

Code of course:
Title of course: Social and Political Equality and Non-Discrimination
Lecturer: Attila Mráz
<p>General aim of the course:</p> <p>This course surveys some recent work in political, social and legal philosophy on specific forms of inequality, and ideals of equality. We aim to explore and evaluate various answers to three questions: (1) What is it exactly that makes discrimination wrong? (2) What are the fundamental requirements of social and political equality? (3) How is the requirement of non-discrimination related to fundamental requirements and ideals of social and political equality?</p> <p>First, we will have a look at various types of discrimination—direct discrimination, disparate treatment, disparate impact, segregation etc. There is hardly any debate that these forms of discrimination are wrong. But there is considerable debate as to what makes them wrong. It is also heavily debated whether the same moral wrong characterizes all forms of discrimination, or instead, the concept of discrimination loosely holds together a set of very different moral wrongs—affronts to our dignity, equal social or political status, freedom, or even to our just economic shares or to a public interest in social change etc. In the first part of the course, we will explore these debates. A related question we will consider is, whatever makes discrimination wrong, why does it not make affirmative action wrong? No knowledge of law is assumed for this course. Yet, while discussing mostly philosophical texts, we will look at some legal examples of discrimination in order to have a better grasp of what discrimination is and to be in a position to understand and evaluate accounts of what is wrong about it.</p> <p>Second, switching from wrongs of inequality to ideals of equality, we will explore ideals of social and political equality. We aim to clarify the following: What is the difference between moral equality, social equality, relational equality, political equality and democratic equality? What does each require, and how are they related? Which ones are reducible to which other ones? How do these foundational egalitarian ideals relate to more concrete social and political ideals such as gender equality, racial equality or economic / distributive egalitarianism? Finally, do requirements of non-discrimination respond adequately to any of these ideals? Can we explain the wrongs of discrimination with the help of these more foundational or concrete egalitarian ideals? In the second part of the course, we will focus on these questions, re-examining what we know about discrimination in light of recently formulated egalitarian ideals.</p> <p>Content of the course:</p> <p>Topics covered will include:</p> <ul style="list-style-type: none"> • What is the difference between direct discrimination, disparate treatment, disparate impact, indirect discrimination, and statistical discrimination? Philosophical theories of what they are and what is wrong about them. • Affirmative action: what is it and when can it be justified? • Segregation, inclusion, integration • Theories of equality of opportunity • Foundational theories of social and political equality

- The relationship(s) between moral, social and political equality
- The relationship between social and political equality, on the one hand, and non-discrimination as well as equality of opportunity on the other hand
- Inequalities and the limits of political authority: does a state have any authority over citizens whom it treats as social or political inferiors?

Some of the topics will cover more than one class.

1. Basic Concepts and Wrongs of Inequality: Discrimination, Indirect Discrimination, Segregation

- Eidelson, Benjamin. (2015). *Discrimination and Disrespect*. Cambridge, MA: Harvard University Press. Ch 1: “The Concept of Discrimination”, pp. 13–38.
- Fundamental Rights Agency [FRA] of the European Union (2018). *Handbook on European Non-Discrimination Law*. Luxembourg: Publications Office of the European Union. Excerpts from Ch. 2: “Discrimination Categories”, pp. 39–59.

Recommended:

- Khaitan, Tarunabh. (2015). *A Theory of Discrimination Law*. Oxford: Oxford UP. Ch 2: “The Essence of Anti-Discrimination Law”, pp. 23–44.

2. Discrimination and Expressive Harms

- Hellman, Deborah. (2011). *When Is Discrimination Wrong?* Cambridge, MA: Harvard University Press. Ch. 2: “Demeaning and Wrongful Discrimination”, pp. 34–58.

Recommended:

- Levy, Ron. (2002). Expressive Harms and the Strands of Charter Equality: Drawing out Parallel Coherent Approaches to Discrimination. *Alberta Law Review*, 40(2): 393–416. <https://doi.org/10.29173/alr1370>
- Anderson, Elizabeth S., & Pildes, Richard H. (2000). Expressive Theories of Law: A General Restatement. *University of Pennsylvania Law Review*, 148(5), 1503–1575. <https://doi.org/10.2307/3312748>

3. Freedom, Social Change and Non-Discrimination

- Moreau, Sophia. (2010). What Is Discrimination? *Philosophy & Public Affairs*, 38(2), 143–179. <https://doi.org/10.1111/j.1088-4963.2010.01181.x>
- Hosein, Adam. (2015). Freedom, Sex Roles, and Anti-Discrimination Law. *Law and Philosophy*, 34(5), 485–517. <https://doi.org/10.1007/s10982-015-9232-2>

Recommended:

- Moreau, Sophia. (2013). In Defense of a Liberty-Based Account of Discrimination. In: Deborah Hellman & Sophia Moreau (eds.), *Philosophical Foundations of Discrimination Law* (pp. 71–86). Oxford: Oxford UP.

4. Affirmative Action

- Lippert-Rasmussen, Kasper. (2020). *Making Sense of Affirmative Action*. Oxford: Oxford UP. Ch. 1: “What Is Affirmative Action?”, pp. 1–25.
- Alexander, Michelle. (2010). *The New Jim Crow. Mass Incarceration in the Age of Colorblindness*. New York—London: The New Press. “The Racial Bribe—Let’s Give It Back”, pp. 231–238.

Recommended:

- Pojman, Louis. (1998). The Case against Affirmative Action. *International Journal of Applied Philosophy* 12: 97–115.
- Gutmann, Amy. (1998). Responding to Racial Injustice. In: K. Anthony Appiah & Amy Gutmann, *Color Conscious: The Political Morality of Race* (pp. 106–178). Princeton, NJ: Princeton UP.

5. Indirect Discrimination, Statistical Discrimination

- Hugh Collins & Tarunabh Khaitan. (2018). Indirect Discrimination Law: Controversies and Critical Questions. In Hugh Collins & Tarunabh Khaitan (eds.), *Foundations of Indirect Discrimination* (pp. 1–30). Oxford and Portland, OR: Hart Publishing.
- Kasper Lippert-Rasmussen. (2014). *Born Free and Equal: A Philosophical Inquiry into the Nature of Discrimination*. Oxford: Oxford UP. Ch. 2: “Indirect Discrimination”, pp. 54–78; Ch. 3: “Statistical Discrimination”, pp. 79–99.

Recommended:

- Kasper Lippert-Rasmussen. (2018). Indirect Discrimination, Affirmative Action and Relational Egalitarianism. In Hugh Collins & Tarunabh Khaitan (eds.), *Foundations of Indirect Discrimination* (pp. 173–196). Oxford and Portland, OR: Hart Publishing.
- Cook, Ryan. (2015). Discrimination Revised: Reviewing the Relationship between Social Groups, Disparate Treatment, and Disparate Impact. *Moral Philosophy and Politics*, 2(2), 219–244. <https://doi.org/10.1515/mopp-2014-0026>

6. Equality of Opportunity

- Rawls, John. (1999). *A Theory of Justice. Revised Edition*. Cambridge, MA: Harvard UP. § 11: “The Two Principles of Justice”, pp. 52–57; § 12: “Interpretations of the Second Principle”, pp. 57–65; § 14: Fair Equality of Opportunity and Pure Procedural Justice”, pp. 73–78.
- Freeman, Samuel. (2007). *Rawls*. London and New York: Routledge. Ch. 3, excerpt: “Fair Equality of Opportunity”, pp. 88–98.
- Mason, Andrew. (2004). Equality of Opportunity and Differences in Social Circumstances. *The Philosophical Quarterly*, 54(216), 368–388. <https://doi.org/10.1111/j.0031-8094.2004.00358.x>

Recommended:

- Segall, Shlomi. (2013). *Equality and Opportunity*. Oxford: OUP.
- Fishkin, Joseph. (2014). *Bottlenecks: A New Theory of Equal Opportunity*. Oxford: OUP.
- Alexander, Larry. (1985). Fair equality of opportunity: Rawls’ (best) forgotten principle.

Philosophy Research Archives 11: 197–207.

- Arneson, Richard J. (1999). Against Rawlsian equality of opportunity. *Philosophical Studies* 93(1): 77–112.

7. Moral Equality, Social Equality, Political Equality, Democratic Equality, Relational Equality: A Conceptual and Normative Map

- Nath, Reka. (2020). Relational Egalitarianism. *Philosophy Compass* 15:e12686. <https://doi.org/10.1111/phc3.12686>
- Wilson, James Lindley (2019). *Democratic Equality*. Princeton, NJ: Princeton UP. Ch. 1: “Equality as a Social Ideal”, pp. 17–47; Ch. 2: “Political Equality”, pp. 48–72.

Recommended:

- Lippert-Rasmussen, Kasper. (2018). *Relational Egalitarianism: Living As Equals*. Cambridge, UK: Cambridge UP. Ch. 1.1: “The Distributive Ideal of Justice”, Ch. 1.2: “The Relational Ideal of Justice”, Ch. 1.3: “Relational Egalitarianism: A Thumbnail Sketch of Its Recent History”, pp. 1–16.
- Rosanvallon, Pierre. (2013 [2011]). *The Society of Equals*. Trans. Arthur Goldhammer. Cambridge, MA—London, UK: Harvard UP. “Introduction: The Crisis of Equality”, pp. 1–11.
- Anderson, Elizabeth S. (1999). What Is the Point of Equality? *Ethics*, 109(2), 287–337. <https://doi.org/10.1086/233897>
- Scheffler, Samuel. (2015). The Practice of Equality. In: Fourie, C., Schuppert, F., & Wallimann-Helmer, I. (eds.). (2015). *Social Equality: On What It Means to be Equals* (pp. 21–44). Oxford: Oxford University Press.
- Scheffler, Samuel. (2003). What Is Egalitarianism? *Philosophy & Public Affairs*, 31(1), 5–39.
- Wolff, Jonathan. (1998). Fairness, Respect, and the Egalitarian Ethos. *Philosophy & Public Affairs*, 27(2), 97–122.
- Waldron, Jeremy. (2017). *One Another’s Equals: the Basis of Human Equality*. Cambridge, MA: The Belknap Press of Harvard University Press.
- Waldron, Jeremy. (2012). *Dignity, Rank and Rights*. Oxford: Oxford University Press.

8. Non-Domination: From Social to Political Equality

- Kolodny, Niko. (2014). Rule Over None II: Social Equality and the Justification of Democracy. *Philosophy and Public Affairs* 42(4): 287–336.
- Shapiro, Ian. (2012). On Non-Domination. *University of Toronto Law Journal* 62(3): 239–336. <https://doi.org/10.3138/utlj.62.3.293>

Recommended:

- Viehoff, Daniel. (2014). Democratic Equality and Political Authority. *Philosophy and Public Affairs* 42(4): 337–375.
- Marie Garrau and Cécile Laborde (2015). Relational Equality, Non-Domination, and Vulnerability. In: Fourie, C., Schuppert, F., & Wallimann-Helmer, I. (eds.). (2015). *Social Equality: On What It Means to be Equals* (pp. 45–64). Oxford: Oxford University Press.
- Pettit, Phillip. (1997). *Republicanism: A Theory of Freedom and Government*. Oxford—New York: Oxford University Press. Ch. 3: “Non-domination as a Political Ideal”. 80–109.

- Shapiro, Ian. (2016). *Politics against Domination*. Cambridge, MA: Harvard UP. Ch. 4: “Democracy against Republicanism”.
- Dyzenhaus, David. (2012). Reponse to Ian Shapiro’s “On Non-Domination.” *University of Toronto Law Journal* 62(3): 337–346. <https://doi.org/10.3138/utlj.62.3.337>

9. Difference without Domination: From Political to Economic Equality

- Allen, Danielle. (2020). A New Theory of Justice: Difference without Domination. In: Allen, D., & Somanathan, R. (eds.). (2020). *Difference without Domination: Pursuing Justice within Diverse Democracies*. Chicago: University of Chicago Press.

Recommended:

- Allen, Danielle. (2016). Toward a Connected Society. In: Earl Lewis and Nancy Cantor (eds.), *Our Compelling Interests: The Value of Diversity for Democracy and a Prosperous Society* (pp. 71–105). Princeton: Princeton University Press.

10. Status Equality and Economic Inequality; For and Against Meritocracy

- Scanlon, T. M. (2018). *Why Does Inequality Matter?* Cambridge, MA: Harvard UP. Ch. 3: “Status Inequality”, pp. 26–39.
- Benjamin Sachs-Cobbe. (2023). Recent Work on Meritocracy. *Analysis*, 83(1): 171–185, <https://doi.org/10.1093/analys/anac091>

Recommended:

- Rawls, John. (1999). *A Theory of Justice. Revised Edition*. Cambridge, MA: Harvard UP. § 67: “Self-Respect, Excellence and Shame”, pp. 386–391.
- Arneson, Richard. (2007). Shame, Stigma, and Disgust in the Decent Society. *The Journal of Ethics* 11(1), 31–63.
- Benjamin Sachs-Cobbe & Alexander Douglas. (2023). Meritocracy in the Political and Economic Spheres. *Philosophy Compass*, 2024;e12955, <https://doi.org/10.1111/phc3.12955>

11. Segregation, Inclusion, Integration

- Elizabeth Anderson (2010). *The Imperative of Integration*. Princeton, NJ: Princeton UP. Ch. 5: “Democratic Ideals and Segregation”, pp. 89–111.
- Young, Iris Marion. (2000). *Inclusion and Democracy*. Oxford: OUP. Ch. 6: “Residential Segregation and Regional Democracy”, pp. 196–235.

Recommended:

- Tommie Shelby (2014). Inequality, Integration, and Imperatives of Justice: A Review Essay. *Philosophy & Public Affairs* 42(3): 253–285.
- Martin Luther King, Jr. (1991). The Ethical Demands for Integration. In: James M. Washington (ed.), *A Testament of Hope: The Essential Writings and Speeches of Martin Luther King, Jr.* (pp. 117–125). New York: Harper-Collins.

12. Inequality and the Limits of Political Authority

- Tommie Shelby (2007). Justice, Deviance and the Dark Ghetto. *Philosophy and Public Affairs* 32(2): 126–160.

Recommended:

- Tommie Shelby (2016). *Dark Ghettoes: Injustice, Dissent and Reforms*. Cambridge, MA—London, UK: The Belknap Press of Harvard University Press. Ch. 7: “Crime”, pp. 203–227.
- Thomas Aquinas. *Summa Theologiae* (A Summary of Theology), II–II. q. 60 a. 5.

Grading criteria, specific requirements:

- (1) Active participation in class
- (2) Short home assignments
- (3) A term paper of ca. 1500 words (for BA students and non-philosophy MA students) / 2500 words (for philosophy MA students), based on a short topic proposal developed in consultation with (and approved by) the instructor, or on one of the topics suggested by the instructor.

Required reading:

See above.

Suggested further reading:

See also above.