

PHIL5180 Seminar on Selected Philosophical Issues 哲學問題特別專題研討
Course Outline

Time :	F 14:30-17:15	Location :	LSK 204
	(March 2013)		

Course overview

Emergency Ethics and Politics

Emergency has both meta-ethical and normative ethical aspects. Emergencies are often thought to create exceptions to moral precepts and moral precepts are sometimes claimed (e.g., by Kant) to be exceptionless. Among the normative ethical aspects of emergencies are the overridingness of the obligation to curtail or prevent them and (differently) the urgency of addressing them when they are imminent. Large-scale emergencies are sometimes associated in both theory and practice with chaos and with a loss of inhibitions corresponding to moral prohibitions. The point of politics is sometimes tied to the need to prevent or escape this chaos. A state of nature in which everything is permitted that is sincerely thought to aid anyone's prosperity or survival is such a chaos. According to Hobbes, the whole purpose of government is permanently to pre-empt such chaos. In this sense politics is pre-eminently emergency politics. Even though this view is incorrect, there is something to be learned from Hobbes, and from the neo-Hobbesianism of Schmitt. Both point to the importance of security-preserving political forms even in time when the effectiveness of those forms makes worries about security appear out of order. Although security matters enormously, it is not quite the organizing value that Hobbes thought it was. Nevertheless, there is a way of reconciling the importance of security with something that genuinely does have the status of organizing value—namely, freedom. The preferred reconciliation is not communitarian, and communitarian understandings of security and supreme emergency – such as Walzer's (and Schmitt's)-- are to be rejected.

Structure of Course

1. Emergency ethics:
 - a. Private and Public emergencies
 - b. The necessity of avoiding major harm
 - c. The threat of the moral black hole
2. Emergency politics: Hobbes
 - a. politics as the response to the permanent possibility of public emergency
 - b. the state of nature/war of all against all as a black hole
 - c. The exaggerations in Hobbes
 - d. Neo-Hobbesian emergency politics
 - e. The limitations of neo-Hobbesian politics
3. Emergency politics: Schmitt
 - a. laws require personal interpretation
 - b. emergency and the personal dictator
 - c. dictatorship and democracy
 - d. "high points of politics"
 - e. the inferiority of Schmitt to Hobbes
4. Emergency politics: Walzer
 - a. community, the defence of life and ways of life
 - b. Supreme emergency
 - c. Humanitarian intervention
 - d. Exaggeration of the value of a way of life
 - e. the right approach: liberalization of neo-Hobbesian position

Reading

(Items marked with an asterisk are particularly relevant)

- *Agamben, G. *State of Exception* (Chicago: University of Chicago Press, 2005).
- Alexander, D. *Principles of Emergency Planning and Management* (New York: Oxford University Press, 2002).
- *Annas, G. *Worst Case Bioethics* (New York: Oxford University Press, 2011).
- Aksoy v. Turkey 23 Eur. HR Rep. (18 December 1996).
- Bauer, J. and Bell, D. eds. *The East Asian Challenge for Human Rights* (Cambridge: Cambridge University Press, 1999).
- BBC News. *Emergency powers plan published*. 7 January 2004. Available at: http://news.bbc.co.uk/1/hi/uk_politics/3375711.stm [Accessed 3rd April 2012].
- Blackstone, W. *Commentaries on the Laws of England* (1857)
- Civil Contingencies Act 2004. Available at: http://www.opsi.gov.uk/acts/acts2004/ukpga_20040036_en_2#pt1-pb1-11g1 [Accessed 3rd April 2012].
- Climate Change Emergency Medical Response. *Why Climate Change is an Emergency*. 28 January 2012. Available at: <http://www.climate-change-emergency-medical-response.org/why-climate-change-is-an-emergency.html> [Accessed 3rd April 2012].
- *Coady, C.A.J. ed. *What's Wrong with Moralism* (Oxford: Blackwell, 2006).
- Commission on Human Security. *Final Report*. 1 May 2003. Available at: <http://ochaonline.un.org/humansecurity/CHS/finalreport/Outlines/outline.pdf> [Accessed 3rd April 2012].
- Contingency Planning (Scotland) Regulations. 2005. Available at: http://www.legislation.gov.uk/ssi/2005/494/pdfs/ssi_20050494_en.pdf [Accessed: 3rd April 2012].
- Counter-Terrorism: Training and Resources for Law Enforcement. 'Domestic Security' Available at: <http://www.counterterrorismtraining.gov/leg/index.html> [Accessed 3rd April 2012].
- CURBE. *Coastal Settlements at Risk: A Study of England's East Coast July 1999 – September 2002*. Available at: <http://www.arct.cam.ac.uk/curbe/floods.html> [Accessed 3rd April 2012].
- Department of Health. *Pandemic Flu: A national framework for responding to an influenza pandemic*. 2007. Available at: <http://www.dh.gov.uk/en/PublicHealth/Flu/PandemicFlu/index.htm> [Accessed 11th April 2008].
- Department of Health. *Pandemic Influenza: Guidance for Acute Hospitals in England* (November, 2007).
- Department of Health. *Responding to pandemic influenza: The ethical framework for policy and planning*. 22 November 2007. Available at: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_080751 [Accessed 3rd April 2012].
- Detainee Treatment Act of 2005. (H.R. 2863, Title X).
- Devolved Administrations – Emergency Preparedness. Online at: <http://www.cabinetoffice.gov.uk/content/devolved-administrations-emergency-preparedness> [Accessed 3rd April 2012].
- Dyzenhaus, D. *The Constitution of Law* (Cambridge: Cambridge University Press, 2006).
- Dyzenhaus, D. 'Deference, Security, and Human Rights' in Goold, B. and Lazarus, L. *Security and Human Rights* (Oxford: Hart, 2007).
- European Commission. *Data Protection in the European Union – Citizens' Perceptions*. 2008. Available at: http://ec.europa.eu/public_opinion/flash/fl_225_sum_en.pdf [Accessed 3rd April 2012].
- Foreign Policy. *The Failed State Index 2007*. Online at: http://www.foreignpolicy.com/story/cms.php?story_id=3865&page=0 [Accessed 3rd April 2012].
- Fredman, S. 'The Positive Right to Security' in Goold, B. and Lazarus, L. *Security and Human Rights* (Oxford: Hart, 2007) pp. 307-323.
- Freeman, M. 'Order, Rights and Threats; Terrorism and Global Justice' in Wilson, R., ed. *Human Rights in the 'War on Terror'* (Cambridge: Cambridge University Press, 2005).
- Galison, P. and Minow, M. 'Our Privacy, Ourselves in an Age of Technological Intrusions' in Goold, B. and Lazarus, L. *Security and Human Rights* (Oxford: Hart, 2007) 258-294.
- Geography in Action. *Ethnic Interfaces/ Peace Lines*. 2011. http://www.geographyinaction.co.uk/Ethnic%20Diversity/Ethnic_PeaceLines.html [Accessed 3rd April 2012].
- Ghani, A. and Lockhart, C. *Fixing Failed States: A Framework for a Fractured World* (New York: Oxford University Press, 2008).
- Goold, B. 'Privacy, Identity and Security' in Goold, B. and Lazarus, L. *Security and Human Rights* (Oxford: Hart, 2007)

*Goold, B. and Lazarus, L. *Security and Human Rights* (Oxford: Hart, 2007)

Griffin, J. *On Human Rights* (Oxford: Oxford University Press, 2008).

Gross, O. and Ni Aolain, F. *Law in Times of Crisis: Emergency Powers in Theory and Practice* (Cambridge: Cambridge University Press, 2006).

The Guardian. *Flash floods 'biggest climate threat to UK'*. 12 June 2007. Available at: <http://www.guardian.co.uk/uk/2007/jun/12/weather.politics> [Accessed 3rd April 2012].

Haggerty, K. and Gazso, A. 'The Public Politics of Opinion Research on Surveillance and Privacy' *Surveillance and Society* 2 (2/3) 173-80.

Hale, M. *Pleas of the Crown* (1736)

Heuer, U. 'Raz on Value and Reasons' in Wallace, J., Pettit, P., Scheffler, S., and Smith, M. eds. *Reason and Value* (Oxford: Oxford University Press, 2006) pp. 129-152.

Hicks, N. 'The Impact of Counter Terror on the Promotion and Protection of Human Rights: A Global Perspective' in Wilson, R. ed. *Human Rights in the 'War on Terror'* (Cambridge: Cambridge University Press, 2005).

Hill, T. E. 'A Kantian Perspective on Political Violence', reprinted in Hill, T.E. *Respect, Pluralism and Justice* (New York; Oxford University Press, 2000).

Human Rights First. *Assessing the New Normal*. 2003. Available at: <http://www.humanrightsfirst.org/wp-content/uploads/pdf/AssessingtheNewNormal.pdf> [Accessed 3rd April 2012].

*Hobbes, T. *Leviathan*, R. Tuck, R. ed. (Cambridge: CUP: 1996).

*Honig, B. *Emergency Politics: Paradox, Law, Democracy* (Princeton, NJ: Princeton University Press, 2009).

*Ignatieff, M. *The Lesser Evil* (Edinburgh: Edinburgh University Press, 2005)

Home Office. *Criminal Justice System Review: Rebalancing the criminal justice system in favour of the law-abiding majority*. Archived version available at: <http://webarchive.nationalarchives.gov.uk/20060904182404/homeoffice.gov.uk/documents/cjs-review.pdf/> [Accessed 3rd April 2012].

Huntington, S. *The Clash of Civilizations and the re-Making of the World Order* (London: Simon and Schuster, 1996).

ICCPR. General Comment No. 29. *States of Emergency* (Article 4) 2001. Available at: [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/71eba4be3974b4f7c1256ae200517361/\\$FILE/G0144470.doc](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/71eba4be3974b4f7c1256ae200517361/$FILE/G0144470.doc) [Accessed 3rd April 2012].

Interception of Communications (Admissibility of Evidence) Bill 2006-07. Private Members Bill introduced by Lord Lloyd of Berwick. 23 November 2006. Available at: http://www.parliament.the-stationery-office.co.uk/pa/pabills/200607/interception_of_communications_admissibility_of_evidence.htm [Accessed 3rd April 2012].

International Court of Justice. *Advisory Opinions and Orders on the Legality of the Threat or Use of Nuclear Weapons*. 8 July 1996. §24. Available at: <http://www.icj-cij.org/docket/files/95/7495.pdf> [Accessed 3rd April 2012].

Kant, I. *Metaphysics of Morals*, Gregor, M. trans, (Cambridge: CUP, 1991).

Law Teacher. *Duress*. 2000. Available at: <http://www.lawteacher.net/PDF/Duress%20Lecture.pdf> [Accessed 3rd April 2012].

Klein, N. *The Shock Doctrine The Rise of Disaster Capitalism* (New York: Metropolitan Books, 2008).

Lawless v. Ireland ECHR, 3, §28 (1 July 1961).

Luban, D. 'Eight Fallacies About Liberty and Security' in Wilson, R. ed. *Human Rights in the 'War on Terror'* (Cambridge: Cambridge University Press, 2005) pp. 242-257.

Lustgarten, L. and Leigh, I. *In From the Cold: National Security and Parliamentary Democracy* (Oxford: Clarendon Press, 1994).

Mayer, J. 'Outsourcing Torture' *New Yorker* 14 February, 2005.

Mulhall, S. and Swift, A. *Liberals and Communitarians* (Oxford: Blackwell, 1996).

Nagel, T. in 'Ruthlessness in Public Life', reprinted in Nagel, T. *Mortal Questions* (Cambridge: Cambridge University Press, 1979).

Nagel, T. *The View from Nowhere* (Oxford: Oxford University Press, 1986)

Nagel, T. *The Last Word* (Oxford: Oxford University Press, 1997).

New York Times. 'Bush Lets U.S. Spy on Callers Without Courts' 16 December 2005. Available at: <http://www.nytimes.com/2005/12/16/politics/16program.html> [Accessed 3rd April 2012].

Nickell, J. *Making Sense of Human Rights*, 2nd edition (Oxford: Blackwell, 2006).

Parfit, D. *Climbing the Mountain* Available at: <http://individual.utoronto.ca/stafforini/parfit/parfit - climbing the mountain.pdf> [Accessed 3rd April 2012].

Parfit, D. *On What Matters* (Oxford: Oxford University Press, 2011).

'Preventing Extremism Together' *Report of Working Groups* (August 2005) Available at: <http://www.communities.gov.uk/documents/communities/pdf/152164.pdf> [Accessed 3rd April 2012].

R v. Dudley and Stephens [1884] Q.B.D. 273.

Raz, J. *Practical Reason and Norms* (London: Hutchinson, 1975).

Raz, J. *Practical Reasoning* (Oxford: Oxford University Press, 1978).

Raz, J. *The Morality of Freedom* (Oxford: Oxford University Press, 1986).

Raz, J. 'Facing Up' 62 *Southern California Law Review* 62(1) (1988-89).

Remnick, D. 'Letter from Louisiana' *New Yorker Magazine* 2 October 2005, p.54.

Robinson, M. 'Human Rights, Development and Security' in Wilson, R. ed. *Human Rights in the 'War on Terror'* (Cambridge: Cambridge University Press, 2005).

Sadurski, W. ed. *Political Rights Under Stress in 21st Century Europe* (Oxford: Oxford University Press, 2006).

Scanlon, T. *What We Owe Each Other* (Cambridge MA: Harvard University Press, 1998).

Scanlon, T.M. 'Human Rights as a Neutral Concern' in Scanlon, T. *The Difficulty of Tolerance* (Cambridge: Cambridge University Press, 2003).

*Schmitt, C. *Political Theology: Four Chapters on the Concept of Sovereignty* G. Schwab, trans. (Cambridge, Mass: MIT Press, 1988).

*Schmitt, C. *The Crisis of Parliamentary Democracy*. Kennedy, E. trans. (Cambridge MA: MIT Press, 1992).

*Schmitt, C. *The Concept of the Political*. Schwab, G. trans. (Chicago: University of Chicago Press, 1996).

Scottish Government. *Scottish guidance on preparing for emergencies*. 19 June 2007. Available at: <http://www.scotland.gov.uk/Publications/2007/06/12094636/0> [Accessed 3rd April 2012].

Scruton, R. *The West and the Rest* (London: Continuum, 2002).

Shue, H. 'The Impossibility of Justifying Weapons of Mass Destruction' in Hashmi, S.H. and Lee, S.P., eds. *Ethics and Weapons of Mass Destruction: Religious and Secular Perspectives* (CUP Cambridge 2004) 139-162.

Smith, J.C. *Justification and Excuse in the Criminal Law* (London: Stevens and Sons, 1989).

Sorell, T. 'Hobbes Persuasive Civil Science' *The Philosophical Quarterly* (1990) Vol. 40(3).

Sorell, T. *Hobbes* (London: Routledge, 1986).

Sorell, T. *Moral Theory and Anomaly* (Oxford: Blackwell, 2000).

Sorell, T. 'The Burdensome Freedom of Sovereigns' in Sorell, T. and Foisneau, L. eds. *Leviathan After 350 Years* (Oxford: Oxford University Press, 2005), pp.183-196.

Sorell, T. 'Hobbes on Trade, Consumption and the International Order' *The Monist* 89 (2006)

Sorell, T. 'Surgery, Accountability and 'Choice'' in Clarke, S. and Oakley, J. eds. *Informed Consent and Clinician Accountability* (Cambridge: Cambridge University Press, 2007).

Suleman, A. *Benefits of the Detainee Treatment Act of 2005*. Harvard Human Rights Journal, Vol. 19, Spring 2006. Available at: <http://www.law.harvard.edu/students/orgs/hrj/iss19/suleman.shtml#Heading23> [Accessed 3rd April 2012].

Teson, F. 'Liberal Security' in Wilson, R. ed., *Human Rights in the 'War on Terror'* (Cambridge: Cambridge University Press, 2005).

The Lives of Others [DVD] von Donnersmarck, F.V. director. (Germany: Lions Gate Home Entertainment, 2006).

TIME Magazine. *The Blackout: Night of Terror*. 25th July 1977. Available at: <http://www.time.com/time/magazine/article/0,9171,919089-1,00.html> [Accessed 2nd April 2012].

Questiaux Report (1982) on the Human Rights Implications of States of Emergency. *UN Doc E/CN.4/Sub.2/1982/15* pp. 22-28.

UK Parliament Joint Committee on Human Rights. *Thirty-Second Report*. 2006. Available at: <http://www.publications.parliament.uk/pa/jt200506/jtselect/jtrights/278/27802.htm> [Accessed 3rd April 2012].

UDHR. *Preamble* <http://www.un.org/en/documents/udhr/> [Accessed 2nd April 2012].

UN General Assembly. *Vienna Declaration and Programme of Action*. 12 July 1993. Available at: [http://www.unhcr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhcr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en) [Accessed 3rd April 2012].

Waldron, J. 'Security and Liberty: The Image of Balance', *Journal of Political Philosophy*, Vol. 11(2), 2003, pp. 191-210.

Waldron, J. 'Safety and Security', *Nebraska Law Review*, Vol. 85, 2006, pp. 454-507.

*Walzer, M. 'Political Action: the Problem of Dirty Hands' *Philosophy and Public Affairs* 2 (1973) pp. 160-80.

*Walzer, M. *Just and Unjust Wars* (New York: Basic Books, 1978).

Walzer, M. 'The Rights of Political Communities' in Beitz, C., Cohen, M., Scanlon, T., and Simmons, A.J., eds. *International Ethics* (Princeton, NJ: Princeton University Press, 1985) 165-194.

Walzer, M. 'The Moral Standing of States: A Reply to Four Critics' in Beitz, C., Cohen, M., Scanlon, T., and Simmons, A.J., eds. *International Ethics* (Princeton, NJ: Princeton University Press, 1985) 217-237.

Walzer, M. *Thick and Thin: Moral Argument at Home and Abroad* (Notre Dame, Indiana: University of Notre Dame Press, 1994).

*Walzer, M. *Arguing about War* (New Haven: Yale University Press: 2004)
Wiggins, D. *Ethics: Twelve Lectures on the Philosophy of Morality* (London: Penguin, 2006).
World Health Organisation. *Epidemic and Pandemic Alert and Response (EPR): Pandemic preparedness*. 2008. Available at: <http://www.who.int/csr/disease/influenza/pandemic/en/>. 2008. [Accessed 11th April 2008].
World Health Organization. *Protecting Health from Climate Change – Connecting Science, Policy and People*. 2009. Available at: http://whqlibdoc.who.int/publications/2009/9789241598880_eng.pdf [Accessed 3rd April 2012].
*Zack, N. *Ethics for Disaster* (Lanham, NJ: Rowman and Littlefield, 2009).
Zedner, L. 'Securing Liberty in the Face of Terror: Reflections from Criminal Justice', *Journal of Law and Society*, Vol. 32(4), 2005, pp. 507-33.

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