

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

**API-601: THE RESPONSIBILITIES OF PUBLIC ACTION**

**FALL 2005**

**SECTION D**

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Office Hours: Thursday, 3-5 (please sign up) or by appointment

M/W 2.40 – 4 (Wiener)

Teaching Fellow: Margaret Sadock (email: msadock@hds.harvard.edu)

C1: Tuesday, 1.10 – 2.30, 124 Mount Auburn, Rm. 160  
C2: Tuesday, 2.40 – 4.00, 124 Mount Auburn, Rm. 160

**GETTING STARTED**

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

**API-601: 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).

API-601 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 discussion group conducted by your Teaching Fellow. For the first five weeks, attendance is mandatory, afterwards voluntary and will be counted favorably towards your class participation grade. For the first five weeks of the term, you are also required to work in study groups. Afterwards, working in study groups is voluntary, and again will be counted favorably towards your participation grade. Class participation counts for 20% of your grade.

### **On-Line Participation**

I am experimenting this semester with incorporating discussion from a web-log into the course. After each class, I will post reflections, comments, or questions to which students can respond using the comment feature. If you would like to post a topic for comment and discussion, send it to Margaret or me via email ([archon\\_fung@harvard.edu](mailto:archon_fung@harvard.edu) or [msadock@hds.harvard.edu](mailto:msadock@hds.harvard.edu)) and one of us will post it for you. The time for discussion in both sections and lectures is necessarily limited, and this format may allow more fruitful exchange. The URL for the weblog is:

<http://www.archonfung.net/weblog/responsibility>

Participation in this on-line forum will count toward your class participation grade.

### **Written Assignments**

For each class meeting, a written exercise is assigned. You are required to satisfactorily complete **four** of these assignments. They are due at the start of the class in which the topic is considered, and should not exceed 750 words. The first assignment will not be graded, and the remaining assignments will count for 40% of your course grade. There will be four deadlines during the term by which the respectively next assignment will have to be submitted. You cannot submit a paper on a day later than the day for which it was assigned. Late assignments will not be accepted.

### **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 at 12:00 pm, Wednesday, Dec. 14, 2005, and are

due by 4:00 pm, Friday, January 13, 2006. Examinations may be returned by mail or courier, but emailed or faxed submissions are not acceptable. The final exam counts for 40% of your grade. *Late examinations will be heavily penalized.*

## READINGS

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

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

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

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

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

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

William Kymlicka, *Contemporary Political Philosophy, 2<sup>nd</sup> Edition* (Oxford Univ. Press, 2001).

Also recommended as background:

Mathias Risse, "How to Write a Philosophy Paper"

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

## INTRODUCTION

### 1. Roles and Principles

Wednesday, September 14

**Case:** Legislative Discretion

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

Edmund Burke, “Speech to the Electors of Bristol” (1774), in *The Works of the Right Honorable Edmund Burke, Volume II* (1906), pp. 186-187.

#### **Recommended (on political ethics):**

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

#### **Recommended (General Background):**

Judith N. Shklar, “Liberalism of Fear,” in *Liberalism and the Moral Life*, ed. Nancy L. Rosenblum (1989), pp. 21-38, 255-256.

Anthony Weston, “Definition,” in *A Rulebook for Arguments*, 2<sup>nd</sup> ed. (1992), pp. 89-95.

Robert Audi (editor), *The Cambridge Dictionary of Philosophy* (1995), entries on “circular reasoning” (pp. 124), “formal fallacy” (pp. 271-273), and “informal fallacy” (pp. 373-376).

Mathias Risse, “Some Remarks on Writing a Philosophy Paper”.

## PART I. POLITICAL PRINCIPLES AND PUBLIC POLICY

### 2. Liberty and Its Limits I: Freedom of Conscience

Monday, September 19

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

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

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

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

### **3. Liberty and Its Limits II: Speech and Harm** **Wednesday, September 21**

**Case:** Radio Television Libre des Mille Collines (RTLM) and the Rwandan Genocide

United Nations (Rwanda International Criminal Tribunal), “The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, and Hassan Ngeze” (3 December 2003), excerpts.

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

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

### **4. Liberty and Its Limits III: Paternalism** **Monday, September 26**

**Case:** Cigarettes

\*Dennis F. Thompson, “Paternalistic Power,” in *Political Ethics and Public Office* (1987), pp. 148-177. [BOOK]

### **5. Liberty and Its Limits IV: Moralism and the Limits of Choice** **Wednesday, September 28**

**Case:** Surrogate Motherhood

\*Elizabeth S. Anderson, “Is Women’s Labor a Commodity?” *Philosophy & Public Affairs* 19:1 (1990), pp. 71-92.

Judith Andre, “Blocked Exchanges: A Taxonomy,” *Ethics* 103:1 (1992), pp. 29-47.

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

**6. Equality I: Distributive Justice**  
**Monday, October 3**

**Case:** Distributing Educational Resources

William Kymlicka, sections 1-3 from “Liberal Equality,” in *Contemporary Political Philosophy* (2002), pp. 53-75.

Jonathan Kozol, “Children of the City Invincible (Chap. 4)” in *Savage Inequalities* (1993), pp. 133-174.

National Research Council, Committee on Education Finance. “Equity I: Spending on Schools” in *Making Money Matter: Financing America’s Schools* (Washington, D.C.: National Academies Press, 1999). Selections, pp. 89-100.

**7. Equality II: Applying the Concept of Equality**  
**Wednesday, October 5**

**Case:** Allocating a Scarce Drug

Frederick Schauer, “Multiple Sclerosis and the Allocation of Betaseron” (1 page).

Thomas Nagel, “Equality,” in *Mortal Questions* (1979), pp. 106-127.

**Monday, October 10– NO CLASS (COLUMBUS DAY)**

**8. Equality III: Political Equality**  
**Wednesday, October 12**

**Case:** Racial Districting

Shaw vs. Reno, Selections (O’Connor majority opinion, Stevens dissent).

Lani Guinier, “Second Proms and Second Primaries,” *Boston Review* 17:5 (2002).

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”).

“Elections with No Meaning” (editorial), *New York Times* (February 21, 2004), pp. A1.

## **9. Democracy and Deliberation**

### **Monday, October 17**

**Case:** Public Deliberation in Rebuilding New York City

Archon Fung and Susan Rosegrant “Listening to the City: What Should Be Built at Ground Zero” in *Ethics and Politics: Cases and Comments 4<sup>th</sup> Edition*, ed. Amy Gutmann and Dennis Thompson (Belmont, CA: Thomson Wadsworth, 2006): 303-310.

Elster, Jon, “The Market and the Forum: Three Varieties of Political Theory,” in *Foundations of Social Choice Theory*, ed. Jon Elster (New York: Cambridge Univ. Press, 1989), pp. 103 – 132.

## **10. Democracy and Difference I: Community Values**

### **Wednesday, October 19**

**Case:** Gay Marriage

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

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

**Recommended:**

John Rawls, *Justice as Fairness: A Restatement* (1999), pp. 14-38.

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

## **11. Democracy and Difference II: Accommodation**

### **Monday, October 24**

**Case:** Religious Fundamentalism and Public Education

Gregory M. Stankiewicz, “The Controversial Curriculum,” in *Ethics and Politics: Cases and Comments [3<sup>rd</sup> edition]*, eds. Amy Gutmann and Dennis Thompson (1997), pp. 327-333.

Stephen Macedo, "Multiculturalism and the Religious Right" and "Diversity and the Problem of Justification," in *Diversity and Distrust: Civic Education in a Multicultural Democracy* (2000), pp. 153-187, 313-321.

## **2<sup>nd</sup> Written Assignment Due By Today**

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

#### **12. Cross-Cultural Conflicts of Value**

**Wednesday, October 26**

**Case:** Gender Bias in Theistan

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

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

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

#### **13. War and Intervention**

**Monday, October 31**

**Case:** Intervening in Iraq

"Why Attack Iraq?" in *Ethics and Politics: Cases and Comments 4<sup>th</sup> Edition*, ed. Amy Gutmann and Dennis Thompson (Belmont, CA: Thomson Wadsworth, 2006): 45-58.

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

#### **14. Torture in a Democracy**

**Wednesday, November 2**

**Case:** U.S. Interrogation of Prisoners

"Interrogating Detainees" in *Ethics and Politics: Cases and Comments 4<sup>th</sup> Edition*, ed. Amy Gutmann and Dennis Thompson (Belmont, CA: Thomson Wadsworth, 2006): 60-69.

Alan Dershowitz. "Should the Ticking Time Bomb Terrorist Be Tortured? A Case Study in How a Democracy Should Make Tragic Choices" in *Why Terrorism Works* (New Haven: Yale University Press, 2002): 131-164.

**Optional:**

Mark Bowden. "The Dark Art of Interrogation" in *Atlantic Monthly* (October 2003), 31-75.

**15. Global Justice and Famine Relief**

**Monday, November 7**

**Case:** Famine Relief

Peter Singer, "Famine, Affluence, and Morality," *Philosophy & Public Affairs* 1:3 (1972), pp. 229-243.

Amartya Sen, "Freedom and the Foundations of Justice," in *Development as Freedom* (1999), pp. 54-86, 303-314.

**16. Global Justice and Economic Inequality**

**Wednesday, November 9**

**Case:** Agricultural Protections

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

Thomas Nagel. "The Problem of Global Justice" in *Philosophy and Public Affairs*, Vol. 33, No. 2 (2005): 113-47.

Oxfam, Executive Summary, *Rigged Rules and Double Standards: Trade, Globalisation, and the Fight Against Poverty* (2002), pp. 1-19.

**PART III. POLITICAL AUTHORITY AND PUBLIC ROLES**

**17. Ethics and Adversaries**

**Monday, November 14**

**Case:** Political Deception

"Miller and Furloughs" [rev. 9/91] (1 page).

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.

### ***3<sup>rd</sup> Written Assignment Due by Today***

#### **18. A Division of Moral Labor? Wednesday, November 16**

**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.

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

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

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

#### **19. Obligation to Obey the Law Monday, November 21**

**Case:** Marijuana

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

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

### **WEDNESDAY, NOVEMBER 23– NO CLASS**

#### **20. What is Legitimate Law? Monday, November 28**

**Case:** South African Judges Under Apartheid

Raymond Wacks, "Judges and Injustice," *South African Law Journal* v. 101 (1984), pp. 266-285.

John Dugard, "Should Judges Resign? A Reply to Professor Wacks," *South African Law Journal* v. 101 (1984), pp. 286-294.

## **21. Civil Disobedience and Protest** **Wednesday, November 30**

**Cases:** Protest Activity

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

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

## **22. Official Disobedience** **Monday, December 5**

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 F. Thompson (1997), pp. 161-171.

"Agent Rowley Blows the Whistle" in *Ethics and Politics: Cases and Comments [4<sup>th</sup> edition]*, eds. Amy Gutmann and Dennis F. Thompson (2006), pp. 226-234.

"The Interview" in *Time Magazine* (December 20, 2002—January 6, 2003): pp. 58-60.

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

**23. Political Legitimacy and Discretion**  
**Wednesday, December 7**

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.

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

**4<sup>th</sup> Written Assignment Due by Today**

**24. Taking Responsibility**  
**Monday, December 12**

**Case:** The Iraqi Kurds, 1988

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

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

**Recommended:**

Noam Chomsky, "Humanitarian Intervention," *Boston Review* 18:6 (December 1993/January 1994).