

# Freedom, Consent and Political Obligation

## Course Guide 2021/2022

Semester 1, Tuesdays 11.10 to 13.00, Dugald Stewart Building 1.20  
(please double-check for last minute changes before the start of term)

Dr. David Levy, david.levy@ed.ac.uk  
Office Hour: Tuesday 4.00-5.00, DSB 5.10 or by appointment  
Course Secretary: Ann-Marie Cowe, philinfo@ed.ac.uk

### Course Overview

This is a course in political philosophy conducted by an examination of three fundamental concepts: freedom, consent and obligations to the state. Our guiding idea is that understanding these concepts provides insights into how differing combinations of these produce conceptions of legitimate government and political authority. We will delineate and analyse each concept several times thus overlaying several ways in which the concepts may be understood. The course will begin with a discussion of the idea of political philosophy and conclude with a consideration of the extent to which the political can be separated from the moral—wherein similar considerations of freedom, consent and obligation are found. The readings and the conceptual framework within which we will work do not address the contemporary idea that politics is the process of producing social justice. While we will be concerned with justice generally, we will instead apply ourselves to the foundations of politics, to the very idea of politics. Clear thinking about the foundations of politics will perforce improve our thinking about the contemporary forms in which politics appears.

### Requirements

The format of this course is a weekly seminar. It requires your participation, there are no outlines of the course content to share, though I do have mind maps as aids to revision. Each week there is at least one *required* readings indicated below. I will discuss the readings in the seminar where you can ask questions about the text and the ideas it raises. Please bring the texts to the seminars.

☞ You must read these articles or chapters in preparation for discussion each week.

The discussion in class is no substitute for reading this material carefully. Where the reading is not online through the library, I will put electronic copies on LEARN if I can. However, I recommend you buy a copy of Plamenatz's book, *Consent, Freedom and Political Obligation*, second edition, Oxford UP which are often found used for less than £10.

### Assessment

#### *Exam*

This course will be assessed solely on the basis of an exam given in the December 2021 diet of examinations. See the note about formative assessment below.

#### *Coursework Dissertation*

Students who qualify (usually fourth year single honours philosophy students) may submit a Coursework Dissertation *instead* of sitting the exam. Coursework Dissertations are submitted

online, please check with the teaching office for further details on submission. The title of your dissertation must be approved in advance by submitting it to me in person or by email.

#### *Formative assessment*

In addition, everyone should submit two exam answers from the specimen exam at the end of this course guide or a past paper online through the library. These can be e-mailed to me at any point during the term. This “formative exam” will not count toward determining your mark for this class or the class of degree you are ultimately awarded. However the formative exam is an excellent opportunity to improve your philosophical writing and try arguments you may ultimately use in the exam or short dissertation. If you submit your essays by the end of teaching week 9, I will return them to you in class in teaching week 11. If you submit the essay later, I will return the essay to you when I can. All formative work will receive feedback, comments, and an indicative mark.

#### *MSc assessment*

MSc students are assessed by a single essay of 2500 words. The title of your essay must be approved in advance by submitting it to me in person or by email.

#### *Visiting student assessment*

Visiting students will be assessed by exam as described above for home students.

#### *Contacts*

You may contact me by email at david.levy@ed.ac.uk. My office is in room 5.10 of the Dugald Stewart Building. I am available Tuesday of each week from 3.00 until 4.00 to discuss more or less any philosophical topic, related to this course or not. To ensure that I can see you, I ask that you send me an email confirming that you intend to visit and advising me of the topic for discussion. Unfortunately, I am not often available at other times, though you can seek a special arrangement to meet if it proves necessary.

If you have questions about the mechanics of submitting assignments, exam timetables and other logistical matters please contact the course secretary, Ann-Marie Cowe.

#### *Lecture Recording*

I will not record seminars using the central University recording facility. You may record our seminars for your own revision. Please do not put any recordings online or share them with anyone outside the course. Any student should feel able to ask questions and discuss points in our classroom without concern for whether these will be shared or broadcast. If you are unable to attend class, please contact me and I will endeavour to record the class for you. If you want to review a class you attended, please contact me as I might have a recording to share with you.

#### *Miscellaneous*

Regrettably, the behaviour of some obliges me to to make the following requests. Please do not text during class. It is disrespectful. Turn off the ringer of your phone and put the phone away.

Please do not use your laptop computers in class for anything besides making notes or related activity. If I notice that you are using your laptop for something potentially distracting to your neighbours such as Facebook or YouTube, I will ask you to close your laptop. Tweeting is not a related activity no matter how interesting the seminar material.

# Weekly Readings

**Week 1:** No reading, try some of the background reading listed below.

**Week 2:** J.P. Plamenatz, *Freedom, Consent and Political Obligation*, Oxford University Press, 2nd ed. 1968, chapter V, “Freedom.”

**Week 3:** J.P. Plamenatz, *Freedom, Consent and Political Obligation*, Oxford University Press, 2nd ed. 1968, chapter I, “Consent.”

**Week 4:** J.P. Plamenatz, *Freedom, Consent and Political Obligation*, Oxford University Press, 2nd ed. 1968, chapter VII, “Political Obligation” including the Appendix.

**Week 5:** I. Berlin, “Two Concepts of Liberty,” in I. Berlin, *Four Essays on Liberty*, Oxford University Press, 1969 [originally 1958]. This is somewhat long, give yourself time and focus on sections I-IV especially.

**Week 6:** H. Pitkin, “Obligation and Consent — I,” *The American Political Science Review*, 59:4 (Dec., 1965), pp. 990-999; **and** H. Pitkin, “Obligation and Consent — II,” *The American Political Science Review*, 60:1 (Mar., 1966), pp. 39-52. Read both please—combined they’re not long.

**Week 7:** G. Klosko, “Multiple Principles of Political Obligation,” *Political Theory*, 32, 801-24, 2004.

**Week 8:** G. MacCallum, Jr., “Negative and Positive Freedom,” *Philosophical Review*, 76:312-34, 1967.

**Week 9:** P. Winch, “Authority,” *Proceedings of the Aristotelian Society, Supplementary Volumes*, 32, pp. 225-240, 1958. Also, you will profit from reading, P. Winch, “How is political authority possible?” *Philosophical Investigations*, 25:1, pp. 20-32, 2002.

**Week 10:** T. Senor, “What If There Are No Political Obligations?” *Philosophy and Public Affairs*, 16, pp. 260-268, 1987; **and** M. Gilbert, “Group Membership And Political Obligation,” *The Monist*, 76:1, pp. 119-131, 1993. Read both please—combined they’re not long.

**Week 11:** B. Williams, “Realism and Moralism in Political Theory” in his *In the Beginning was the Deed*, Princeton University Press, pp. 1-17, 2005.

All of these readings are ESSENTIAL readings.

## General or Background Reading

There is no single, philosophy textbook for this course. The closest thing is the book that inspired the course:

J.P. Plamenatz, *Consent, Freedom and Political Obligation*, Oxford University Press, 1st ed. 1938; 2nd ed. 1968.

RECOMMENDED While we will have read three chapters in class, the book is not long and it would profit you to read the whole book. The second edition has a lengthy, useful postscript that qualifies Plamenatz's argument after 30 years of reflection.

J.P. Plamenatz, *Man & Society: Political and Social Theories from Machiaevelli to Marx*, Longman's, 1963; Revised edition 1992.

FURTHER This is arguably Plamenatz's masterwork which is a detailed examination of most significant political theory thinkers. The revised three-volume (as opposed to two) edition is illuminating because it is patient and detailed. However, it is thinker-focused, in contrast with our concept-focused approach.

RECOMMENDED It is helpful to consider what political theory is and its relation to philosophy. Plamentaz does so in "The Use of Political Theory," *Political Studies*, 8:1, pp. 37-47, 1960. It is reprinted with some other useful articles in *Political Philosophy*, ed. A. Quinton, Oxford UP, 1967. Similarly John Rawls sets out "Four Roles of Political Philosophy" in the opening (§1ff) to his *Justice as Fairness: A Restatement*, Harvard UP, 2001.

FURTHER These two books are introductions to political philosophy that are congenial, in different ways, to the discussions we will have in this course:

Jean Hampton, *Political Philosophy*, Boulder, CO: Westview Press, 1996.

J.D. Mabbot, *The State and The Citizen*, Hutchinson, 1948.

FURTHER There is much to be gained from reviewing some relevant historical sources. For ancient inspiration about the challenge of political authority, consider:

Plato, *Crito*; less so *Republic*, though the keen might look at *Republic* 357a-376c, 427c-444e

Sophocles, *Antigone*

Aristotle, *Politics*, books 1.1-1.7, 3.1-3.4, 7.1, 7.13-7.14

FURTHER For the sources of our own liberal tradition, review:

David Hume "Of The Original Contract"

John Locke, *The Second Treatise of Civil Government*

Thomas Hobbes, *Leviathan* (esp. ch. 20); and *Citizen [De Cive]* (esp. §§ I and IX)

## Secondary Reading by Idea

None of these is ESSENTIAL. Those not marked RECOMMENDED can be treated as FURTHER.

### *Freedom* (=Liberty)

Isaiah Berlin, "Political Ideas in the Twentieth Century," in *Liberty*, Isaiah Berlin, edited by Henry Hardy, Oxford UP, 2002.

Judith Shklar, "The liberalism of fear," in Nancy L. Rosenblum (ed.), *Liberalism and the Moral Life* (1989) also in *Political Thought and Political Thinkers*, S. Hoffman (ed.) (1998).

RECOMMENDED Hanna Pitkin, "Are Freedom and Liberty Twins?" *Political Theory* 16:4, pp. 523-552, 1988.

Serena Olsaretti, "Freedom, Force and Choice: Against the Rights-Based Definition of Voluntariness," *Journal of Political Philosophy* 6:1, pp. 53-78, 1998.

Charles Larmore, "The Meanings of Political Freedom," in *The Autonomy of Morality*, Cambridge UP, 2008.

Peter Morriss, "What Is Freedom if It Is Not Power?" *Theoria*, 59, pp. 1-25, 2012.

RECOMMENDED David Miller, "Constraints on Freedom," *Ethics*, 94:1, pp. 66-86, 1983.

Charles Taylor, "What's Wrong With Negative Liberty," in *Philosophy and the Human Sciences: Philosophical Papers* vol. 2, Cambridge University Press, pp. 211-29, 1985; also *The Idea of Freedom: Essays in Honour of Isaiah Berlin*, ed. A. Ryan, Oxford University Press, 1979.

Bernard Williams, "From Freedom to Liberty: The Construction of a Political Value," in *In the Beginning was the Deed*, Princeton University Press, 2005; also *Philosophy and Public Affairs*, 30, pp. 3-26, 2001.

RECOMMENDED *Liberty*, David Miller (ed), Oxford UP, 1991, is full of classic readings. There is an updated version, *The Liberty Reader*, Edinburgh UP, 2006.

F.A. Hayek, Part I, chapter 1 and chapter 9, respectively, "Liberty and Liberties" and "Freedom and Coercion," in *The Constitution of Liberty*, University of Chicago Press, 1960, but reprinted abridged in Miller's *Liberty* and *The Liberty Reader*, above.

David Schmidtz and Carmen Pavel (eds.), *The Oxford Handbook of Freedom*, Oxford University Press, 2017. [This is up to date and points to many contemporary authors working in this area, but you have to select articles very carefully to avoid considerations extraneous to conceptual analysis of freedom as a political concept.]

Jacqueline Broad, "Women on Liberty in Early Modern England," *Philosophy Compass*, 9:2, pp. 112-122, 2014.

Nancy J. Hirschmann, *The Subject of Liberty: Toward a Feminist Theory of Freedom*. Princeton University Press, 2003. Hirschmann summarises her view in a chapter of Miller's *The Liberty Reader*, above.

RECOMMENDED Philip Pettit, "Republican Freedom: Three Axioms, Four Theorems," in Laborde, C. and Maynor, J. (eds.), *Republicanism and Political Theory*, Blackwell, 2007.

[Pettit's theory has had a big impact and is presented by some as an alternative to the positive/negative liberty distinction. The next two items add to this view. There is a summary of his view in Miller's *The Liberty Reader*, above.]

Philip Pettit, *Republicanism: A Theory of Freedom and Government*, Oxford University Press, 1997.

Quentin Skinner, *Liberty Before Liberalism*, Cambridge UP, 1998, esp. chapter 1.

### **Consent**

- RECOMMENDED Cynthia Stark, "Hypothetical Consent and Justification," *Journal of Philosophy* 97:6, pp. 313-333, 2000.
- Heidi Hurd, "The Moral Magic of Consent," *Legal Theory* 2:2, 121-146, 1996.
- RECOMMENDED Harry Beran, "In Defense of the Consent Theory of Political Obligation and Authority," *Ethics* 87:3, pp. 260-271, 1977.
- RECOMMENDED A. John Simmons, "Tacit Consent and Political Obligation," *Philosophy & Public Affairs* 5(3): 274-291, 1976.
- John Jenkins, "Political Consent," *Philosophical Quarterly*, vol. 20, pp. 60-66, 1970.
- Nicholas Frank, "Against Normative Consent," *Journal of Social Philosophy*, 47:4, pp. 470-487, 2016.
- David Enoch, "Hypothetical Consent and the Value(s) of Autonomy," *Ethics* 128:1, pp. 6-36, 2017.
- Joseph Raz, "Government by Consent," in J. Raz (ed.), *Ethics in the Public Domain: Essays in the Morality of Law and Politics*, Oxford UP, 1995.
- David Estlund, "Political Authority and the Tyranny of Non-Consent," *Philosophical Issues*, 15:1, pp. 351-367, 2005.
- Hanna Pitkin, *The Concept of Representation*, University of California Press, 1967, esp. chapters 1, 7, 10.
- RECOMMENDED J.P. Plamenatz, *Man and Society* (Volume I, chapter on Locke), Longmans, 1963 and 1992.
- Harry Beran, *The Consent Theory of Political Obligation*, Croom Helm, 1987.

### **Political Obligation**

- RECOMMENDED Jonathan Wolff, "What is the problem of political obligation?" *Proceedings of the Aristotelian Society*, 1990-91.
- RECOMMENDED Margaret Gilbert, "Reconsidering the 'actual contract' theory of political obligation," *Ethics* 109(2), 1999.
- M.B.E. Smith, "Is There A Prima Facie Obligation to Obey the Law" *Yale Law Journal*, 1973.
- George Klosko "Reformist Consent and Political Obligation," *Political Studies*, 39, pp. 676-90, 1991.
- George Klosko, "Political Obligation and the Natural Duties of Justice," *Philosophy and Public Affairs*, 23, pp. 251-70, 1994.
- RECOMMENDED A. John Simmons, "The Anarchist Position: A Reply to Klosko and Senor," *Philosophy & Public Affairs*, 16:3, 269-279, 1987.
- A. John Simmons, "Tacit Consent and Political Obligation", *Philosophy and Public Affairs*, 1976.
- D.M. Walker, "Political Obligation and the Argument from Gratitude," *Philosophy and Public Affairs*, 17, 1988.
- Christopher Wellman, "Toward a Liberal Theory of Political Obligation," *Ethics*, 111:4, pp. 735-759, 2001.
- Glen Newey, "Reasons Beyond Reason? 'Political Obligation' Reconsidered," *Philosophical Papers*, 25:1, 1996, 21-46.
- Margaret Gilbert, *A Theory of Political Obligation: Membership, Commitment and the Bonds of Society*, Oxford University Press, 2008.
- George Klosko, *Political Obligations*, Oxford UP, 2005.
- A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press, 1981.

John Horton, *Political Obligation*, Macmillan, 1992.

T.H. Green, *Lectures on the Principles of Political Obligation*, Longmans, 1941 and elsewhere including Miller's *Liberty* volumes listed above. [This is somewhat dated, but had great influence for decades afterward and gives voice to the Hegelian tradition. It is also a fine, patient analysis of freedom and political obligation.]

### ***Realism in Political Theory***

RECOMMENDED Eva Erman and Niklas Möller, "Political Legitimacy in the Real Normative World: The Priority of Morality and the Autonomy of the Political," *British Journal of Political Science*, 45:1, 215-233, 2015.

William Galston, "Realism in Political Theory," *European Journal of Political Theory*, 9:4, pp. 385-411, 2010.

RECOMMENDED Enzo Rossi, "Justice, Legitimacy and (Normative) Authority for Political Realists," *Critical Review of International Social and Political Philosophy*, 15:2, pp. 149-164, 2012.

RECOMMENDED Bernard Williams, "Toleration, a Political or Moral Question?" in *In the Beginning was the Deed*, Princeton University Press, 2005

C.A.J. Coady, *Messy Morality: The Challenge of Politics*, Oxford University Press, 2008.

W.B. Gallie, "Essentially Contested Concepts," *Proceedings of the Aristotelian Society* 56, 1955-56, reprinted and slightly reworked in his *Philosophy and the Historical Understanding*, ch. 8, London: Chatto and Windus, 1964.

### ***Authority and Representation***

RECOMMENDED Elizabeth Anscombe, "On the Source of the Authority of the State," *Ratio*, 20:1, pp. 1-20, 1978.

RECOMMENDED Hanna Pitkin, "Justice: On Relating Private and Public," *Political Theory*, 9:3, pp. 327-352, 1981.

Hannah Arendt, "The Public and Private Realm," Part II of *The Human Condition*, University of Chicago, 1958.

RECOMMENDED H.L.A. Hart, "Sovereign and Subject," Part IV of *The Concept of Law*, Oxford University Press, 1961.

Robert F. Ladenson, "Legitimate Authority," *American Philosophical Quarterly* 9:4, pp. 335-341, 1972.

R.B. Friedman, "On the Concept of Authority in Political Philosophy" in *Authority*, ed. J. Raz, Wiley, 1990.

Peter Winch, "Certainty and Authority," *Philosophy*, 1990.

Hanna Pitkin, *The Concept of Representation*, University of California Press, 1967.

Ross Harrison, *Democracy*, Routledge, 1993.

David Held, *Models of Democracy*, Polity Press, 1987.

## Questions for essays and exams

These are questions you can use as starting points for your formative essays, coursework dissertations, and class essays. They are also examples of the kinds of questions that will appear on section B of the exam.

1. What is the relationship between politics and ethics?
2. How far is politics autonomous from morality?
3. How is political authority possible?
4. Do we have a duty to obey the state?
5. Am I the author of the actions prescribed by the state?
6. When are you obligated to obey the state, and when not?
7. Whom are you obligated to obey?
8. Why are you ever obligated to obey even a legitimate authority?
9. What if there are no political obligations?
10. Are political obligations also moral obligations?
11. What are the differences between the moral, social and political?
12. Can consent ever be compelled/forced/coerced?
13. Can you consent when you have no choice?
14. Can you be forced to be free?
15. Are you free to think what you want?
16. Is there a significant difference between positive and negative liberty?
17. Can we say of collectives or groups that they are free?
18. Is there an analogy between the family and the state?
19. What grounds our political obligations?
20. How can moral and political obligations conflict?
21. What are the limits of state authority?
22. Can I consent to anything?
23. Are slaves free?
24. What is the relationship, if any, between consent and legitimacy?
25. Do good outcomes justify the exercise of political power?
26. Can someone consent out of fear?
27. What is the relation of obedience and authority?
28. To what extent is political authority like other forms of authority?
29. Do we need reasons to obey?
30. To what extent are authority and legitimacy related?

These are examples of topics that could appear in section A of the exam.

Freedom	Consent	Political Obligation	Obligation
Authority	Force	Legitimacy	Representation
Political	Public/Private	Society	Obedience



## Format of the Exam

The exam consists of two sections, A and B. Section A will have two topics. Section B will have eight essay questions. The exam is two hours. In the exam, you must write an essay on one topic from section A **or** two essays that answer two questions in section B. To be clear, you either write one essay for two hours on a topic selected from section A or two essays in answer to two questions in section B.

You **cannot** write about a topic in section A **and** section B.

## Specimen Exam

### Section A

1. Consent
2. Legitimate Authority

### Section B

3. Can consent ever be compelled?
4. To what extent, if any, must consent be an act?
5. Is positive liberty a good account of liberty?
6. Can you be forced to be free?
7. Must I obey the state if I chose to immigrate to the state?
8. To what extent, if any is fairness a source of political obligation?
9. Is there ever genuine political authority?
10. What, if anything, does political authority owe to moral authority?