

# **DPI-201: THE RESPONSIBILITIES OF PUBLIC ACTION**

**FALL 2012**

**SECTION A**

(version updated August 20, 2012)

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A1: Thursday, 11.40-1.00 (124 MA/160)  
A2: Thursday, 4.10-5.30 (124 MA/160)

## **GETTING STARTED**

*The first class meeting is on Friday, September 7 (on a Wednesday schedule). Come prepared for the first session. Pick up readings from the Course Materials Office and books from the Harvard Coop. A short written assignment is due for the first day (see Three Daily Questions below).*

## **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, readings and cases, and to make thoughtful contributions to the learning of your classmates. You are also expected to attend one of the Thursday sessions.

### **Study Groups**

You will be assigned to a study group of four to five students. Each study group will be in the same Tuesday tutorial, and will have the same due date for the written arguments (see below). You are expected to meet with your study group at least once a week to prepare for class and to discuss your written assignments.

### **Three Daily Questions**

For each class meeting you are required to briefly answer the Three Daily Questions in writing. Answers to the three questions are mandatory, and graded complete-incomplete. Your answers are to be posted to the course webpage by **10 am**.

The first question always is "In what you read for today, what did you find most illuminating? Why?" The second question always is "In what you read for today, what did you find most puzzling? Why?" The third question is the daily topical assignment, which appears in the black box on the daily course assignment sheet. For example, the daily topical assignment for Friday, September 7 is:

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?"

Your answers to the three daily questions should be no longer than a few sentences each. In a few sentences, you cannot possibly give a thorough, well-defended answer to the topical

question, and a thorough, well-defended answer is not expected. You should, however, give the beginnings of a thoughtful answer.

You are encouraged to discuss the daily questions with your study group, but your answers must be your own work. In particular, you may not give an answer to the two “In what you read for today ...” questions if you have not done the reading yourself. Instead, your answer should simply say, “I have not read enough for today to find something illuminating or puzzling.”

On the three days when you are submitting longer written arguments (see below), you do not need to submit answers to the Three Daily Questions. You may also skip four additional days without penalty. In total, you are required to submit the Three Daily Questions 17 times.

Class participation, section participation and the timely completion of the Three Daily Questions account for one third of your course grade.

### Written Arguments

Three times during the semester, you are to prepare a 750-word written argument in response to the daily topical assignment (the question in the black box on the daily course assignment sheet). This will be graded on a ten-point scale. You will be assigned to a “due by” group: X, Y, or Z. You may choose any three topics to write on, subject to the three due dates for your group:

	X	Y	Z
First argument by	Mon, Sept. 24	Mon, Oct. 1	Wed, Oct. 10
Second argument by	Wed, Oct. 24	Wed, Oct. 31	Wed, Nov. 7
Third argument by	Wed, Nov. 28	Mon, Dec. 3	Wed, Dec. 5

You are encouraged to discuss your paper with members of your study group, but the writing of the paper must be entirely your own work. Members of your study group have the same due by dates, but you are not required to choose the same topic. Written arguments are due in class on the day in which the topic is considered. You cannot submit a paper on a day later than the day for which it was assigned. Late assignments will not be accepted. The written arguments count for one third of your course grade.

### 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 **Friday, December 7, at 10:00 am**, and are due by **Friday, December 21, at 4:00 pm**. Late examinations will be heavily penalized. The final exam counts for one third of your course grade.

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

Arthur 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*, 2<sup>nd</sup> Edition (Oxford University Press, 2002)

Also recommended as background:

Advice on Written Assignments (posted on course website)

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.*

## **PART I: INTRODUCTION, FOUNDATIONS**

## **1. Roles and Principles**

### **Friday, September 7**

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

Daniel Kahneman, *Thinking Fast and Slow* (2011), pp. 19-30, 39-49, 450, 452-453. **(packet 1)**

## **2. Foundations I: Moral Theory -- Consequentialism**

### **Monday, September 10**

**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. **(posted on course page)**

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

Recommended Further Readings:

Dan 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 **(posted on course page)**

Recommended Source Readings:

Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, Chapters I and IV. **(posted on course page)**

John Stuart Mill, *Utilitarianism*, Chapters I-III **(posted on course page)**

## **3. Foundations II: Moral Theory -- Non-Consequentialism I, Kantian Ethics**

### **Wednesday, September 12**

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

Immanuel Kant, *Groundwork for the Metaphysics of Morals*, 406 ("If we have so far...") – 436 ("and of every rational nature.") (**packet 1**)

Thomas Hill, "Kantian Normative Ethics," in David Copp, ed., *The Oxford Handbook of Ethical Theory* (2006), pp 480-514. (**posted on course page**)

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

Recommended Further Reading:

Federal Constitutional Court of Germany, Bundesverfassungsgericht Press Release No. 11/2006 (Feb. 15, 2006), "Authorization to Shoot down Aircraft in the Aviation Security Act Void," pp. 1-5 (**packet 4**)

Jens Timmermann (2007), *Kant's "Groundwork of the Metaphysics of Morals". A Commentary*, Cambridge: Cambridge University Press, pp 90-111 (**packet 4**)

**4. Foundations III: Moral Theory -- Non-Consequentialism II, Contemporary Approaches**  
**Monday, September 17**

**Case:** Humanitarian Aid, Still

Thomas Pogge, "Eradicating Systemic Poverty: Brief for a Global Resource Dividend," Chapter 8 of Pogge, *World Poverty and Human Rights* (Second Edition, Polity, 2008), pp. 202-221. (**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**)

Robert Nozick, "Moral Constraints and the State," in *Anarchy, State, and Utopia* (New York: Basic Books, 1974): pp 26-35. (**posted on course page**)

**5. Foundations IV: Legitimacy – Who Gets to Decide?**  
**Wednesday, September 19**

**Case:** Pledge of Allegiance

*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 *Liberalism Reconsidered*, eds. Douglas MacLean and Claudia Mills (1983), pp. 25-50. (**posted on course page**)

Wil Waluchow, "Judicial Review," *Philosophy Compass* 2(2), 258-266, March 2007 (**posted on course page**).

## **PART II: POLITICAL PRINCIPLES AND PUBLIC POLICY**

### **6. Liberty and Its Limits I: Speech and Harm**

**Monday, September 24**

**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*, 4<sup>th</sup> ed. (1991), eds. Joel Feinberg and Hyman Gross, pp 311-314. (**posted on course page**)

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

*Group X: 1<sup>st</sup> Written Assignment Due by Today*

### **7. Liberty and Its Limits II: Paternalism**

**Wednesday, September 26**

**Cases:** Smoking and Trans Fats

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

"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 only**)

Daniel Hausman and Brynn Welch, "Debate: To Nudge or Not to Nudge," *Journal of Political Philosophy* 18:1 (2010), 123-136 (**posted on course page**)

## **8. Liberty and Its Limits III: Moralism and the Limits of the Market** **Monday, October 1**

**Case:** Surrogate Motherhood

Elizabeth 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. (**posted on course page**)

Recommended Further Readings:

Karl Marx, "Alienated Labor" and "Private Property and Communism" (McClellan (ed.), *Karl Marx: Selected Writings*, pp 85-104). (**posted on course page**)

### ***Group Y: 1<sup>st</sup> Written Assignment Due by Today***

## **9. Equality I: Distributive Justice** **Wednesday, October 3**

**Case:** Income and Taxation

John Rawls, *A Theory of Justice* (2<sup>nd</sup> edition; Cambridge: Harvard University Press, 1999): pp 52-70. (**posted on course page**)

Milton Friedman, "The Distribution of Income" from *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962): pp 161-66. (**posted on course page**)

Liam Murphy and Thomas Nagel, *The Myth of Ownership*, chapters 1 (pp. 3-11) and 7 (pp 142-161). (**posted on course page**)

Recommended Further Readings:

Brian Barry, *Why Social Justice Matters*, pp 169-230. (**packet 4**)

Will Kymlicka, "Liberal Equality," Sections 1-3, in *Contemporary Political Philosophy*, 2<sup>nd</sup> Edition (2002), pp 53-75. **(book, also posted on course page)**

Will Kymlicka, "Libertarianism," Sections 1-2, in *Contemporary Political Philosophy*, 2<sup>nd</sup> Edition (2002), pp 102-127. **(book, also posted on course page)**

**Monday, October 8– NO CLASS (COLUMBUS DAY)**

## **10. Equality II: Equality of Opportunity**

**Wednesday, October 10**

**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*, pp 293-303 **(packet 2)**

Ronald Dworkin, "Reverse Discrimination," in *Taking Rights Seriously* (1977), pp 223-239. **(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 4)**

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 4)**

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

**Group Z: 1<sup>st</sup> Written Assignment Due by Today**

## **11. Democracy I: Democracy and Disagreement**

**Monday, October 15**

**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 Macedo, "Homosexuality and the Conservative Mind," in Wardle, Strasser, Duncan, and Coolidge, eds., *Marriage and Same Sex Unions* (2003), pp. 97-114. **(posted on course page)**

## **12. Democracy II: Minority Representation**

**Wednesday, October 17**

**Case:** Race-Sensitive Districting

*Shaw v. Reno*, 510 U.S. 630 (1993) (opinion of Justice O'Connor and dissenting opinions of Justices White, Stevens, and Souter), excerpts. **(packet 2)**

*Holder v. Hall*, 514 U.S. 874 (1994) (concurrence of Justice Thomas), excerpts. **(packet 2)**

*Miller v. Johnson*, 515 U.S. 900 (1995) (dissent of Justice Ginsberg), excerpts. **(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)**

Recommended further Reading:

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

## **PART III: POLITICAL PRINCIPLES ACROSS POLITICAL BOUNDARIES**

### **13. Cultural Conflicts of Value**

**Monday, October 22**

**Case:** Thinking about Human Rights

T. M. Scanlon, "Human Rights as a Neutral Concern," in his *The Difficulty of Tolerance: Essays in Political Philosophy*, chapter 6 (**packet 2**)

Joshua Cohen, "Minimalism About Human Rights: The Best We Can Hope for?" *Journal of Political Philosophy*, 12, 2 (2004): pp 190-213 (**posted on course page**)

#### **14. Cultural Conflicts of Value, Continued** **Wednesday, October 24**

**Case:** Still Thinking about Human Rights

Yael Tamir, "Hands Off Clitoridectomy," *Boston Review*, Summer 1996  
<http://bostonreview.net/BR21.3/Tamir.html> (**posted on course page**)

Martha Nussbaum, "Double Moral Standards?" *Boston Review*, October/November 1996;  
<http://bostonreview.net/BR21.5/nussbaum.html> (**posted on course page**)

Yael Tamir, "Response," *Boston Review*, October/November 1996  
<http://bostonreview.net/BR21.5/tamir.html> (**posted on course page**)

*Group X: 2<sup>nd</sup> Written Assignment Due by Today*

#### **15. Humanitarian Intervention** **Monday, October 29**

**Case:** Intervening in Dystopia

Michael Walzer, *Just and Unjust Wars* (2000), pp 51-63, 86-108, 339-342. (**posted on course page**)

Fernando Teson, "The Liberal Case for Humanitarian Intervention," chapter 3 in J. L. Holzgrefe and Robert Keohane, *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (2003) (**packet 2**)

#### Recommended Further Reading

Jack Goldsmith and Eric Posner, *The Limits of International Law* (2005), chapter 4 ("Human Rights") (**posted on course page**)

J. L. Holzgrefe, "The Humanitarian Intervention Debate," chapter 1 in L. Holzgrefe and Robert Keohane, *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (2003) (**packet 4**)

Jefferson McMahan, "The Ethics of International Intervention," in *Political Realism and International Morality*, (1987) edited by Kenneth Kipnis and Diana T. Meyers, 75—101. **(packet 4)**

## **16. Global Justice and Fair Trade** **Wednesday, October 31**

**Case:** Agricultural Protections

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

Malgorzata Kurjanska 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 2)**

### Recommended Further Readings:

Deborah Satz, "International Economic Justice," in Hugh LaFollette, ed., *The Oxford Handbook of Practical Ethics* (2003), pp 620-42. **(posted on course page)**

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)**

**Group Y: 2<sup>nd</sup> Written Assignment Due by Today**

## **17. Labor Standards** **Monday, November 5**

**Case:** Linkage of Trade and Labor Standards and the responsibilities of the WTO

Marrakesh Agreement Establishing the World Trade Organization (1994), Preamble and Articles I-III, [http://www.wto.org/english/docs\\_e/legal\\_e/04-wto\\_e.htm](http://www.wto.org/english/docs_e/legal_e/04-wto_e.htm). **(posted on course page)**

Charter of the United Nations, Preamble and Chapters I and IX, <http://www.un.org/en/documents/charter/>. **(posted on course page)**

Mathias Risse, “Arguing for Human Rights: Labor Rights as Human Rights,” Chapter 13 of *On Global Justice* (forthcoming book), section 1 and 2 (for content of labor standards and historical background). **(posted on course page only)**

Amartya Sen, *Development as Freedom* (1993), pp 3-11, 282-98 **(packet 3)**

Henry Shue, *Basic Rights: Subsistence, Affluence, and US Foreign Policy* (1996), excerpts from Chapter 1, pp 13-34 **(posted on course page)**

Christian Barry and Sanjay Reddy, Sections 1-3 and 7 of *International Trade and Labor Standards* (2008), pp 1-11 and 80-85 **(posted on course page)**

## **18. Global Justice: Health**

**Wednesday, November 7**

**Case:** The AIDS Epidemic

Frances Kamm, “Is it Worse if More Die? Agent Relative or Non-Relative Views?” Chapter 5 of *Morality, Mortality Volume I* (1993), pp. 75-98. **(posted on course page)**

Dan Brock and Dan Wikler, “Ethical Challenges In Long-Term Funding For HIV/AIDS,” in *Health Affairs* 28(6), 2009. **(posted on course page)**

John McKie and Jeff Richardson, “The Rule of Rescue” in *Social Science & Medicine* 56, 2003. **(posted on course page)**

**Group Z: 2<sup>nd</sup> Written Assignment Due by Today**

**Monday, November 12 – NO CLASS (VETERANS’ DAY)**

## **19. Immigration**

**Wednesday, November 14**

**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. **(posted on course page)**

## **PART IV: POLITICAL AUTHORITY AND PUBLIC ROLES**

### **20. Democratic Legitimacy and Civil Disobedience**

**Monday, November 19**

**Case:** Protest Activities

Martin Luther King, "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. **(posted on course page)**

**Wednesday, November 21 – Thanksgiving Break (No Class)**

### **21. Ethics and Adversaries**

**Monday, November 26**

**Case:** Political Deception

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

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

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 4)**

## **22. A Division of Moral Labor?**

**Wednesday, November 28**

**Case:** Watergate

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

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

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

**Group X: 3<sup>rd</sup> Written Assignment Due by Today**

## **23. Official Disobedience**

**Monday, December 3**

**Cases:** Whistle-Blowing

David Rudenstine, "Daniel Ellsberg and the Pentagon Papers," in *Ethics and Politics: Cases and Comments [3<sup>rd</sup> edition]*, eds. Amy Gutmann and Dennis 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)**

Branch, Taylor, *Ethics and Politics: Cases and Comments [3rd edition]*, "The Odd Couple", pp. 152-161, edited by Amy Gutmann, et al (Washington: Wadsworth Group, 1997). **(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)**

Recommended Further Reading:

*New York Times*, "Blowing the Whistle, Many Times." **(posted on course page)**

*New York Times*, “In Shift for Japan, Salarymen Blow the Whistle.” [in Lexis Nexis, titled “The Salary Man Accuses”] (**posted on course page**)

“Wikileaks reveals video showing US air crew shooting down Iraqi civilians”  
<http://www.guardian.co.uk/world/2010/apr/05/wikileaks-us-army-iraq-attack> (**posted on course page**)

**Group Y: 3<sup>rd</sup> Written Assignment Due by Today**

## **24. Responsibility and Collective Agency** **Wednesday, December 5**

Cases: Balloon Rescue in *Enduring Love*, Hurricane Katrina

Ian McEwan, *Enduring Love* (1997), pp. 1-3, 7-17. (**packet 3**)

Esther Scott, “Hurricane Katrina (C): Responding to an Ultra-Catastrophe in New Orleans,” in *Managing Crises: Responses to Large-Scale Emergencies*, eds. Arnold Howitt and Herman Leonard (2009), pp. 43-73 (**posted on course page**)

Joel Feinberg, “Collective Responsibility,” in *Doing and Deserving: Essays in the Theory of Responsibility* (1970), pp. 222-251. (**packet 3**)

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

**Group Z: 3<sup>rd</sup> Written Assignment Due by Today**

## **Section A – Study Questions and Writing Assignments**

### **1. Friday, September 7: 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?

## 2. Monday, September 10: 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.**

Explain how this principle is intelligible 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.”

### 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. Wednesday, September 12: Non-Consequentialism, Kant

#### STUDY QUESTIONS:

1. Think of two examples in which an application of Kant’s Categorical Imperative would lead to different recommendation from utilitarian reasoning.
2. 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?
3. 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?
4. Hill discusses the case of an unusually wealthy, secure, and independence-loving miser. What kinds of obligations does he think this person has towards the poor?
5. What is the formula-of-humanity version of the Categorical Imperative? Think of three scenarios where somebody’s behavior violates this formula.

## **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. Monday, September 17: Non-Consequentialism, Contemporary Approaches**

1. Discuss the role of animals in utilitarianism and in contractualism. Do animals have moral standing in either? Why or why not?
2. Think of examples in decision-making about public policy where using utilitarian reasoning would lead to different recommendations than using contractualist reasoning.
3. Why does Scanlon think that contractualism will not lead to utilitarianism as a moral theory?
4. What does Pogge think we owe to the global poor? How does his account differ from how O'Neill applied Kant's theory to the question of what we owe to the global poor?
5. What exactly is Pogge's Global Resource Dividend? Do you find this a persuasive proposal?

### **5. Wednesday, September 19: Legitimacy – Who Gets to Decide?**

#### **STUDY QUESTIONS**

1. Are there some issues that ought not to be decided by democratic elections?
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. Scrutinize the Supreme Court readings assigned for today and look for arguments addressing the question of who ought to decide on whether the pledge of allegiance is required.
5. Do you think that it is acceptable for courts to overturn legislation that a democratically elected parliament wishes to adopt ("judicial review")?

## WRITTEN ASSIGNMENT

Who do you think should decide on whether the oath of allegiance is required in the United States? Should this be left to state legislatures, or should this be a matter for the Supreme Court to decide? As appropriate, consider the views in the readings on this matter.

### 6. Monday, September 24: Liberty and Its Limits I: 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. 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?

5. 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?

### 7. Wednesday, September 26: Liberty and Its Limits II: 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? [This question refers to a recommended reading, which, however, you need not have read to be able to answer this question.]

### 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.

## 8. Monday, October 1: Liberty and Its Limits III: 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.

### 9. Wednesday, October 3: 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.

**Monday, October 8 – NO CLASS (Columbus Day Observed)**

### **10. Wednesday, October 10: Equality II: 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. A few years ago, 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.

### 11. Monday, October 15: 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. What, according to Rawls, is “public reason”? When and why should it be used?
5. Why precisely does the Catholic Church reject gay marriage?
6. 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?

## **12. Wednesday, October 17: 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.

### 13. Monday, October 22: Cultural Conflicts of Value

#### STUDY QUESTIONS

1. How do you think about other cultures that do or have practiced genocide, racism, or sexism? Are they wrong, or are they just different?
2. Scanlon argues that human rights as he understands them also apply to countries where they are not generally recognized or embodied into law. Why does he think so? Do you agree?
3. Cohen distinguishes between substantive and justificatory minimalism about human rights. Explain this distinction and explain what role it plays in Cohen’s argument.
4. Cohen appeals to certain interpretations of Confucianism and Islam to support his view on human rights. What work do these appeals do within his argument? Do you find Cohen’s discussion of these matters plausible?

## WRITTEN ASSIGNMENT

In his “Human Rights as a Neutral Concern,” Scanlon raises the following question:

“But even if the victims did take the view that they have no rights against what is done to them (...) couldn’t they be wrong in thinking this? [W]hich is the more objectionable form of cultural superiority, to refuse to aid a victim on the ground that “they live like that – they don’t recognize rights as we know them,” or to attempt to protect the defenseless even when they themselves feel that suffering is their lot and they have no basis to complain of it?” (P 119)

Using the required readings on relativism and the material introduced in class, provide an answer to these questions. Offer some arguments in support of your answer. Introduce some objections and respond to them, and come to a conclusion.

### 14. Wednesday, October 24: Cultural Conflicts of Value, Cont.

1. 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?
2. Recall the following statement from Yael Tamir’s article on clitoridectomy: “One cannot help thinking that the gut reaction of many men against clitoridectomy reflects the fact that in our society the sexual enjoyment of women is seen as a measure of the sexual power and achievements of men. Men in our society are more intimidated by women who do not enjoy orgasms than by those who do. In societies in which clitoridectomies are performed, men are more intimidated by women who do enjoy their body and their sexuality. In both cases, a masculine yardstick measures the value of female sexuality.”

Explain the context in which this statement occurs. Articulate the objection to those who criticize clitoridectomy that is expressed here, and do so in terms of the language of human rights.

3. Continuing question 2: How does Nussbaum respond to this objection?
4. Consider Tamir’s claim that there is a continuity between our social practices about female sexuality and the practices of societies in which FGM is prevalent. Do you find this claim persuasive? Why or why not?

## 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.)

### 15. Monday, October 29: Humanitarian 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?
3. 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. "

4. What, according to Teson, is the liberal case in favor of intervention? Do you think Teson's argument licenses too many interventions?

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, 2013, and the newly-elected President of the United States faces the first foreign policy crisis of his administration. In the distant State of Dystopia, the Flaxon majority has launched a brutal attack on its ancient ethnic rival, the Zemer. The Flaxon-dominated Dystopian 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 Dystopia.

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 Dystopia, 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. Dystopia does not have crucial natural resources, and stability in Dystopia 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?

## **16. Wednesday, October 31: Global Justice and Fair Trade**

### **STUDY QUESTIONS:**

1. Do you buy Fair Trade coffee at the HKS 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.)

### 17. Monday, November 5: Labor Standards

#### STUDY QUESTIONS:

1. It is sometimes argued that the WTO's mission is merely to contribute to the liberalization of trade. According to the WTO's preamble, do you find this view vindicated?
2. US policy has been (more or less explicitly) not to recognize social and economic rights (such as labor rights) as human rights. According to Henry Shue, why is this approach problematic?
3. Section 5 of the 1993 United Nations Vienna Declaration and Program of Action reads as follows: "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. (...)" How does this stance receive support from Shue and Sen?
4. What does it mean for trade and labor standards to be "linked"? What is that debate about? What moral and non-moral considerations can you detect for and against linking trade and labor standards?
5. Given what you know about the international economic system, do you think that Barry and Reddy's proposed "linkage system" will work?

## WRITTEN ASSIGNMENT

Write a memo to the Director-General of the World Trade Organization making a moral argument for or against linking trade and labor standards. You should help yourself freely to empirical results if available, but please provide references, and make your case primarily in terms of a moral argument.

### 18. Wednesday, November 7 - Global Health

#### STUDY QUESTIONS

1. Kamm's essay tackles head-on certain controversial claims that Taurek makes about whether it is worse if more people die. What are his claims, exactly, and how does Kamm understand his arguments for them?
2. In conflict-free situations, how does Kamm reason that it can make sense to talk about a certain state of the world being worse, *simpliciter*, than another?
3. In your own words, present the Aggregation Argument. What objections to it does Kamm consider, and how successful do you take her response to them to be?
4. What is the Rule of Rescue?
5. What is the utilitarian case that McKie and Richardson make in defense of RR? How serious do you take the fairness objection to their account to be?
6. Brock and Wikler consider multiple arguments for promoting treatment over prevention and find flaws with them. What, specifically, is the line of reasoning that privileges identified over statistical lives, and what's problematic with it, according to Brock and Wikler? Why do they think that arguments that prioritize the worst off fail as well?

## **WRITTEN ASSIGNMENT**

The bill that has provided funds for addressing the global AIDS epidemic is set to expire. The President is committed to offering substantive economic assistance in tackling this problem. But he knows that in these tough times, Congress is less willing to dole out money unless it has good reason to believe it is being used wisely. The President believes his leadership will lead to the passage of a bipartisan bill, but in making his case, he wants to know whether to argue that the new money be spent primarily in a way consistent with a continued emphasis on treatment, or if it ought to be directed towards programs that emphasize prevention instead. You are to decide which of these options is the morally superior one and then present your case to him in a 750 word memo.

**Monday, November 12 – NO CLASS (VETERANS' DAY)**

### **19. Wednesday, November 14: 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 start 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 depends on them; and while sometimes rather radical 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 immigrants, 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 parents. In light of this fact, are those of us 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.”

## 20. Monday, November 19: 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 else 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%.

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.

**Wednesday, November 21 – NO CLASS (THANKSGIVING)**

### **21. Monday, November 26: Political Deception**

#### **STUDY QUESTIONS:**

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. What does Applbaum call “the argument from fair play”, and what role does it play in his overall argument in this chapter?
4. Do you think the interaction between politicians and the press is like a game to which rules of fair play apply?

## 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.

### 22. Wednesday, November 28: 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?

## 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.

### **23. Monday, December 3: 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.

## 24. Wednesday, December 5: Responsibility and Collective Agency

### WRITTEN ASSIGNMENT

The narrator in *Enduring Love* says, “I should make something clear. There may have been a vague communality of purpose, but we were never a team.” He does not mean this as a mere descriptive observation. For him, whether or not they were a “team” has normative implications, affecting, in some way, what their obligations were to the boy in the balloon and to each other, and affecting, in some way, the actions and consequences for which each is worthy of praise or blame. If Ian McEwan were a philosopher rather than a novelist, he might instead have written (inelegantly), “We never constituted a normative group capable of group action.”

“We were never a team,” also meant as a mere descriptive observation, could plausibly have been said by an individual involved in the poorly coordinated relief efforts by thousands of individuals and multiple government agencies in New Orleans after Hurricane Katrina. But the normative implications of such an observation appear to be quite different than in the balloon case, in part because the thousands of individuals involved and their leaders were tied together, perhaps in complicated and overlapping ways, as members of one or more normative groups, whether or not they succeeded in acting as a normative group.

Compare and contrast the ways in which individual actors in the balloon rescue and individual actors (including individual political leaders) in the Katrina rescue have obligations to those they were trying to help and to each other, and compare and contrast the actions and consequences for which each are worthy of praise or blame. In so doing, you should present the working elements of an account of group agency—whether or not there is such a thing, and if there is, how group agents are constituted and how they affect the responsibilities of those who constitute them.

Note: In Katrina, concentrate only on the failure to care for and evacuate the refugees at the Superdome and convention center after the storm hit. Whatever prior mistakes in governance, city planning, engineering, and preparation contributed to the unfolding disaster, assume (as indeed was the case) that there were sufficient resources within range and under the control of the various governmental entities to provide adequate security, food and water, and timely, safe transportation out of New Orleans for those stranded at the Superdome and convention center.

### STUDY QUESTIONS

1. Does the narrator in *Enduring Love* give a good account of the group of rescuers? What duties or obligations, if any, do the individual rescuers have to the balloonists or to each other when they first see the balloon in distress? Once each starts running? Once each grabs a line? Once the first rescuer lets go? Do the rescuers form a group agent that itself has duties or obligations? What are the necessary and sufficient conditions for the constitution of such group agents?
2. The narrator says, (a) “Any leader, any firm plan, would have been preferable to none.” If true, how far does this generalize? What are the implications for political philosophy? He goes on to say, (b) “no emergency was ever dealt with effectively by democratic process.” Is this

true? What does the narrator suppose is the relationship between statements (a) and (b)? Do you agree?

3. How, and in what sense, can a group actor be responsible for its actions? In particular, is a group actor the kind of entity that is the appropriate object of appraisals of causal responsibility? Moral responsibility? Wrongfulness and rightfulness? Praise and blame? Fault? Liability? Guilt and innocence?

4. Consider the following candidates for the status of group actor: The United States of America; the Iraqi people; Hamas; Enron; Harvard University; a string quartet; people in a movie theater; Christians; Asian-Americans. Do any of these succeed in being entities capable of intentions and actions? Why or why not? When and when not? Which actions of which individuals collect? Which group actions distribute, and to whom?

5. What is the problem of “many hands”?

6. 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?