

21H.181/17.035

Libertarianism in History

Prof. M. Ghachem
mghachem@mit.edu

Office hours: Tu 10-12pm and by appt.

MW 10-11:30am
617-324-7284
E51-291

The will to live free of the control of the state (or of organized groups who have coopted state authority) is one of the most powerful and controversial motors of social and political action. But it is not the only form that the concept of freedom has taken across time and space. This course explores the history of the ideal of personal freedom with an eye towards contemporary debates over the pros and cons of the regulatory state. The first part of the course explores some of the major ancient, medieval, and early modern idioms and sources of the (Euro-Atlantic) concept of freedom and examines a few of the leading competing norms (such as property, equality, and community). Part Two surveys some of the key texts and historical moments associated with the libertarian canon, particularly as it developed after the Second World War. Part Three takes up a series of constitutional and policy applications: freedom of speech and religion, criminal procedure, Internet policy, LGBTQ rights, and financial regulation. Readings are drawn from political philosophy, sociology, history, and law.

The basic objectives of the course are twofold: to familiarize students with the varieties of libertarianism and their histories, and to enable students to argue effectively about libertarianism on several different levels. Libertarianism has cultural-historical, political-theoretical, and policy dimensions (among others), and by the end of the course students should have a sense for what it means to analyze the claims made both for and against libertarianism on all three of these levels.

Course materials:

All readings are available for downloading from the Stellar course site or via hyperlinks provided below in the schedule of topics and readings.

Course Format, Assignments, and Evaluation:

We meet twice a week for a mix of lectures and seminar-style discussion. This format places a premium on keeping up with the assigned readings and coming prepared to discuss them. If you must miss a class, please let me know in advance and send me, by email

before the start of that class, a one-page critique of the assigned readings.

The use of laptops and tablets is permitted provided that students use them only for notetaking, viewing the assigned readings for that day, or looking up materials on the internet that are relevant to the discussion at hand.

Grades will be determined as follows:

- In-class quiz at end of Part One = 10%
- Paper due at end of Part Two = 20%
- Moot court/oral argument = 10%
- Final writing assignment = 30%
- Class participation = 30%

The Part One quiz, to be administered at the start of class on Feb. 24, will consist of a mix of multiple choice and short answer questions.

For the Part Two writing assignment, due on March 30, you should prepare a paper of seven to eight pages on whether Rawls or Nozick has the more persuasive account of justice (and why). While focusing on Rawls vs. Nozick, this paper should also be informed by the other readings for Part Two of the course.

The moot court exercise, on April 8, will focus on the Supreme Court case of *Maryland v. King*. I will assign each student a side and provide guidelines for how to prepare your argument as we get closer to the date of the oral argument.

For the final writing assignment, I ask you to draft a ten- to twelve-page speech for your favorite presidential candidate explaining how you think the Supreme Court should have decided the merits of the free exercise claim in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission* (a case we will discuss in class on April 8). Your speech is due in class on May 11.

Schedule of Topics and Reading Assignments:

Introduction

Feb. 3: Introduction: What is Libertarianism?

Part One: Liberty before Libertarianism

Feb. 5: Pre-modern Liberty (I)

- a) Orlando Patterson, "The Ancient and Medieval Origins of Modern Freedom," in *The Problem of Evil: Slavery, Freedom, and the Ambiguities of American Reform*, ed. J. Stauffer and S. Mintz (Amherst: University of Massachusetts Press, 2006), 31-66.

Feb. 10: Pre-modern Liberty (II)

- a) Isaiah Berlin, "Two Concepts of Liberty," in *Liberty: Incorporating 'Four Essays on Liberty'*, ed. Henry Hardy (New York: Oxford University Press, 2002), 166-217.
- b) Quentin Skinner, "A Third Concept of Liberty," *Proceedings of the British Academy* 117 (2002): 237-268.

Feb. 12: Enlightenment Liberty

- a) Selections from Montesquieu, *The Spirit of the Laws* (1748), trans. and ed. Anne Cohler, Basia Miller, and Harold Stone (New York: Cambridge University Press, 1989).
- b) Jonathan Sheehan and Dror Wahrman, *Invisible Hands: Self-Organization and the Eighteenth Century* (Chicago: University of Chicago Press, 2015), Intro. and Ch. 3.

Feb. 18: The American and French Revolutions

- a) The American Declaration of Independence (July 1776), at <http://bit.ly/1gpivYT>.
- b) The French Declaration of the Rights of Man and of the Citizen (Aug. 1789), at <http://bit.ly/2CcQbpC>.

Feb. 19: Slavery and the Haitian Revolution

- a) Toussaint Louverture's Constitution (July 1801) and the Haitian Declaration of Independence (Jan. 1, 1804), in *The Haitian Revolution: A Documentary Reader*, ed., David Geggus (Indianapolis, IN: Hackett, 2014), 160-164, 179-180.
- b) Neil Roberts, "Theorizing Freedom, Radicalizing the Black Radical Tradition: On *Freedom as Marronage* Between Past and Future," *Theory & Event* 20, no. 1 (Jan. 2017): 212-230.
- c) Alice Bellagamba, "Freedom from Below: Some Introductory Thoughts," *Journal of Global Slavery* 2, no. 1-2 (Jan. 2017): 1-9.

Feb. 24: Benjamin Constant and John Stuart Mill

- a) Benjamin Constant, *The Liberty of Ancients Compared with that of Moderns* (1819)
- b) Selections from John Stuart Mill, *On Liberty* (1859)

Part One quiz today.

Part Two: Varieties of Libertarianism

Feb. 26: Friedrich Hayek and “Neoliberalism”

- a) Friedrich A. Hayek, selections from *The Constitution of Liberty* (1960), in *Justice: A Reader*, ed. Michael Sandel (New York: Oxford University Press, 2007) [hereafter *Justice*], 73-82.
- b) Quinn Slobodian, *Globalists: The End of Empire and the Birth of Neoliberalism* (Cambridge, MA: Harvard University Press, 2018), “Introduction: Thinking in World Orders.”

Mar. 2: Milton and Rose Friedman

- a) Milton and Rose Friedman, selections from *Free to Choose* (1980), in *Justice*, 49-60.
- b) Milton Friedman, “Power of the Market: The Pencil” (1980), at <https://www.youtube.com/watch?v=R5Gppi-O3a8>.

Mar. 4: Martin Luther King, Jr.

- a) Martin Luther King, Jr., “I Have a Dream,” (Aug 28. 1963), at http://www.youtube.com/watch?v=HRIF4_WzU1w.
- b) Danielle Allen, “Integration, Freedom, and the Affirmation of Life,” in *To Shape a New World: Essays on the Political Philosophy of Martin Luther King, Jr.*, ed. Tommie Shelby and Brandon M. Terry (Cambridge, MA: Harvard University Press, 2018), 146-160.

Mar. 9: Property, Equality, and Distributive Justice (I)

- a) Selections from John Rawls, *A Theory of Justice* (1971), in *Justice*, 203-226.

Mar. 13: Property, Equality, and Distributive Justice (II)

- a) Selections from Robert Nozick, *Anarchy, State, and Utopia* (1974), in *Justice*, 60-73, 226-235.

- b) George Lipsitz, *The Possessive Investment in Whiteness: How White People Profit from Identity Politics*, rev. and exp. ed. (Philadelphia, PA: Temple University Press, 2006), ch. 5.

Mar. 16: Feminism

- a) Selections from Simone de Beauvoir, *The Second Sex*, trans., Constance Borde and Sheila Malovany-Chevalier (Paris: Gallimard, 1949; London: Jonathan Cape, 2009).

Mar. 18: Gay Liberation

- a) Emily Douglas and *The Nation*, “What We All Owe to Gay Liberation,” *The Nation*, June 27, 2019, at <https://www.thenation.com/article/archive/stonewall-50-lgbtq-queer/>.
- b) Kwame Anthony Appiah, “Stonewall and the Myth of Self-Delivrance,” *The New York Times*, June 22, 2019, <https://www.nytimes.com/2019/06/22/opinion/sunday/stonewall-myth.html?action=click&module=RelatedLinks&pgtype=Article>.
- c) Richard Posner, “How Gay Marriage Became Legitimate,” *The New Republic*, July 24, 2013, at <https://newrepublic.com/article/113816/how-gay-marriage-became-legitimate>.

Part Three: Constitutional and Policy Applications

Mar. 30: Free Speech (I)

- a) *Citizens United v. F.E.C.*, 558 U.S. 310 (2010).

Part Two paper due today.

Apr. 1: Free Speech (II)

- a) Jeremy Waldron, “Hate Speech and Free Speech,” *The New York Times*, June 18, 2012, at <http://nyti.ms/2jV4gia>.
- b) The British Public Order Act, Part III (Racial Hatred), at <http://www.legislation.gov.uk/ukpga/1986/64/part/III>.
- c) Jeremy Waldron, “Brave Spaces,” *New York Review of Books*, June 28, 2018, at <https://www.nybooks.com/articles/2018/06/28/brave-spaces-campus-free-speech/>.

Apr. 6: The Free Exercise of Religion

- a) *Hobby Burwell v. Hobby Lobby*, 573 U.S. 22 (2014).

Apr. 8: Religious Liberty and Sexual Orientation

- a) *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, 584 U.S. ___, 138 S. Ct. 1719 (2018).

Apr. 13: Freedom of vs. Freedom from Religion

- a) J.H.H. Weiler, "Freedom of Religion and Freedom from Religion: The European Model," 65 *Maine Law Review* 759 (2013), <https://digitalcommons.minelaw.maine.edu/cgi/viewcontent.cgi?article=1127&context=mlr>.
- b) William P. Marshall, "The *Lautsi* Decision and the American Establishment Clause Experience: A Response to Professor Weiler," 65 *Maine Law Review* 769 (2013), <https://digitalcommons.minelaw.maine.edu/cgi/viewcontent.cgi?article=1128&context=mlr>.

Apr. 15: The Fourth Amendment

- a) *Maryland v. King*, 133 S. Ct. 1958 (2013), <http://bit.ly/2EBCHcg>.

Apr. 22: Artificial Intelligence and the Internet

- a) Ryan Khurana, "The Ethics of Artificial Intelligence is Best Left to Researchers," LIBERTARIANISM.org, April 15, 2019, at <https://www.libertarianism.org/building-tomorrow/ethics-artificial-intelligence-best-left-researchers>.
- b) Paul Mozur, "Inside China's Dystopian Dreams: A.I., Shame and Lots of Cameras," *New York Times*, July 8, 2018, at <https://www.nytimes.com/2018/07/08/business/china-surveillance-technology.html>.

Apr. 27: Drones and Autonomous Vehicles

- a) John D. Chisholm, "Drones, dangerous animals and peeping Toms: impact of imposed vs. organic regulation on entrepreneurship, innovation and economic growth," *International Journal of Entrepreneurship and Small Business* 35, no. 3 (2018): 428 – 451.
- b) Troy Griggs and Daisuke Wakabayashi, "How a Self-Driving Uber Killed a Pedestrian in Arizona," *New York Times*, March 21, 2018, at <https://www.nytimes.com/interactive/2018/03/20/us/self-driving-uber-pedestrian-killed.html>.

Apr. 29: The Financial Markets and the 2008 Subprime Crisis (I)

- a) Conclusions of the Financial Crisis Inquiry Commission (2011), <http://stanford.io/1cg8ypd>, and the Dissenting Views of Keith Hennessey, Douglas Holtz-Eakin, and Bill Thomas, at <http://stanford.io/2BpFmE3>.

May 4: The Financial Markets and the 2008 Subprime Crisis (II)

- a) Financial Crisis Inquiry Commission (2011), Dissenting Views of Peter J. Wallison, at <http://stanford.io/2nQ3Oa0>, pp. 441-470.

May 6: Is Ours a Libertarian Age?

- a) Mark Lilla, "The Truth About Our Libertarian Age," *The New Republic*, June 17, 2014, at <https://newrepublic.com/article/118043/our-libertarian-age-dogma-democracy-dogma-decline>.
- b) Samuel Moyn, "The Nudgeocrat: Navigating Freedom with Cass Sunstein," *The Nation*, June 3, 2019, at <https://www.thenation.com/article/archive/cass-sunstein-on-freedom-book-review/>.

May 11: Presentation of final projects

Final papers due in class today; the first 10-15 minutes of today's class will be devoted to completing the online course evaluations for this subject. Please bring your laptops.