

**PHIL 431 Law, Society, and Politics
Spring 2018**

Seminars: Mondays 8:30am – 9:50am
Room: VKC 102

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Course Description and Learning Objectives

This class will focus on the morality of defensive force and just war theory. Here are some of the questions we will consider:

- What, if anything, grounds the moral permission to impose serious defensive harm on others?
- What is the basis of moral liability to defensive harm?
- What grounds judgments regarding whether a given level of defensive force is proportionate?
- Do judgments regarding the permissibility of imposing defensive harm depend on the epistemic position of the agent imposing the harm?
- Are the moral principles that govern harming and killing in war essentially the same as the moral principles that apply to ordinary individual morality, or are there special sui generis principles governing war?
- Are combatants equally constrained and protected by the same principles of just conduct in war regardless of which side in the conflict they fight for?
- Is the traditional principle of distinction—one that sharply distinguishes between combatants and noncombatants—defensible?
- Is there a clear and useful distinction to be drawn between the morality of war as opposed to the rules of war?

No background in moral or political philosophy is presupposed.

Required Texts

All the required texts will be posted on Blackboard.

Note that it is strictly forbidden to use and/or distribute these texts for any purpose other than reading for the class. Doing so would constitute a copyright violation.

Grading

Midterm exam: 1/3 of provisional grade
Final paper: 2/3 of provisional grade

Your grades on the midterm and the final constitute your *provisional* grade for the course. Your *final* grade can also be affected by your *preparation, participation, and attendance*. More on all this below.

The final paper must be 3,000-3,300 words in length. You are required to submit it via Blackboard. There will be a penalty of one letter grade increment for every day after the deadline an essay is submitted. So, for example, if you submit your paper one day late, and the paper is judged to be worth an A, you will only receive an A- grade for the paper. If you submit the same paper two days late, it will receive a grade of B+, and so on. Note that a submission on the correct date but after the 5pm deadline will count as one day late.

The final paper is due **Monday April 30th at 9am**.

The midterm exam will be conducted in class on **Wednesday February 14th**.

Further details about the content of the midterm exam and the final paper will be provided in due course. Please see the University Catalogue or Grade Handbook for definitions of particular grades.

Preparation: Each week (except for the first week) you must write approximately 250-300 words in response to an assigned question on the week's reading, which must be submitted to me in hard copy at the start of Monday's class (when Monday is a university holiday, the assignment is due on Wednesday). These assignments will not be graded, but they must be completed each week to an acceptable standard. Students who fail to submit their weekly writing assignment (or hand in assignments that fail to meet the minimum standard) more than twice will have their final grade *lowered by one grade increment*. If you fail to submit more than four weekly writing assignments, your final grade will be *lowered by two grade increments*. So, for example, if your provisional grade is a B+, but you fail to submit your writing assignments three times, then your final grade will drop to a B. If you fail to submit your writing assignments five times, then your final grade will drop to a B-. Successfully completing the weekly writing

assignments is thus a way of *maintaining* your provisional grade. These weekly assignments provide you with an extra incentive to keep up with the weekly readings and come prepared to each class.

Participation: Participation in class discussions is an important part of making the course a success. Students who regularly make excellent class contributions in class will, at the end of the course, have their overall grade *increased by one letter grade increment*. So, for example, if your provisional grade is a B+ but you regularly make excellent contributions to your discussion section, your final grade will be an A-. Note: *your performance in class discussion can only improve your final grade*: it cannot diminish your final grade. Also, students who choose to participate in USC's **Joint Educational Project** and successfully complete that program will receive an increase of one letter grade increment. Note, however, that you can receive the one letter grade increment increase only once, either via excellent class participation or via successfully completing the JEP: you cannot receive two increases in your final grade.

Attendance: **Attendance is mandatory.** If you are absent from more than two classes without a valid and verifiable excuse your final grade will be *lowered by one grade increment*. If you are absent from more than four classes your final grade will be *lowered by two increments*.

Preparation for Class/Class Format

The format for the course is a combination of lectures and discussion, and you are encouraged to ask questions of me, and of each other whenever something is puzzling, or whenever you feel an important point is being overlooked. The aim of the course is to have thoughtful and well-reasoned discussions and arguments about the issues, and the course will be more intellectually rewarding the more each person joins in the discussion. Participating in class is also a small part of how you will be assessed (see above). If you are particularly uncomfortable with public speaking, please speak to your discussion section instructor about this.

You will be expected to come to class having done the required reading. When you prepare for class, it's important not simply to read the assigned material, but to read it carefully and critically. If this is the first time you have read philosophical work, the style of writing and argument can take some getting used to. The material is sometimes dense and difficult: a lot of complicated arguments can be found in the space of just a few pages, and this means you may need to read the material more than once to gain a clear understanding of an author's argument. I strongly encourage you to make careful notes as you read. Of course different people have different methods of note-taking, but

whatever your method, you should be taking notes in a way that will help you achieve the following aims:

- Gain a clear understanding of the author’s main claims and the arguments the author uses to try and establish these claims. You have a clear understanding when you can accurately summarize the author’s key claims and arguments in your own words.
- Identify any terms/claims/ideas that remain puzzling to you.
- Try to understand how the author’s view might be challenged. This means you must read with a critical eye. Try to identify the weak points in an argument or think of counterexamples to what the author is saying, or look for implications of their view that might seem unacceptable or inconsistent.
- Try to understand the wider implications of the author’s position—see how his/her view fits (or doesn’t fit) with the views of other philosophers we are reading.

Policies on Disability, Academic Integrity, and Electronic Devices

Students who need to request accommodations based on a disability are required to register each semester with the Disability Services and Programs. In addition, a letter of verification to the instructors from the Disability Services and Programs is needed for the semester you are enrolled in this course. If you have any questions concerning this procedure, please contact the course instructor and Disability Services and Programs at (213) 740-0776, STU 301.

No form of plagiarism or other type of academic dishonesty will be tolerated, and **ignorance of the rules regarding plagiarism is no excuse**. If in any doubt about what constitutes plagiarism or any other question about academic integrity, please ask your discussion section instructor or me. Do not assume the answer can be obtained from another source. General principles of academic honesty include the concept of respect for the intellectual property of others, the expectation that individual work will be submitted unless otherwise allowed by an instructor, and the obligations both to protect one’s own academic work from misuse by others as well as to avoid using another’s work as one’s own. All students are expected to understand and abide by these principles. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Part B, Section 11, “Behavior Violating University Standards” policy.usc.edu/scampus-part-b. Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct, <http://policy.usc.edu/scientific-misconduct>. Students will be referred to the Office of Student Judicial Affairs and Community Standards for further review, should

there be any suspicion of academic dishonesty. The Review process can be found at: <http://www.usc.edu/student-affairs/SJACS/>

The use of tablets, laptops, cell phones, and other electronic devices in class is prohibited. The use of these devices is distracting for other students, and studies have shown that students who take notes by hand tend to do better learning the material being discussed. Lecture slides will be made available via Blackboard after class. You should check Blackboard and your University email account regularly for information about the course.

Schedule of Topics and Readings

Part I The Morality of Defensive Force

- Jan. 8** **Intro – no required reading**
- Jan. 10** **Innocent Threats and Aggressors**
- Judith Jarvis Thomson, 'Self-Defense,' *Philosophy & Public Affairs* (1991)
- Jan. 15** **University Holiday – No Class**
- Jan. 17** **Innocent Threats and Aggressors**
- Michael Otsuka, 'Killing the Innocent in Self-Defense,' *Philosophy & Public Affairs* (1994)
- Jan. 22** **Liability**
- Jeff McMahan, 'The Basis of Moral Liability to Defensive Killing,' *Philosophical Issues* (2005)
- Jan. 24** **Liability**
- Kerah Gordon-Solmon, "What Makes a Person Liable to Defensive Harm?" *Philosophy and Phenomenological Research* (forthcoming)
- Jan. 29** **Proportionality and Partial Excuses**
- Saba Bazargan, 'Killing Minimally Responsible Threats,' *Ethics* (2014)
- Jan. 31** **Proportionality and Partial Excuses**
- Jonathan Quong, 'Proportionality, Liability, and Defensive Harm,' *Philosophy & Public Affairs* (2015)
- Feb. 5** **Necessity**
- Seth Lazar, 'Necessity in Self-Defense and War,' *Philosophy & Public Affairs* (2012)
- Feb. 7** **Necessity**
- Jeff McMahan, 'The Limits of Self-Defense: Retreat, Submission, and Conditional Threats,' *The Ethics of Self-Defense* (OUP)
- Feb. 12** **The Means Principle**
- Victor Tadros, *The Ends of Harm* (OUP), chapter 6

- Feb. 14** **Midterm Exam**
- Feb. 19** **University Holiday - No Class**
- Feb. 21** **Evidence, Uncertainty, and Insincerity**
- Kimberly Ferzan, 'The Bluff: The Power of Insincere Actions,' (unpublished)
- Feb. 26** **Evidence, Uncertainty, and Insincerity**
- Renee Bolinger, 'The Moral Grounds of Mistaken Self-Defense,' (unpublished)
- Feb. 28** **Consent and Third Party Defensive Force**
- Jonathan Parry, 'Defensive Harm, Consent, and Intervention,' *Philosophy & Public Affairs* (2017)
- Part II** **Just War**
- Mar. 5** **The Moral Equality of Combatants**
- Michael Walzer, *Just and Unjust Wars* (Basic Books), chapter 3
- Mar. 7** **The Moral Equality of Combatants**
- Jeff McMahan, *Killing in War* (OUP), chapter 1
- Mar. 11 – 18** **Spring Break**
- Mar. 19** **Orders and Authority**
- David Estlund, "On Following Orders in an Unjust War" *Journal of Political Philosophy* (2007)
- Mar. 21** **Orders and Authority**
- Jonathan Parry, "Authority and Harm" *Oxford Studies in Political Philosophy* (2017)
- Mar. 26** **Proportionality and Just Cause**
- Thomas Hurka, 'Proportionality and the Morality of War,' *Philosophy & Public Affairs* (2005)
- Mar. 28** **No Class**
- Apr. 2** **Noncombatant Immunity and Liability**
- Cecile Fabre, 'Guns, Food, and Liability to Attack in War,' *Ethics* (2009)
- Apr. 4** **Noncombatant Immunity and Liability**
- Helen Frowe, *Defensive Killing* (OUP), chapter 6
- Apr. 9** **Vicarious and Complicitous Liability**
- Saba Bazargan, 'Complicitous Liability in War,' *Philosophical Studies* (2013)
- Apr. 11** **Vicarious and Complicitous Liability**
- Victor Tadros, 'Orwell's Battle with Brittain: Vicarious Liability for Unjust Aggression,' *Philosophy & Public Affairs* (2014)

- Apr. 16** **National Defense and Reductionism**
- Cecile Fabre, 'Cosmopolitanism and Wars of Self-Defense,' in *The Morality of Defensive War* (OUP)
- Apr. 18** **National Defense and Reductionism**
- Anna Stilz, 'Authority, Self-Determination, and Community in *Cosmopolitan War*,' *Law and Philosophy* (2014)
- Apr. 23** **Deep Morality vs. Laws**
- Jeff McMahan, 'The Morality of War and the Laws of War,' in *Just and Unjust Warriors* (OUP, 2008)
- Apr. 25** **Deep Morality vs. Laws**
- Michael Otsuka, 'Licensed to Kill,' *Analysis* (2011)