

## **PHIL 456H: International Law & Justice**

Spring 2016

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**Office Hours:** Wednesday 2:00 – 4:00 PM

I will be in my office and available during office hours, but you can make appointments to see me at other times. My preference is that we make appointments by email, and have substantive discussions face-to-face.

### **Course Description**

International relations raises special and pressing philosophical problems. Some are classic and familiar: Is it sensible to talk about morality and justice when it comes to relations between states? What ends may a sovereign state legitimately pursue and what means can be legitimately employed? Relatedly, when is a war just? Are there moral limits in the conduct of war and, if so, what are they? The rise of new international institutions, problems and concerns, however, have brought into relief a relatively new set of questions. These include: In what sense is international law *law* and in what sense does it have authority? What international institutions ought we have? What, if anything, do better off peoples owe the less well-off, i.e. what does international distributive justice look like? What are human rights, which human rights do we have, and how should their demands be realized? Who should respond to the needs of refugees, and what should that response be? This course will examine recent philosophical reflection on these and related questions. We will not simply be interested in how international political history has played out, though that may be relevant in some respects, but rather in what standards are appropriate for assessing persons and institutions whose actions have international import.

### **Learning Objectives**

The student will:

- Be familiar with some of the recent philosophical work on the topics of international law and justice
- Develop and be capable of articulating cogent and defensible views on legitimate international governance
- Demonstrate an ability to write effectively, coherently, and analytically, and with a high degree of argumentative sophistication (C)
- Demonstrate an ability to revise and improve writing in both form and content (C)
- Develop an ability to read and critically consider difficult texts
- Improve ability to reason through and intelligently talk about complex issues
- Demonstrate an understanding of the human experience through the study of philosophy (H)

## Readings

Students are expected to show up to class prepared to discuss, and answer questions concerning, the assigned reading. This is a seminar, so there will be a focus on student to student and instructor to student dialogue. The class discussion will center on students addressing the issues raised by the texts. Successful participation in class, then, requires familiarity with the readings for the course.

The required texts are:

Charles Beitz, *Political Theory and International Relations* (Princeton, 1979/1999)

Michael Walzer, *Just and Unjust Wars* (Basic Books, 1977 or later edition)

Jeff McMahan, *Killing in War* (Oxford, 2009)

In addition to these texts, much of the required reading will be available on Blackboard (marked “[ER]” on the schedule of readings).

## Requirements and Expectations

**Statement from the Binghamton Faculty Senate Executive Committee** on expectations for a four credit course: This course is a 4-credit course, which means that in addition to the scheduled meeting times, students are expected to do at least 9.5 hours of course-related work outside of class each week during the semester. This includes time spent completing assigned readings, participating in lab sessions, studying for tests and examinations, preparing written assignments, and other course-related tasks.

The expectations for this seminar are in conformity with this statement.

Grade Breakdown:

Participation	20%
Class Presentation	15%
Précis Summaries	25%
Paper	40%

Précis: For each class meeting after the first, each student must write a short précis, which concisely summarizes an argument from the assigned reading, and offers some form of independent reflective consideration of that argument. The précis should be no longer than three pages, and should typically be between one and two. Students have the discretion to choose an argument from any of the assigned reading for the class meeting, but the summary should be considerate of the readings as a whole (i.e., it should be cognizant of the argument’s place/role in the readings). The reflective consideration can take the form of a criticism, analysis that moves beyond what is explicitly in the text, a comparison of views, noticing surprising/unexpected corollaries, indicating the importance of the argument for the overall position, and the like – i.e., strategies which move us to intelligently think through the argument. The précis should be submitted to me, paper copy (double-sided preferred), at the start of each class.

Presentation: Each student will be required to give an in class presentation of about 10 – 15 minutes, and to lead the discussion based on that presentation. The presentation can be seen as an extension of the précis assignment: the presenter will give a concise articulation of an argument in the readings, and offer critical consideration of the argument. These components should be adapted for the purposes of an effective public presentation, and the presenter should develop one or two discussion questions to initiate discussion.

Presentations can, but need not, be cooperative: up to two students can give a single presentation. In cooperative presentations, the presenters share a grade. Normally, there will be two presentations per class meeting. Presenters for any given class meeting should be in contact with one another and coordinate, so as not to have too much overlap in topic between presentations. I will be in contact with presenters at least a day prior to their presentation, so that I can structure class to accommodate the presentations. Presenters do not have to submit a précis on the meeting of their presentation.

Paper: Students will be required to write a 10 to 15 page paper. Students have the option of either developing their own topic or selecting one of the topics distributed by me. The writing of the paper will occur in stages, and students should expect to invest considerable effort over the course of several weeks into writing the paper.

*Stage One (Topic Selection)*: One in session week after possible topics have been distributed, hand in a piece of paper indicating which of the topics you are going to write on. If you are writing on your own topic, you should discuss it with me.

*Stage Two (Polished Draft)*: Three in session weeks after the assignment is distributed, you will hand in a polished ten to twenty page draft of your paper. The better the draft, the more likely it is I will be able to provide you with comments that will assist you in producing a good final version. I will return this draft with comments. Failure to turn in a draft, or an inadequate one, will result in penalty on the final paper grade.

*Stage Three (Revision)*: After the draft is returned with comments, you will have about a week and a half to revise your paper.

In general, papers will be assessed on the basis of: (1) accuracy and completeness in portraying the material in question, and (2) the development of a well-reasoned, original assessment of that material.

Students are required to maintain a digital backup of all submitted work until the end of the semester. All drafts should be submitted to Turnitin on Blackboard.

Participation: Students will be assessed on their contributions in class. The grade will be based on the frequency with which students provide valuable verbal contributions to the class. Such contributions include informed responses to instructor questions, participation in classroom discussions, raising relevant and cogent questions, raising such questions in response to student

presentations, responding to questions posed by presenters, and actively participating in group work. Attentively attending class is insufficient for a good participation grade.

### **Course Policies**

Attendance: Attendance in class is mandatory. Students should arrive promptly at the beginning of class with the assigned reading for the day in hand. Students are permitted (1) unexcused absence without penalty. The student must still submit a précis, by email, for any missed classes. Each additional unexcused absence will result in the student's final grade being reduced by one-third a letter grade (e.g. a B becomes a B-).

Late Papers: Papers turned in late will be penalized one-third a letter grade per day of lateness.

Electronics: Without special permission, the use of electronic devices, including computers, is not permitted during class time.

Academic Honesty: Plagiarism and other forms of academic misconduct will be dealt with harshly in accordance with Harpur College policies. The **Student Academic Honesty Code** can be found at:

[[http://www.binghamton.edu:8080/exist7/rest/lists2011-12/2\\_academic\\_policies\\_and\\_procedures\\_all\\_students/academicPoliciesAndProcedureAllStudents.xml?\\_xsl=/db/xsl/compose.xsl](http://www.binghamton.edu:8080/exist7/rest/lists2011-12/2_academic_policies_and_procedures_all_students/academicPoliciesAndProcedureAllStudents.xml?_xsl=/db/xsl/compose.xsl)]

### **Schedule of Readings**

The following plan is subject to revision - I will inform the class of any changes as we go. Listed on the left are the dates of the class meetings, on the right are the readings that will be discussed on those dates. Readings with [ER] next to them are available on Blackboard. Articles from *The Philosophy of International Law* are indicated by *PIL*.

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<b>Jan 25</b>	<b>Introductory Class</b> <b>Thucydides, Melian Dialogue [in class]</b>
<b>Feb 1</b>	<b>Realism and the Possibility of International Morality</b> 1. Hans Morgenthau, Selections from <i>Politics Among Nations</i> [ER] 2. Charles R. Beitz, <i>Political Theory and International Relations</i> , 13-66 3. Michael Walzer, <i>Just and Unjust Wars</i> , 3-20
<b>Feb 8</b>	<b>The Moral Grounds of State Autonomy</b> 1. Walzer, <i>Just and Unjust Wars</i> , 86-108 2. Beitz, <i>Political Theory and International Relations</i> , 69-123 3. Andrew Altman/Christopher Heath Wellman, "Self-Determination and Democracy" from <i>A Liberal Theory of International Justice</i> (2009), 11-42 [ER]
<b>Feb 15</b>	<b>Immigration</b> 1. Joseph Carens, "Aliens and Citizens: The Case for Open Borders" <i>Review of Politics</i> (1987)

251-273 [ER]

2. Christopher Heath Wellman, "Immigration and Freedom of Association" *Ethics* (2008) 109-141 [ER]

3. Sarah Fine, "Freedom of Association is Not the Answer" *Ethics* (2010) 338-356 [ER]

**Feb 22 The Nature of International Law and Its Moral Status**

1. Selections from Antonio Cassese, *International Law* [ER]

2. HLA Hart, "International Law" from *The Concept of Law* (1961), 213-232 [ER]

3. Allen Buchanan/Robert O. Keohane, "The Legitimacy of Global Governance Institutions" in *Human Rights, Legitimacy, & the Use of Force* (2010), 105-133 [ER]

4. Samantha Besson, "The Authority of International Law – Lifting the State Veil" *Sydney Law Review* (2009)

**Feb 29 Human Rights I**

1. Henry Shue, *Basic Rights*, 13-55 [ER]

2. Nicole Hassoun, "World Poverty and Individual Freedom" *American Philosophical Quarterly* (2008) 191-198. [ER]

3. Charles Beitz, "Human Rights as a Common Concern" *American Political Science Review* (2001) 269-282. [ER]

**Mar 7 Human Rights II**

1. *Universal Declaration of Human Rights* [ER]

2. Martha Nussbaum, "Capabilities and Human Rights" *Fordham Law Review* (1997) 273-300 [ER]

3. James Griffin, "First Steps in an Account of Human Rights" in *On Human Rights* (2008) 29-56 [ER]

4. Joseph Raz, "Human Rights without Foundations" [ER]

**Mar 14 Human Rights III**

1. Onora O'Neill, "The Dark Side of Human Rights" *International Affairs* (2005) 427-439 [ER]

2. Elizabeth Ashford, "The Inadequacy of Our Traditional Conception of the Duties Imposed by Human Rights" *Canadian Journal of Law and Jurisprudence* 19, 2 (2006) 217-235 [ER]

3. Jonathan Wolff, "The Content of the Human Right to Health" in *Philosophical Foundations of Human Rights* (2015) 491-501 [ER]

4. Thomas Pogge, "Recognized and Violated by International Law: The Human Rights of the Global Poor" from *Politics as Usual*, 26-56 [ER]

**Mar 21 Global Justice I**

1. John Rawls, *A Theory of Justice*, 3-19 [ER]

2. Beitz, *Political Theory and International Relations*, 127-176

3. Gillian Brock, selections from *Global Justice: A Cosmopolitan Account* [ER]

**Paper Topics Distributed**

**Apr 4 Global Justice II**

1. Thomas Nagel, "The Problem of Global Justice" *Philosophy & Public Affairs* (2005), 113-147 [ER]

2. David Miller, selections from *On Nationality* (1995) [ER]

3. Martha Nussbaum, "Patriotism and Cosmopolitanism" (2002) [ER]

**Select Paper Topic**

**Apr 11 Humanitarian Intervention**

1. Andrew Altman/Christopher Heath Wellman, "From Humanitarian Intervention to Assassination: Human Rights and Political Violence" *Ethics* (2008), 228-257 [ER]

2. Thomas M. Franck, "Humanitarian Intervention" [ER]

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3. Mahmood Mamdani, "Responsibility to Protect or Right to Punish" *Journal of Intervention and Statebuilding* (2010) 53-67 [ER]

**Apr 18 War I**

1. Walzer, *Just and Unjust Wars*, 21-33, 51-85
2. David Luban, "Just War and Human Rights" *Philosophy & Public Affairs* (1980), 160-181 [ER]
3. Walzer, *Just and Unjust Wars*, 34-47

**Paper Draft Due**

**Apr 25 War II**

Jeff McMahan, *Killing in War*, 1-60

**May 2 War III**

McMahan, *Killing in War*, 60-103, 203-235

**Paper Draft Returned w/ Comments**

**May 9 Refugees**

1. Matthew Lister, "Who are Refugees?" *Law and Philosophy* (2013) 617-645 [ER]
2. Serena Parekh, "Beyond the Ethics of Admission: Stateless People, Refugee Camps, and Moral Obligations" *Philosophy and Social Criticism* (2014) 645-663 [ER]
3. Reeves, "Human Rights and Responsibility Allocation" [ER]

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**TERM PAPER DUE BY 5 PM, MAY 16<sup>th</sup>. You are certainly welcome to submit it earlier.**