Justice: What is the Right Thing to Do?
Nan Norling, Parry Norling, Pete Wellington, Jack Schmutz Spring 2010

Lectures at: http://parrynorling.magix.net/website

Professor Sandel’s course at Harvard aims to help us become more critically-minded thinkers about the moral decisions we all face in our everyday lives. Sandel presents students with ethical dilemmas on modern day issues – such as affirmative action and same-sex marriage—then conducts lively, engaging, and remarkably intimate debates that challenge students’ moral reasoning. We will join in by watching the lectures and then having our own discussion. See http://www.JusticeHarvard.org
Lecture Summaries
Episode One
Week 1

PART ONE: THE MORAL SIDE OF MURDER

If you had to choose between (1) killing one person to save the lives of five others and (2) doing nothing even though you knew that five people would die right before your eyes if you did nothing—what would you do? What would be the right thing to do? That’s the hypothetical scenario Professor Michael Sandel uses to launch his course on moral reasoning. After the majority of students votes for killing the one person in order to save the lives of five others, Sandel presents three similar moral conundrums—each one artfully designed to make the decision more difficult. As students stand up to defend their conflicting choices, it becomes clear that the assumptions behind our moral reasoning are often contradictory, and the question of what is right and what is wrong is not always black and white.

PART TWO: THE CASE FOR CANNIBALISM

Sandel introduces the principles of utilitarian philosopher, Jeremy Bentham, with a famous nineteenth century legal case involving a shipwrecked crew of four. After nineteen days lost at sea, the captain decides to kill the weakest amongst them, the young cabin boy, so that the rest can feed on his blood and body to survive. The case sets up a classroom debate about the moral validity of utilitarianism—and its doctrine that the right thing to do is whatever produces “the greatest good for the greatest number.”

Episode Two
Week 2

PART ONE: PUTTING A PRICE TAG ON LIFE

Today, companies and governments often use Jeremy Bentham’s utilitarian logic under the name of “cost-benefit analysis.” Sandel presents some contemporary cases in which cost-benefit analysis was used to put a dollar value on human life. The cases give rise to several objections to the utilitarian logic of seeking “the greatest good for the greatest number.” Should we always give more weight to the happiness of a majority, even if the majority is cruel or ignoble? Is it possible to sum up and compare all values using a common measure like money?

PART TWO: HOW TO MEASURE PLEASURE

Sandel introduces J.S. Mill, a utilitarian philosopher who attempts to defend utilitarianism against the objections raised by critics of the doctrine. Mill argues that seeking “the greatest good for the greatest number” is compatible with protecting individual rights, and that utilitarianism can make room for a distinction between higher and lower pleasures. Mill’s idea is that the higher pleasure is always the pleasure
preferred by a well-informed majority. Sandel tests this theory by playing video clips from three very different forms of entertainment: Shakespeare’s *Hamlet*, the reality show *Fear Factor*, and *The Simpsons*. Students debate which experience provides the higher pleasure, and whether Mill’s defense of utilitarianism is successful.

Episode Three
Week 3
**PART ONE: FREE TO CHOOSE**

Sandel introduces the libertarian conception of individual rights, according to which only a minimal state is justified. Libertarians argue that government shouldn’t have the power to enact laws that 1) protect people from themselves, such as seat belt laws, 2) impose some people’s moral values on society as a whole, or 3) redistribute income from the rich to the poor. Sandel explains the libertarian notion that redistributive taxation is akin to forced labor with references to Bill Gates and Michael Jordan.

**PART TWO: WHO OWNS ME?**

Libertarian philosopher Robert Nozick makes the case that taxing the wealthy—to pay for housing, health care, and education for the poor—is a form of coercion. Students first discuss the arguments behind redistributive taxation. Don’t most poor people need the social services they receive in order to survive? If you live in a society that has a system of progressive taxation, aren’t you obligated to pay your taxes? Don’t many rich people often acquire their wealth through sheer luck or family fortune? A group of students dubbed “Team Libertarian” volunteers to defend the libertarian philosophy against these objections.

Episode Four
Week 4
**PART ONE: THIS LAND IS MY LAND**

The philosopher John Locke believes that individuals have certain rights so fundamental that no government can ever take them away. These rights—to life, liberty and property—were given to us as human beings in the “the state of nature,” a time before government and laws were created. According to Locke, our natural rights are governed by the law of nature, known by reason, which says that we can neither give them up nor take them away from anyone else. Sandel wraps up the lecture by raising a question: what happens to our natural rights once we enter society and consent to a system of laws?

**PART TWO: CONSENTING ADULTS**

If we all have unalienable rights to life, liberty, and property, how can a government
enforce tax laws passed by the representatives of a mere majority? Doesn’t that amount to taking some people’s property without their consent? Locke’s response is that we give our “tacit consent” to obey the tax laws passed by a majority when we choose to live in a society. Therefore, taxation is legitimate and compatible with individual rights, as long as it applies to everyone and does not arbitrarily single anyone out.

Episode Five
Week 5
PART ONE: HIRED GUNS

During the Civil War, men drafted into war had the option of hiring substitutes to fight in their place. Professor Sandel asks students whether they consider this policy just. Many do not, arguing that it is unfair to allow the affluent to avoid serving and risking their lives by paying less privileged citizens to fight in their place. This leads to a classroom debate about war and conscription. Is today’s voluntary army open to the same objection? Should military service be allocated by the labor market or by conscription? What role should patriotism play, and what are the obligations of citizenship? Is there a civic duty to serve one’s country? And are utilitarians and libertarians able to account for this duty?

PART TWO: MOTHERHOOD: FOR SALE

In this lecture, Professor Sandel examines the principle of free-market exchange in light of the contemporary controversy over reproductive rights. Sandel begins with a humorous discussion of the business of egg and sperm donation. He then describes the case of “Baby M”—a famous legal battle in the mid-eighties that raised the unsettling question, “Who owns a baby?” In 1985, a woman named Mary Beth Whitehead signed a contract with a New Jersey couple, agreeing to be a surrogate mother in exchange for a fee of $10,000. However, after giving birth, Ms. Whitehead decided she wanted to keep the child, and the case went to court. Sandel and students debate the nature of informed consent, the morality of selling a human life, and the meaning of maternal rights.

Episode Six -
Week 6
PART ONE: MIND YOUR MOTIVE

Professor Sandel introduces Immanuel Kant, a challenging but influential philosopher.
Kant rejects utilitarianism. He argues that each of us has certain fundamental duties and rights that take precedence over maximizing utility. Kant rejects the notion that morality is about calculating consequences. When we act out of duty—doing something simply because it is right—only then do our actions have moral worth. Kant gives the example of a shopkeeper who passes up the chance to shortchange a customer only because his business might suffer if other customers found out. According to Kant, the shopkeeper’s action has no moral worth, because he did the right thing for the wrong reason.

PART TWO: THE SUPREME PRINCIPLE OF MORALITY

Immanuel Kant says that insofar as our actions have moral worth, what confers moral worth is our capacity to rise above self-interest and inclination and to act out of duty. Sandel tells the true story of a thirteen-year old boy who won a spelling bee contest, but then admitted to the judges that he had, in fact, misspelled the final word. Using this story and others, Sandel explains Kant’s test for determining whether an action is morally right: to identify the principle expressed in our action and then ask whether that principle could ever become a universal law that every other human being could act on.

Episode Seven
Week 7

PART ONE: A LESSON IN LYING

Immanuel Kant’s stringent theory of morality allows for no exceptions. Kant believed that telling a lie, even a white lie, is a violation of one’s own dignity. Professor Sandel asks students to test Kant’s theory with this hypothetical case: if your friend were hiding inside your home, and a person intent on killing your friend came to your door and asked you where he was, would it be wrong to tell a lie? If so, would it be moral to try to mislead the murderer without actually lying? This leads to a discussion of the morality of “misleading truths.” Sandel wraps up the lecture with a video clip of one of the most famous, recent examples of dodging the truth: President Clinton talking about his relationship with Monica Lewinsky.

PART TWO: A DEAL IS A DEAL

Sandel introduces the modern philosopher John Rawls and his theory of a “hypothetical social contract.” Rawls argues that principles of justice are the outcome of a special kind of agreement. They are the principles we would all agree to if we had to choose rules for our society and no one had any unfair bargaining power. According to Rawls, the only way to ensure that no one has more power than anyone else is to imagine a scenario where no one knows his or her age, sex, race, intelligence, strength, social position, family wealth, religion, or even his or her goals in life. Rawls calls this hypothetical situation a “veil of ignorance.” What principles would we agree to behind this “veil of ignorance”? And would these principles be fair? Professor Sandel explains the idea of a
fair agreement with some humorous examples of actual contracts that produce unfair results.

Episode Eight
Week 8
PART ONE: WHAT’S A FAIR START?

Is it just to tax the rich to help the poor? John Rawls says we should answer this question by asking what principles you would choose to govern the distribution of income and wealth if you did not know who you were, whether you grew up in privilege or in poverty. Wouldn’t you want an equal distribution of wealth, or one that maximally benefits whomever happens to be the least advantaged? After all, that might be you. Rawls argues that even meritocracy—a distributive system that rewards effort—doesn’t go far enough in leveling the playing field because those who are naturally gifted will always get ahead. Furthermore, says Rawls, the naturally gifted can’t claim much credit because their success often depends on factors as arbitrary as birth order. Sandel makes Rawls’s point when he asks the students who were first born in their family to raise their hands.

PART TWO: WHAT DO WE DESERVE?

Professor Sandel recaps how income, wealth, and opportunities in life should be distributed, according to the three different theories raised so far in class. He summarizes libertarianism, the meritocratic system, and John Rawls’s egalitarian theory. Sandel then launches a discussion of the fairness of pay differentials in modern society. He compares the salary of former Supreme Court Justice Sandra Day O’Connor ($200,000) with the salary of television’s Judge Judy ($25 million). Sandel asks, is this fair? According to John Rawls, it is not. Rawls argues that an individual’s personal success is often a function of morally arbitrary facts—luck, genes, and family circumstances—for which he or she can claim no credit. Those at the bottom are no less worthy simply because they weren’t born with the talents a particular society rewards, Rawls argues, and the only just way to deal with society’s inequalities is for the naturally advantaged to share their wealth with those less fortunate.

Episode Nine
Week 9
PART ONE: ARGUING AFFIRMATIVE ACTION

Sandel describes the 1996 court case of a white woman named Cheryl Hopwood who
was denied admission to a Texas law school, even though she had higher grades and test scores than some of the minority applicants who were admitted. Hopwood took her case to court, arguing the school’s affirmative action program violated her rights. Students discuss the pros and cons of affirmative action. Should we try to correct for inequality in educational backgrounds by taking race into consideration? Should we compensate for historical injustices such as slavery and segregation? Is the argument in favor of promoting diversity a valid one? How does it size up against the argument that a student’s efforts and achievements should carry more weight than factors that are out of his or her control and therefore arbitrary? When a university’s stated mission is to increase diversity, is it a violation of rights to deny a white person admission?

PART TWO: WHAT’S THE PURPOSE?

Sandel introduces Aristotle and his theory of justice. Aristotle disagrees with Rawls and Kant. He believes that justice is about giving people their due, what they deserve. When considering matters of distribution, Aristotle argues one must consider the goal, the end, the purpose of what is being distributed. The best flutes, for example, should go to the best flute players. And the highest political offices should go to those with the best judgment and the greatest civic virtue. For Aristotle, justice is a matter of fitting a person’s virtues with an appropriate role.

Episode Ten Week 10

PART ONE: THE GOOD CITIZEN

Aristotle believes the purpose of politics is to promote and cultivate the virtue of its citizens. The telos or goal of the state and political community is the “good life”. And those citizens who contribute most to the purpose of the community are the ones who should be most rewarded. But how do we know the purpose of a community or a practice? Aristotle’s theory of justice leads to a contemporary debate about golf. Sandel describes the case of Casey Martin, a disabled golfer, who sued the PGA after it declined his request to use a golf cart on the PGA Tour. The case leads to a debate about the purpose of golf and whether a player’s ability to “walk the course” is essential to the game.

PART TWO: FREEDOM VS. FIT

How does Aristotle address the issue of individual rights and the freedom to choose? If our place in society is determined by where we best fit, doesn’t that eliminate personal choice? What if I am best suited to do one kind of work, but I want to do another? In this lecture, Sandel addresses one of the most glaring objections to Aristotle’s views on freedom—his defense of slavery as a fitting social role for certain human beings. Students discuss other objections to Aristotle’s theories and debate whether his
philosophy overly restricts the freedom of individuals.

Episode Eleven – Week 11

PART ONE: THE CLAIMS OF COMMUNITY

Professor Sandel presents Kant’s objections to Aristotle’s theory. Kant believes politics must respect individual freedom. People must always respect other people’s freedom to make their own choices—a universal duty to humanity—but for Kant, there is no other source of moral obligation. The discussion of Kant’s view leads to an introduction to the communitarian philosophy. Communitarians argue that, in addition to voluntary and universal duties, we also have obligations of membership, solidarity, and loyalty. These obligations are not necessarily based on consent. We inherit our past, and our identities, from our family, city, or country. But what happens if our obligations to our family or community come into conflict with our universal obligations to humanity?

PART TWO: WHERE OUR LOYALTY LIES

Professor Sandel leads a discussion about the arguments for and against obligations of solidarity and membership. Do we owe more to our fellow citizens that to citizens of other countries? Is patriotism a virtue, or a prejudice for one’s own kind? If our identities are defined by the particular communities we inhabit, what becomes of universal human rights? Using various scenarios, students debate whether or not obligations of loyalty can ever outweigh universal duties of justice.

Episode Twelve – Week 12

PART ONE: DEBATING SAME-SEX MARRIAGE

If principles of justice depend on the moral or intrinsic worth of the ends that rights serve, how should we deal with the fact that people hold different ideas and conceptions of what is good? Students address this question in a heated debate about same-sex marriage. Should same-sex marriage be legal? Can we settle the matter without discussing the moral permissibility of homosexuality or the purpose of marriage?

PART TWO: THE GOOD LIFE

Professor Sandel raises two questions. Is it necessary to reason about the good life in order to decide what rights people have and what is just? If so, how is it possible to argue about the nature of the good life? Students explore these questions with a discussion about the relation of law and morality, as played out in public controversies.
over same-sex marriage and abortion. Michael Sandel concludes his lecture series by making the point that, in many cases, the law can’t be neutral on hard moral questions. Engaging rather than avoiding the moral convictions of our fellow citizens may be the best way of seeking a just society.

Weeks 13 and 14 – continued review and discussion