

**JOHN F. KENNEDY SCHOOL OF GOVERNMENT
HARVARD UNIVERSITY**

DPI-201: THE RESPONSIBILITIES OF PUBLIC ACTION

FALL 2012

SECTION C

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Monday and Wednesday, 2:40 – 4:00 pm
Littauer 230

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Tutorials
C1: Tuesday, 2:40 - 4:00 pm, Littauer 382
C2: Tuesday, 4:10 - 5:30 pm, Littauer 382

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GETTING STARTED

The first class meeting is on Friday, September 7 (on a Wednesday schedule). A short written assignment is due for the first day (see Three Daily Questions below). Pick up 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, readings and cases, and to make thoughtful contributions to the learning of your classmates. You are also expected to attend the Tuesday tutorials conducted by Johann Frick.

Study Groups

You will be assigned to a study group of three or four 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 encouraged to meet regularly with your study group to prepare for class and to discuss your written assignments. Arthur will meet with each study group early in the semester.

Moral Reasoning Quiz

For the second session, Monday, September 10, a written Moral Reasoning Quiz is due for all. This quiz is mandatory, and graded complete-incomplete. The quiz is to be posted to the course website by **1:00 pm**.

Three Daily Questions

For each class meeting (except for the day the Moral Reasoning Quiz is due) 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 **1:00 pm**.

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 (but the Moral Reasoning Quiz may not be skipped). In total, you are required to submit the Three Daily Questions 16 times.

Class participation and the timely completion of the Three Daily Questions and the Moral Reasoning Quiz account for one third of your course grade.

Written Arguments

Three times during the semester, you are to prepare a 750-word written assignment 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 no later than **1:00 pm** of the day in which its topic is considered. You may not submit a paper on a day later than the day for which it was assigned. Late assignments will not be accepted. You may submit papers somewhat earlier than the day for which its topic is assigned, subject to the constraint that your papers are distributed so that the first is on a topic discussed in class on or before Oct. 10,

the second between Oct. 15 and Nov. 7, and the third after Nov. 7. 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.

Readings for the course are available either on the course webpage (under “Course Materials”), in paper packets from the Course Materials Office, or in books that have been ordered in paperback editions at the Harvard Coop. The syllabus indicates where each reading can be found. The paper packets from the CMO do not contain any of the material that is available free of charge on the course webpage.

We will read substantial portions of three books:

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).

John Rawls, *A Theory of Justice: Revised Edition* (Belknap Press of Harvard 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*, 2nd ed. (Oxford Univ. Press, 2001).

PART I: INTRODUCTION

1. Roles and Principles

Friday, September 7 (Wednesday schedule)

Case: Legislative Discretion

“Senator McGrail and the Death Penalty/Senator Johnson and the Death Penalty” (1 page). **[on-line]**

Edmund Burke, “Speech to the Electors of Bristol” (1774), in *The Founders’ Constitution, Vol. I*, eds. Philip B. Kurland and Ralph Lerner (1987), pp. 391-392. **[on-line]**

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

John Rawls, *Justice as Fairness: A Restatement* (2001), pp. 1-5 (§ 1). **[on-line]**

John Rawls, *A Theory of Justice: Revised Edition* (1999 [1st ed. 1971]), pp. 3-6 (§ 1), 10-19 (§§ 3-4). **[book]**

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

2. The Right and the Good

Monday, September 10

Cases: Hypotheticals from the Moral Reasoning Quiz

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

John Rawls, *A Theory of Justice: Revised Edition* (1999 [1st ed. 1971]), pp. 19-30 (§§ 5-6). **[book]**

T. M. Scanlon, *What We Owe to Each Other* (1998), pp. 147-149, 151-158, 189-191, 229-241, 389-390, 393-394, 396-398. **[packet]**

Groups X, Y, and Z: The Moral Reasoning Quiz is due today

PART II: POLITICAL PRINCIPLES AND PUBLIC POLICY

3. Liberty and Its Limits I: Freedom of Conscience

Wednesday, September 12

Cases: Pledge of Allegiance, Headscarves in Turkey

Minersville School District v. Gobitis, 310 U.S. 586 (1940) (opinion of Justice Frankfurter), excerpts. **[on-line]**

West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943) (opinion of Justice Jackson and dissenting opinion of Justice Frankfurter), excerpts. **[on-line]**

European Court of Human Rights, *Leyla Şahin v. Turkey* (No. 44774/98) Judgment, 29 June 2004, excerpts. **[on-line]**

Amy Gutmann, “How Liberal is Democracy?” in *Liberalism Reconsidered*, eds. Douglas MacLean and Claudia Mills (1983), pp. 25-50. **[on-line]**

Jeremy Waldron, “Rights and Majorities: Rousseau Revisited,” in *Liberal Rights* (1993), pp. 392-421, 468-471. **[packet]**

4. Liberty and Its Limits II: Speech and Harm

Monday, September 17

Cases: Neo-Nazi Parades, Militant Islamic Preaching

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. **[on-line]**

Peter Bergen and Paul Cruickshank, “Clerical Error,” *The New Republic*, August 8, 2005, pp. 10-12. **[on-line]**

Home Secretary of the United Kingdom, “Exclusion or Deportation from the UK on Non-Conducive Grounds: Consultation Document” (August 2005). **[on-line]**

Frederick Schauer, “The Phenomenology of Speech and Harm,” *Ethics* 103:4 (1993), pp. 635-653. **[on-line]**

Arthur Ripstein, “Beyond the Harm Principle,” *Philosophy & Public Affairs* 34:3 (2006), pp. 215-245. **[on-line]**

5. Liberty and Its Limits III: Paternalism

Wednesday, September 19

Cases: Cigarettes, Obesity

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

Tamar Schapiro, "What Is A Child?" *Ethics* 109:4 (1999), pp. 715-738. **[on-line]**

Daniel Hausman and Brynn Welch, "Debate: To Nudge or Not to Nudge," *Journal of Political Philosophy* 18:1 (2010), pp. 123-136. **[on-line]**

6. Liberty and Its Limits IV: Moralism

Monday, September 24

Case: Surrogate Motherhood

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

Alan Wertheimer, "Two Questions About Surrogacy and Exploitation," *Philosophy & Public Affairs* 21:3 (1992), pp. 211-239. **[on-line]**

Group X: 1st Written Assignment Due by Today

7. Equality I: The Concept of Equality

Wednesday, September 26

Case: Allocating a Scarce Drug

Frederick Schauer, "Multiple Sclerosis and the Allocation of Betaseron" (1 page). **[on-line]**

Derek Parfit, "Equality and Priority," *Ratio (new series)* 10:3 (1997), pp. 202-221. **[on-line]**

Ronald Dworkin, "Justice in the Distribution of Health Care," *McGill Law Journal* 38:4 (1993), pp. 883-898. **[on-line]**

8. Equality II: Distributive Justice

Monday, October 1

Case: Inheritance

John Rawls, *A Theory of Justice: Revised Edition* (1999 [1st ed. 1971]), pp. 52-69 (§§ 11-13). **[book]**

Robert Nozick, *Anarchy, State, and Utopia* (1974), pp. 149-165, 167-189, 344-346. **[on-line]**

John Rawls, *Justice as Fairness: A Restatement* (2001), pp. 50-55 (§§ 14-15), 157-158 (§ 48). **[on-line]**

Liam Murphy and Thomas Nagel, *The Myth of Ownership* (2002), pp. 3-11, 103-109, 121-125, 142-148, 191, 199-202, 205-206. **[on-line]**

Group Y: 1st Written Assignment Due by Today

9. Political Equality I

Wednesday, October 3

Case: Campaign Contributions

Kathleen M. Sullivan, "Political Money and Freedom of Speech," *U.C. Davis Law Review* 30:3 (1997), pp. 663-690. **[on-line]**

Ronald Dworkin, "Free Speech and the Dimensions of Democracy," in *If Buckley Fell: A First Amendment Blueprint For Regulating Money in Politics*, ed. E. Joshua Rosenkranz (1999), pp. 63-101, 191-193. **[packet]**

Dennis F. Thompson, "Mediated Corruption: The Case of the Keating Five," *American Political Science Review* 87:2 (1993), pp. 369-381. **[on-line]**

MONDAY, OCTOBER 8 – NO CLASS (COLUMBUS DAY)

10. Political Equality II

Wednesday, October 10

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. **[on-line]**

Holder v. Hall, 514 U.S. 874 (1994) (concurrence of Justice Thomas), excerpts. **[on-line]**

Miller v. Johnson, 515 U.S. 900 (1995) (dissent of Justice Ginsberg), excerpts. **[on-line]**

Charles R. Beitz, *Political Equality* (1989), pp. 3-24, 141-163. **[on-line]**

Group Z: 1st Written Assignment Due by Today

11. Public Reason and Community Values

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. 1-8. **[on-line]**

John Rawls, "The Idea of Public Reason Revisited," in *Collected Papers* (1999), pp. 573-615. **[packet]**

PART III: POLITICAL PRINCIPLES ACROSS POLITICAL BOUNDARIES

12. Cross-Cultural Conflicts of Value

Wednesday, October 17

Case: The Theistani Poet

Taslina Nasrin, "Happy Marriage," *The New Yorker*, Sept. 12, 1994, p. 55. **[on-line]**

Bernard Williams, *Morality: An Introduction to Ethics* (1972), pp. 20-26. **[on-line]**

John Rawls, *The Law of Peoples* (1999), pp. 59-88. **[on-line]**

Susan Okin, "Is Multiculturalism Bad for Women?" in *Is Multiculturalism Bad for Women?* eds. Joshua Cohen et al. (1999), pp. 9-24, 133-135. **[on-line]**

Azizah al-Hibri, "Is Western Patriarchal Feminism Good for Third World / Minority Women?" in *Is Multiculturalism Bad for Women?* eds. Joshua Cohen et al. (1999), pp. 41-46, 135-136. **[on-line]**

13. Human Rights and Intervention

Monday, October 22

Case: Intervening in Dystopia

Michael Walzer, *Just and Unjust Wars* (1977), pp. 51-63, 86-108, 339-342. **[on-line]**

David Luban, "The Romance of the Nation-State," *Philosophy & Public Affairs* 9:4 (1980), pp. 392-397. **[on-line]**

Arthur Isak Applbaum, "Forcing a People to Be Free," *Philosophy & Public Affairs* 35:4 (2007), pp. 359-400. **[on-line]**

14. Founding Moments and Legitimacy

Wednesday, October 24

Case: The Arab Spring

Duncan Pickard, “The Transitional National Council of Libya,” HKS Case Program, Draft **[on-line]**

Thomas Hobbes, “Of Persons, Authors, and Things Personated,” in *Leviathan* (1651), ed. Richard Tuck (1996), pp. 111-115. **[packet]**

Arthur Isak Applbaum, “All Foundings Are Forced,” Draft **[on-line]**

Group X: 2nd Written Assignment Due by Today

15. Global Justice and Immigration

Monday, October 29

Case: Immigration Policy

Joseph Carens, “Aliens and Citizens: The Case for Open Borders,” *The Review of Politics* 49:2 (1987), pp. 251-273. **[on-line]**

Michael Blake, “Immigration,” in *A Companion to Applied Ethics*, eds. R.G. Frey and Christopher Heath Wellman (2003), pp. 224-237. **[on-line]**

Mathias Risse, “On the Morality of Immigration,” *Ethics and International Affairs* 22:1 (2008), pp. 25-33. **[on-line]**

Thomas Nagel, “The Problem of Global Justice,” *Philosophy & Public Affairs* 33:2 (2005), pp. 113-147. **[on-line]**

PART IV: POLITICAL AUTHORITY AND PUBLIC ROLES

16. Ethics and Adversaries

Wednesday, October 31

Case: Political Deception

“Miller and Furloughs” [rev. 9/91] (1 page). **[on-line]**

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 *The Founders’ Constitution, Vol. 1*, eds. Philip B. Kurland and Ralph Lerner (1987), pp. 128-131, 330-331. **[on-line]**

Group Y: 2nd Written Assignment Due by Today

17. A Division of Moral Labor?

Monday, November 5

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]**

“Marbury v. Madison,” in *American Government*, ed. James Q. Wilson (1989), p. 392. **[packet]**

Sir Michael Quinlan, “Controversy: Ethics in the Public Service,” *Governance* 6:4 (1993), pp. 538-544. **[on-line]**

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

18. Obligation to Obey the Law

Wednesday, November 7

Case: Marijuana

Plato, "Crito," in *Civil Disobedience in Focus*, ed. Hugo Adam Bedau (1991), pp. 13-27. **[on-line]**

M.B.E. Smith, "Is There a Prima Facie Obligation to Obey the Law?" *Yale Law Journal* 82:5 (1973), pp. 950-976. **[on-line]**

Joseph Raz, "Authority and Justification," *Philosophy & Public Affairs* 14:1 (1985), pp. 3-29. **[on-line]**

Group Z: 2nd Written Assignment Due by Today

MONDAY, NOVEMBER 12 – NO CLASS (VETERANS DAY)

19. What is Law?

Wednesday, November 14

Case: Legal Deadlines

Hunter v. Norman (1 page). **[on-line]**

International Union, United Mine Workers of America v. Mine Safety and Health Administration, U.S. Court of Appeals for the D.C. Circuit, No. 89-1563 (1990). **[on-line]**

Frederick Schauer, *Playing By the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and in Life* (1991), pp. 38-52, 149-158, 196-206. **[on-line]**

Jeffrie Murphy and Jules Coleman, "The Nature of Law," in *Philosophy of Law: An Introduction to Jurisprudence* (1990), pp. 11-19, 26-51, 55-65. **[on-line]**

20. What is Legitimate Law?
Monday, November 19

Case: The Fugitive Slave Act

Robert Cover, *Justice Accused: Antislavery and the Judicial Process* (1975), pp. 1-7, 159-193, 249-252, 268, 296-303, 309-310. **[on-line]**

Ronald Dworkin, *Freedom's Law* (1996), pp. 7-35, 349-351. **[packet]**

Jeremy Waldron, "The Constitutional Conception of Democracy," in *Law and Disagreement* (2001), pp. 282-312. **[on-line]**

WEDNESDAY, NOVEMBER 21 – NO CLASS (THANKSGIVING RECESS)

21. Civil Disobedience
Monday, November 26

Cases: Segregated Buses, Abortion Clinics, AIDS Drugs

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

Ronald Dworkin, "Civil Disobedience and Nuclear Protest," in *A Matter of Principle* (1985), pp. 104-116, 404. **[packet]**

John Rawls, *A Theory of Justice: Revised Edition* (1999 [1st ed. 1971]), pp. 308-343 (§§ 53-59). **[book]**

22. Official Disobedience

Wednesday, November 28

Cases: Leaking and Whistleblowing

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

Taylor Branch, "The Odd Couple," in *Ethics and Politics*, 3rd ed. (1997), pp. 152-161. [packet]

Emily Gold Boutilier, "The Woman Who Knew Too Much," *Brown Alumni Magazine*, March/April 2004. [on-line]

Jane Mayer, "Lost in the Jihad: Why Did the Government's Case against John Walker Lindh Collapse?" *The New Yorker*, March 10, 2003. [on-line]

Rahul Sagar, "On Combating the Abuse of State Secrecy," *Journal of Political Philosophy* 15:4 (2007), pp. 404-427. [on-line]

Group X: 3rd Written Assignment Due by Today

23. Political Legitimacy and Discretion

Monday, December 3

Case: Legal Services

Mark H. Moore and Malcolm K. Sparrow, "David Goldman and California Legal Services," in *Ethics in Government: The Moral Challenge of Public Leadership* (1990), pp. 57-63. [packet]

Arthur Isak Applbaum, "Democratic Legitimacy and Official Discretion," in *Ethics for Adversaries* (1999), pp. 207-239. [book]

Group Y: 3rd 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]**

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. **[on-line]**

Joel Feinberg, "Collective Responsibility," *Journal of Philosophy* 65:21 (1968), pp. 674-688. **[on-line]**

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

Group Z: 3rd Written Assignment Due by Today