Should wealthy athletes pay a lot more proportionally in taxes?

READINGS AND DISCUSSION GUIDES

LECTURE 6 – DISCUSSION GUIDE (BEGINNER)

Utilitarians think that the right thing to do is whatever produces the greatest amount of happiness. Libertarians disagree. They think that we must never violate anyone's rights—even if doing so would increase overall happiness.

According to libertarians, the greatest threat to individual rights comes from the government. You should be able to drive without a seat belt if you want. The government has no business giving you a ticket. That's unacceptably paternalist. And if you want to use drugs or engage in deviant sexual practices, you should be free to do so, provided you don't violate anyone else's rights in the process. The government has no business passing moralistic legislation. It shouldn't tell you how to live your life. Most importantly, the government should never tax for redistributive purposes. Redistributive taxation is theft. Taking your earnings and giving it to other people is like forcing you to work for those people. Libertarians say it's almost like slavery. Libertarians make strong claims. But are they right about rights?

1. Is it unjust for the government to require people to wear seat belts and to prohibit them from engaging in other self-endangering activities? What if we know that many more
people will die without such legislation? Should people be free to hurt or kill themselves, provided their actions do not violate anyone’s else rights?

2. Should the government legalize narcotics? After all, some adults want to use drugs privately.

3. Should the government legalize prostitution? After all, some adults want to buy and sell sex.

4. Should there be a minimum wage? What if employers want to pay people $1.25 per hour, and some desperately poor people would work for that wage? Is the government being unjust by requiring employers to pay them at least $7.25 per hour?

5. Should the government impose occupational safety standards? What if employers refuse to spend money on safety measures, and some desperately poor people would agree to work in dangerous conditions. Should the government prohibit certain contracts that some workers and employers would be willing to make, and insist on safe working conditions?

6. Is it just to tax the rich to pay for public services? Should the government tax Bill Gates and other wealthy people and use the money to pay for public schools, hospitals, roads, parks, fire departments, and police departments, or would all of that be unjust?

7. Is it just to tax the rich to give to the poor? Should the government tax Bill Gates and other wealthy people and use the money to supplement the income of unemployed people, single mothers with low incomes, or other poor people? Should the government tax rich people and loan the money, interest-free, to poor kids so that they can go to college? Would all of that be unjust? Why?
Should wealthy athletes pay a lot more proportionally in taxes?

Utilitarians think that the right thing to do is whatever produces the greatest amount of happiness. Libertarians disagree. They think that we must never violate anyone’s “rights”—even if doing so would increase overall happiness.

According to libertarians, the greatest threat to individual rights comes from the government. Libertarians think that many kinds of laws violate people’s rights. Whenever the government prohibits a self-endangering activity—like driving without a seat belt—it is being unacceptably paternalist. Whenever the government prohibits deviant but harmless behavior—like nonstandard sexual practices—it is being oppressive. Whenever the government taxes people for redistributive purposes, it is stealing from them and forcing them to work for the benefit of other people.

A good way to kick-start a discussion about libertarianism is to examine what libertarians say about redistributive taxation.
Distributive Patterns and Liberty

Robert Nozick, a libertarian philosopher, has three arguments against redistribution. The first argument observes that government tends to redistribute wealth according to some pattern. For example, it tends to tax rich people and spend money on poor people, so that there is more equality in the distribution of income, wealth, and other resources. But, Nozick believes, it is not possible to maintain a pattern like equality without restricting people's liberty.

Suppose everyone in the United States had the same amount of money, and we all gave 25 cents to Michael Jordan in exchange for the pleasure of watching him play basketball. Then Jordan would have much more money than everybody else, and there would no longer be a pattern of equality. To restore the pattern, the government would have to take the money we gave to Jordan and give it back to each of us. And to maintain the pattern, it looks like the government would have to permanently forbid us from doing what we want with the money we have.

According to Nozick, this thought-experiment shows that all taxation for redistributive purposes is unjust. But is that right?

1. Must the government stop trying to make poor people less poor, and sick people less sick, and so on, or is it possible to maintain a desirable pattern without restricting people's liberty to do what they want with what they own?
2. Even if it's not possible to maintain a desirable pattern without restricting liberty somewhat, is Robert Nozick right to think that people should have the liberty to do whatever they want with the things they own?
3. Is it permissible for the government to regulate market transactions with an eye on the effects they have on the participants and other people?
4. Is it permissible for the government to pass laws against price gouging in the wake of a natural disaster?
5. Is it permissible for the government to regulate employment contracts? Are minimum wage laws really unjust?
6. Is it permissible for the government to insist on health and safety standards in workplaces?
7. Is it permissible for the government to block companies from forming a monopoly?
Redistributive Taxation and Forced Labor

Nozick objects to patterns like equality for a second reason. Maintaining a pattern requires taking a richer person's earnings and giving them to a poorer person. But, thinks Nozick, taking the earnings of two hours of labor from the rich person is like taking two hours from the rich person. It is like forcing the rich person to work for two hours for the benefit of the poor person. Therefore, says Nozick, redistributive taxation is like forced labor. Is Nozick right?

1. Is redistributive taxation really like forced labor? Forced labor is a kind of slavery. Are rich people who have to pay taxes like slaves? In what sense?

Justice and What Really Happened

Nozick's third argument against redistribution says that redistribution is incompatible with an “historical” view of justice. If something was originally acquired justly, and later transferred justly, then Nozick thinks it is now owned justly—and neither the government nor anyone else should be allowed to take it away.

1. Is an “historical” view of justice incompatible with redistribution? Many things that are owned today—money, land, natural resources—were originally acquired by force and violence, through war and colonization. What should be done about that? Shouldn’t there be some compensation and redistribution?
2. How is it that people can initially come to acquire something justly? Is it simply a matter of finders keepers or first come, first served, or are there other conditions? Are these conditions compatible with redistribution in the future?
3. What about unjust historical transfers? Many things owned today were stolen from someone a long time ago. How should we deal with that?
4. More generally, what is required for transfers of justly owned things to be just?
5. Must people be well-informed buyers in order for transfers to be just? If so, then do we need consumer rights legislation? Do you we need a consumer rights bureau empowered to investigate complaints?
6. Must people have reasonable alternatives in order for a transaction to be just? If so, then do we need welfare and minimum wage laws to make sure that people are not exploited when they’re desperate?
7. If we need any of these background institutions to ensure the fairness of individual voluntary transfers, is it permissible to tax people in order to pay for them?
ETHICAL DILEMMA: PROPERTY RIGHTS & BOSTON PARKING: JOHN LOCKE

What right does someone have to a parking spot that was shoveled out of the snow?

READINGS AND DISCUSSION GUIDES

JOHN LOCKE, SECOND TREATISE OF GOVERNMENT (1690)

Freedom, equality, property rights, and government by consent—each of these ideas figures prominently in contemporary political thought. And each idea was central to the political thought of John Locke.

Locke thought that people have certain unalienable rights, which they can never give away. He thought that people were by nature free and equal, that private property was the extension of a man’s labor, and that government must be limited and founded on consent. Did Locke get it right? Did he come to the right answer for the right reasons?

1. Locke thought that people had come to have rights to private property even before the institution of government. Is this possible? What is a right to private property anyway? Isn’t property a legal convention?
2. According to Locke, an unowned thing becomes your property if you “mix your labor” with it. Is that right? If you pick some flowers in an open field, do you have a claim to
them? What if you build a fence around the open ocean? Does the ocean become your property? If not, what is the connection between property and labor?
3. Is labor necessary for someone to have a claim to private property? What if a disabled person needs a wheelchair but can’t buy or build one herself? Does she have a right to the wheelchair anyway? If so, what is the basis of this right? If not, what should happen to her?
4. Money allows people to accumulate great wealth and thereby creates inequality. Is Locke right to think that people “consent” to the use of money when they accept it as payment?
5. Locke thinks that, to be legitimate, government must be by consent. But what counts as consent? Must every single person agree to be governed? What if some people hold out unreasonably?
6. Locke also suggests that a government is legitimate if everyone could agree to it without making his own condition worse. Is that right? Is a government legitimate if everyone could agree to it? What if you never in fact agreed to it, but just happened to find yourself living here? Does merely living somewhere count as (tacit) consent? What if you have no place else to go?
7. For Locke, to be legitimate, government must protect your rights. Is that enough? What if you never get to have a say in what government does?
8. According to Locke, your natural right to life is “unalienable”: you must never give it up, and therefore you must never commit suicide. Is he right? Is it morally wrong to commit suicide, even if one is terminally ill and in endless pain?
9. According to Locke, we are born with an “unalienable right” to life, which no government may take away arbitrarily. However, for Locke, the existence of this right does not mean that the death penalty is always impermissible. Is Locke right to think that the unalienable right to life is compatible with some types of capital punishment?
10. According to Locke, we are born with an “unalienable right” to liberty, which no government may take away arbitrarily. However, for Locke, the existence of this right does not mean that military conscription is always impermissible. Is Locke right to think that the unalienable right to liberty is compatible with some kinds of conscription?
11. You are free by nature, thinks Locke, but there is a difference between freedom and “license.” Is Locke right to argue that it is possible to abuse a freedom that one has a right to?
12. Locke thinks that government should be guided by majority rule. He also thinks that government exists to protect the unalienable right to property. Are these ideas in conflict? What if a poor majority wants to tax a rich minority?
ETHICAL DILEMMA: PROPERTY RIGHTS & BOSTON PARKING:
JOHN LOCKE

What right does someone have to a parking spot that that shoveled out of the snow?

READINGS AND DISCUSSION GUIDES

JOHN LOCKE, SECOND TREATISE OF GOVERNMENT (1690)
LECTURE 7 – DISCUSSION GUIDE (BEGINNER)
LECTURE 7 – DISCUSSION GUIDE (ADVANCED)

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Perhaps the best way to begin a discussion of Locke is to consider his views on two important questions: (1) how can private property be justified? and (2) what makes a government legitimate?

The Justification of Private Property
According to Locke, God gave the world to mankind in common. Even so, Locke thinks that people can (and perhaps did) come to have natural rights to private property, even before the institution of government.
For Locke, a thing becomes a person's private property when he “mixes” his labor with it, provided that the following two conditions are respected. First, the person must not take so much that it will spoil, since God did not make anything to be spoiled. Second, the person must leave “enough and as good” for other people, since God made the earth and its fruits for the benefit of everyone.

In your discussion, try to evaluate Locke's account of legitimate appropriation.

1. Is mixing your labor with something unowned sufficient to make it your property? If you build a house with your own hands, do you have a reasonable claim to it as your property?
2. If you go to the forest and cut down a tree, are you now the legitimate owner?
3. What if you “mix your labor” with the Atlantic ocean by building a fence around it, or by mixing a can of your homemade tomato juice with it? Does the ocean immediately become your property?
4. Is labor necessary for someone to have a claim to private property? What if a disabled person needs a wheelchair but can't build one herself? Does she have a right to the wheelchair anyway? If so, what is the basis of this right?
5. Is there more than one justification for property?
6. Locke thinks that legitimate appropriation must not lead to spoilage and must not make other people worse off. However, he thinks that both provisos are easily satisfied once people “consent” to the use of money. After all, money does not spoil, and an economy based on money creates more wealth than an economy based on barter.
7. Is Locke right to think that people “consent” to the institution of money when they take money as payment? Is Locke right to think that such consent makes even unlimited appropriation legitimate?

The Nature of Legitimate Government
The purpose of Locke's Second Treatise of Government is to establish the nature of legitimate government. To that end, Locke imagines a “state of nature,” before the institution of government. In the state of nature, everyone is free and equal. Everyone is also bound by the “law of nature,” which commands (1) self-preservation and (2) preserving other people's lives when this does not conflict with your own self-preservation.
The state of nature is full of “inconveniences,” according to Locke, because it lacks a judge to settle disputes about the law of nature and police officers to enforce the law of nature. To remedy the situation, people decide to leave the state of nature by agreeing to enter into “civil society.” But since they are trying to make their condition better, not worse, they agree only to a limited government that protects their natural rights to life, liberty, and property.

Notice that Locke's story about the state of nature functions as an argument about legitimate government: a government is legitimate only if people in a state of nature could agree to it without violating the law of nature and without making their own condition worse. Absolute monarchy, for instance, is illegitimate because it gives the monarch more power than the people have a right to give and because it makes them worse off than they would be in a state of nature, with no government.

Critical to Locke's argument is the idea of “unalienable rights.” Yes, people are free by nature, but “liberty” is not “license.” After all, the law of nature commands people to preserve themselves. Therefore, they must never commit suicide, sell themselves into slavery, or consent to be ruled by an absolute monarch. Their rights to life, liberty, and property are unalienable; they cannot be given away.

1. Consider the idea of unalienable rights and the role they play in Locke's argument. Why is it that we must not commit suicide or sell ourselves into slavery? God and the law of nature seem to play a big role in Locke's answer. Is that a problem? Is there some other reason why we must not commit suicide, sell ourselves into slavery, or voluntarily give up other basic rights?

2. In general, what is the difference between liberty and license? Is it possible to abuse a freedom that one has a right to?

3. Locke thinks that, to be legitimate, government must be by consent. But what counts as consent? Must every single person agree to be governed? What if some people hold out unreasonably?

4. Is a government legitimate if everyone could agree to it? What if you never in fact agreed to it, but just happened to find yourself living here? Does merely living somewhere count as consent? If not, is it enough that the government protects your rights? What if you never get to have a say?

5. Locke says that government, once it is set up, should be guided by the principle of majority rule. However, he also says that the purpose of government is to protect people's unalienable rights, including their right to property. What if these two goals conflict? What if a poor majority wants to tax a rich minority?
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What right does someone have to a parking spot that they shoveled out of the snow?

READINGS AND DISCUSSION GUIDES

JOHN LOCKE, SECOND TREATISE OF GOVERNMENT (1690)

– LECTURE 8 – DISCUSSION GUIDE (BEGINNER)

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READINGS AND DISCUSSION GUIDES

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– LECTURE 8 – DISCUSSION GUIDE (ADVANCED)

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How should we determine who will serve in the military?

READINGS AND DISCUSSION GUIDES

IN THE MATTER OF BABY “M” (1988)

– LECTURE 9 – DISCUSSION GUIDE (BEGINNER)

These days, it seems that cash is king. But are there things that money shouldn’t be able to buy? Are there things that should not be treated as market goods or services?

Consider the following cases:

1. In the American Civil War, men who were drafted for the army had the option of hiring a substitute to take their place, or paying a commutation fee to avoid military service. Are these practices tantamount to selling off one’s duty as a citizen, or are they perfectly acceptable market transactions? Does it make a difference whether the transaction takes place during a war or in peacetime?

2. A commercial surrogacy contract is an agreement to carry to term someone else’s baby in one’s own body in exchange for money. Should people be allowed to act as surrogate mothers? Should prospective parents be allowed to pay for their services? Should surrogacy contracts be enforced by the courts, even if the surrogate mother changes her mind and wants to keep the baby?

3. What do think about the morality of prostitution? Is it morally wrong to sell (or rent?) the use of one’s sexual organs? Is it morally wrong to buy sex? Should be it legal to buy or sell sex?
4. There are Web sites on the internet that advertise grooms and brides. Is it morally wrong to buy a marriage partner from them, assuming that the transaction is voluntary and the bride or groom agrees to marry you? Should such transactions be illegal?

5. Many people want to adopt a child, but there is always a shortage of infants. Should prospective parents be allowed to give money to young, single mothers who are considering giving up their children for adoption? Should the children who are now waiting to be adopted go to the highest bidder?

6. Many people need organ transplants, but there is always a shortage of organs from deceased donors. Should the organs that are available go to the highest bidder? If not, how should they be assigned?

7. In many developing countries, it is possible to buy a kidney for a few thousand dollars. The seller is often very poor and needs the money to support himself or his family. Is it morally permissible to buy his kidney? Should the sale of organs from living adults be illegal?
How should we determine who will serve in the military?

READINGS AND DISCUSSION GUIDES

IN THE MATTER OF BABY “M” (1988)

LECTURE 9 – DISCUSSION GUIDE (BEGINNER)

LECTURE 9 – DISCUSSION GUIDE (ADVANCED)

These days, it seems that cash is king. But are there things that money shouldn’t be able to buy? Are there things that should not be treated as market goods or services?

Consider the following cases:

Civic Duty

In the American Civil War, men who were drafted into the army had the option of hiring a substitute to take their place, or paying a commutation fee to avoid military service. What do you think of these options?

1. Are substitution and commutation tantamount to selling off one’s duty as a citizen?
2. Does the practice of hiring substitutes wrongly exploit poor people who are desperate and have no other option but to agree to be a substitute?
3. Does the morality of buying one’s way out of the army depend on whether it is during a war or in peacetime?
4. What is the moral difference between hiring a substitute and avoiding service by bribery, for instance?
5. Today no one is conscripted. Those who serve in the army volunteer to do so in exchange for a salary and other benefits. What is the relevant moral difference between today's system and a system of conscription that provides for the option to hire a substitute? Aren't people who agree to be substitutes merely volunteering to join the army for money?

6. Can utilitarianism, libertarianism, or Lockean rights theory make sense of the view that citizens have a duty to serve their country?

7. Do you think that every citizen has a moral duty either to serve in the military or to perform some form of national service? If so, do you think this duty can be fulfilled by hiring someone else to perform it?

8. "Substitution contracts maximize happiness because they give each party what he most wants—money, and avoidance of military service." Do you agree? Is this a good argument for the moral permissibility of substitution contracts?

9. "So long as they are voluntary, substitution contracts are fair." Do you agree? What counts as a voluntary market exchange? Don’t people sometimes enter agreements because they are desperate or not well informed about the full cost or the danger? Do the conditions under which people enter agreements matter to the fairness of the agreements? Do the conditions matter to the validity of the consent? What background conditions are necessary for seemingly voluntary agreements to be fair?

**Motherhood**

A commercial surrogacy contract is an agreement to carry to term someone else's baby in one's own body in exchange for money. What do you think about the morality of such contracts?

1. Should people be allowed to act as surrogate mothers? Should prospective parents be allowed to pay for their services?

2. Suppose the surrogate mother changes her mind and wants to keep the baby. Should surrogacy contracts be enforced by the courts?

3. A utilitarian would say that surrogacy contracts should be allowed, if they maximize happiness. A libertarian would say that people should be free to use their own bodies in whatever way they like, provided they do not violate other people's rights. What do you think? Do either utilitarians or Libertarians have the right answer?

4. Consider Elizabeth Anderson's argument against surrogate motherhood. She thinks that surrogate motherhood "commodifies" children and women's labor. But, thinks Anderson, to value these things in the way one values a commodity is inconsistent with the appropriate way of valuing them. The appropriate way of valuing children, for instance, is to love them, and not to treat them as fungible and exchangeable for money. Therefore, says Anderson, surrogate motherhood is wrong.

5. Is Anderson right? Does her argument against surrogate motherhood imply that we shouldn't commodify ourselves either (because that would be inconsistent with valuing
ourselves)? So, should we abstain from selling our services to the army, for instance? Is a paid army impermissible?
LECTURE 10: FOR SALE: MOTHERHOOD

Professor Sandel examines the principle of free-market exchange as it relates to 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 that raised the unsettling question, “Who owns a baby?” Students debate the nature of informed consent, the morality of selling a human life, and the meaning of maternal rights.
Should surrogacy be permitted?

These days, it seems that cash is king. But are there things that money shouldn’t be able to buy? Are there things that should not be treated as market goods or services?

Consider the following cases:

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5. Many people want to adopt a child, but there is always a shortage of infants. Should prospective parents be allowed to give money to young, single mothers who are considering giving up their children for adoption? Should the children who are now waiting to be adopted go to the highest bidder?

6. Many people need organ transplants, but there is always a shortage of organs from deceased donors. Should the organs that are available go to the highest bidder? If not, how should they be assigned?

7. In many developing countries, it is possible to buy a kidney for a few thousand dollars. The seller is often very poor and needs the money to support himself or his family. Is it morally permissible to buy his kidney? Should the sale of organs from living adults be illegal?
ETHICAL DILEMMA: SURROGACY: MARKETS & MORALS

Should surrogacy be permitted?

READINGS AND DISCUSSION GUIDES

IN THE MATTER OF BABY “M” (1988)

LECTURE 10 – DISCUSSION GUIDE (BEGINNER)

LECTURE 10 – DISCUSSION GUIDE (ADVANCED)

These days, it seems that cash is king. But are there things that money shouldn’t be able to buy? Are there things that should not be treated as market goods or services?

Consider the following cases:

Civic Duty
In the American Civil War, men who were drafted into the army had the option of hiring a substitute to take their place, or paying a commutation fee to avoid military service. What do you think of these options?

1. Are substitution and commutation tantamount to selling off one’s duty as a citizen?
2. Does the practice of hiring substitutes wrongly exploit poor people who are desperate and have no other option but to agree to be a substitute?
3. Does the morality of buying one's way out of the army depend on whether it is during a war or in peacetime?
4. What is the moral difference between hiring a substitute and avoiding service by bribery, for instance?
5. Today no one is conscripted. Those who serve in the army volunteer to do so in exchange for a salary and other benefits. What is the relevant moral difference between today’s system and a system of conscription that provides for the option to hire a substitute? Aren’t people who agree to be substitutes merely volunteering to join the army for money?
6. Can utilitarianism, libertarianism, or Lockean rights theory make sense of the view that citizens have a duty to serve their country?
7. Do you think that every citizen has a moral duty either to serve in the military or to perform some form of national service? If so, do you think this duty can be fulfilled by hiring someone else to perform it?
8. “Substitution contracts maximize happiness because they give each party what he most wants—money, and avoidance of military service.” Do you agree? Is this a good argument for the moral permissibility of substitution contracts?
9. “So long as they are voluntary, substitution contracts are fair.” Do you agree? What counts as a voluntary market exchange? Don’t people sometimes enter agreements because they are desperate or not well informed about the full cost or the danger? Do the conditions under which people enter agreements matter to the fairness of the agreements? Do the conditions matter to the validity of the consent? What background conditions are necessary for seemingly voluntary agreements to be fair?

Motherhood

A commercial surrogacy contract is an agreement to carry to term someone else’s baby in one’s own body in exchange for money. What do you think about the morality of such contracts?

1. Should people be allowed to act as surrogate mothers? Should prospective parents be allowed to pay for their services?
2. Suppose the surrogate mother changes her mind and wants to keep the baby. Should surrogacy contracts be enforced by the courts?
3. A utilitarian would say that surrogacy contracts should be allowed, if they maximize happiness. A libertarian would say that people should be free to use their own bodies in whatever way they like, provided they do not violate other people’s rights. What do you think? Do either utilitarians or Libertarians have the right answer?
4. Consider Elizabeth Anderson’s argument against surrogate motherhood. She thinks that surrogate motherhood “commodifies” children and women’s labor. But, thinks Anderson, to value these things in the way one values a commodity is inconsistent with the appropriate way of valuing them. The appropriate way of valuing children, for instance, is
to love them, and not to treat them as fungible and exchangeable for money. Therefore, says Anderson, surrogate motherhood is wrong.

5. Is Anderson right? Does her argument against surrogate motherhood imply that we shouldn’t commodify ourselves either (because that would be inconsistent with valuing ourselves)? So, should we abstain from selling our services to the army, for instance? Is a paid army impermissible?