further reading on Gaus’s responses to objections:**


4. Liberal perfectionism

Political liberalism is generally associated with the claim that the state should not promote ideas of the good, since such ideas are the object of reasonable disagreement. Perfectionists reject this claim, and hold that the state has a legitimate role in enabling citizens to live well, by supporting valuable ways of life and discouraging disvaluable ones. Liberal perfectionists hold that this is compatible with, or perhaps even demanded by, respect for individual freedom and autonomy. But is liberal perfectionism a coherent position? On the other hand, does political liberalism actually entail a strict ban on promoting the good?

Steven Wall provides an introduction to perfectionism. We then turn to the most influential contemporary defence of perfectionism: Joseph Raz’s autonomy-based account. Jonathan Quong criticises Raz’s position, arguing that it is internally inconsistent and illiberal. Joseph Chan, meanwhile, argues that a moderate form of perfectionism is consistent with political liberal principles of legitimacy.

Also, a reminder that you read George Sher’s book and some other chapters of Quong in your Michaelmas core course last year. It would be worth re-familiarising yourself with that material.

The further readings include explorations of the force Quong’s criticisms of perfectionism, the nature of autonomy-based perfectionism, and pieces containing other important arguments concerning perfectionist state activity.

Essential reading:
Jonathan Quong, Liberalism Without Perfection (OUP, 2011), chapter 2.

Further reading on Quong’s criticisms of perfectionism:

Further reading on autonomy-based perfectionism:
George Sher, Beyond Neutrality: Perfectionism and Politics (CUP, 1997), chapters 1-4.

Further reading on perfectionism and politics:
5. Democracy and judicial review

This week we explore the implications that reasonable disagreement might have for our understanding of the nature and value of democracy and of the justifiability of judicial review.

Laura Valentini argues that whether democracy has instrumental or intrinsic value depends on what kind of disagreement about justice is present within society. David Estlund, meanwhile, uses the need for political procedures to be acceptable to all qualified points of view as a central plank of his ‘epistemic proceduralist’ defence of democracy.

Jeremy Waldron presents a case against judicial review that centrally turns on the existence of reasonable disagreement about rights. Aron Harel defends judicial review, arguing that it has intrinsic value due to providing individuals with a right to a hearing.

The first set of further reading continues to explore the connections between reasonable disagreement and democracy. This includes discussions of democracy from both political liberal and perfectionist perspectives, and articles critiquing Estlund’s view. The second set of further reading delves deeper into the debate on judicial review.

Essential reading:

Further reading on democracy:
Jeremy Waldron, Law and Disagreement (OUP, 1999), especially chapter 5.

Further reading on judicial review:
6. Religion in politics

Religion is seen as the archetypal site of reasonable disagreement. Political liberals thus typically hold that religious reasons cannot be the basis for law, and that citizens should not (solely) offer such reasons in their political advocacy. But might these requirements place unfair demands on religious citizens, or undermine their moral and religious integrity?

Kevin Vallier and Patrick Neal explore this question. Meanwhile, Chapter 4 of Cécile Laborde’s book develops an account of the limits on religious influence in politics.

While reasonable disagreement might give reasons to limit religion’s role in politics, it might also suggest that religious citizens should receive exemptions from otherwise applicable laws, on grounds of conscience. Chapter 6 of Cécile Laborde’s book defends such exemptions, while Simon May objects to them. Lori Watson and Christie Hartley consider what kinds of exemptions might be justified within their political liberal view.

The first set of further readings explores the place of religious arguments in political deliberation, offering a wide range of perspectives on the permissibility of citizens appealing to their religious beliefs as the grounds for laws. The second set continues the debate concerning the justifiability of religious exemptions.

Essential reading:

Further reading on religious arguments in political deliberation:


Further reading on religious exemptions:
Alan Patten, “Religious Exemptions and Fairness,” in Laborde and Bardon (eds.), *Religion in Liberal Political Philosophy*.
7. Gender Equality and Marriage

Is political liberalism compatible with policies that promote gender equality? Feminism is often seen as a comprehensive doctrine, and thus subject to reasonable disagreement. Does this mean that political liberalism cannot achieve substantive gender equality of the kind that feminists seek? Kimberly Yuracko argues as much, and endorses perfectionism on that basis. Lori Watson and Christie Hartley, on the other hand, argue that political liberalism can itself be feminist, while Gina Schouten defends state actions to promote gender equality on political liberal grounds.

Is political liberalism compatible with state recognition of marriage? Clare Chambers argues that it is not, while Alison Toop makes the opposite case.

The further readings delve deeper into the relationship between political liberalism, perfectionism, and feminist concerns, and present various additional views on state recognition of marriage.

Essential reading:

Further reading on gender equality:
----, “Political Liberalism, Justice and Gender,” Ethics 105 (1994).
Further reading on marriage:
Tamara Metz, *Untying the Knot: Marriage, the State, and the Case for their Divorce* (PUP, 2010), especially chapter 5.
8. The education and upbringing of children

Liberal states often seek to inculcate certain values and ideals in the next generation, using civic education. But can this be justified in the light of reasonable disagreement? William Galston argues that an account of liberalism that gives diversity its due would allow religious groups to remove their children from state education, as in the case of Wisconsin v Yoder. Amy Gutmann, meanwhile, contends that political liberalism and perfectionism actually converge with respect to their recommendations for civic education. George Davis and Blain Neufeld reassert the distinctiveness of political liberalism’s approach.

Parents, meanwhile, also seek to inculcate values and ideals in their children. Most seek to enrol their children in their own comprehensive doctrine. But is this permissible, given that those doctrines are matters of reasonable disagreement? Matthew Clayton argues that it is not, while Steven Lecce makes the opposite case.

The further readings delve deeper into the debate concerning what kinds of civic education and parental upbringing can be justified within liberal theories, in the light of reasonable disagreement.

Essential reading:

Further reading on civic education:

Further reading on children’s upbringing: