Modern Political Thought from Hobbes to Maritain

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The Council for Research in Values and Philosophy
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   - Amendments I to X to the Constitution of the United States [The Bill of Rights]

3. Universal Declaration of Human Rights

Acknowledgements
PREFACE

This collection of texts is an alternative to many contemporary source books in modern political thought and political philosophy.

Perhaps the first and most important difference is that this book includes material from several authors not usually included in anthologies of modern political thought. Many texts move from J.S. Mill or Marx to the mid- or late twentieth century, overlooking the contributions of figures such as Herbert Spencer, T.H. Green, Bernard Bosanquet, and Jacques Maritain, despite all having had a significant impact not only on political philosophy, but on the politics and social and public policy of their time. Spencer had a major influence on British and, particularly, American political thought – an influence that continues to this day in libertarianism; Green and Bosanquet contributed to progressive liberalism in Britain and its Empire as well as to the creation of the Labour Party in Britain – and held views that are close to contemporary communitarianism; and Maritain was not only influential in political philosophy and in political and social movements in countries where Catholicism was strong, but also had a significant role in the development of the 1948 Universal Declaration of Human Rights.

A second difference from most contemporary anthologies is that each chapter of the present volume consists of selections from one or more of the key works of the author, preceded by a lengthy introduction. Standard textbooks of political thought provide introductions that are either so brief that they give virtually no guidance and orientation to the student, or simply repetitions or summaries of the selection from the author. In this book, however, each introduction contains a brief biography and a summary of the main principles of the political and philosophical views of the author, along with questions that should help students in focussing their reading of the selection that follows. The readings chosen are also sufficiently substantive that students will be able to appreciate the author's style and argument at first hand. Finally, each chapter contains a bibliography of the principal primary works of the author and to relevant secondary works.

A further distinctive characteristic of this volume is that it provides texts that focus on key concepts and ideas of modern political thought and emphasises the importance of the recognition of the development of these concepts. In both the general introduction and in the introductions to the individual authors, there is an insistence on not only clarifying key concepts but on being attentive to evolution or shift in meaning. This serves to remind the student to avoid assumptions of similarity and consistency of meaning across authors, to be aware of the multiple meanings of key terms, and to recognize that even the most basic concepts of political philosophy rest on presuppositions that need to be examined.
INTRODUCTION

Preliminary Remarks

One could not provide an adequate description of political and social life in the last hundred years without using such terms as law, rights, authority, freedom, sovereignty, democracy, and the like. Of course, these terms have their origins far back in time, but it is only relatively recently that they have come to have the place they do in political and social thought.

The purpose of this volume of readings is to help to trace the stages or steps in the articulation of themes characteristic of modern political thought. This requires an analysis of a number of key concepts, such as ‘law’ (including ‘natural law’ and the ‘rule of law’), ‘liberty’ or ‘freedom,’ ‘authority’ and ‘sovereignty,’ ‘right’ or ‘rights’ and ‘democracy,’ and ‘political obligation.’ These concepts, and the arguments in which they play a role, have been used to describe the views of, or have been employed by, a number of authors, such as Thomas Hobbes, John Locke, Jean-Jacques Rousseau, Immanuel Kant, Jeremy Bentham, John Stuart Mill, Mary Wollstonecraft, Herbert Spencer, T.H. Green, Bernard Bosanquet, and Jacques Maritain. They are, however, also fundamental to understanding much of contemporary political philosophy, such as the work of John Rawls, Robert Nozick, A.I. Melden, Ronald Dworkin, Alan Gewirth, Joseph Raz, Charles Taylor, and Jürgen Habermas. The texts in this volume will, ideally, enable the reader to discern some of the key concepts and themes of modern political thought, to identify several problems that have arisen in the various attempts to articulate them, and to indicate the importance of the presuppositions and ‘social ontology’ that underlie them.

Cautions in Identifying and Applying Themes

Many of the terms we use today – liberal, conservative, radical, democratic, and the like – have their roots in early modern political thought, and they have often been used to describe the views of the key figures. But such terms have to be used with great care: to use them at all, in fact, may impose a distinction or apply a description that simply would be anachronistic or inappropriate in the particular context.

For example, the term ‘liberal,’ even within the context of political philosophy and political theory, is rather vague; it is only in the early part of the nineteenth century that the terms ‘liberal’ and ‘liberalism’ began to be clearly defined in political discussion, and it was only then, as well, that one sees particular social and economic policies being described as distinctively ‘liberal’ (e.g., in opposition to wide-scale nationalisation of land and industry, advocacy of free trade, and the insistence on a ‘non-interventionist’ role for the state). Describing a philosopher or political theorist as a ‘liberal,’ particularly when it concerns someone who lived prior to the nineteenth
century, then, runs the risk of not only being anachronistic but question
begging.

Again, like ‘liberal,’ the notion of ‘rights’ has often been used with
imprecision. While some authors have argued that this concept has its roots in
mediaeval or even classical Greek thought, it was not until the seventeenth
century (with Hugo Grotius [1583-1645] in The Rights of War and Peace
[1625]) that the term began to be clearly articulated, and not until Thomas
Hobbes (1588-1679) that it came to have an important role in political
philosophy. Some have argued that ‘rights’ include rights to life, to political
association, to be free from discrimination or abuse, to education, and so on,
but it seems clear that, even if there are ‘rights’ to such, they are not all on a
par with one another. Early discussions of ‘rights’ understood them to be
primarily ‘natural rights’ – and they are still frequently seen in this way. But
there are different ‘traditions’ of natural rights; the way in which the term is
used by Hobbes is quite distinct from the way it is employed by Locke,
Bosanquet, Maritain, or Rawls. Moreover, there continues to be a wide debate
on what it means to say that a right is ‘natural,’ about to whom or what such
rights may be ascribed, what their limits are, what their relation is to political
authority, whether they are alienable, and whether the notion is, in fact, useful
or even a coherent one. Finally, it is not often clear whether something
claimed as a right is a natural right, or a right accruing to individuals as social
beings, or simply a power given a person in a particular society or state.

Key Concepts

In this volume, readers will encounter a number of terms or concepts that
have come to have key roles in political, social, and economic thought. While
the precise meanings of these terms vary and have changed, and while the
descriptions are sometimes highly contested, it is useful to have a provisional
understanding of what these terms are generally understood to mean.

Law, Natural Law, and the Rule of Law

Law

People generally speak of law as something commanded by an authority,
such as the criminal laws which exist in states. In the context of political
philosophy, the classical definition of law is “an ordinance of reason for the
common good, made by one who has care for the community, and is
promulgated.” Specifically, a ‘law’ is an ordinance – a command, not
advice, counsel or a suggestion – of reason (and so consistent with all other
law), for the common good (i.e., for the community as a whole, or else it is
only a command), that is issued by the person or persons who govern that
community (i.e., whoever or whatever it is that has authority), and which is
promulgated (i.e., thereby known to, or knowable by, all).
Natural law

In political philosophy, reference is sometimes made to the ‘natural law.’ Theories of natural law are likely the oldest theories in ethical and political thought, and they continue to be influential world-wide, though less so in the Anglo-American traditions. Versions of these theories can be found in the work of the Greek tragedian, Sophocles (496-406 BCE, particularly in his tragedy, Antigone), in the writings of the Stoics (third century BCE to the second century CE), Cicero, Thomas Aquinas, and John Locke, as well as, most recently, in figures such as Jacques Maritain, Germain Grizez, and John Finnis. Natural law theories can also be found in Islam (e.g., ibn Khaldun), Confucianism, Buddhism, and Hinduism.

The natural law is said to be descriptive; it is a set of objective, fundamental principles and prescriptions concerning right and wrong, based upon a description of human nature, and characteristic of all human beings simply because they are human beings. (We can find out what is "natural" to humans by means of observation and reason.) But the natural law is also prescriptive – i.e., it tells us what a being ought to do or how it ought to act.

A further characteristic of natural law theories is that they hold that all civil and political laws, including international law, must be consistent with and not violate the natural law. In this way the natural law has both a legal and a moral character. A legal statute or judgement which violates the natural (moral) law may have the might of the state to enforce it, but it is not, on this account, strictly speaking lawful. For example, following the Second World War, it was argued that certain laws found in Nazi Germany were not genuine laws at all, because they violated the natural law. Natural law, then, also determines what the civil law should (or must) be; it provides a standard of justice.

Theories of natural law have been criticized. The chief objections to them are: the underlying conception of nature is based on a physics and cosmology that are outdated; there is no such thing as human nature and, therefore, there is no such thing as a natural law; natural law is too vague a standard, and cannot tell a person what, specifically, their duty is; and knowing what is (i.e., natural) does not entail that it ought to be done. Nevertheless, recent accounts of natural law theory have attempted to respond to such critiques.

The rule of law

Though formulated only fairly recently, the notion of ‘the rule of law’ has its roots in ancient jurisprudence, and one finds anticipations of it throughout history. For example, the Magna Carta of England (1215), signed by King John, aimed at placing the King and his successors under the control of the law. The notion of the rule of law is generally understood to be distinct from ‘rule by law’ or ‘by the ruler’, which can be arbitrary, which may leave much to the discretion of the authorities, and which can
place certain people, such as the ruler, above the law. The basic principle of the rule of law is that all are subject to the law – that there is “equality before the law, or the equal subjectation of all classes [social, economic, or political] to the ordinary law of the land.” The late 19th century British constitutional theorist, A.V. Dicey adds that “a man may … be punished for a breach of law, but he can be punished for nothing else” – and a proof of such a breach must normally take place within a judicial process. The notion of ‘the rule of law’ also reflects the view that the law must be stable, and to ensure that the law is stable, there need to be clear rules and procedures for making laws. Laws must also be publicly promulgated and must be prospective rather than retroactive. Finally, law should be administered impartially by a body which is independent of political authority and influence (i.e., the judiciary).

**Liberty, Freedom, and Liberalism**

A central theme in modern political thought is that of liberty, and some have argued that there are at least two principal understandings of the term (though this has itself been a matter of much debate), and that they can be distinguished by examining their respective views on the nature of the individual and the relation of individuals to the state.

**Negative liberty**

One sense of liberty is associated with individualism and holds that the good of individual self-determination requires that there should be as few limits as possible on what one can do. This sense of liberty is found from the time of Hobbes, but can also be attributed to Locke, Adam Smith, Jeremy Bentham, J.S. Mill and Herbert Spencer – and, in our own day, to Robert Nozick and Tibor Machan.

On this view, following Hobbes, liberty is “the absence of... external impediments of motion,” and one is free when “in those things, which by his strength and wit he is able to do, [he] is not hindered to do what he has a will to do”; thus, for example, “[t]he liberties of subjects depend on the silence of the laws.” The notion of liberty present in this liberalism is what is now often referred to as ‘negative’ liberty – freedom from external restraint on, or compulsion or coercion of, the individual. (This position has frequently been referred to as ‘liberal individualism.’) Bentham employs a similar conception of liberty in his discussion of government and law. Only to the extent that one is not hindered in the pursuit of the good by others does one have liberty and is ‘free.’

Correlative with this account of liberty, law is seen as a limit on one’s freedom; law, according to Hobbes, “determineth and bindeth” and is “inconsistent” with liberty. Thus, while law is, as Bentham saw, necessary to social order, and while good laws are clearly essential to good government, by its very nature law is a restriction of liberty and is painful to
those whose freedom is restricted. Liberty, therefore, involves an independence from the control of the state and government regulation. For proponents of negative liberty, the function of the state is to ensure that individuals are protected from interference by others in their legitimate pursuit of their own goods; the state cannot legitimately and ought not do anything more than this. In short, according to that current of thought that holds that negative liberty is a central value, ‘the best government is that which governs least.’ It is not surprising that this understanding of liberty has often been associated with an economic doctrine of *laissez faire*.

**Positive liberty**

A second major current in modern political thought is one that holds that genuine liberty requires not just (or not primarily) freedom from external interference, but also *freedom to* attain some goal or result – specifically, the development of oneself as a person. This is ‘positive’ liberty. Thus, we cannot be free unless we have the power to choose, and have access to, those things that allow us some control over our lives. Liberty, then, involves more than ensuring that others do not illegitimately interfere in one’s pursuit of the good. It requires that one have the opportunity and the means to acquiring certain goods. Liberty or ‘being free,’ then, involves taking account of what is the nature or characteristic of the being concerned, and discerning and providing what is essential to its growth.

Defenders of positive liberty acknowledge the value and importance of a number of negative liberties. Nevertheless, they insist that there are certain basic goods that all human beings, as human beings, do or should seek, and these must be guaranteed, even if this involves limiting the exercise of activities by (other) individuals. Thus, the state or public authority has a *positive* role – not merely as the guarantor of negative liberties (e.g., providing protection from the interference of others), but as providing individuals with access to the necessities of life (e.g., material needs – such as food, clothing and shelter – and intellectual and moral needs – such as education and training, and giving individuals the opportunity to develop themselves through the exercise of certain responsibilities). Only then, it is argued, will people have not only a genuine choice to pursue or not to pursue ‘goods’ that are essential to their well-being, but the possibility of acting as responsible moral agents who can contribute to the well-being of society. The presence of a system of law and interventionist policies by the state concerning a variety of matters affecting social life are, then, essential to social and individual well-being.

**Liberalism**

Liberalism is a philosophical view that:

a. places an emphasis on human freedom – especially the freedom to set one's own goals and to determine one's own good (i.e., self-determination).
These goals and goods, then, may be pursued without restriction, provided the actions involved do not interfere with the freedom of others to do likewise. Among the most important of the freedoms emphasised by liberals are freedom of conscience or of thought (e.g., toleration of divergent political and religious beliefs). The nature of this freedom can, however, be understood in different ways, and one will see frequent reference to the distinction between positive and negative freedom.

b. places an emphasis on the value of the individual human person. Generally, liberals hold that there is something of value in persons that is a \textit{sina qua non} of morality and which therefore serves as a limitation on the licit actions of others. There is also a belief in the moral equality of individuals, and thus liberalism is generally associated with a democratic view (e.g., the political equality of individuals). The importance of the individual is usually expressed by the ascription of certain ‘human rights.’

c. recognises (as distinct from anarchism) the necessity of the existence of some form of institution or common enforcement mechanism (often ‘the state’), whose object is to preserve and protect the well-being of individuals, and which is involved in the administration of activity within the community, and the enforcement of law and punishment.

d. holds that the legitimacy of the state (i.e., its justified claim to rule) is in some sense derived from the will of those governed by it.

e. holds that moral principles are immanent (i.e., in the human person or in nature), and not purely external or transcendent (e.g., in the command of God), and that they can be discovered by rational reflection on phenomena knowable by all individuals. Frequently, these moral principles are held to be articulations or features of ‘natural law.’

f. (frequently) holds that individuals are rational beings and that their actions are generally or always motivated by a principle of rational self interest. (One should note that this is a psychological, not an ethical, claim.)

\textbf{The State of Nature, Society, and the State}

Many philosophers have held that it was important to ground their political philosophy in ‘nature.’ What this means is often ambiguous; ‘nature’ could mean, for example, the supposed anthropological condition of human beings before the existence of organised communities, laws, or the state, but it might also be more of a heuristic notion – what one could imagine one would find if the functions of the state were removed – or even a methodological device or ‘thought experiment’ as a basis to determine what one might choose and do if one did not have a stake in the matter under discussion. (John Rawls adopts this latter kind of approach in his discussion of an ‘original position’ wherein a person is to form or select basic principles of justice for social life.) Presumably, if a society or political community was founded on ‘nature’ or a ‘state of nature’ or ‘natural condition,’ it would thereby be justified or legitimate. Nevertheless, in many cases it is unclear whether a ‘state of
nature’ was supposed to have actually existed and, even so, it was generally practically irrelevant to the argument founded upon it.

Society is the most comprehensive natural grouping of human beings (i.e., more comprehensive than the family, associations of those living in proximity, tribes, and so on), described by continuing contact over time or inhabiting the same territory, that falls short of the system of laws, order and hierarchy, and especially enforcement, characteristic of the state. Interaction may be organized and coordinated, but it is based on individual, voluntary choice. ‘Civil society,’ which is formally independent of the state, is the sum of those organizations (e.g., clubs, community organisations, political and religious groups, trade unions, and non-governmental organisations) which depend on uncoerced will rather than on force, and which seek some kind of common good or interest.

Society and social institutions, many argue, require ‘external apparatus,’ and social interaction and coordination of activities can become too complex, so that order cannot be guaranteed if voluntary assent or choice is always required. The term ‘state,’ then, is usually to describe that social institution (or set of institutions) which is organized, concerned with – and which has a monopoly on – law and force, and governs; in some figures, such as Hegel, however, it appears to be used to refer to an ideal of what a political community should be like. Political theories are largely divided on whether, on the one hand, the state is something ‘natural’ or which has always existed or, on the other, artificial or the product of individual wills, and (merely) a means towards achieving the good(s) of individuals.

Generally, when people talk about the state they mean the ‘nation state’; this is commonly said to be a consequence of The Thirty Years’ War (1618–1648) and the subsequent ‘Peace of Westphalia’ (1648), which resulted in the recognition of new notions of territorial integrity, independence, and sovereignty. Thus, a state is an entity that has territory, a distinctive history and development, as well as an organization that lawfully exercises force; normally, those within the (nation) state see themselves as sharing a common identity. Such a state has, as its task, to carry out certain public functions: to govern, to legislate and enforce laws, to recognize and administer contracts, to judge and resolve conflicts and disputes, to recognize and defend rights, to hinder certain kinds of activity, to protect individuals and institutions from internal and external threat, to regulate economic activity, to enforce obedience, and to punish and sanction. In addition, some argue that the role of the state also requires it to provide order, to guard or enforce morality, to promote individual well-being, and to function as a principle of social unity.

Rights

The term ‘rights’ has been used in a variety of senses. Broadly speaking, ‘rights’ are freedoms or powers (or claims to powers) that persons have to engage in activities, with correlative obligations on others (at the very least)
not to interfere and, more broadly, to ensure that those concerned can, in fact, engage in these activities. Because rights involve obligations on others, they are 'social' – that is, they exist where individuals are not alone, and where they can and do interact with others. Generally, when people employ the term 'rights' or 'human rights,' they mean some or all of the following:

Natural rights

These are rights that individuals possess in virtue of the kinds of beings they are – that is, 'essentially' (e.g., qua persons or qua rational beings). (Sometimes other conditions for having rights are added, such as being free, autonomous, capable of having or identifying one's own good, capable of articulating and acting on a plan of life, or possessing or having the potential to possess such characteristics.) In other words, these rights are not held by individuals in virtue of some 'incidental' characteristic – e.g., being a member of a certain class or race, having a particular position or function in society, and so on. Natural rights are also generally held to be primarily rights of individuals, not of collectivities.

Natural rights are sometimes said to be discovered by reason in nature or in the natural law – i.e., reason 'sees' that certain beings must have certain rights in order for them to act as the kind of beings they are. Because such rights can be naturally known by all, all must respect them. Rights are also sometimes said to be 'natural' in the sense that they would exist in a state of nature, if there ever were such a place. Again, because they are 'natural' and ascribed to persons, they are also inalienable without the right-holder's consent. Examples of these rights would be the right to life and to preserve one's life, the right to pursue (one's own conception of) the good, freedom of conscience, and the right to be treated as a person.

Frequently, natural rights are held to be basic – that is, they do not depend on any pre-existing duties or responsibilities. Thus, rather than being derived from or subject to a particular conception of the good, they are taken by some to serve as the standard of right and wrong.

Natural rights are held to be antecedent to, and independent of, the state in general, and of any government or political regime. As natural and ascribed to persons in virtue of their being persons, natural rights are moral claims that must be respected, and serve as limits or preconditions or "trumps" on what others – even the state – can do. Thus, they have not only moral but legal force.

Civil rights

These are rights that individuals possess as members of political communities in general. These should – though, in fact, they may not, like natural rights – be respected within every particular political community. Traditional examples of such rights are rights to participate in one's own government, to political association, and to free expression and discussion.
Positive or purely legal rights

These are the rights that one has simply in virtue of conventions, agreements, customs or laws peculiar to a particular state or community. These may depend on the very specific functions or activities a person may have – or simply on state fiat – e.g., having a right to drive an automobile, to vote as a member of a legislative body, to receive certain social goods, to detain and arrest persons suspected of law-breaking, and so on. Such rights are granted by the government and can be extended or alienated by it as well – for example, in view of overall social well-being or a common good. There is some debate, however, whether one may have a positive or legal right to do something or engage in an activity that is immoral or is inconsistent with one’s civil or natural rights.

Summary

Whether a particular claim to a power is a claim to a natural, or a civil, or a purely legal right is a matter of continuing debate, as is the question of whether there are any rights other than legal rights. Bentham, for example, held that “[n]atural rights is simple nonsense: natural and imprescriptible rights, rhetorical nonsense, —nonsense upon stilts,”¹⁴ and his view is still shared by many. Again, there has been much debate about who or what can have rights – whether only individual human beings can have natural rights, whether there can be ‘collectively’ held natural rights (e.g., language rights), whether nations might have certain ‘natural’ rights – but also whether all human beings have natural rights, and whether some non-human animals also have them.

Political Obligation, Authority, and Disobedience

Political obligation

A central question of modern political thought is why one should obey the laws of one’s country or state. One answer is that people do so out of fear or because of (the threat of) force. Another answer, however, is that people have a moral obligation to do so.

The major reasons given for such an obligation are i) that the state preserves people’s basic rights and liberties, i.e., since people are obligated to respect basic rights and liberties, and since the state is the most effective means for ensuring this, then they are obligated to obey the state; ii) that it is based on a natural duty (of justice or of gratitude); and iii) that it is based on consent – explicit (i.e., one explicitly consents to this through some kind of agreement with the state) or implicit (e.g., there is a tacit consent, or it is one’s ‘real will’) or hypothetical (i.e., that one would have accepted the arrangement had one been consulted¹⁵).
Related questions here include: How far are people obligated to obey the law or the state? Does this obligation always apply?

Authority

A related concept here is ‘authority.’ Law or the state is said to have authority – and, hence, a person has an obligation to obey it. Not surprisingly, authority has been understood in different ways, and recent writing on the topic has been extensive. According to Hobbes, authority is “the right of doing any action”; individuals, in the first place, have authority because they are authors – “he that owns his words and actions is the author” – but they can transfer or lay down this ‘right’ (or authority) to or in favour of others.

According to the sociologist Max Weber (1864-1920), authority [Herrschaft] exists in a person or persons in power when there is the probability that people will voluntarily obey them; Weber writes that it is “the situation in which the manifested will (command) of the ruler or rulers is meant to influence the conduct of one or more others (the ruled) and actually does influence it in such a way that their conduct to a socially relevant degree occurs as if the ruled had made the content the command the maxim of their conduct for its very own sake.”

Most political philosophers (such as Hobbes, Rousseau, Kant, and Hegel) distinguish authority from power. At the very least, authority carries with it the sense that it is legitimate in some way; power does not. This legitimacy, ultimately, tends to have its source in morality – that it is, for example, a necessary or natural means to a good. Thus, Jacques Maritain holds that authority requires right and justice, and an orientation to a common good; by itself, power is simply the use of ‘might,’ which says nothing about ‘right.’

Disobedience and resistance

When may one challenge an authority or question one’s political obligation? This introduces the issue of civil disobedience; examples of civil disobedience may include sit-ins in public offices, occupation of nuclear sites, forming human chains around abortion offices. Some authors, such as John Rawls, have defined civil disobedience as “a public, non-violent, conscientious political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government; this change, however, is not to the state or the law as a whole, and the person still recognizes that there are other series of obligations concerning how to act. Civil disobedience in this sense is distinguished from conscientious refusal (e.g., pacifism, refusal to pay taxes, refusal to take oaths) which does not claim that the laws or policies are illegitimate, on the one hand, and “militant action and organized resistance” (e.g., political assassination, bombings) which rejects the legitimacy of the state altogether, on the other.
What is presupposed in this notion of civil disobedience and in the distinctions from other forms of rejection of political obligation, are matters of some debate.

Arguably, the grounds for civil disobedience exist when the conditions for political obligation are not met – for example, when the state does not protect one’s rights and liberties or, more broadly, when it does not fulfill its obligations (e.g., does not provide basic goods, ceases to be representative, or aims at a private, not a common, good). Another basis for disobedience is when obedience conflicts with other obligations that one may have (e.g., to non-state authorities: the community, one's language or ethnic group, one's church, and so on).

Sovereignty and Democracy

Sovereignty

Sovereignty is the possession of supreme power or authority in a community or state and, therefore, reflects the right to govern: it is part of what makes a state a state. (One of the key texts here is Les Six Livres de la République (The Six Books of the Republic) of 1576, by the French jurist and philosopher Jean Bodin (1530–96).) According to Thomas Hobbes, for example, sovereignty is absolute and exclusive, and so the sovereign needs to be absolute and indivisible. In mediaeval and some early modern authors, sovereignty was a quality of a king or emperor; with the early modern period, however, following Francisco Suárez (1548–1617), sovereignty began to be seen as popular – “in the people.” (It is a debated question whether sovereignty may be transferable. Hobbes thought that while authority was a characteristic of the ‘sovereign power,’ and it could be transferred or lost; Rousseau thought that it inhered in the people and was inalienable.) Some make a distinction between internal sovereignty (the power to manage the internal affairs of the state) and external sovereignty (power over all relations with other states, and being free from foreign control or domination).

Democracy

A standard lexical definition of ‘democracy’ is that it is “a system of government by the whole population or all the eligible members of a state.”

It may have several forms, ‘direct’ and ‘indirect’ (e.g., representative) being the two most common. In a direct democracy, all eligible members participate in decision-making on matters of government action. Where democracy is indirect – particularly in large communities and states – representatives may be chosen through elections (i.e., electoral democracy); these representatives, in turn, legislate and govern. Democracy, however, does not have an explicit requirement that there be a separation of powers (i.e., executive, legislative, and judicial), or that there be limits on the state’s powers (e.g., the respect of human dignity, individual liberties, minority rights, etc.). The justification for
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democracy has sometimes been instrumental – i.e., it is a means to achieving or ensuring certain greater goods (such as individual liberty, the interests and personal development of the governed, more effective decision-making, the reduction of social disadvantage, the reduction of recourse to violence, and economic efficiency). Sometimes, however, democracy is justified as the consequence of some principle(s), such as popular sovereignty, human beings having basic rights and liberties to self-determination, individual autonomy, and the equality and equal consideration given to citizens.

Republicanism and self-government

‘Democracy’ should not be confused with the existence of a republic or with ‘self-government.’ A republic is a form of government which ‘mediates’ democratic rule though a separation of powers and a recognition of the rule of law (often described in a constitution) – and, traditionally, it emphasises the presence and development of civic virtue. ‘Self-government,’ following Aristotle, means ‘acting autonomously’ or ‘acting reasonably.’ Thus, according to the idealist philosopher A.R. Lord, ‘self-government’ means “government by that higher self in which all the varied interests of humanity are at one, ample scope for each being provided by the systematization and organization of them all.” While this suggests the key value of the development of citizens, it entails nothing, however, about the form of government (e.g., whether it should be a direct or indirect democracy), or even that it be democratic.

Human Nature

Most of the authors presented in this volume, unlike many today, would acknowledge a close connexion between what human beings are, and how they ought to live together in the state. Underlying the preceding terms and concepts, then, is the question of how the authors understood human nature, and what implications this may have for their political thought.

How human nature is defined, varies. Some authors take a basic, descriptive approach – namely, that human nature is simply what one finds if looks at mature examples of the species. Others take a more metaphysical approach. They would argue that human nature has a teleological character – that is, a description of what human beings are must state not only how they appear and act, but what goals or purposes or ‘ends’ they seek. For some, these ends are ultimately individual and personal; others speak of their being one end for all human beings, a ‘common good.’

The specific character of human beings is also the subject of much debate. As noted above, for some, human nature involves being free, rational, and self-interested; others would say that more needs to be added to this list. There is no disputing that human beings possess the basic physical functions, but also the instincts and passions, of animals. Some, however, would argue that there are morally significant qualitative differences distinguishing
humans, such as their capacity for freedom (understood as the capacity for free choice or free will), moral personality, and moral and intellectual – and spiritual – development. This raises the question of whether a naturalistic or materialistic account of the person is appropriate or adequate. It also raises questions of whether human beings should be understood as primarily beings of reason or of desire (motivated primarily by pleasure and pain, with reason having a primarily instrumental function), and whether morality is natural or conventional and contractual.

A central issue for political philosophy is whether human nature is ‘individualist’ or ‘social.’ Individualists hold that human beings are self-interested and self-directing (or ‘free’), with a capacity for rational and moral thought; are significantly and relevantly distinct from one another; serve as the basis for value; and that their distinctiveness is an important part of that value. Those who hold that human nature is basically ‘social’ do not altogether deny many of the preceding characteristics, but nevertheless claim that these characteristics would not exist (or be present in the way they are) if individuals did not live in community. One also finds the claim that human beings have a natural concern or sympathy for others, and are not exclusively self-interested. The emphasis here is that not only does one need a social context if human individuality is to be significant, and that human characteristics are acquired and developed only within a social context, but that this social context is essential or necessary to one’s being a human person.

Whether human beings are essential social bears on the question of whether the state is ‘natural’ and required by human nature, or whether it is something ‘artificial’ and constructed. While the state is not the same thing as society or the community, it has often been argued that society is not possible, or cannot exist for long, without the apparatus of law and sanction that is characteristic of the state. As we have seen, what the state is (or what the term ‘state’ means), whether it is necessary, and how it is organised are, of course, key questions.

Problems

Although the notions of (the rule of) law, liberty and rights, democracy, and the like are frequently appealed to, particularly in the last century, there have been a number of criticisms of them all.

Some have objected that those currents of modern political thought that presuppose such notions do not go far enough to satisfy the demands of justice – that they are unsatisfactory from a moral point of view, and that they fail to recognise fully, and even contribute to, the suffering of marginalized groups. Some argue that such concepts and the political philosophies in which they have a key role reflect a gender-specific and gender-dominant view of the person and of social relations; this is a critique that has been advanced by a number of feminist theorists. Critics, particularly from developing countries, hold that the notion of the rule of law and the discourse of human rights are
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characteristic of ‘western’ ideologies that arose in a specific culture in a relatively recent epoch, and that they have no relevance to (and in fact conflict with) the equally-legitimate values and traditions of other cultures. Indeed, some have argued that the discourse of universal human rights is a tool of nations (particularly, the United States) to carry out a self-interested political agenda. In a pluralistic and culturally diverse world, these critics argue, it does not make any sense to speak of (universal) human rights, the rule of law, western style democracy, popular sovereignty, and so on.

More recently, those defending ‘green’ politics have maintained that modern political thought and its attendant notions reflect outdated views – that, in a world undergoing ecological crisis, these theories neither do nor can serve to provide instruments to address threats to life on a world-wide scale.

Again, some argue that, despite the historical relation among them, human flourishing is quite distinct from notions of democracy, rights, and the rule of law; that such ideas are vague and useless – if not altogether dangerous; and that there is nothing intrinsically valuable to be gained by an appeal to them.

Nevertheless, appeals to these notions, and the political philosophies in which they appear, continue to be made. If they are to be retained and defended, however, one must ask on what basis they can be justified, or whether any justification is necessary or possible. If they are to be abandoned, are there other moral and political notions that will serve to address the same issues and that can avoid the criticisms raised above? The texts included in this volume should allow the reader to go some way in responding to such questions.

BIBLIOGRAPHY

In addition to the items cited in subsequent chapters, readers might consult the texts below:


16 Introduction

Machan, Tibor, *Individuals and Their Rights* (Open Court, 1989).


NOTES


2 Aquinas, *Summa theologicae* (ST) I-II, q. 90, a. 4.


7 Like the term ‘liberal’, the term ‘individualism’ seemed to gain ideological purchase only in the mid-nineteenth century (see Michael Taylor, *Men versus the State: Herbert Spencer and Late Victorian Individualism* [Oxford: Clarendon Press, 1992], pp. 2-4).


10 Bentham says that “[l]iberty is the absence of restraint” (Bentham mss, University College, London, Box 9, Folder 6, p. 142; cited in D.J. Manning, *The Mind of Jeremy Bentham* [London: Longmans, 1968], p. 87).

11 *Leviathan*, Ch. 14, p. 103.


15 See, for example, John Rawls or Stephen DeLue. According to DeLue, the “state provides a benefit so essential to sustaining basic liberal values that no liberal citizen who shares these values could argue against having a (strong) obligation without appearing to be unreasonable or lacking in common sense” (*Political Obligation in a Liberal State* [Albany: State University of New York Press, 1989], p. 11).

16 For a summary of such work, see, for example, E.D. Watt, *Authority* (London: Croom Helm, 1982).


21 According to the first edition of the *Catholic Encyclopedia*, the end of civil authority, according to Francisco Suárez (in *De legibus*, LII, xi, 7), is “the natural happiness of the perfect, or self-sufficient, human community, and the happiness of individuals as they are members of such a community, that they may live therein peaceably and justly, with a sufficiency of goods for the
preservation and comfort of their bodily life, and with so much moral rectitude as is necessary for this external peace and happiness.” Joseph Rickaby, “Civil Authority,” The Catholic Encyclopedia (New York: Robert Appleton Company, 1907), Vol. 2.


24 Oxford English Dictionary