

PHIL 431 Law, Society, and Politics
Fall 2022

MWF 12pm– 12:50pm
Room CPA 155

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Office Hours: Mondays and Fridays 10am – 11am or by email appointment
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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, legal, or political philosophy is presupposed.

Content Warning: The readings, lectures, and discussions for the course will frequently involve examples, both hypothetical and real, involving serious violence, including some cases of sexual assault. Whenever the readings or planned lectures contain discussions of sexual assault, I will provide advance warning.

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

Three Short Papers:	75% of provisional grade
Final exam:	25% of provisional grade

Your grades on the short papers and the final exam constitute your provisional grade for the course. Your final grade can also be affected by your participation and attendance. More on all this below.

You are required to submit **three short critical papers** (1500-1700 words each) over the course of the entire semester. You can (subject to some constraints described below) choose which weeks you submit your short papers. These papers should provide a brief critique of some aspect of the required reading for that week. These papers **must** be submitted to me via email **before the start of class on Monday of the relevant week (or Wednesday where the Monday is a holiday)**. You cannot submit papers on a topic once the classes on that topic have begun. Each paper will be graded and each paper constitutes 25% of your provisional grade.

Your first short paper must be submitted **no later than prior to class on Sept. 26th**
 Your second short paper must be submitted **no later than prior to class on Oct. 31st**
 Your third short paper must be submitted **no later than prior to class on Nov. 28th**

The final exam takes place **Friday Dec. 9th 11am-1pm**. Details about the final exam will be provided in due course.

Please see the University Catalogue or Grade Handbook for definitions of particular grades.

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.

Attendance: Attendance (in person) is mandatory unless you have a valid OSAS accommodation. If you are absent from more than three classes without a valid and verifiable excuse your final grade will be lowered by one letter grade increment (e.g. from an A- to a B+). If you are absent from more than six classes your final grade will be lowered by two increments (e.g. from a B+ to a B-).

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 something is being overlooked. The aim of the course is to have thoughtful and well-reasoned discussions 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).

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. I strongly encourage you to make careful notes as you read.

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/>

Schedule of Topics and Readings

<u>Part I</u>	<u>The Morality of Defensive Force</u>
Aug. 22	Intro – no required reading
Aug. 24/26	Innocent Threats and Aggressors <ul style="list-style-type: none"> • Judith Jarvis Thomson, 'Self-Defense,' <i>Philosophy & Public Affairs</i> (1991)
Aug. 29	Innocent Threats and Aggressors <ul style="list-style-type: none"> • Michael Otsuka, 'Killing the Innocent in Self-Defense,' <i>Philosophy & Public Affairs</i> (1994)
Aug. 31/Sept. 2	Liability <ul style="list-style-type: none"> • Jeff McMahan, 'The Basis of Moral Liability to Defensive Killing,' <i>Philosophical Issues</i> (2005)
Sept. 5	Labor Day – No Class
Sept. 7/9	Liability <ul style="list-style-type: none"> • Jonathan Quong, <i>The Morality of Defensive Force</i>, chapter 2
Sept. 12/14/16	Proportionality and Partial Excuses <ul style="list-style-type: none"> • Saba Bazargan, 'Killing Minimally Responsible Threats,' <i>Ethics</i> (2014)
Sept. 19/21/23	Necessity <ul style="list-style-type: none"> • Jeff McMahan, 'The Limits of Self-Defense: Retreat, Submission, and Conditional Threats,' <i>The Ethics of Self-Defense</i> (OUP)
Sept. 26/28/30	The Means Principle <ul style="list-style-type: none"> • Victor Tadros, <i>The Ends of Harm</i> (OUP), chapter 6
Oct. 3/5/7	Evidence, Uncertainty, and Insincerity <ul style="list-style-type: none"> • Renée Jorgensen, 'The Moral Grounds of Reasonably Mistaken Self-Defense,' <i>Philosophy & Phenomenological Research</i> (2021)

- Oct. 10/12** **Consent and Third Party Defensive Force**
- Jonathan Parry, 'Defensive Harm, Consent, and Intervention,' *Philosophy & Public Affairs* (2017)
- Oct. 14** **Fall Recess**
- Part II** **Just War**
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- Oct. 17/19/21** **The Moral Equality of Combatants**
- Michael Walzer, *Just and Unjust Wars* (Basic Books), chapter 3
 - Jeff McMahan, *Killing in War* (OUP), chapter 1
- Oct. 24/26/28** **Orders and Authority**
- David Estlund, "On Following Orders in an Unjust War" *Journal of Political Philosophy* (2007)
- Oct. 31/Nov. 2/4** **Proportionality: Cause and Time**
- Thomas Hurka, 'Proportionality and the Morality of War,' *Philosophy & Public Affairs* (2005)
- Nov. 7/9/11** **Noncombatant Immunity and Liability**
- Cecile Fabre, 'Guns, Food, and Liability to Attack in War,' *Ethics* (2009)
 - Helen Frowe, *Defensive Killing* (OUP), chapter 6
- Nov. 14/16/18** **Vicarious and Complicitous Liability**
- Victor Tadros, 'Orwell's Battle with Britain: Vicarious Liability for Unjust Aggression,' *Philosophy & Public Affairs* (2014)
- Nov. 21** **National Defense and Reductionism**
- Anna Stilz, 'Authority, Self-Determination, and Community in *Cosmopolitan War*,' *Law and Philosophy* (2014)
- Nov. 23/25** **Thanksgiving Break**
- Nov. 28/30/Dec. 2** **Deep Morality vs. Laws**
- Jeff McMahan, 'The Morality of War and the Laws of War,' in *Just and Unjust Warriors* (OUP, 2008)
 - Michael Otsuka, 'Licensed to Kill,' *Analysis* (2011)