

**Justin Bernstein**  
Assistant Professor of Philosophy  
Florida Atlantic University, Department of Philosophy  
777 Glades Road - SO 283  
Boca Raton, FL 33431-0991

**AREAS OF SPECIALIZATION:** Bioethics, Moral and Political Philosophy

**AREAS OF CONCENTRATION:** History of Political Philosophy, History of Ethics, Metaethics, Philosophy of Race, Philosophy of Law

## APPOINTMENTS

Department of Philosophy, Florida Atlantic University <i>Assistant Professor</i>	August 2020-
Berman Institute of Bioethics, Johns Hopkins University <i>Hecht-Levi Postdoctoral Research Fellow</i>	September 2018-May 2020

## EDUCATION

University of Pennsylvania <i>PhD in Philosophy</i> Dissertation: <i>An Act-Focused Theory of Political Legitimacy</i> Supervisors: Samuel Freeman (Penn) and Alexander Guerrero (Rutgers) Committee: Errol Lord, Kok-Chor Tan	September 2011-May 2018
University of Wisconsin-Milwaukee <i>MA in Philosophy</i> Thesis: <i>Moral Requirements, Moral Reasoning, and the First Two Formulations of Kant's Categorical Imperative</i> Supervisor: Julius Sensat Committee: Carla Bagnoli, William Bristow	September 2008-May 2010
Vassar College <i>BA in Philosophy (with honors)</i> Thesis: <i>Teleology and the Fact-Value Separation</i> Supervisor: Michael McCarthy	August 2002-May 2006

## PUBLICATIONS

### ARTICLES

Justin Bernstein, “Anti-Vaxxers, Anti-Anti-Vaxxers, Fairness, and Anger,” *Kennedy Institute of Ethics Journal* (forthcoming).

Justin Bernstein and Pierce Randall, “Against the Public Goods Conception of Public Health,” *Public Health Ethics*. Published online, August 27, 2020 (<https://doi.org/10.1093/phe/phaa021>).

Travis N. Rieder and Justin Bernstein, “The Case for ‘Contributory Ethics’: Or How to Think about Individual Morality in a Time of Global Problems,” *Ethics, Policy, and Environment* (forthcoming).

Rupali Limaye, Molly Sauer, Joseph Ali, Justin Bernstein, Brian Wahl, Alain Labrique, and Anne Barnhill, “Building Trust While Influencing Online COVID-19 Content in a Socially Mediated World,” *The Lancet Digital Health*. 2020 Jun; 2 (6): e277-278.

Justin Bernstein, Taylor Holroyd, Jessica Atwell, Joe Ali, and Rupali Limaye, “Rockland County’s Proposed Ban Against Unvaccinated Minors: Balancing Disease Control, Trust, and Liberty,” *Vaccine*, 37 Iss. 30 (2019): 3393-3395.

Justin Bernstein, “The Case Against Libertarian Arguments for Compulsory Vaccination,” *Journal of Medical Ethics*, 43 No. 11 (2017): pp. 1-5.

C.M. Melenovksy and Justin Bernstein, “Why Free Market Rights are Not Basic Liberties,” *The Journal of Value Inquiry* 49 Iss. 1-2 (2015): pp. 47-67.

### ENCYCLOPEDIA ENTRIES

Ruth Faden, Justin Bernstein, and Sirine Shebaya, “Public Health Ethics,” *The Stanford Encyclopedia of Philosophy*, edited by Edward N. Zalta. (Fall 2020 Edition)

### NEWSPAPERS AND OTHER MEDIA

Travis N. Rieder, Anne Barnhill, Justin Bernstein, and Brian Hutler, “When to Reopen the Nation is an Ethics Question—Not Only a Scientific One,” *Hastings Center Bioethics Forum*, April 28, 2020.

Ezekiel Emanuel and Justin Bernstein, “All Children Should Have to Get a Flu Shot,” *The New York Times*, March 1, 2018.

Justin Bernstein, “The Implications of Libertarianism for Compulsory Vaccination,” blog for *Journal of Medical Ethics*, April 24, 2017.

## WHITE PAPERS AND ETHICS GUIDELINES

Justin Bernstein, Brian Hutler, Travis Rieder, Ruth Faden, Hahrie Han, and Anne Barnhill, “An Ethics Framework for the COVID-19 Reopening Process,” a white paper published by the *Johns Hopkins Berman Institute of Bioethics*, (<https://bioethics.jhu.edu/research-and-outreach/covid-19-bioethics-expert-insights/resources-for-addressing-key-ethical-areas/grappling-with-the-ethics-of-social-distancing/>), May 27, 2020.

Eric Toner, Anne Barnhill, Carleigh Krubiner, Justin Bernstein, Lois Privor-Dumm, Mathew Watson, Elena Martin, Christina Potter, Divya Hosangadi, Nancy Connell, Crystal Watson, Monica Schoch-Spana, Tener Goodwin Veenema, Diane Meyer, E. Lee Daugherty Biddison, Alan Regenberg, Tom Inglesby, Anita Cicero. *Interim Framework for COVID-19 Vaccine Allocation and Distribution in the United States*, published by the Johns Hopkins Center for Health Security, August 19, 2020.

## SELECTED PAPERS UNDER REVIEW/IN PROGRESS

“Charitable Giving During the COVID-19 Pandemic” (with Pierce Randall, Revise and Resubmit, *Journal of Social Philosophy*)

“Beyond the Right to Rule: A Role-Based Theory of Politically Legitimate Action” (Revise and Resubmit, *Philosopher’s Imprint*)

“Bob Fischer’s *The Ethics of Eating Animals*,” (first author with Anne Barnhill, under review at *Ethics*)

"A Public Health Ethics Case for Mitigating Zoonotic Disease Risk in Food Production" (first author with Jan Dutkiewicz, Revise and Resubmit, *Food Ethics*)

“In Defense of Conscious Consumption: Why You Can’t Have Your Steak and Call for Political Action on Climate Change, Too”

“Being Wrong, Being Wronged, and Fairness: The Case of Vaccine Hesitancy”

“In Defense of Political Legitimacy Without Thresholds”

“Constitutivism and the Possibility of Error”

“You Should Eat Less Beef” (with Anne Barnhill, Ruth Faden, Rebecca McClaren, Travis Rieder)

## TALKS

### SELECT PEER-REVIEWED PRESENTATIONS

#### **In Defense of Conscious Consumption**

American Philosophical Association, Eastern Division  
Manchester Workshop on Political Theory

January 2021  
September 2020

#### **Beyond the Right to Rule: A Role-Based Theory of Political Legitimacy**

Cornell Conference in Legal Philosophy, Cornell University

September 2020

#### **Anti-Vaxxers, Anti-Anti-Vaxxers, Fairness, and Anger**

World Congress of Bioethics, Philadelphia PA

June 2020

#### **In Defense of Political Legitimacy Without Thresholds**

Politics, Philosophy, and Economics Society, New Orleans  
(*Talk Canceled Due to COVID-19*)

March 2020

#### **Legitimate Actions Without the Right to Rule**

American Philosophical Association, Central Division, Chicago  
Rocky Mountain Ethics Congress XII (*Accepted but declined to attend*)  
Politics, Philosophy, and Economics Society, New Orleans

February 2020  
August 2019  
March 2019

#### **Distrust Due to Injustice: How Should Health Practitioners Respond?**

American Society of Bioethics and Humanities Conference, Pittsburgh

October 2019

#### **Against Principled Thresholds:**

##### **A Conventionalist Defense of the Moral Permissibility of Abortion**

American Society of Bioethics and Humanities Conference, Pittsburgh

October 2019

#### **Does Reasonable Distrust of Government Justify Vaccine Exemptions?**

Rocky Mountain Ethics Congress X (Poster)

August 2017

#### **Legitimacy, Instrumentalism, and the Demandingness Objection(s)**

Rocky Mountain Ethics Congress IX (Poster)

August 2016

#### **Kantian Rationalism and The Groundwork Strategy**

Rocky Mountain Ethics Congress VI (Poster)

August 2013

#### **Critical Reflections on Martha Nussbaum's Political Liberalism**

U. Memphis Graduate Student Conference

February 2012

#### **Constitutivism and the Possibility of Error**

Brandeis Graduate Student Conference

March 2011

## INVITED PRESENTATIONS

### **Evaluating What's at Stake in Reopening**

University of Pittsburgh, Public Health Grand Rounds  
University of Pittsburgh Center for Bioethics & Health Law

October 2020  
August 2020

### **The Ethics of Reopening**

Fellowships at Auschwitz for the Study of Professional Ethics  
Johns Hopkins University, Berman Institute of Bioethics

June 2020  
April, May, 2020

### **Bioethics and the COVID-19 Pandemic**

Innovative Genomics Institute at UC Berkeley/UC San Francisco

June 2020

### **Fairness and Infectious Disease**

Hopkins-Oxford Workshop in Ethics and Infectious Disease  
*(Workshop Canceled Due To COVID-19)*

March 2020

### **In Defense of Conscious Consumption**

Florida Atlantic University, Department of Philosophy  
Fordham University, Department of Philosophy  
Johns Hopkins University, Berman Institute of Bioethics

February 2020  
January 2020  
November 2019

### **Anti-Vaxxers, Anti-Anti-Vaxxers, Fairness, and Anger**

University of Pennsylvania, Bloomsburg  
University of Pennsylvania, Penn Normative Philosophy Group

February 2020  
October 2019

### **“Ethics In Public Health”**

USAID STAR Intern Program

November 2019

### **Vaccine Hesitancy, Being Wrong, and Being Wronged**

University of North Carolina, Parr Center for Ethics

March 2019

### **Race and Vaccine Acceptance**

Penn Teach-In: Panelist on Vaccine Denial

March 2018

## COMMENTS GIVEN

### **George Sher's “The Consciousness of a Conservative”**

Rocky Mountain Ethics Congress X

August 2017

### **Serene Khader's “Decolonizing Individualisms”**

Penn Minorities and Philosophy Conference, Global Feminisms

March 2017

### **George Sher's “How Bad is it to be Dominated?”**

Rocky Mountain Ethics Congress IX

August 2016

**Jason Brennan’s “A Libertarian Case for Mandatory Vaccines”**  
American Philosophical Association, Eastern January 2016

**Stephen Henderson and Kelly Sorenson’s “Search, Seizure, and Immunity…”**  
Rocky Mountain Ethics Congress VI August 2013

## AWARDS AND HONORS

**DCC Graduate Fellowship** April 2016  
University of Pennsylvania, Program on Democracy, Citizenship, and Constitutionalism  
*One of three recipients across all Penn graduate students*

**Dissertation Completion Fellowship** March 2016  
University of Pennsylvania  
*One of twenty-four recipients across all Penn graduate students  
(Declined to accept DCC Graduate Fellowship)*

**Graduate Fellowship for Teaching Excellence** May 2014-June 2015  
University of Pennsylvania, Center for Teaching and Learning  
*One of thirteen recipients  
Departments nominate candidates*

**Penn Prize for Excellence in Teaching by a Graduate Student** April 2014  
University of Pennsylvania  
*One of ten recipients out of 159 nominated Penn graduate students  
Undergraduates nominate candidates*

**Benjamin Franklin Fellowship** August 2011-May 2016  
University of Pennsylvania

**Chancellor’s Graduate Student Award** September 2008  
University of Wisconsin-Milwaukee

**Ordan Prize Winner** May 2006  
Vassar College  
*Given for General Excellence in Philosophy and Excellence in Teaching*

**Nochlin Prize Winner** April 2006  
Vassar College  
*Given for an Exceptionally Good Senior Thesis*

## TEACHING EXPERIENCE

### As a Lead Instructor

Florida Atlantic University, Biomedical Ethics	September-December 2020
Florida Atlantic University, Introduction to Philosophy	September-December 2020
Johns Hopkins University, Political Philosophy and Public Health Ethics	January-May 2019
University of Pennsylvania, The Social Contract	January-May 2018
University of Pennsylvania, Biomedical Ethics	January-May 2016
University of Milwaukee-Wisconsin, Introduction to Philosophy	January-May 2010
University of Milwaukee-Wisconsin, Introduction to Philosophy	September-December 2009

### As a Teaching Assistant

Johns Hopkins University, Foundations of Bioethics	September-October 2018
University of Pennsylvania, Biomedical Ethics	September-December 2017
University of Pennsylvania, Philosophy of Mind	January-May 2015
University of Pennsylvania, Ethics	September-December 2013
University of Pennsylvania, The Social Contract	January-May 2013
University of Pennsylvania, Philosophy of Law	September-December 2012
University of Milwaukee-Wisconsin, Philosophy 101	January-May 2009
University of Milwaukee-Wisconsin, Philosophy 101	September-December 2008

### Guest-Lectures Delivered as a Hecht-Levi Fellow

<b>“The Ethics of Vaccination”</b> Johns Hopkins, TIME Course for 3 <sup>rd</sup> Year Medical Students	March 2020
<b>“Philosophical Methods in Bioethics”</b> Johns Hopkins, Methods in Bioethics	February 2020

<b>“Ethics and Persuasion”</b>	Johns Hopkins, Introduction to Persuasive Communications	December 2019
<b>“Public Health Ethics”</b>	Johns Hopkins, Foundations of Bioethics	September 2019
<b>“Public Health and Philosophy”</b>	Johns Hopkins, Panel on Public Health, Philosophy, History, and Values	September 2019
<b>“Ethics and Vaccination”</b>	Johns Hopkins, Global Bioethics Training Program	June 2019
<b>“What Is Public Health Ethics?”</b>	Johns Hopkins, Admitted Students Weekend	March 2019

**Workshops Taught as a Penn Center for Teaching and Learning Fellow**

<b>“Best Teaching Practices”</b>		March 2015
<b>“Strategies to Prepare Your Students for Class”</b>		February 2015
<b>“Effective Group Work”</b>		October 2014

**OTHER RELEVANT TEACHING APPOINTMENTS**

<b>Philadelphia Futures</b>	Instructor, Co-Director, After School Program in Philosophy	September 2015-May 2016
<b>Link Community School, Newark, NJ</b>	Eighth Grade English Language and Literature Teacher	June 2006-June 2008

## GRADUATE COURSEWORK

(\* for audits)

### Social/Political/Legal Philosophy

Justice and Health\* (Ruth Faden, Johns Hopkins University)  
Topics in Political Philosophy\* (Samuel Freeman, Penn, 2015, 2016, 2017)  
Epistemology and Democracy (Alexander Guerrero, Penn)  
Topics in Political Philosophy\* (Kok-Chor Tan, Penn)  
Political Authority and Political Obligation (Stephen Perry, Penn)  
Topics in Political Philosophy (Samuel Freeman, Penn, 2012)  
Law and Morality of War (Claire Finkelstein, Penn)  
Feminist Liberalism and its Critics (Andrea Westlund, UW Milwaukee)  
International Justice (Blain Neufeld, UW Milwaukee)  
The Political Philosophy of John Rawls (Julius Sensat, UW Milwaukee)

### Ethical Theory/Metaethics/Philosophy of Action

Ethical Rationalism\* (Errol Lord, Penn)  
Metaethics (Adrienne Martin, Penn)  
Constitutivism\* (Luca Ferrero, UW Milwaukee)  
Kantian Constructivism\* (Carla Bagnoli, UW Milwaukee)  
Moral Norms (Carla Bagnoli, UW Milwaukee)  
The Will (Luca Ferrero, UW Milwaukee)  
Autonomy, Identity, and the Self (Andrea Westlund, UW Milwaukee)  
Collective Agency (Luca Ferrero, UW Milwaukee)

### History of Philosophy

Aristotle's Ethics (Susan Sauve-Meyer, Penn)  
Continental Rationalism (Karen Detlefsen, Penn)  
The Reception of Kant's Ethics (Paul Guyer, Penn)  
Kant II (Paul Guyer, Penn)  
Kant's Practical Philosophy (Julius Sensat, UW Milwaukee)

### Core Analytic Philosophy

Expertise\* (Alexander Guerrero, Penn)  
Philosophy of Race\* (Quayshawn Spencer, Penn)  
Social Ontology\* (Philip Pettit, Princeton)  
Epistemology and its Limits (Daniel Singer, Penn)  
The Philosophy of Psychology (Gary Hatfield, Penn)  
Formal Logic (Scott Weinstein, Penn)  
Proseminar (Gary Hatfield, Penn)  
Quine, Goodman, and Beyond (Robert Schwartz, UW Milwaukee)  
Fundamentals of Formal Logic (Michael Liston, UW Milwaukee)  
Philosophy of Language (John Koethe, UW Milwaukee)

## SERVICE

### Refereeing

Referee, <i>Kennedy Institute of Ethics Journal</i>	Fall 2019
Referee, <i>American Journal of Bioethics</i>	Fall 2019
Referee, <i>Social Theory and Practice</i>	Spring 2018
Referee, <i>Journal of Medical Ethics</i>	Summer 2017
Referee, American Philosophical Association: Eastern Division	Spring 2017
Referee, <i>Theoria: A Journal of Social and Political Theory</i>	Fall 2014

### Other Service

FAU, Scholarship Committee	Fall 2020
FAU, Grade Appeals Committee	Fall 2020
Case Contributor, National Bioethics Bowl	Fall 2018
President of Penn's Political Philosophy Reading Group	April 2014-May 2018
President of Penn's Philosophy of Race Reading Group	January 2016-May 2018
Member of Minorities and Philosophy, Penn Chapter	January 2015-May 2018
Organizer, Graduate Student Philosophy Conference	November 2012

## REFERENCES

### Alexander Guerrero

Associate Professor of Philosophy  
Rutgers University  
[alex.guerrero@rutgers.edu](mailto:alex.guerrero@rutgers.edu)

### Ruth Faden

Philip Franklin Wagley Professor of  
Biomedical Ethics  
Johns Hopkins University  
[rfaden@jhu.edu](mailto:rfaden@jhu.edu)

### Samuel Freeman

Avalon Professor of the Humanities  
University of Pennsylvania  
[sfreeman@sas.upenn.edu](mailto:sfreeman@sas.upenn.edu)

### Errol Lord

Associate Professor of Philosophy  
University of Pennsylvania  
[erlord@sas.upenn.edu](mailto:erlord@sas.upenn.edu)

### Anne Barnhill

Research Scholar  
Johns Hopkins University  
[abarnhi1@jhu.edu](mailto:abarnhi1@jhu.edu)

### Jeffrey Kahn

Robert Henry Levi and Ryda Hecht Levi  
Professor of Bioethics and Public Policy  
Johns Hopkins University  
[jeffkahn@jhu.edu](mailto:jeffkahn@jhu.edu)

### Kok-Chor Tan

Professor of Philosophy  
University of Pennsylvania  
[kctan@sas.upenn.edu](mailto:kctan@sas.upenn.edu)

### Karen Detlefsen (Teaching)

Professor of Philosophy and Education  
University of Pennsylvania  
[detlefs@phil.penn.edu](mailto:detlefs@phil.penn.edu)

## DISSERTATION ABSTRACT

### An Act-Focused Theory of Political Legitimacy

Ordinarily, individuals are not permitted to possess and exercise coercive power by making and enforcing threats to use physical force. States and state actors, however, do possess and exercise coercive power in this way. The question of legitimacy is what, if anything, makes the possession or exercise of such power by states or state actors morally permissible? In my dissertation, I answer this question as follows: particular actions by state officials are legitimate because they produce good consequences, and the degree of legitimacy a state or a particular state institution enjoys is a function of how well it produces good consequences.

This view constitutes a stark departure from extant theories of political legitimacy, and so in the first part of the dissertation, “Four Theses on Political Legitimacy,” I motivate abandoning more familiar theories. I begin by considering one especially prominent class of theories, ‘will-based’ theories that aim to answer the question of political legitimacy by appealing to the ‘consent of the governed’ or the ‘will of the people’ in some sense. These will-based theories claim that when particular actions are legitimate, this is at least partly in virtue of the legitimacy and authority of the State, which in turn is grounded in an act of will on the part of citizens, which grounds. I argue that while these theories are popular, they either encounter significant problems, or they do not enjoy significant advantages over various rival theories.

I then argue that the appeal of will-based theories rests, in part, on the acceptance of two orthodoxies. First, many believe that the legitimacy of the State—macro legitimacy—is necessary or sufficient for the legitimacy of particular actions by state actors in their role—micro legitimacy. I object, however, that there are good reasons to think there can be illegitimate actions in legitimate states, and legitimate actions in illegitimate states. Since the macro (il)legitimacy of the state and the micro (il)legitimacy of particular actions can come apart, attempts to ground the legitimacy of the State will be inadequate as an answer to questions about when particular actions are micro legitimate. The second orthodoxy is that authority—the moral power to impose an obligation or reason to obey the law—is a necessary condition for legitimacy. I object, however, that political actions and political institutions can be legitimate even if the state lacks authority. That is, concerns about the State’s moral power to impose an obligation to obey law are orthogonal to concerns about the right to make and enforce law.

I then argue that (broadly) consequentialist theories of legitimacy have seemed less appealing than will-based theories because many theorists accept these two orthodoxies. Since we should reject these orthodoxies, however, we have an additional reason to doubt that will-based theories enjoy the relevant advantages over consequentialist theories. Moreover, I suggest that certain traditional problems for consequentialism as a theory of interpersonal morality seem far less problematic for consequentialism as a theory of political morality. Given this assessment, I devote the second part of the dissertation, “An Act-Focused Consequentialist Theory of Legitimacy,” to presenting and defending a broadly consequentialist theory of political legitimacy.

A consequentialist theory requires a theory of the good to be produced, so I begin by articulating the good to be produced, Functional Autonomy—the ability to successfully act on one’s authentic values, at least up to a meaningful threshold. I argue that Functional Autonomy is an especially appropriate value to be produced for a consequentialist theory of political legitimacy, generally. I then argue that there is strong moral reason to promote overall Functional Autonomy. In order to enjoy Functional Autonomy, individuals need to have access to various goods related to our psychological and physical makeup, and they need to be protected against various harms that come from their environment. To provide the requisite goods and protect individuals from the relevant harms, some

entity or entities need to accomplish various tasks. And state actors are better at performing at least some of these tasks than private actors or groups if there are two effective divisions of labor. A successful institutional division of labor enables different institutions to accomplish different tasks needed to, jointly, promote Functional Autonomy. A successful role-based division of labor allows state actors within particular institutions to deliberate and act in specialized ways so as to better realize distinct institutional tasks.

State actors, in turn, can come to have role-based reasons to deliberate and act in specialized ways, role-based reasons that are ultimately grounded in the successful performance of institutional tasks, which, in turn, jointly play a role in producing Functional Autonomy. The normative weight of these role-based reasons is determined by how well one's institutional task is advanced if role occupants perform the relevant action or deliberate in the relevant ways. Given this theory of role-based reasons, I argue that particular actions by state actors are legitimate if and only if the state actor's role-based reasons outweigh role-independent moral reasons that count against the performance of the action. And particular states are more or less macro legitimate depending on how well the two divisions of labor produce the Functional Autonomy of citizens.

Before concluding, I claim that problems for consequentialism as an interpersonal theory of morality do not arise as straightforwardly for the Act-Focused Consequentialist Theory of Legitimate Action. First, I argue that because my view treats Functional Autonomy as the good to be promoted rather than, say, utility, my view is not subject to concerns about the distribution-insensitive character of consequentialism. Second, I argue consequentialism strikes many as a more appropriate theory of political morality than more deontologically oriented views, given the need for political actors to 'dirty their hands,' and our intuitions that favor threshold deontology in the context of political action. Third, I argue that the view eschews demandingness objections that often plague consequentialist theories of interpersonal morality. To claim that morality requires one to only produce impartial value, even if this comes at the expense of various projects and personal relationships, strikes many as repugnant or unduly taxing. But in the context of political action, it would seem repugnant for state actors to indulge their projects and personal relationships at the expense of promoting impartial value.