



The Philosophers' Government

Session I: Jan. 24, 2013

The Declaration of Independence

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Course Overview

- Review of the course website.
 - URL: <http://www.rewalt.me/tpg>
 - Pages on the site.
 - Main: A handy way to email me will be found here. Most often, you will want to go to one of the sub-pages described below.
 - Syllabus: Check here after each class for readings for the next session.
 - Additional Materials: Some readings will be posted here, as well as supplementary materials of interest.
 - TPG Blog: A “bulletin board” for class use. Post questions or comments here.
 - Bibliography: Recommendations for additional reading as these come up in lecture or discussion, as well as the course texts.
- Goals of the course.
 - To provide you with some acquaintance with the philosophical background of the American Founding.

Course Overview (cont.)

- Course goals (cont.)
 - To enlarge your knowledge of the principal documents of the Founding.
 - *A caveat:* Since we are a country whose identity is tightly tied to the ideas expressed in these documents our contemporary political controversies often take the form of debates about the meaning of one or another provision of those texts. Thus, e.g., the current agitation for and against more severe restrictions on the private ownership of firearms hearkens back to the Constitution's Second Amendment. From time to time as we discuss the ideas expressed in these texts implications for some contemporary dispute will arise. *Be clear that it is not a goal of the course to convince you of any position in such controversies.*

The Declaration of Independence

- Character of the *D.I.* and the *Constitution*.
 - These are sacred texts, somewhat comparable to the sacred texts of the great religions of the book.
 - Thus, we find them posted in public places in this country, like courthouses, city halls, and airports under the heading “Freedom Shrine.”
 - Their popular meaning therefore consists to a significant extent of beliefs rightly regarded as articles of faith.
 - The first of these articles is well expressed by the Cato edition’s editor, “Preface,” p.1: “A new nation was thus born...”; i.e., the *D.I.* declared the independence of a single nation, The United States of America.
 - Only in hindsight could that be said to be true.
 - Faith must be held in abeyance if we are to understand these documents for what they were.
 - What the documents now are, and how their changes were effected, is largely a topic for another course.

The Declaration of Independence (cont.)

- Whose independence was declared by the D.I?
 - Notice that ‘united’ is not capitalized in the document’s title.
 - Yet it very often is capitalized in modern printings of the text.
 - The term is a mere descriptor, not part of a proper name: ‘United States of America’ became the name of a country only with the adoption of the Articles of Confederation in 1781.
 - The final paragraph of the D.I. reads, “That these United Colonies *are*, and of Right ought to be, free and independent *states...*”
 - Reference to the colonies thereafter is consistently plural.
 - Hence, the D.I. declared the independence of 13 states simultaneously, in a single document, not the independence of one state consisting of 13 sub-states.
 - If any nations were born, it was 13 of them, not the modern United States of America.
 - The Editor’s claim is unhistorical and unfaithful to the text.

The Declaration of Independence (cont.)

- Structure of the D.I., by paragraph.
 - I. Preamble, or Introduction: par. 1.
 - II. The moral and political theoretical foundations: par. 2, excluding final sentence.
 - III. Listing of the failures of the English King, George III, against the standards derived from the theory: par. 2, final sentence through par. 20 (“He has incited domestic Insurrections amongst us...”).
 - IV. An exculpatory claim that lesser remedies have been attempted: pars. 21 & 22.
 - V. The declaration proper: par. 23 (“We, therefore, the Representatives of the united States of America, in General Congress Assembled...”)
- It is clear that the D.I. is an argument of a particular type; in fact it has the general form of a legal document, a pleading or a brief.
 - This is not surprising, since Jefferson, Adams, and several others among the leaders of the Continental Congress were lawyers.

The Declaration of Independence (cont.)

- We will examine these five sections one by one, beginning with the Preamble.
 - Whereas a pleading or brief would be addressed to a court, the audience for Jefferson is “Mankind” whose “Opinions” require that the colonists justify their action.
 - Notice that Jefferson takes it for granted that the matter at hand is one which calls for justification by careful reasoning, and that “a candid World” will evaluate that reasoning appropriately and reach the correct judgment.
 - In sum, the issue at hand is a rational matter amenable to objective judgment, not one of mere passion or self-interest.
 - Moreover, the preamble assumes that there is a world community which can be understood on the model of a single nation adhering to the rule of law.
 - The existence of such a universal community is implied in the writings of philosophers with whom Jefferson was familiar. It becomes an explicit proposition most prominently in the work of Immanuel Kant, whose late essay, “Perpetual Peace; A Philosophical Sketch,” was first published in 1795.
 - The preamble alone establishes the D.I. as a product of the climate of ideas known as the Enlightenment.
- In claiming entitlement for their actions by “the Laws of Nature and of Nature’s god” Jefferson invokes the groundwork for the moral and political theory set out in the crucial second paragraph.
 - Thus, the D.I. belongs to the natural law tradition of the Enlightenment.
 - Later, we shall briefly consider two figures from that tradition, Hugo Grotius and Samuel Pufendorf.

The Declaration of Independence (cont.)

- The theoretical foundations of the declaration to follow.
 - This segment of the argument begins with what would be a citation of the applicable statutes in a pleading or brief.
 - “We hold these Truths to be self-evident...”
 - The language is not that of the law, but of mathematics, viz., Euclid’s *Elements*.
 - The self-evident truths of mathematics are the axioms: for Jefferson and his contemporaries, the primary examples, drawn directly from Euclid, would be the familiar axioms of plane geometry—the parallel postulate, etc.—but also some arithmetical ones, like “Equals added to equals yields equals.”
 - Thus, the theory that follows this pregnant phrase has the status of the queen of the sciences, mathematics, and is to be applied to ethics and politics as geometry and trigonometry are to surveying.
 - The self-evident truths are that (a) “...all Men are created equal” and (b) “that they are endowed by their Creator with certain unalienable Rights...”
 - This is a species of moral theory, i.e., a theory about moral obligation, a theory belonging to the sub-division of philosophy called ethics.
 - It is an *egalitarianism* of a certain sort.
 - It is a *deontological* theory, as opposed to a *teleological* one.

The Declaration of Independence (cont.)

- Theoretical foundations... (cont.)
 - It is much in intellectual fashion now to “debunk” the egalitarian aspect of the theory by claiming that by “Men” Jefferson meant ‘men’ in the gender specific sense, and he did not intend the term to cover persons other than white Europeans.
 - The history of the document’s development and Jefferson’s own writing and actions contradict this supposedly sophisticated reading.
 - He was a strong opponent of slavery of long-standing, as were many of the members of the Continental Congress.
 - To suppose that the fact that he was himself a slave owner refutes the statement’s plain meaning requires of him a degree of consistency of which all of us fall short from time to time.
 - This fashionable current reading supposedly rests upon some recent discovery, or feature of modern moral growth, but in fact it was asserted by Chief Justice Roger B. Taney as a crucial premise in the argument of the majority opinion in the infamous Dred Scott case of 1857, an important cause of the Civil War.
 - Natural rights are now more commonly called human rights. It is a fact about rights that if a person ‘A’ has a right, then at least one other person, ‘B’ has an obligation toward ‘A’; i.e., rights create obligations, and natural, or human, rights create universal moral obligations.
 - The obligations associated with a right may be *negative*, i.e., obligations not to do some things, or *positive*, i.e., obligations to take some affirmative action, like provide healthcare.
 - Jefferson understands the rights that he enumerates (incompletely) to be negative.
 - Important strands of the history of the U.S. of the last 75 years or more turn about this distinction in rights. Equally important in that evolution is the fact that the possession of a right does not in itself impose any obligation on the right-holder.

The Declaration of Independence (cont.)

- Theoretical foundations... (cont.)
 - Jefferson proceeds to the political theory: "...That to *secure* these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed..."
 - We have a species of Social Contract Theory (SCT), the first clear example of which in the philosophical record is found in Plato's *Republic*, Bk. II., and which arises again powerfully in Lucretius' *On The Nature of Things (De Rerum Natura)*, a work rediscovered in the Renaissance and of immeasurable influence thereafter.
 - Among those so influenced was Thomas Hobbes, with whose *Leviathan* Jefferson and his peers would have been familiar.
 - The general idea is that people gather together and deliberately create organized societies to achieve certain individual purposes.
 - Jefferson's claim is that the purpose for which governments and their laws are created is to *secure* our natural rights; e.g., the right of life is secured by laws against murder and a formal apparatus for their enforcement.
 - Hence, the moral theory underlies the political theory.
 - Hence, the theory holds that organized states, like, say, Virginia in 1776, are essentially like the Elks Club, the VFW, the BMW Owners Association, and similar institutions.
 - We may call them *Communities of Interest*.
 - Their regulations or laws derive their power from being species of promises, freely made for the sake of achieving the purposes for which membership is elected.
 - That is the substance of Jefferson's statement that governments derive their just powers from the consent of the governed.
 - The theory therefore also exemplifies what has come to be called the Principle of Popular Sovereignty (PPS).
 - When we call a regime genuinely "democratic" we mean that it is based upon this principle.

The Declaration of Independence (cont.)

- Theoretical foundations... (cont.)
 - From the theory there then follows logically a criterion of governmental performance; viz., the government must achieve the purposes for which the governed placed themselves under its rule.
 - If the government fails in its purposes the people may change it as it suits them; indeed, if it fails badly, "...it is their Duty, to throw off such Government..."
 - The rest of the argument now follows as so many dominoes in a line.
 - In the case of lesser organizations of the type the theory describes, one may simply leave them if they are unsatisfactory, or one's interests change.
 - If you sell your BMW motorcycle you will probably no longer have use for the services club membership brings.
 - Complementarily, you enter organizations freely as interest dictates.
 - The model makes sense for voluntary organizations like the BMW Owners Association, *but does it make sense for institutions of the scope of states?*
 - The British philosophers charged, *sub rosa*, with preparing a response to the D.I. said that no significant political entity could be founded upon such principles.
 - Its life would be, to borrow a phrase from Hobbes, "nasty, brutish and short."
 - Jefferson himself believed that the governments should be revised from the ground up, or nearly so, about every 19 years.
 - Notice, then, in case it is not obvious, that the theory implies a right of revolution, something about which you are likely to hear a good deal in the coming months.
 - The D.I.'s political theory is then dangerous doctrine.
 - As for the moral theory, it is "nonsense on stilts," according to one of those philosophers, Jeremy Bentham.
 - We will take up the faults of the moral and political theories of the D.I. later.

The Declaration of Independence (cont.)

- The failings of the English King, George III.
 - Only a few of these are relevant to our purposes, though we may come back to some of them when we look at the Constitution.
 - E.g., “He has made judges dependent upon his Will alone...” explains the concern beneath one of the provisions of Article III.
 - Many of the charges can be seen as violations of the Principle of Popular Sovereignty.
 - “He has erected a Multitude of Offices, and sent hither Swarms of Officers to harrass our People, and eat out their Substance,” a complaint you are likely to hear in the news these days.
 - “He has combined with others to subject us to a jurisdiction foreign to our Constitution...”
 - What Constitution does he mean?
 - The English Constitution; i.e., the charge is that measures imposed by the King are unconstitutional, and would not be acceptable if effected in England itself.
 - This is one piece of evidence in favor of some historians’ claim that the American Revolution was conservative in character, i.e., it was aimed at the restoration of government faithful to the faithful English tradition.

The Declaration of Independence (cont.)

- The failings of George III (cont.)
 - Par. 15 (g), “For abolishing the free System of English Laws in a neighboring Province...” refers to Canada, to which the Articles of Confederation offers statehood.
- The exculpatory claim.
 - Breaking away from England is a radical action, not to be taken as a first measure; hence, Jefferson offers assurance that the Congress is aware of this and asserts that lesser remedies have been exhausted
 - This, too, reflects a standard legal principle.
- The declaration proper.
 - Notice again that ‘united’ is not capitalized except as a modifier of “Colonies.”
 - In addition to declaring that the colonies, individually, are no longer appendages of England, this section is intended to announce to the world community of nations that the newly independent states are to be regarded as nations in their own right for all purposes.
- The next question to be considered will be that of the sources of the D.I.
 - We will address that in general terms next time by looking at the work of Rene Descartes, properly credited as more than any other philosopher the founder of modern thought.
 - We will address it in particular terms in our third session by looking at John Locke’s *Second Treatise of Civil Government*.