

JOHN F. KENNEDY SCHOOL OF GOVERNMENT
HARVARD UNIVERSITY

DPI-201: THE RESPONSIBILITIES OF PUBLIC ACTION

FALL 2009

SECTION A

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Office Hour: Tuesday 3-4

M/W 2:40-4:00, L 280

Teaching Fellow: Lili Zhang
Office Hour: TBA

C1: Thursday, 1.10-2.30, Taubman 275
C2: Thursday, 2:40-4:00, Taubman 135

GETTING STARTED

Come prepared for the first session. Pick up assignments and readings from the Course Materials Office and books from the Harvard Coop.

DPI-201: THE RESPONSIBILITIES OF PUBLIC ACTION

Those who seek to govern well are continually and inescapably confronted in their political, professional, and personal decisions with questions of value. This course is designed to provoke critical thinking about the moral challenges of public policymaking and the moral responsibilities of public actors in a democracy.

The course examines two questions: (1) What should governments do? (2) What should public actors do? The first question requires us to consider public principles that guide good, just, and legitimate public policy. The second question requires us to consider the many and often competing obligations, commitments, and values that should guide public actors inside and outside government, particularly when there is disagreement about specifying and interpreting public principles, and disagreement about what is good, just, and legitimate public policy.

The conviction that guides both the course's content and its pedagogy is that moral and political views can and should be grounded in reasons, and that reasoned changes of view are possible. Moreover, the course is premised on the view that although there are a number of ways in which

questions of value might be explored, one of those ways—the methods of analytic philosophical thought—provides an important tool for the critical and reflective thinking that is necessary for successful governance. The course therefore provides regular practice in developing the skills of analytic moral reasoning, and invites reflection about one’s moral and political commitments through an ongoing engagement with classmates and authors (who may have different commitments).

DPI-201 is required for students in the Master of Public Policy program. Others may be admitted with permission of the instructor.

REQUIREMENTS AND EVALUATION

Class Participation

You are expected to come to each session prepared to discuss the day’s assignment, study questions, readings and cases, and to make thoughtful contributions to the learning of your classmates. You are also expected to attend the Thursday discussion group conducted by your Teaching Fellow. For the first five weeks, attendance is mandatory, afterwards voluntary and will be counted favorably towards your class participation grade. For the first three weeks of the term, you are also required to work in study groups. Afterwards, working in study groups is voluntary, and again will be counted favorably towards your participation grade. Class participation counts for 20% of your grade.

Written Assignments

For each class meeting, a written exercise is assigned. You are required to complete **three** of these assignments satisfactorily. They are due at the start of the class in which the topic is considered, and should be close to 750 words. They will count for 40% of your course grade. There will be three deadlines during the term by which the respective next assignment will have to be submitted. You cannot submit a paper on a day later than the day for which it was assigned. Late assignments will not be accepted. We will announce by when you must submit the third assignment to get it back before the final exam is due.

Final Take-home Examination

The final exercise will consist of essay questions that are to be answered in no more than 2,000 words in total. Examinations will be available on **Thursday, December 3** at 10:00 am, and are due by **Monday, December 7, at 10:00 am**. The final exam counts for 40% of your grade. Late examinations will be heavily penalized.

READINGS

Many of the conceptual readings ask you to stretch your mind in what might be an unaccustomed way. The challenge is worthwhile. Serious discussion about questions of value in public service requires at least some exposure to serious writings, both to build a conceptual vocabulary and to see examples of good moral reasoning. The readings have been selected not only for their importance, but also for their accessibility. Still, you will find some passages hard-going. Study questions are provided to guide you through the rough spots.

We will read substantial portions of two books, which have been ordered in paperback editions at the Harvard Coop:

Dennis F. Thompson, *Political Ethics and Public Office* (Harvard Univ. Press, 1987).

Arthur Isak Applbaum, *Ethics for Adversaries: The Morality of Roles in Public and Professional Life* (Princeton Univ. Press, 1999).

Two other books, also available at the Coop, are recommended as background and supplement:

Adam Swift, *Political Philosophy: A Beginner's Guide for Students and Politicians* (Polity Press, 2001).

Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, 2nd Edition (Oxford University Press, 2002)

Also recommended as background:

Mathias Risse, "How to Write a Philosophy Paper"
<http://ksghome.harvard.edu/~mrisse/Courses/HowToWritePhilPaper.pdf>

James Pryor, "Guidelines on Reading Philosophy"
<http://www.jimpryor.net/teaching/guidelines/reading.html#Evaluate>

James Pryor, "Guidelines on Writing a Philosophy Paper"
<http://www.jimpryor.net/teaching/guidelines/writing.html>

Finally, the following resources are recommended if you wish to pursue further the contours of moral and political philosophy.

Jean Hampton, *Political Philosophy* (Westview Press, 1997)

Stephen Darwall, *Philosophical Ethics* (Westview Press, 1998)

Shelly Kagan, *Normative Ethics* (Westview Press, 1998)

Mark Timmons, *Moral Theory: An Introduction* (Rowman and Littlefield, 2002)

The Stanford Encyclopedia of Philosophy
<http://plato.stanford.edu/>

Unless otherwise indicated, all other readings for the course are available through the Course Materials Office.

INTRODUCTION

1. Roles and Principles

Wednesday, September 2

Case: Legislative Discretion

“Senator McGrail and the Death Penalty/Senator Johnson and the Death Penalty” (1 page). **(packet 1)**

Edmund Burke, "A Letter to John Farr and John Harris, Esqrs. Sheriffs of the City of Bristol on the Affairs of ...", (1774), in *The Works of the Right Honorable Edmund Burke, Volume II* (1906), pp. 186-187. **(packet 1)**

Dennis F. Thompson, “Legislative Ethics,” *Political Ethics and Public Office* (1987), pp. 96-122. **(book)**

Monday, September 7 -- NO CLASS, LABOR DAY

2. Foundations of Morality I: Consequentialism

Wednesday, September 9

Case: Humanitarian Aid (with references to punishment and treatment of animals)

William Shaw, “The Consequentialist Perspective,” in James Dreier, ed., *Contemporary Debates in Moral Theory* (2006), pp. 5-20. **(packet 1)**

Peter Singer, “Famine, Affluence, and Morality,” *Philosophy & Public Affairs* 1:3 (1972), pp. 229-243. **(posted on course page)**

Recommended Further Readings:

Dan W. Brock, “Utilitarianism,” in Tom Regan and Donald Van De Veer, eds., *And Justice for All: New Introductory Essays in Ethics and Public Policy* (1982), pp. 217-240 **(packet 5)**

Recommended Source Readings:

Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, Chapters I and IV. **(packet 5)**

John Stuart Mill, *Utilitarianism*, Chapters I-III **(packet 5)**

3. Foundations of Morality II: Non-Consequentialism **Monday, September 14**

Case: Humanitarian Aid Revisited (and again references to punishment and treatment of animals)

Onora O'Neill, "Kantian Ethics," in Peter Singer, ed., *A Companion to Ethics* (1991), pp. 175-185. **(packet 1)**

Onora O'Neill, "Kantian Approaches to Some Famine Problems," in T. Regan, ed., *Matters of Life and Death* (1980), pp. 285-294. **(packet 1)**

T. M. Scanlon, "Contractualism and Utilitarianism," in *The Difficulty of Tolerance* (Cambridge University Press, 2003), pp. 124-125, pp. 132-145, p. 150. **(packet 1)**

Recommended Further Readings:

Thomas E. Hill, Jr., "Kantian Normative Ethics," in David Copp, ed., *The Oxford Handbook of Ethical Theory* (2006), pp. 480-514. **(packet 5)**

Robert Nozick, "Moral Constraints and the State," in *Anarchy, State, and Utopia* (New York: Basic Books, 1974): 26-35. **(packet 5)**

Recommended Source Reading:

Immanuel Kant, *Groundwork for the Metaphysics of Morals*, Section II. **(packet 5)**

PART I. POLITICAL PRINCIPLES AND PUBLIC POLICY

4. Liberty and Its Limits I: Freedom of Conscience **Wednesday, September 16**

Case: Religious Liberty -- the Pledge of Allegiance, Headscarves in Turkey

European Court of Human Rights, *Leyla Şahin v. Turkey* (No. 44774/98) Judgment, 29 June 2004, excerpts. **(packet 1)**

Minersville School District v. Gobitis [excerpts] 310 U.S. 586 (1940) **(packet 1)**

West Virginia State Board of Education et al. v. Barnette et. al. [excerpted by Arthur Applbaum] 319 U.S. 624 (1943). **(packet 1)**

Amy Gutmann, "How Liberal Is Democracy?" in Douglas MacLean and Claudia Mills, eds., Liberalism Reconsidered (1983), pp. 25-47 **(packet 1)**

5. Liberty and Its Limits II: Speech and Harm

Monday, September 21

Cases: Neo-Nazi Parades, Militant Islamic Preaching

Frederick Schauer, "The Phenomenology of Speech and Harm," *Ethics* 103:4 (1993), pp. 635-653. **(posted on course page)**

Village of Skokie v. National Socialist Party of America, Supreme Court of Illinois (1978), in *Philosophy of Law*, 4th ed. (1991), eds. Joel Feinberg and Hyman Gross, pp. 311-314. **(packet 1)**

Home Secretary of the United Kingdom, "Exclusion or Deportation from the UK on Non-Conducive Grounds: Consultation Document" (August 2005). **(posted on course page)**

Peter Bergen and Paul Cruickshank, "Clerical Error," *The New Republic*, August 8, 2005, pp. 10-12. **(posted on course page)**

6. Liberty and Its Limits III: Paternalism

Wednesday, September 23

Cases: Smoking and Trans Fats

Dennis F. Thompson, "Paternalistic Power," in *Political Ethics and Public Office* (1987), pp. 148-177. **(book)**

Ronald Dworkin, "Foundations of Liberal Equality" in *Tanner Lectures on Human Values XI* (1990), pp. 75-86. **(packet 1)**

"Los Angeles Wants to Take Bite out of Fast Food," **(posted on course page)**

"New York Bans Most Trans Fats In Restaurants", *New York Times*, December 6, 2006. **(posted on course page)**

New York City Department of Health and Mental Hygiene on the Trans Fats Ban. **(posted on course page)**

Recommended Further Reading:

Angus Deaton, "Policy Implications of the Gradient of Health and Wealth," *Health Affairs* March/April 2002, pp. 13-20. **(posted on course page)**

Douglas N. Husak, "Legal Paternalism," in Hugh LaFollette, ed., *The Oxford Handbook of Practical Ethics* (2003), pp. 387-412. **(packet 5)**

Joel Feinberg, "Autonomy," *Harm to Self* (1986), pp. 27-51, 379-383. **(packet 5)**

7. Liberty and Its Limits IV: Moralism and the Limits of the Market **Monday, September 28**

Case: Surrogate Motherhood

Elizabeth S. Anderson, "Is Women's Labor a Commodity?" *Philosophy & Public Affairs* 19:1 (1990), pp. 71-92. **(posted on course page)**

Judith Andre, "Blocked Exchanges: A Taxonomy," *Ethics* 103:1 (1992), pp. 29-47.
(posted on course page)

Karl Marx, "On Money" (excerpts from Marx's 1844 Paris Manuscripts; McClellan (ed.), *Karl Marx: Selected Writings*, pp 118-120) pp 83-120. **(packet 1)**

Recommended Further Readings:

Karl Marx, "On Alienation (McClellan (ed.), *Karl Marx: Selected Writings*, pp 83-104).
(packet 5)

8. Equality I: Distributive Justice **Wednesday, September 30**

Case: Income and Taxation

John Rawls, *A Theory of Justice* (2nd edition; Cambridge: Harvard University Press, 1999): pp. 52-70. **(packet 1)**

Milton Friedman, "The Distribution of Income" from *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962): 161-66. **(packet 1)**

Liam Murphy and Thomas Nagel, *The Myth of Ownership*, chapters 1 (pp. 3-11) and 7 (pp142-161). **(packet 1)**

Recommended Further Readings:

Brian Barry, *Why Social Justice Matters*, pp. 169-230. **(packet 5)**

Will Kymlicka, "Liberal Equality," Sections 1-3, in *Contemporary Political Philosophy*, 2nd Edition (2002), pp. 53-75. **(book, also in packet 5)**

Will Kymlicka, "Libertarianism," Sections 1-2, in *Contemporary Political Philosophy*, 2nd Edition (2002), pp. 102-127. **(book, also in packet 5)**

1st Written Assignment Due by Today

9. Equality II: Applying the Concept of Equality
Monday, October 5

Case: Health Care

H. Tristram Engelhardt, Jr. and Ana Smith Iltis, "Allocation of Medical Resources" in R. G. Frey and Christopher Heath Wellman, eds., *A Companion to Applied Ethics* (2003), pp. 396-409. **(packet 2)**

Frederick Schauer, "Multiple Sclerosis and the Allocation of Betaseron" (1 page). **(packet 2)**

Thomas Nagel, "Equality," in *Mortal Questions* (1979), pp. 106-127. **(packet 2)**

Recommended Further Readings

Richard Arneson, "Equality" in Robert E. Goodin and Philip Pettit, eds., *A Companion to Contemporary Political Philosophy* (1993), pp. 489-507. **(packet 5)**

Kurt Vonnegut, "Harrison Bergeron" in *Welcome to the Monkey House*, pp. 7-14. **(packet 5)**

10. Equality III: Equality of Opportunity
Wednesday, October 7

Case: Affirmative Action

Wikipedia articles on: (1) Regents of the University of California v. Bakke; (2) Gratz v. Bollinger; (3) Grutter v. Bollinger **(posted on course page)**

Ronald Dworkin, "Bakke's Case: Are Quotas Unfair?", in *A Matter of Principle*, 293-303 **(packet 2)**

Ronald Dworkin, "Reverse Discrimination," in *Taking Rights Seriously* (1977), pp. 223-239. **(packet 2)**

George Sher, "Diversity," *Philosophy and Public Affairs* 28 (1999), pp. 85-104. **(posted on course page)**

Recommended Further Readings:

Bernard Boxill and Jan Boxill, "Affirmative Action," in R. G. Frey and Christopher Heath Wellman, eds., *A Companion to Applied Ethics* (2003), pp. 118-27. **(packet 5)**

John Schaar, "Equality of Opportunity, and Beyond", *Equality: Nomos IX, Yearbook of the American Society for Political and Legal Philosophy*, pp. 228-249, edited by J. Roland Pennock. **(packet 5)**

Christopher Jencks, "Whom Must We Treat Equally for Educational Opportunity to be Equal?" in *Ethics* 98 (1988): pp. 518-533. **(posted on course page)**

Monday, October 12– NO CLASS (COLUMBUS DAY)

11. Retributive Justice

Wednesday, October 14

Case: Capital Punishment

Ernest van den Haag, "The Ultimate Punishment: A Defense", *Harvard Law Review*, May, (Cambridge: Harvard Law Review Association, 1986), pp. 1662 – 1669. **(posted on course page)**

Jeffrey Reiman, "Justice, Civilization, and the Death Penalty," excerpts reprinted in Shaw (ed.), *Social and Personal Ethics*, 416-427. **(packet 2)**

Recommended Further Readings:

Jeffrie Murphy and Jules Coleman, *Philosophy of Law*, chapter 3, 109-142. **(packet 5)**

Stephen Nathanson, "Why We Should Put the Death Penalty to Rest" in Andrew Cohen and Christopher Heath Wellman, eds., *Contemporary Debates in Applied Ethics* (2005), pp. 124-38. **(packet 5)**

A Recent Crime:

Robbery and Murder in Cheshire, CT: "Parolees Charged in Deadly Home Invasion," *CNN.Com*, 7/24/2007 **(optional packet 4 only; packet on reserve in HKS library)**

Death Penalty Cases

Carla Faye Tucker – Religious convert while on death row but still executed: "Texas Executes Tucker for '83 Pickax Murders," *CNN.Com*, 2/3/1998. **(optional packet 4 only; packet on reserve in HKS library)**

Lawrence Singleton – Released from prison, killed again and sentenced to death row: Varian, Bill, “Notorious Killer Dies in Prison,” St. Petersburg Times, January 1, 2002. **(posted on course page)**

Dennis Williams – Wrongly accused and on death row for 17.5 years before being exonerated **(posted on course page)**

Stanley Tookie Williams – Turned life around while on death row and wrote children’s books focusing on inner city kids, but still executed: “Warden: Williams Frustrated at the End,” CNN.Com, December 13, 2005. **(optional packet 4 only; packet on reserve in HKS library)**

Ruben Cantu – Most likely wrongly accused and executed for a murder committed when he was 17 years old **(posted on course page)**

Ted Bundy – Serial killer sentenced to death row, died shortly before executed **(posted on course page)**

12. Democracy I: Democracy and Disagreement

Monday, October 19

Case: Gay Marriage

Congregation for the Doctrine of the Faith, Joseph Cardinal Ratzinger, Prefect, “Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons” (2003), pp. 1-9. **(packet 2)**

John Rawls, “The Idea of Public Reason Revisited,” Sections 1-3, in *John Rawls: Collected Papers* (1999), pp. 573-591. **(packet 2)**

Stephen Carter, *The Culture of Disbelief. How American Law and Politics Trivialize Religious Devotion*, chapters 1 and 2, pp 3-44. **(packet 2)**

Recommended Reading

Stephen Macedo, “Homosexuality and the Conservative Mind,” in Wardle, Strasser, Duncan, and Coolidge, eds., *Marriage and Same Sex Unions* (2003), pp. 97-114. **(packet 5)**

13. Democracy II: Minority Representation

Wednesday, October 21

Case: Race-Sensitive Districting

Shaw vs Reno, Selections (O'Connor majority opinion, Stevens dissent). **(packet 2)**

Lani Guinier, "Second Proms and Second Primaries," *Boston Review* 17:5 (1992).
(posted on course page)

Robert Dahl, "A Theory of the Democratic Process" in *Democracy and Its Critics* (New Haven: Yale University Press, 1989): pp. 106-115 (up to "Problems in the Theory").
(packet 2)

"Elections with No Meaning" (editorial), *New York Times* (February 21, 2004), pp. A14.
(posted on course page)

Recommended further Reading:

Iris Marion Young, "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship," *Ethics* 99/2 (1989), pp. 250-274. **(posted on course page)**

14. Democracy III: Deliberation

Monday, October 26

Case: Public Deliberation in Rebuilding New York City

Elster, Jon, "The Market and the Forum: Three Varieties of Political Theory", *Deliberative Democracy: Essays on Reason and Politics*, edited by James Bohman, et al (Cambridge: MIT Press, 1997), pp. 3-33. **(packet 2)**

Fung, Archon and Susan Rosegrant, *Listening to the City* [edited version of KSG Case No 1687.0], (Cambridge: 2004), pp. 1-15. **(packet 2)**

Recommended Further Reading:

Amy Gutmann, "Democracy," in Robert E. Goodin and Philip Pettit, eds., *A Companion to Contemporary Political Philosophy* (1993), pp. 411-21. **(packet 5)**

PART II: POLITICAL PRINCIPLES ACROSS POLITICAL BOUNDARIES

15. Cultural Conflicts of Value

Wednesday, October 28

Case: Gender Bias in Theistan

Simon Blackburn, "Relativism," in Hugh LaFollette, ed., *The Blackwell Guide To Ethical Theory* (2000), pp. 38-52. **(packet 2)**

Bernard Williams, *Morality: An Introduction to Ethics* (1972, 2nd ed. 1993), pp. 20-26. **(packet 2)**

Susan Okin, "Is Multiculturalism Bad for Women?" in *Is Multiculturalism Bad for Women?*, eds. Joshua Cohen et al. (Princeton Univ. Press, 1999), pp. 9-24. **(packet 2)**

Azizah al-Hibri, "Is Western Patriarchal Feminism Good for Third World / Minority Women?" in *Is Multiculturalism Bad for Women?*, eds. Joshua Cohen et al. (Princeton Univ. Press, 1999), pp. 41-46. **(packet 2)**

Recommended Further Reading:

Mary Anne Weaver, "A Fugitive from Justice," *The New Yorker*, Sept. 12, 1994, pp. 48-50, 55-56, 58-60. **(packet 5)**

Taslina Nasrin, "Happy Marriage", *The New Yorker*, Sept. 12, 1994, p. 55. **(packet 5)**

T. M. Scanlon, "Human Rights as a Neutral Concern," in his *The Difficulty of Tolerance: Essays in Political Philosophy*, chapter 6. **(packet 5)**

16. Human Rights and Intervention
Monday, November 2

Case: Intervening in Dystopia

Michael Walzer, *Just and Unjust Wars* (2000), pp. 51-63, 86-108, 339-342. **(packet 2)**

"Why Attack Iraq?" in *Ethics and Politics: Cases and Comments 4th Edition*, ed. Amy Gutmann and Dennis Thompson (Belmont, CA: Thomson Wadsworth, 2005): 45-58. **(packet 2)**

David Luban, "Preventive War," *Philosophy & Public Affairs* 32:3 (2004), pp. 207-48 **(posted on course page)**

Recommended Further Reading

Henry Shue, "War," in Hugh LaFollette, ed., *The Oxford Handbook of Practical Ethics* (2003), pp. 734-61. **(packet 5)**

C.A.J. Coady, "War and Terrorism," in R. G. Frey and Christopher Heath Wellman, eds., *A Companion to Applied Ethics* (2003), pp. 254-66. **(packet 5)**

2rd Written Assignment Due By Today

17. Global Justice and Fair Trade

Wednesday, November 4

Case: Agricultural Protections

“The Great Catfish War,” *New York Times* (July 22, 2003), pp. A18. **(posted on course page)**

Malgorzata Kurjansjka and Mathias Risse, “Fairness in Trade II: Subsidies and the Fair-Trade Movement.” *Politics, Philosophy, and Economics* (2008), 7 (1): pp 29-56 **(posted on course page)**

Oxfam, Executive Summary, *Rigged Rules and Double Standards: Trade, Globalization, and the Fight Against Poverty* (2002), pp. 1-18. **(packet 3)**

Recommended Further Readings:

Deborah Satz, “International Economic Justice,” in Hugh LaFollette, ed., *The Oxford Handbook of Practical Ethics* (2003), pp. 620-42. **(packet 5)**

Thomas Pogge, “Eradicating Systemic Poverty: Brief for a Global Resources Dividend,” *World Poverty and Human Rights* (2002), pp. 196-206. **(packet 5)**

Mathias Risse, “Do We Owe the Global Poor Assistance or Rectification?,” *Ethics and International Affairs*, Vol. 19, No. 1, pp 9-18 **(posted on course page)**

18. Global Justice and Immigration

Monday, November 9

Case: Immigration Policy

David Miller, “Immigration: The Case for Limits,” in Andrew Cohen and Christopher Heath Wellman, eds., *Contemporary Debates in Applied Ethics* (2005), pp. 193-206. **(packet 3)**

Chandran Kukathas, “The Case for Open Immigration,” in Andrew Cohen and Christopher Heath Wellman, eds., *Contemporary Debates in Applied Ethics* (2005), pp. 207-20. **(packet 3)**

Mathias Risse, “On the Morality of Immigration,” *Ethics and International Affairs* 22 (1): pp 25-33. **(posted on course page)**

Recommended Further Reading

Michael Blake, "Immigration," in R. G. Frey and Christopher Heath Wellman, eds., *A Companion to Applied Ethics* (2003), pp. 224-237. **(packet 5)**

Wednesday, November 11 – NO CLASS, VETERANS' DAY

PART III. POLITICAL AUTHORITY AND PUBLIC ROLES

19. Democratic Legitimacy and Civil Disobedience

Monday, November 16

Case: Protest Activities

Martin Luther King, Jr., "A Letter from the Birmingham Jail," in *Why We Can't Wait* (1963), pp. 77-100. **(packet 3)**

Ronald Dworkin, "Civil Disobedience and Nuclear Protest," in *A Matter of Principle* (1985), pp. 104-116. **(packet 3)**

John Rawls, *A Theory of Justice* (1971), pp. 350-391. **(packet 3)**

Recommended Further Reading:

A. John Simmons, "Civil Disobedience and the Duty to Obey the Law" in R. G. Frey and Christopher Heath Wellman, eds., *A Companion to Applied Ethics* (2003), pp. 50-61. **(packet 5)**

20. Ethics and Adversaries

Wednesday, November 18

Case: Political Deception

Allison, Graham and Graham T. Liebman, *Miller and Furloughs* [adapted from KSG case 548.0, rev. 9/91], (Cambridge: 1991), pp. 1. **(packet 3)**

Arthur Isak Applbaum, "Rules of the Game and Fair Play," in *Ethics for Adversaries* (1999), pp. 113-135. **(book)**

James Madison, "Federalist No. 10" and "Federalist No. 51" (1787-88), in Philip B. Kurland and Ralph Lerner, eds., *The Founders' Constitution Vol. I* (1987), pp. 128-131, 330-331. **(packet 3)**

Zakaras, Alex, "George W. Bush on Iraq's Nuclear Weapons", in *Ethics and Politics: Cases and Comments* [4th edition], edited by Amy Gutmann (Chicago: Thomson Wadsworth, 2006), pp. 88-95. **(packet 3)**

Recommended Further Reading:

C.A.J. Coady, "Dirty Hands," in Robert E. Goodin and Philip Pettit, eds., *A Companion to Contemporary Political Philosophy* (1993), pp. 422-30. **(packet 5)**

Arthur Isak Applbaum, "The Remains of the Role," in *Ethics for Adversaries* (1999), pp. 61-75. **(book)**

21. A Division of Moral Labor?

Monday, November 23

Case: Watergate

Mark H. Moore and Malcolm K. Sparrow, "Saturday Night Massacre," in *Ethics in Government: The Moral Challenge of Public Leadership* (1990), pp. 136-144. **(packet 3)**

"Marbury v. Madison," in *American Government*, ed. James Q. Wilson (1989), p. 392. **(packet 3)**

Sir Michael Quinlan, "Controversy: Ethics in the Public Service," *Governance* 6:4 (1993), pp. 538-544. **(packet 3)**

Arthur Isak Applbaum, "The Remains of the Role," in *Ethics for Adversaries* (1999), pp. 61-75. **(book)**

Wednesday, November 25 NO CLASS (Thanksgiving)

22. Official Disobedience

Monday, November 30

Cases: Whistle-Blowing

David Rudenstine, "Daniel Ellsberg and the Pentagon Papers," in *Ethics and Politics: Cases and Comments* [3rd edition], eds. Amy Gutmann and Dennis F. Thompson (1997), pp. 161-171. **(packet 3)**

Terrance McConnell, "Whistle-blowing," in R. G. Frey and Christopher Heath Wellman, eds., *A Companion to Applied Ethics* (2003), pp. 570-582. **(packet 3)**

Taylor Branch, "The Odd Couple," in Gutmann and Thompson, 2nd ed., pp. 104-113. **(packet 3)**

Daniel Ellsberg, "Are Secrecy Oaths a License to Lie?" in *Harvard International Review* Vol. 26, No. 2 (Summer 2004). **(posted on course page)**

23. Taking Responsibility

Wednesday, December 2

Case: The Iraqi Kurds, 1988

Samantha Power, "Iraq: Human Rights and Chemical Weapons Aside," in *A Problem from Hell: America and the Age of Genocide* (2002), pp. 171-245, 549-559. **(packet 3)**

Dennis F. Thompson, "The Moral Responsibility of Many Hands," in *Political Ethics and Public Office* (1987), pp. 40-65. **(book)**

Michael Ignatieff, "The Burden" in *New York Times Magazine* (January 5, 2003). **(posted on course page)**

Statement by Ambassador Richard Murphy, two pages **(posted on course page only)**

3rd Written Assignment Due by Today

**DPI-201: THE RESPONSIBILITIES OF PUBLIC ACTION
JOHN F. KENNEDY SCHOOL OF GOVERNMENT
FALL 2009**

Section A – Study Questions and Writing Assignments

1. Wednesday, September 2: Roles and Principles

STUDY QUESTIONS

1. Evaluate this statement: “Senator McGrail’s poll and Senator Johnson’s campaign statement make the two cases different in important ways.”
2. Do you think Johnson was justified in his action? Was McGrail? Why or why not?
2. Burke writes that “Your representative owes you, not his industry only, but his judgment; he betrays, instead of serving you, if he sacrifices it to your opinion.” How can a legislator betray her constituent by acting according to that constituent’s opinion?

WRITTEN ASSIGNMENT

All things considered, is McGrail justified in voting for the death penalty? Why or why not? Is Johnson justified in voting against? Why or why not? Could one reconcile a “yes” answer to both questions? How?

Monday, September 7 – NO CLASS (LABOR DAY)

2. Wednesday, September 9: Consequentialism

STUDY QUESTIONS

1. Singer's fundamental principle is the following:

If it is in our power to prevent something bad from happening, without thereby sacrificing something of comparable moral importance, we ought, morally, to do it.

notion is comprehensible as a form of utilitarianism.

2. Is Singer's criticism of our way of life correct? Is there any way of distinguishing between the two cases he describes? Is it true that all of us are, when you get down to it, moral monsters for not donating more income to Oxfam?

3. Is there room within Singer's approach for a notion of responsibility? If the drowning child had entered the puddle as a result of his own foolish choices, would that make a difference to our duties? If – more likely – a bully had pushed the child into the puddle, would that make a difference?

4. Is utilitarian theory overly demanding as regards personal relationships? May I give my money to my own children, rather than to the more deserving or more needy children of strangers? Is it possible to be a good utilitarian agent *and* a good spouse, parent, friend and child, as these notions are conventionally understood?

5. Evaluate the following view: “As a utilitarian, one needs to be a vegetarian as well as pro-life as far as abortion is concerned. One needs to be a vegetarian because what matters morally is happiness, and thus the creatures that matter morally are all sentient beings, including animals. The pleasure human beings obtain from eating animals is by far outweighed by the unhappiness it imposes on the animals that are eaten. Hence animals should not be eaten, and thus utilitarians must be vegetarians. A similar argument applies to abortion: whatever the positive consequences for the woman who makes the decision to abort, or for others, these consequences will be outweighed by the loss of happiness inflicted by the abortion. Thus utilitarians must be pro-life.”

6. John Rawls has pressed the objection to utilitarianism that the latter does not “take seriously the separateness of persons” because from the point of view of each decision maker, everybody’s happiness is simply aggregated, and it does not matter at all what special relationships, rights, etc. hold among people – and this fails to take seriously that we all have separate lives to lead that come with complex and morally important relationships that cannot simply be ignored in such aggregation. Do you find this objection persuasive? How could a utilitarian respond?

WRITTEN ASSIGNMENT

“If it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it” (Singer, p. 231).

Singer concludes that we are obligated to give away large sums of money for famine relief, up to the point where the marginal cost to us of doing so equals the marginal benefit to starving recipients. Certainly, according to Singer, we are morally obligated to spend our money on famine relief, rather than on new clothing for ourselves.

Are we morally obligated to give away a large share of our discretionary income to relieve famine? Why or why not?

3. Monday, September 14: Non-Consequentialism

STUDY QUESTIONS:

1. Why does Scanlon think that contractualism will not lead to utilitarianism as a moral theory?
2. Discuss the role of animals in utilitarianism and in contractualism. Do animals have moral standing in either? Why or why not?
3. Think of examples in decision-making about public policy where using utilitarian reasoning would lead to different recommendations than using contractarian reasoning.
4. What is the difference between consequentialism and utilitarianism?
5. Think of two examples in which an application of Kant's Categorical Imperative would lead to different recommendation from utilitarian reasoning.
6. Non-consequentialists often claim that their approach makes sense of the fact that we all have separate lives to lead, whereas consequentialism does not. Do you think this is a decisive refutation of consequentialism?

WRITTEN ASSIGNMENT

Consider O'Neill's Kantian discussion of famines. Formulate two or three objections that Peter Singer could raise against this discussion and offer responses O'Neill could give. Who do you think has the better of the debate?

4. Wednesday, September 16: Liberty and Its Limits I: Freedom of Conscience

STUDY QUESTIONS

1. Are there some issues that ought not to be decided by democratic means?
2. Is the freedom to express one's self religiously more important than other kinds of expression (consider, for example: art, advertising, news)?
3. What kinds of social aims or values justify restricting religious liberty (consider, for example: national security, social peace, equality, and the preferences of democratic majorities)?
4. Gutmann says, "We must choose among three alternatives: (1) the standard of a fair democratic process is too demanding; (2) even a short list of welfare rights is longer than necessary for satisfying the democratic standard; or (3) some significant limits on democratic space are necessary and legitimate" (p. 35). Gutmann chooses the third. Do you agree?
5. What are the implications of Gutmann's distinction between justice and legitimacy (p. 38)?
6. Gutmann says that, to escape the results of Schumpeter's mental experiment, democrats must appeal to a value in the experience of democracy itself. But whether or not an actual democracy generates such valued experience is an empirical question: we must look at the actual experience of actual citizens. Do democrats indeed have to meet Gutmann's test? Does American democracy meet it?
7. Does Gutmann's argument bear on whether or not public schools should be allowed to compel the pledge of allegiance?

WRITTEN ASSIGNMENT

Is there a principle that justifies both the positions of the U.S. Supreme Court and of the European Court of Human Rights on this issue, or is one of them correct and the other incorrect?

5. Monday, September 21: Liberty and Its Limits II: Speech and Harm

STUDY QUESTIONS

1. Schauer distinguishes “ascriptive” from “descriptive” notions of what is to count as a harm. What is the importance of this distinction in his argument about the “lesser harm hypothesis?”
2. In Canada and many other countries, it is a crime to deny the existence of the Holocaust. What do you think about such laws?
3. South Africa has considered whether to have laws prohibiting the incitement to racial hatred. Such laws exist in a substantial number of countries in the world, are required by the 1965 International Convention on the Elimination of All Forms of Discrimination, but are unconstitutional under current interpretations of the First Amendment to the Constitution of the United States. Should South Africa have such laws?
4. In a column about 2 Live Crew, George Will makes the following comment: “America today is capable of terrific intolerance about smoking, or toxic waste that threatens trout. But only a deeply confused society is more concerned about protecting lungs than minds, trout than black women. We legislate against smoking in restaurants; singing “Me So Horny” is a constitutional right. Secondary smoke is carcinogenic; celebration of torn vaginas is “mere words.” (George Will, “America’s Slide Into the Sewer,” Newsweek, July 30, 1990). Is Will right?
5. A code adopted at the University of Michigan defined “discrimination” and “discriminatory harassment” to include:

“any behavior, verbal or physical, that stigmatizes or victimizes an individual on the basis of race, ethnicity, religion, sex, sexual orientation, creed, national origin, ancestry, age, marital status, handicap or Vietnam-era veteran status”

Are such codes justified?

6. What sort of control should the British government exercise over the speech of radical Muslim clerics?

WRITTEN ASSIGNMENT

In various places throughout the world neo-Nazis seek to hold parades, marches, and demonstrations, typically involving the use of Nazi uniforms, flags, and regalia. Should the neo-Nazis have a legal right to engage in these activities? Why or why not?

6. Wednesday, September 23: Liberty and Its Limits III: Paternalism STUDY QUESTIONS

1. Dennis Thompson distinguishes the concept of paternalism from its justification. What is Thompson’s concept of paternalism, and how does it differ from Mill’s? When, according to Thompson, is paternalism justified? Do you agree?

2. What factors make it easier to justify paternalistic interventions? Harder?
3. The United States Federal Drug Administration has recently held that plastic surgeons should not perform breast implants on women who wish to have a breast implant for purely cosmetic reasons (to enlarge their breasts) until there is better evidence that silicone breast implants pose no serious health hazard. It has been alleged that breast implants can cause a hardening of tissue, that they can make it difficult to screen for breast cancer, and that because the implants can rupture and leak, they may be a cause of autoimmune disorders. Under the FDA plan, breast implants will only be available to women who seek reconstructive surgery after a mastectomy. What is the best argument that can be advanced in defense of the FDA's decision? What is the best argument that can be advanced against it? Is the FDA right?
4. In Massachusetts, as in most states, it is now relatively easy for a married couple to divorce. Suppose that there is a proposal before the legislature to allow the choice of two kinds of marriage: a revocable marriage (as is presently the case) or an (almost) irrevocable marriage--one that would require demonstration of severe cruelty, or mental illness, or some other very serious ground for divorce. Should people be allowed to enter into (almost) irrevocable marriages? Why or why not?
5. Many pregnant women say that they would like to go through labor and delivery without anesthesia because they want to be fully conscious for delivery and post-delivery. Suppose that some of these women will ask for anesthesia during delivery despite their earlier intention to do without it, but that many are subsequently regretful that their request for anesthesia was granted. It is therefore proposed that women be allowed to authorize the hospital to ignore a request for anesthesia unless the health of the mother or baby is in danger. Should such a policy be adopted?
6. Do you think different considerations apply to the cases of smoking and trans-fats? That is, do you think there are strong reasons to ban the one than the other?
7. Do you think that Deaton's observation that (a) for many people with little education and low income, what they can do with their bodies makes up much of what gives them happiness, and that (b) smoking constitutes a pleasure of that sort should be counted as an objection to outlawing smoking in public places?

WRITTEN ASSIGNMENT

Suppose that, to reduce the number of cigarette smokers, and, particularly, to reduce the number of new smokers among young adults, the Department of Health and Human Services proposes several legislative options:

1. Imposing a \$5 per pack federal tax
2. Banning cigarette advertising in all print and broadcast media

3. Requiring all Social Security taxpayers who smoke to attend an approved, federally funded outpatient nicotine abuse treatment program, or else forfeit future Medicare benefits.

Are any of these proposals paternalistic? Are any of them examples of justified paternalism? Explain.

7. Monday, September 28: Liberty and Its Limits IV: Moralism and the Limits of Markets

STUDY QUESTIONS

1. There are numerous (and somewhat overlapping) arguments against surrogacy: (1) harm to the baby; (2) harm to the mother; (3) commodification; (4) exploitation; (5) harm to society; (6) coercion of consent. Which arguments, if any, are most persuasive? Least persuasive?
2. In Spheres of Justice (1983), Michael Walzer discusses the practice during the American Civil War of buying substitutes by those conscripted into military service. Walzer argues that the buying of substitutes was unjust and should have been prohibited. Consider three possible arguments: (1) Walzer is right about the Civil War, and the volunteer army is analogous to the buying of substitutes, therefore the volunteer army is unjust; (2) Walzer is right about the Civil War, and the volunteer army is not analogous to the buying of substitutes, therefore the volunteer army is not unjust; (3) The volunteer army is not unjust, and the volunteer army is analogous to the Civil War, therefore Walzer is wrong about the Civil War. Which argument is most persuasive? Why?
3. According to Walzer, we can prohibit exchanges born of “desperation.” It might be argued that if an exchange is beneficial to the desperate party (it makes him or her less desperate) and if it does not harm third parties, there is no reason for society to prohibit even desperate exchanges. Is Walzer right?
4. In India and in some other developing countries, kidneys from live donors trade in black markets. People can normally do with but one kidney, and the risks of surgical removal by a competent surgeon are small. The proceeds from the sale of a kidney can lift a family out of poverty, and many Western kidney patients are prepared to pay the price. Should the market for kidneys be legalized in the United States? Are there any important distinctions between selling one’s kidney and renting one’s womb?
5. “The Department of Transportation has issued a stop-work order putting all work with the cadaver population into suspended animation. The Department has been prompted to this exercise of its powers by Congressman John E. Moss of California. During the recent debate on air bags, Moss learned that dead bodies had been used to assess the protection afforded by the devices to passengers in car crashes It was explained to Moss that almost all the cadavers so used come from the ‘willed body program,’ and that family permission is secured whenever possible. Crash testing requires an insignificant number of bodies compared with other uses,

such as in medical schools. The information gained from cadavers is regarded as critical to the design of better dummies In full understanding of all these reasons, Moss ... adhered to the view 'that the use of human cadavers for vehicle safety research crudely violates fundamental notions of morality and human dignity, and must therefore permanently be stopped'" (N. Wade, "The Quick, the Dead, and the Cadaver Population," Science, March, 1978.)

Is Moss correct? Why or why not?

6. "Gov. Mario Cuomo signed legislation Tuesday banning dwarf tossing and dwarf bowling in New York bars, calling the activities a 'strange diversion.' 'Any activity which dehumanizes and humiliates these people is degrading to us all,' Cuomo said. 'This bill recognizes that and, in effect, declares these bizarre games to be debased.' Dwarf tossing is a competition in which people pick up dwarfs, who are wearing harnesses, and heave them as far as possible at a padded target. It produced an offshoot, dwarf bowling, in which a helmeted dwarf is strapped to a skateboard and rolled into bowling pins. Both have been held as competitions for cash prizes, Cuomo said." (AP)

On what principle can Cuomo justify such legislation? Is such legislation justifiable? Why or why not?

WRITTEN ASSIGNMENT

Consider four policy options with respect to commercial surrogacy:

1. Surrogacy contracts would be prohibited through the criminal law. Those who enter into or broker such contracts would be subject to criminal penalties.
2. Surrogacy contracts, although permitted, would be unenforceable under law. If the birth mother changes her mind and refuses to waive parental rights after birth, she retains custody of the baby.
3. Same as 2, except that, if the birth mother refuses to waive parental rights after birth, custody is assigned by the courts in the best interests of the baby.
4. Surrogacy contracts would be allowed and enforced. Parental rights and custody would be awarded to the adoptive parents, whether or not the birth mother wants to go through with the arrangement.

Which of these options (or some other option) would you choose as public policy? Justify your choice.

8. Wednesday, September 30: Equality I: Income and Taxation

STUDY QUESTIONS:

1. The Cambridge police sometimes use devices to prevent cars from being moved if their owners owe money to the city for open traffic tickets or taxes. People often complain about this practice by pointing out that the car in questions in theirs, and that the city should not interfere with their property right. How do you assess this argument?
2. Rawls's two principles regulate the distribution of social primary goods. The distribution of natural primary goods can obviously not be regulated directly (ignoring now genetic engineering). But given what the reasons are for why one would want to regulate the distribution of social primary goods, should one not have claims to compensation when falling short of natural primary goods? For example, should there be compensatory redistribution to those who are unintelligent, unattractive, or of weak build?
3. How does Rawls argue for Democratic Equality, and why does he reject the three other possibilities in the table on p 57?
4. Suppose a society could improve the economic lot of its (economic) middle and upper-class citizens considerably while making the worst-off only slightly worse off. The difference principle would rule this out. In light of this, do you find Rawls's argument for the difference principle convincing?
5. On p 165, Milton Friedman says: "The unwillingness of the rich Robinson Crusoe or the lucky finder of the \$20 bill to share his wealth does not justify the use of coercion by the others." Do you agree or disagree? Is there a difference between these two scenarios that Friedman overlooks?
6. What do you think about the proposal of arranging tax laws in such a way that all annual household income above, say, \$500,000 is taxed away? How could one argue for or against such a proposal?

WRITTEN ASSIGNMENT

Inheritance taxes are often referred to as "death taxes" and rejected by the claim that this would involve "double taxation" – after all, the amassed wealth has already been taxed once. (Assume here that this is in fact true.) Do you think this is a successful rejection of the inheritance tax? Why or why not? Make use of the view of taxes presented by Nagel and Murphy.

1st Written Assignment Due by Today

9. Monday, October 5: Equality II: Applying the Concept of Equality

STUDY QUESTIONS

1. Evaluate willingness and ability to pay as a criterion for allocating Betaseron.
2. The philosopher Bernard Williams has offered the following argument:
 - (1) Medical need is the ground for medical treatment.
 - (2) Therefore, those with a medical need have a prima facie claim to the appropriate kind of health care, and those with equal medical needs have an equal prima facie claim to medical treatment.
 - (3) Different treatment for people requires a relevant reason, where "relevant" means "relevant relative to the medical need."
 - (4) Therefore, considering any claims to medical treatment other than the prima facie claims based on medical needs would be irrational.
 - (5) Irrational reasoning should not be socially operative.
 - (6) Therefore, there should be equal access to health care for people with equal medical needs.

Think carefully about every step of this argument. Is it a sound argument? If not, where does it go astray?

3. The libertarian philosopher Robert Nozick has responded to this argument by pointing out that it would also establish that those with the most urgent need for a hair-cut would be entitled to it. Is this correct? Does this refute the argument? Why or why not?
4. Should we devise an index of who is mostly likely to make the most contributions to society and give them special advantages in the allocation of scarce drugs? Why or why not?

WRITTEN ASSIGNMENT

Given all of the constraints specified, what method of allocation should Chiron Corporation use to allocate Betaseron during a two-year period of scarcity? In addition to defending the method you have selected, set forth two plausible alternatives, and explain both their advantages and why you have rejected them.

10. Wednesday, October 7: Equality III: Equality of Opportunity

STUDY QUESTIONS:

1. Equality of opportunity is an ideal that seems to offer something for everybody. But consider the following objection: If realized, equality of opportunity will lead to a meritocratic society. Everybody with the sort of talents valued by society will get ahead and make a career; the people we will find in jobs that require low qualifications are people who got stranded there because they really have no other qualifications. This is (a) bad for these people because they will be heavily stigmatized, and (b) bad for society because it means that in a broad range of jobs that bear on our lives we will only find people of low talents, which in turn means these jobs will often not be executed at a satisfactory level. Therefore, we should not realize equality of opportunity. Instead, we should not worry so much about opening up opportunities in society, but instead, about compressing inequalities. In that case, it will not matter all too much that certain people cannot get ahead.
2. Do you think the Kennedy School should value “diversity”? Exactly what would it mean? Do you think it should have a bearing on (a) student admissions, (b) faculty hiring, (c) staff hiring?
3. Consider the following skeptical voice on “diversity:” “The term ‘diversity’ these days is used to make sure that members of certain racial minorities (in the US, primarily blacks) get ahead. Instead of simply being straightforward about that goal, that term is used so as to lend more dignity to that goal. But at the same time, it is also true that not all minorities get promoted in this way (Asian, generally, do not), and it is also true that the sheer fact that people come from socio-economically disadvantaged background does not carry enough weight in admission and similar decisions. All of this means that we are concerned with rectifying only one particular sort of disadvantage at the expense of others. That’s not right.” Do you agree or disagree?
4. The median household income of families who send their children to universities such as Harvard and Princeton is above \$150,000 per year. Last year, the Daily Princeton (the Princeton campus newspaper, parallel to the Harvard Crimson) announced the news that the incoming freshmen class of 07/09 would consist of 49% minorities. No announcement was made about their socio-economic profile. Do you think Princeton university has the right priorities in its admission policies?
5. Should universities only admit students according to their academic merits? Why or why not?
6. Do you think Bakke should have been admitted? How about Gratz? Or Grutter?

WRITTEN ASSIGNMENT

Legacy admissions at universities are often heavily criticized. But consider the following argument in favor of giving some weight to the fact that other family members went to the same school: First, it is generally good for the school if certain families, regardless of their socio-economic status, feel a special connection to a university. It will mean that they are willing to “do more” for that institution, which might mean lots of different things, ranging

from those students showing more concern for their university while they are there to the families' being willing to support the school financially. Second, financially well-endowed institutions can provide a better education for their students. Admittedly, giving preference to legacies means not admitting others who would otherwise have gotten in and might be better qualified academically. But overall, the school benefits so much from financial donations that are inevitably forthcoming if such an admissions strategy is pursued that the school should continue to give certain advantages to legacies.



Monday, October 12– NO CLASS (COLUMBUS DAY)

11. Wednesday, October 14: Redistributive Justice

STUDY QUESTIONS

1. Some people think that the crucial question for assessing whether the death penalty should be used is whether it has a significant deterrence effect. (Take this to mean that for each person executed, we have good reason to believe that at least one person is saved who otherwise would be killed.) Do you think the legitimacy of the death penalty turns on this issue?
2. In death penalty cases the relatives of the victim often receive special consideration, at least in the media. Do you think that whether these relative forgive the perpetrator should play any role in assessing what punishment is appropriate?
3. Reiman argues that capital punishment is deserved for murders, but that civilized societies should not practice it because civilization is characterized by greater sensitivity for pain and suffering, and we should not be the kind of society that inflicts pain. Do you agree or disagree?
4. A strong argument against the death penalty, in the eyes of many, is that there will inevitably be miscarriages of justice. Since those miscarriages could not be rectified, so they say, the death penalty should not be inflicted. However, van den Haag points out that lots of human activities (often very simple ones like road-building) are accompanied by mistakes that might cost lives, but we do not normally terminate activities merely because of that, and so we should not terminate the death penalty because of that. Do you agree or disagree?
5. Think about the murder case in Cheshire, CT, that occurred in July 2007. Do you think these perpetrators deserve to die?

WRITTEN ASSIGNMENT

Ernst van den Haag argues that (a) neither the racially unequal imposition of the death penalty (if there is such unequal imposition) (b) nor miscarriages of justice count as arguments against the death penalty. Choose one of those views and present van den Haag's argument for it. How could one argue against this view? How could van den Haag respond? And what is the view you find most plausible on this matter?

12. Monday, October 19: Democracy I: Democracy and Disagreement

STUDY QUESTIONS

1. The notion of "natural law" has proven enormously controversial, with many of its critics charging that the phrase doesn't have any determinate meaning. Are these critics correct? How can we pin down what does and does not accord with natural law?
2. Explain the distinction, in the Considerations, between tolerating evil and legitimating evil.
3. The idea of "public reason" precludes at least officials from making decisions and making arguments that crucially turn on their religious commitments (i.e., that they cannot make in any other way). Religious commitments, however, are at the core of the person identity of anybody who has them. So effectively, these people cannot act upon some of their most deeply held beliefs. Is this fair to ask of them?
4. How does Carter argue for the importance of religion in public life? Do you agree with him?
5. Examine the following quote from Steven Macedo:

"The crux of the matter is not speech at all, but the legitimate grounds of coercion. When deciding how we are going to direct coercive political powers on matters over which citizens have serious moral disagreements, we should seek and articulate adequate public reasons that we can share with our reasonable fellow citizens." (Diversity and Distrust, 172-73)

How would the authors of the Considerations respond to this? Who has the better of the dispute?

WRITTEN ASSIGNMENT

Consider the reasons that are fair to invoke in a pluralistic democracy as grounds for subjecting fellow citizens to the force of law. Does a citizen who sincerely believes that homosexuality is sinful or unnatural or offensive or otherwise morally wrong have adequate reasons to deny homosexuals who wish to marry the rights, duties, immunities and liabilities of the legal institution of marriage? If so, what are those reasons, and why are they adequate? If the reasons that opponents of homosexual marriage invoke do not provide adequate justification for such opposition, why not?

13. Wednesday, October 23: Democracy II: Minority Representation

STUDY QUESTIONS

1. Dahl offers a conception of political equality in democratic government that is quite demanding. People should be substantively equal in their opportunities to participate in: putting items on the agenda, in gaining understanding about the choices, and of course in making the final decisions (voting equality). Voting equality is fairly straightforward. But what does it mean for people to have equal opportunities to put items on the political agenda and to understand political choices?
2. In his dissent in the *Shaw* decision, Justice Stevens contends that it is impermissible for legislatures to use race as a criterion in districting when it strengthens white voting power, but permissible to use race when it strengthens black voting power. Do you agree? Why would it be permissible to use race in one instance, but not in another?
3. Is Justice Stevens' position consistent with Dahl's conception of political equality?
4. When is majority rule undemocratic?
5. What is the "principle of proportionality" and how does it differ from winner-take-all majoritarianism?
6. Which alternative – proportionality or majority rule – better realizes the principle of political equality?

WRITTEN ASSIGNMENT

You chair the Expert Nonpartisan North Carolina Redistricting Task Force and have been charged with recommending a plan to the state legislature to ensure political equality for all North Carolinians. You have boiled the choices down to four:

- (1) Create compact single-member districts that do not include race as a factor.
- (2) Create districts that maximize the number of majority-minority (majority black) single member districts.
- (3) Create multi-member districts with Guinier-style cumulative voting.
- (4) Offer no recommendation. The district plan should be generated out of bargaining and deliberation between the elected representatives in the democratically elected legislature.

Write a memo that explains your choice.

14. Monday, October 26: Democracy III: Deliberation

STUDY QUESTIONS

1. If the Port Authority and LMDC decided to replace all of the commercial space that had been destroyed on 9/11 at the expense of residential and neighborhood values, does it act without democratic legitimacy? Does it act against the common good?
2. Should the Port Authority and LMDC have continued to sponsor public deliberations such as “Listening to the City” as the development unfolded?
3. What procedure should New York use for planning large development projects in the future?
4. Is more public deliberation desirable? Why or why not? When and when not?
5. Is such deliberation likely to succeed in resolving policy disagreements? Why or why not? When and when not?
6. Explain how a successful public deliberation works to resolve policy disagreements. What is changed by public deliberation? Preferences? If so, preferences for what? Beliefs? If so, beliefs about what? Values? If so, what kinds of values?
7. What are Elster’s three varieties of political theory? Which is the best normative account of democracy?
8. Is Elster is right about his seven objections? If not, where does he go wrong? If he is right, what can we expect of democratic deliberation?

WRITTEN ASSIGNMENT

You are a member of the Port Authority who has closely observed the “Listening to the City” public participation process. Given your views about good planning, public authority, and democratic legitimacy, how should the Authority respond to the results of Listening to the City? In particular, how should it trade-off commercial and residential values? How should it address aesthetic issues? Also, should it sponsor more public participation or limit it? Support these decisions in a well-reasoned statement.

15. Wednesday, October 28: Cultural Conflicts of Value STUDY QUESTIONS

1. What is relativism according to Blackburn? Does Blackburn think that there is anything wrong with it? Is he right?
2. How do you think about other cultures that do or have practiced genocide, racism, or sexism? Are they wrong, or are they just different?
3. Consider current debates about multiculturalism. Is there a relationship between multiculturalism and relativism? Does thinking about multiculturalism lead you to reconsider relativism? Does thinking about relativism lead you to reconsider relativism?
4. Has Okin identified a real tension within liberal thought? Traditionally, respect for diversity and respect for the equality of persons have been thought to support each other; has Okin convinced you that these two values may frequently conflict?
5. Okin is frequently accused (as she is by Al-Hibri) of ignoring the complexities of non-Western cultures. Is this charge accurate? If it is accurate, what implications does that have for her practical suggestions?
6. The notion of tolerance is floating throughout much of this discussion. What does it mean? How can this notion be defended without relying on moral skepticism or moral relativism?
7. Some people consider the handling of poisonous snakes central to their religious belief and practice. At times such people are bitten, and at times they die as a result of the bites. Should snake-handling be prohibited? Should snake-handling by children be prohibited?
8. Existing American law exempts the Inuit from many of the restrictions on hunting whales and seals. Why do you think such exemptions exist? Do you support them?

WRITTEN ASSIGNMENT

Suppose that there is a nation called Theistan where blasphemy – showing contempt or irreverence for God – is a very serious crime. Disbelief itself is not a crime, and the discreet practice of other religions by foreigners is tolerated, but public displays of impiety by Theistanis is dealt with harshly. The population of Theistan is nearly unanimous in its support for the severe punishment of blasphemers, because virtually everyone in the nation shares the religious belief that blasphemy is a great sin. Theistanis, who elect their leaders in what are considered by observers to be relatively free and fair elections, overwhelmingly vote for one of two religious parties, both of which have theocratic platforms that, among other things, criminalize blasphemy. An obscure Theistani poet published a volume of verse entitled If God Is Not Dead, Kill Her. The poems ridicule Theistani religious beliefs and practices. The poet was found guilty of blasphemy by a panel of six judges and sentenced to twenty-five years in prison without parole after a trial in which proper procedure (including provision by the state of an excellent defense team) was scrupulously observed. The highest court in Theistan heard the case on appeal and upheld the conviction and sentence.

1. Can someone who is not a Theistani morally judge Theistan's treatment of the poet? If one cannot, why not? If one can, why? What is the moral judgment, and why?
2. Are other nations morally justified in forcing Theistan to release the poet by threatening serious economic and diplomatic sanctions? (Assume that Theistan's leaders, out of concern for their people's well-being, would capitulate long before the sanctions caused severe material deprivation, and leave aside the question of whether such sanctions are legal under current international law.)

16. Monday, November 2: Human Rights and Intervention

STUDY QUESTIONS

1. In Just and Unjust Wars, Walzer attributes this view to J.S. Mill: "He doesn't believe that intervention fails more often than not to serve the purposes of liberty; he believes that, given what liberty is, it necessarily fails" (pp. 87-88). Why does Mill think this? Is Mill correct?
2. Walzer says of his critics, "They insist that the theory of Just and Unjust Wars requires me to call tyrannical states legitimate. My actual claim is that foreign officials must act as if they were legitimate" ("The Moral Standing of States," Philosophy and Public Affairs 9:3 [1980], p. 217). Why, according to Walzer, must foreign officials do so? Do you agree?
4. Evaluate the following argument: "The disutility of the harm that could be caused by nuclear weapons is negative infinity. So according to decision theoretic reasoning, any positive probability of abuse makes it mandatory to make sure this abuse does not in fact happen. So if there was some probability of thinking that Saddam Hussein had nuclear weapons, this was sufficient reason to lead a preventive war against him. "

5. “Just war theory has traditionally acknowledged the legitimacy of preemptive wars, the paradigmatic case being an enemy army assembled at the border that is getting ready to strike. But it seems once preemptive wars are accepted, preventive wars should as well – after all, what is different about them is that in general the probability of a war actually occurring is slightly smaller and the war will happen later.” Do you agree with this view?

WRITTEN ASSIGNMENT

The time is February, 2009, and the newly-elected President of the United States faces the first foreign policy crisis of his administration. In the distant State of Distopia, the Flaxon majority has launched a brutal attack on its ancient ethnic rival, the Zemer. The Flaxon-dominated Distopian army has slaughtered hundreds of thousands of defenseless Zemerian civilians and, in “ethnic cleansing” operations, has driven a million more into an overcrowded border province. Zemerian resistance fighters have fiercely defended this remaining enclave, and, with the help of winter storms, have fought the Flaxons to a standstill. Under strong diplomatic pressure, the Flaxons have agreed to a cease-fire, but it is widely feared that they will mount a final offensive against the Zemer after the spring thaw. Without substantial military intervention to enforce the cease-fire, a million surviving Zemerians are in mortal danger. To protect them, the President is seriously considering sending a peacekeeping force of 80,000 to Distopia.

If the U.S. intervenes, there will be American casualties from sniper fire, terrorist attack, and skirmishes, but there is little danger of a widespread and protracted ground war. The Flaxon leadership has shown itself to be ruthless but prudent, and an outright assault against American forces would be wildly imprudent: the Flaxons are comparatively ill-equipped and are extremely vulnerable to U.S. air attack. Dozens of American troops are likely to be killed in this mission, but not thousands.

The president correctly believes that military intervention will not by itself resolve the problem of political instability in Distopia, and understands that a peacekeeping mission, once initiated, is likely to last for several years.

The U.S. has no vital national security interest in the conflict. Trade between the two nations is an insignificant factor in the U.S. economy. Distopia does not have crucial natural resources, and stability in Distopia is of only minor strategic importance to the U.S.

High ranking generals have privately voiced to the President their reluctance to commit troops to peacekeeping missions that do not directly serve national security and that do not have a clear exit strategy, but they all agree that the goal of protecting the Zemer enclave and enforcing the cease-fire can be accomplished successfully and indefinitely. They assure the president that he can count on them, whatever he decides.

You are a senior advisor to the President. He has asked you to consider the moral arguments for and against armed intervention in the Dystopian conflict. (“I’ll worry about my reelection chances,” she says. “You tell me what the right thing to do is.”) Is the U.S. morally permitted to intervene? Is the U.S. morally required to intervene? What should the President do, and why?

2nd Written Assignment Due By Today

17. Wednesday, November 4: Global Justice and Fair Trade

STUDY QUESTIONS:

1. Do you buy Fair Trade coffee at the KSG cafeteria? Would you do so if it were, say, 30% more expensive than other coffee? Why or why not? (Consider here the discussion in Kurjanska and Risse.) How much responsibility does a consumer have to know about the circumstances under which the product she buys was produced?
2. Do you think that Kurjanska and Risse are right that farmers in the EU and Japan have a prima facie bigger claim to subsidies than farmers in the US?
3. Some years ago, Germany made a change in its unemployment insurance system. Until a few years ago, the unemployed were only expected to look for jobs in their own profession and in the area where they live. If they did not find jobs within these parameters, they would continue to receive unemployment support from the government even if jobs are available elsewhere. Now they also have to accept jobs in other professions (if they qualify for them), and in more remote locations. Do you think this change is justified?
4. Suppose South Africa during apartheid was in a position to sell certain goods cheaper than they otherwise would because they kept blacks at a severe socio-economic disadvantage. However, their treatment of blacks is not motivated by gains from trade – they would have treated them badly anyway. Should other countries have bought from South Africa because their product were cheaper, or should they have boycotted it, even though such a boycott would not have changed the situation of blacks?
5. In the international context, do we owe money to developing societies – or other forms of aid? What if political transformation were more effective at combating poverty? Imagine, for example, that democratization were more effective than transfer payments at ending poverty.

WRITTEN ASSIGNMENT

Think about the duties that we have to others. Some duties we owe to all persons, simply in virtue of their status as moral equals. Others we acquire in virtue of cooperative ventures we have entered into, promises we have made, benefits we have received, harms we have inflicted, or other forms of interaction and relation. Still more stringent duties are owed to our fellow citizens in order to justify the coercion that we subject each other to under law—a singularly encompassing system of social cooperation. Now think about international trade, the effect on people in other countries of various policies to open or restrict trade, and whether people in other countries are owed anything more than what is owed to persons simply as persons. Is the US government justified in pursuing policies that favor Louisiana catfish farmers over Vietnamese catfish farmers? Why or why not? (Assume—perhaps contrary to fact—that these protectionist measures do not violate any law or treaty.)

18. Monday, November 9: Global Justice and Immigration

STUDY QUESTIONS:

1. Consider the legal concept of adverse possession: Suppose I occupy a house that is not used by its owner with the owner's knowledge, although without her permission. "Adverse possession" says that, after a while, if the owner tolerates this situation, I stat having a claim to that house and can no longer be expelled. Could one make a related argument with regard to illegal immigrants, especially from Hispanic countries? Everybody knows there is about 12 million of them; part of the economy very much depend on them; and while sometimes rather radically measures are taken to expel some, or to keep others out, the US does far less than it could to make sure they leave the country. Parallel to adverse possession, one might then say, they should be allowed to stay now.
2. In 2007, President Bush proposed an immigration reform whose main points were that illegal immigrations, in response to paying a substantial fine, would have been allowed to stay, but at the same time, influx of more illegal immigrants would have been made more difficult. One major reason why this proposal failed was because, to many lawmakers, it looked too much like an amnesty. Do you think that an amnesty should be offered to illegal immigrants? Why or why not?
3. Traditionally, the US has been a country of immigrants. Do you think this fact should have any bearing on immigration policy now?
4. Where somebody is born is entirely a matter of luck. Nobody chooses her patents. In light of this fact, are those of use who were luckier than others in terms of the richness of the environment where they were born entitled to keeping the others out?

5. One major reason why states are relocating to allowing immigration is because immigrants tend to influence and often shape the culture in which they settle down. Do you think states are justified in keeping out immigrants to guarantee the purity of their culture? (Do not dismiss lightly the positive aspects of living in a relatively homogenous society.)

WRITTEN ASSIGNMENT

Discuss the following view: “It is wrong to make differences among people on the basis of their sex or race. ‘Shared Citizenship’, however, is just as arbitrary a criterion as sex or race. So we should not make differences among people on the basis of their citizenship. This implies in particular that, except for people who would come in order to inflict harm, we have no right to exclude people from immigrating into our country.”

Wednesday, November 11 – NO CLASS (VETERANS’ DAY)

19. Monday, November 16: Protest Activities

STUDY QUESTIONS

1. King, agreeing with Augustine, says “An unjust law is no law at all.” What does this mean? Is he right?
2. In Rust v. Sullivan, the U. S. Supreme Court upheld a federal regulation forbidding doctors in federally funded health clinics from answering any questions about abortion. The first President Bush reaffirmed the regulation by vetoing legislation seeking to change it. (The regulation was subsequently withdrawn by President Clinton.) Consider a doctor who disobeys the regulation. What would King say about this action? Do you agree with King’s (imagined) analysis?
3. Must we not obey a law simply because it is a law, at least one passed by a roughly legitimate government? Is this risk of undermining that government not simply too high if civil disobedience is acceptable, even if it were justified as a response to a particular unjust law?

4. Under what conditions is civil disobedience allowed? What answers to you find in the assigned in the readings? What is your own answer?
5. The British Animal Liberation Front releases caged animals and damages equipment in animal experiment laboratories and fur farms. Can these acts ever be justified, according to the readings? According to you?

WRITTEN ASSIGNMENT

Consider the following cases of law-breaking:

1. In the American South, in the 1950s, a Black woman refuses to give up her seat to a white passenger, as required by city ordinance. After a police officer instructs her to either move to the back or leave the bus, she refuses, and is arrested.
2. In the United States in 1996, a group of protesters who believe that abortion is murder enter an abortion clinic after hours and disable all of the equipment needed to perform abortions.
3. In 1989, AIDS activists forge identification passes and enter the trading floor of the New York Stock Exchange, where they chain themselves to a banister, set off foghorns, unravel a banner that says "SELL WELLCOME," and cause a halt in trading for the first time in the history of the Exchange. Five days later, Burroughs Wellcome, the manufacturer of the AIDS drug AZT that costs thousands of dollars for a year's supply, reduces its price by 20%.

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Very briefly, state whether or not these three acts of disobedience are justified. Then, equally briefly, state whether prosecuting the disobeyers in each of these cases is justified. Then, drawing on the readings, offer a coherent account of civil disobedience that accounts for your answers.

20. Wednesday, November 18: Political Deception

STUDY QUESTIOS:

1. Are public officials ever justified in lying to the public? In misleading? Why or why not? When and when not?
2. Is Miller's treatment of the press rule-permissible within the "game" of politics? If so, does that render such treatment morally permissible? What is Applbaum's answer?

3. Madison talks about “factions.” What is a faction? Does Madison think factions are good or bad? Do you agree?
4. Madison is skeptical about the existence of many “enlightened statesmen.” Is he too skeptical? Does his approach overly inhibit enlightened policymakers in the interest of restricting unenlightened policymakers?
5. According to Madison, do citizens and politicians, by nature, mainly pursue their own gain, or mainly pursue the public good? Is this state of affairs good or bad?
6. How much direct political participation by citizens is desirable, according to Madison? Why?

WRITTEN ASSIGNMENT

Is Miller justified in misleading the press? Why or why not? Make sure you take account of the strongest argument against your own conclusion.

21. Monday, November 23: A Division of Moral Labor

STUDY QUESTIONS

1. Why was the impasse between Cox and Nixon a “constitutional crisis?”
2. Was Robert Bork justified in firing Cox, rather than resigning? Why or why not? Can both Bork and Richardson’s actions be justified? Explain why or why not.
3. How do Elliot Richardson, Al Haig, and Robert Bork understand the responsibilities of their jobs? What promises have they made? What obligations do they believe to have assumed? What duties do they believe fall upon them? How do they understand each other’s job and obligations? Is it possible for all three to have acted rightly, when they pursued conflicting purposes?
4. Did the three act effectively? Did they get what they wanted? What tactical advice could you have offered Haig and Richardson in the last few days? What general strategy should each have adopted?
5. Classical tragedy is characterized by one or more of three elements: a choice, where a protagonist must decide between conflicting yet compelling duties; a sense of fate or inexorability; and a flaw in an otherwise noble character. Is the situation or are the characters of Richardson, Haig, or Bork tragic in any of these ways?
6. Who is right, Quinlan or Applbaum? Why?

7. Quinlan says, “One may think a particular policy concept to be a square circle, and indeed within the confidence of Whitehall one may argue fervently to that effect; but once the decision is taken, it is a matter not just of duty but of professional pride to help make the very best square circle that effort and imagination can contrive” (542). Do you agree?

8. Is it possible both to defer to authority and to act autonomously?

WRITTEN ASSIGNMENT

Attorney General Elliot Richardson refused President Nixon’s order to fire Watergate Special Prosecutor Archibald Cox. White House Chief of Staff Al Haig, acting for Nixon, did all that he could to remove Cox. Was Richardson justified? Was Haig justified? Explain, and show how your answers are consistent.

Wednesday, November 25: NO CLASS – THANKSGIVING

22. Monday, November 30: Protest and Whistle-Blowing

Study Questions

1. What are the principal features of whistle-blowing that McConnell discusses?
2. Discuss briefly some of the issues that individuals, organizations, and society face when it comes to whistle-blowing, according to McConnell.
3. Daniel Ellsberg, speaking some years ago, insisted that those who leak must be punished for their actions – and specifically asserted that he ought to have been punished for his role in the Pentagon Papers. Is this assertion correct?
4. Was Ellsberg justified in leaking the Pentagon-papers?
5. How does official disobedience differ, morally speaking, from civil disobedience?

WRITTEN ASSIGNMENT

Consider the three cases that McConnell discusses at the beginning of his article. Briefly articulate a theory of whistle-blowing (when if ever is it obligatory or at least permissible to whistle-blow?) and use this theory to evaluate the rightness/wrongness of the whistle-blowing in the Ellsberg case.

23. Wednesday, December 2: Taking Responsibility STUDY QUESTIONS

1. What is the problem of “many hands”?
2. Why is it important to ascribe moral responsibility for wrongdoing and failure in government? Shouldn't we concentrate on learning how to do right and how to succeed?
3. In what ways do the criteria of personal moral responsibility in private life need to be modified to develop an adequate account of moral responsibility in large institutions and government?
4. When is ignorance a good excuse for a public official? When is it not?
5. Thompson says that compulsion can relieve an official of responsibility, and that a direct order is a form of compulsion. But in our discussions of civil disobedience and official discretion, we have seen that officials are sometimes justified in dissenting from direct orders. If so, how can the compulsion of the law relieve an official of responsibility?
6. Examine the case of Richard Murphy (209-10), who argues that he simply did his job by challenging information tending to implicate Iraq in atrocity:

I think that we did what we are supposed to do with intelligence: We challenged it. We said, “Where did you get it?”; “Who are your sources?”; “How do you know you can trust these sources?”

Was Murphy justified in so acting? Would it change matters if he was motivated by a desire to avoid alienating Iraq? Does he bear any responsibility for the Iraqi perception that it could commit atrocity without fear of U.S. reprisal?

7. How far down the chain can responsibility go? Do the farmers in Louisiana whose lobbyists condemned the attempt to sanction Iraq bear partial responsibility for the continued atrocities in Iraq?
8. Peter Galbraith broke numerous rules for Senate staffers in his efforts on behalf of the Kurds (see 239-240). Was he justified in doing so? Would the Senate have been justified in firing him as a result?
9. What benefits would exist if an International Criminal Court existed which was able to effectively punish Iraqi agents for their roles in the Anfal? What drawbacks would there be? If the benefits outweigh the drawbacks, do individual states have a duty to create such a court? Do they have such a duty even if their own citizens might become subject to its jurisdiction?

WRITTEN ASSIGNMENT

From March 1987 until October 1988, Iraq destroyed some 4,000 Kurdish villages, drove about 1.5 million Kurds from their homes, and killed close to 100,000 persons. Iraq's stated goal was to stamp out a long-simmering armed insurgency, but virtually all of the dead were unarmed civilians who were systematically lined up and machine-gunned or indiscriminately poisoned from the sky with chemical weapons. In so doing, Iraq violated international conventions against the use of chemical weapons and against genocide. The genocide convention requires the U.S., as a signatory, to take forceful measures to prevent, stop, and punish violations.

Throughout this period, and despite mounting evidence of massive atrocities, the chief of the State Department's Bureau of Near Eastern Affairs Richard Murphy continued to argue for friendly diplomatic relations, increased trade credits, and noninvolvement in Iraqi internal affairs. After losing a State Department battle over acknowledging and condemning Iraq's violation of the chemical weapons convention, he sought to limit U.S. criticism to the use of chemical weapons, rather than to the massacre of the Kurds more generally, and he especially cautioned against labeling the Iraqi policy "genocide," which would trigger the provisions of the genocide convention.

But Murphy did not by himself have the power to stop Iraq's Anfal campaign against the Kurds; he claimed to believe—let us assume sincerely—that there wasn't sufficient proof of the use of poison gas or of systematic killings; and his stance towards Iraq was the official policy of both the Reagan and the subsequent Bush administrations. The reasons behind this pro-Iraqi policy, which persisted up to the moment of Iraq's invasion of Kuwait in 1990, were clear: a strong Iraq was believed to provide a necessary counterweight to Iran, and Iraq was a major importer of American agricultural products.

Is Murphy morally responsible in any way for the horrors that befell the Kurds? Why or why not? Your answer should contain the essential elements of an account of individual responsibility for the consequences of the inaction of institutions.

3rd Written Assignment Due by Today